fidh

THE DEATH PENALTY IN NORTH KOREA

In the machinery of a totalitarian State

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,

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Map of the Democratic People's Republic of Korea
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Cover: Military parade marking the 100th birthday of late Kim Il Sung, P'yŏngyang, 15 April 2012, RIA Novosti / TopFoto © 2012

TABLE OF CONTENTS

Executive summary----4

Part I: Introduction----6

1. About this report ----6

2. Historical and political background ----7

3. The DPRK's human rights situation ----8

a. The death penalty interlinked with other systematic and widespread violations----8

b. The DPRK's prison camp system ---- 10

Part II: International instruments applicable to the DPRK ---- 11

1. Applicable human rights norms ---- 11

a. The right to life in the ICCPR---- 11

b. Resolutions on a moratorium on the death penalty ---- 12

c. Jus cogens on the arbitrary deprivation of life ---- 12

2. UN human rights mechanisms applicable to the DPRK---- 15

a. The Special Rapporteur and the newly-established Commission of Inquiry--- 15

b. The Universal Periodic Review ---- 16

Part III: The scale of death penalty in the DPRK---- 18

1. Constitutional and other domestic laws ---- 18

2. Facts and figures on the death penalty---- 22

Part IV: Death penalty as an "arbitrary deprivation of life"---- 24

1. Denial of the right to a fair trial ---- 24

2. On-site public executions and secret executions ---- 27

3. Death penalty applied to non-serious crimes ---- 29

4. Death penalty against vulnerable groups---- 30

Conclusion and recommendations ---- 31

Annexes ---- 33

1. Glossary---- 33

2. The "Ten Principles" ---- 36

3. List of meetings in Seoul ---- 37

4. Photos of witnesses ---- 38

Executive Summary

The Democratic People's Republic of Korea (DPRK, also known as North Korea) is among the 58 countries in the world that retain the death penalty, and one of the only 21 countries still reportedly carrying out executions in 2012.

The death penalty is a violation of the right to life; however, its use in the DPRK has, over the years, been particularly extensive and substantially different from other countries. This is partly due to the DPRK's totalitarian system, characterized by widespread and systematic human rights violations that aim at maintaining social order and political control.

While the government of the Republic of Korea (also known as South Korea) has retained the death penalty, it is considered to be abolitionist in practice, having carried out no executions since December 1997. By contrast, the DPRK has consistently used the death penalty, and has never allowed any organization to investigate the matter. Nevertheless, information derived from witness observations and the few existing reliable reports, reveal thousands of executions since the 1950s, with the largest numbers in the 1990s and the 2000s. Since 2010, dozens of people have been executed. The DPRK's intense secrecy justifies the conclusion that these large numbers are lower than the actual figures in reality.

Furthermore, all executions are reportedly carried out with only a semblance of judicial process and in clear denial of the right to a fair trial. The judiciary is regularly bypassed and executions frequently occur in an arbitrary manner, including inside the DPRK's vast prison camp system. Public and secret executions are carried out and the death penalty is applied to non-serious crimes and against vulnerable groups.

This report concludes that the use of the death penalty in the DPRK is tantamount to an arbitrary deprivation of life. In many cases, the distinction between capital punishment and extra-judicial, summary or arbitrary executions is extremely blurry. Indeed, there are unverified accounts of extra-judicial, summary or arbitrary executions taking place in the DPRK, though analysis of these violations is not covered in this report due to lack of data.

FIDH makes the following recommendations:

To the Democratic People's Republic of Korea:

- Abolish the death penalty and report back on the progress achieved to relevant international human rights mechanisms; cease all executions resulting from the death penalty as well as extra-judicial, summary or arbitrary executions.

To the Special Rapporteur and the Commission of inquiry on the situation of human rights in the DPRK:

- Thoroughly investigate the death penalty and all types of executions in the DPRK, as well as their relation with the systematic and widespread human rights violations prevalent in the country.

To the Special Rapporteur on extra-judicial, summary or arbitrary executions:

- Investigate the consistent use of the death penalty as an arbitrary deprivation of life as well as other executions occurring through extra-judicial mechanisms, summary processes and arbitrary applications in the DPRK.

To all UN member States:

- Multilaterally and bilaterally urge the DPRK to abolish the death penalty and to bring to an end all executions.

I. INTRODUCTION

1. About this report

While human rights organizations and UN human rights mechanisms have never had access to the Democratic People's Republic of Korea (DPRK), they have recently been able to investigate the human rights situation in the country thanks to a growing number of North Korean asylum seekers now living in the Republic of Korea,[1] and willing to serve as witnesses.

Based on these circumstances and given rising international concern about the deteriorating human rights situation in the DPRK, FIDH organised a fact-finding mission in Seoul to investigate the application of the death penalty in the DPRK in December 2012, just one year after the death of Kim Jong-il.

The mission met witnesses from the DPRK, Seoul-based human rights non-governmental organizations and government representatives from the Republic of Korea monitoring the human rights situation in the DPRK. The FIDH delegation was composed of Mrs Tolekan Ismailova, director of Citizens against Corruption, FIDH member organization in Kyrgyzstan; Mr Speedy Rice, professor, Washington & Lee University School of Law, human rights lawyer and death penalty expert; Mrs Marie-Orange Rivé-Lasan, associate-professor of Korean contemporary history at Paris Diderot University; and Mrs Sarah Mahir, FIDH consultant.

One of the main challenges in collecting testimonies was obtaining direct access to witnesses and going beyond the filter of pre-prepared translations, or stereotypes based on rumors. Moreover, most of the witnesses met by FIDH had left the DPRK in the early 2000s and the mission only collected a few testimonies regarding executions that took place in the last decade. However, the continuity of the political system in the DPRK and the coherence of older testimonies with more recent accounts does not affect their relevance nor their validity.

FIDH would like to thank all the North Koreans asylum seekers met by the mission. It also thanks all NGO representatives (see annex 3), in particular Mrs Eun Kyoung Kwon from Open Radio North Korea, for their dedication, as well as representatives from the government of the Republic of Korea who agreed to share invaluable data regarding the DPRK's laws and the application of the death penalty in the country.

Note on Testimonies:

FIDH collected a total of 12 testimonies from North Korean asylum seekers. These will be referred as Witnesses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 in the report (see photos in annex 4). Witnesses were from different backgrounds, varying in sex, age and region of origin. Their witness accounts match other testimonies collected by various organizations based in the Republic of Korea and elsewhere. To guarantee the safety of their families still living in the DPRK, personal details are not disclosed.

1. Until the late 1990s, fewer than 1,000 asylum-seekers from the DPRK had made their way to the Republic of Korea, which remains the final destination for most. By the end of 2012, they were more than 23,000, corresponding to an average of slightly over 2,000 arrivals per year for the past seven to eight years. Of these, around 75 per cent are women. DPRK citizens who leave the country without a special permit from authorities are compelled to do so illegally, and are considered to be escapees. This report therefore refers to them as asylum seekers, though most of those settling in the Republic of Korea have a quasi-automatic right to citizenship and are known as 'defectors'.

2. Historical and political background

The Korean peninsula was unified in 668, and remained so until 1945 when it was divided into North Korea and South Korea at the end of World War II. The Korean War (1950-1953), which was an attempt at reunification by North Korea, resulted in the establishment of a de-militarized zone (DMZ) around the 38th parallel. The Republic of Korea in the South and the Democratic People's Republic of Korea (DPRK) in the North remain divided to this day. Both countries only became members of the United Nations in 1991 as the DPRK had until then rejected separate membership.

The DPRK was officially founded on 9 September 1948. Three "Great Leaders" have ruled the country: Kim Il-Sung (Kim Il-Sŏng) from 1945 until his death in 1994; his son Kim Jong-Il (Kim Chŏng-Il) until his death on 17 December 2011; and his grand-son Kim Jong-Un (Kim Chŏng-Un) since then.

The Korean Workers' Party (KWP) has been the main ruling political party of the DPRK since its foundation on 30 June 1949. Its ideology consists of socialism,[2] Korean nationalism, self-reliance *(Chuch'e, Juche)* and Kimilsungism-Kimjongilism, now Kimjongeunism.[3] In 1967, Kim Young Joo (Kim Il Sung's younger brother and organizing director of the Workers' Party Central Committee) developed the "Ten Principles for the Establishment of the One-Ideology System".[4] These principles were officially introduced by Kim Jong-Il in 1974. They have been, and remain, above the justice system in the sense that they may be arbitrarily used against anyone, even members of the privileged elite, if necessary for purges carried out by KWP leaders.

The DPRK's laws are subservient to orders from the Suryŏng (Great Leader) and the KWP. On the surface, the country is equipped with a legal system that includes a Constitution, laws and a judiciary. However, in reality, the Suryŏng's instructions and the KWP's guiding principles have priority over all branches of power, including the judiciary, and function as supra-legal structures. Under the watchful eye of the Kim family clan, the KWP controls judicial personnel and rulings, and elects and recalls judges and procurators; any rulings counter to KWP policies are forbidden.

The "Military first" *(Sŏn'gun)* ideological era began in 1960 but it did not appear as an official government policy until after Kim Il-Sung's death in 1994. It prioritizes the Korean People's Army (KPA) in State affairs and allocates national resources to the army before all else. It also guides political and economic life in the country, and dominates the political system. The State Security Department (SSD), a forerunner to the Ministry of People's Defence, is the State's internal security apparatus.

In order to control the population and its political opponents, the regime has organized a system like the Soviet system of "secret police files" on every citizen, taking into account their social class and ideological purity. The social class of a person's father at the time of her/his birth, *"sŏngbun ch'ulshin"*, and the positive or negative sub-categories of social-class belonging to their ancestors even before 1945, *"t'odae"*, are the criteria on which the DPRK's class-system is

2. Socialism being the first step towards Communism, which remains the "ultimate goal".

3. For the past decades, a cult of personality surrounding the Kim family, has been in place in the DPRK.

4. 'Ten principles for the Establishment of the One-Ideology System', Columbia University, available at: http://www2.law.columbia.edu/course_00S_L9436_001/North%20Korea%20materials/10%20principles%20of%20juche.html

founded. This divides DPRK nationals into three main categories: the core, privileged category loyal to the Great Leader, the 'wavering' category (majority of the population) and enemies.[5] Each category is divided into subcategories. This system affects every aspect of a person's life: KWP membership, access to high level education, living conditions, place of residence in P'yŏngyang or outside, food rations, and judicial process, amongst others.

The DPRK practices a discriminatory policy of guilt by association, which the government has long used to arrest not only those considered "enemies of the State", but also their families up to three generations – a practice first articulated by Kim Il-Sung in 1972. According to evidence collected by the UN High Commissioner for Human Rights in 2013,[6] roughly 200,000 people (of a population of approximately 25 million), including women and children, are arbitrarily imprisoned in the six main political labor camps that compose the DPRK's prison camp system (see below). Some of these camps are believed to have been operational since the 1950s.

In the 1990s, North Korea was plagued by energy shortage and a great famine known as the *Arduous March* led to the starvation of several million people, reaching its peak in 1997. A black market and parallel economy emerged. In this context, Kim Jong-il reportedly called for "the sound of guns to be heard" to instill fear among the population and prevent political dissent. According to UN estimates, 16 million North Koreans continue to suffer from various degrees of chronic food insecurity. Young children, pregnant and lactating women and the elderly are particularly vulnerable.

The economic performance of the DPRK is notoriously weak. Inflation has been a serious problem in recent years, worsening unrelentingly after a failed initiative to revalue the wŏn in November 2009. The closed nature of the regime makes it difficult to evaluate the real economic situation – the DPRK is one of the few countries that the UNDP is unable to rank on the Human Development Index due to the unavailability of statistical data. Kim Jong-Un's rule remains young and it is difficult to determine who is truly ruling over the country today. In appearance, Kim Jong-Un controls key political and military positions. The 2012 celebrations of the 100th anniversary of the birth of Kim Il-Sung, as well as the successful launch of a rocket to place a satellite into orbit in December 2012, and the latest nuclear tests in 2013, were a display of Kim Jong-Un's attempts to strengthen his power at the domestic level. Yet, the ruler's young age and lack of experience, the influence of his uncle (husband of Kim Jong-Il's sister), recent purges, and the latest contradictory statements from the regime may be indicative of factional fighting.

3. The DPRK's human rights situation

a. The death penalty interlinked with other systematic and widespread violations

The DPRK's State practice has persistently been characterized by widespread and systematic human rights violations. As highlighted by the UN Special Rapporteur on human rights in the DPRK's latest report, the DPRK's political system entails a unique inter-connectedness

5. Robert Collins, *Marked for Life : Songbun, North Korea's Social, Classification System*, The Committee for Human Rights in North Korea, 2012, available at: http://www.hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf.

6. 'Pillay urges more attention to human rights abuses in North Korea, calls for international inquiry', OHCHR, 14 January 2013, available at: http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12923&LangID=E

between various issues and patterns of human rights violations, which aim at maintaining social order and political control. The death penalty is not an exception. The scale and patterns of its application are part and parcel of this system.

The United Nations has reported the existence of the following issues or patterns of human rights violations:

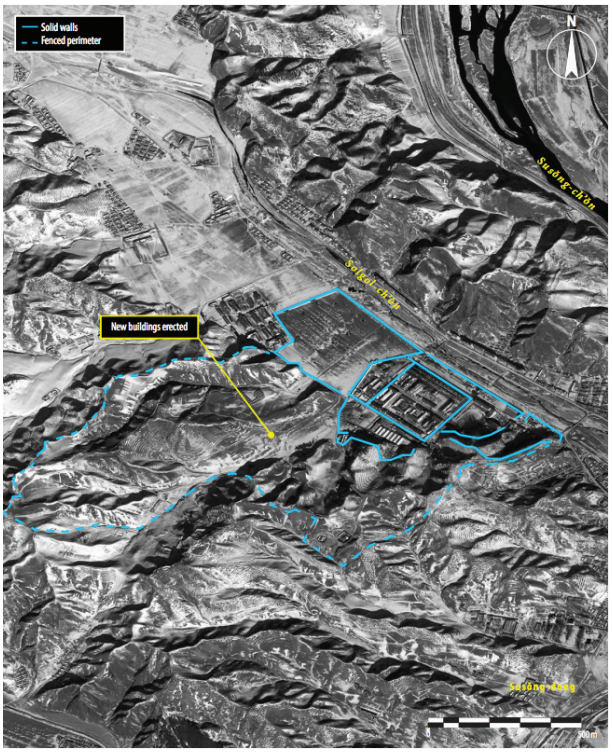
- Torture and other cruel, inhuman and degrading treatment or punishment, especially related to conditions of detention;
- Arbitrary detention as a form of persecution, and the lack of rule of law;
- Enforced disappearances, including the abduction of foreign nationals;[7]
- Extensive restrictions on the rights to freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association;
- Violations of the right to food;
- Restrictions on freedom of movement and abusive treatment of citizens forcibly returned;[8]
- Specific discrimination against vulnerable groups, including women, children and returnees;
- Other violations of the right to life, including forced abortions and the infanticide of children of repatriated mothers.

In 2010, the Special Rapporteur on the human rights situation in the DPRK noted that "it is clear from six years of observing the human rights situation in the Democratic People's Republic of Korea that the abuses against the general population for which the authorities should be responsible are both egregious and endemic". In 2012, the Human Rights Council expressed deep concern about a "persisting deterioration" of the human rights situation in the country.[9] Last February, the Special Rapporteur concluded that the widespread and systematic nature of some of the above-mentioned human rights violations could be referred to as "crimes against humanity" committed as part of "systematic and/or widespread attacks against civilian populations"

7. The largest number of enforced disappearances took place during and after the Korean War from 1950 to 1953. Since the war, 3,824 people have reportedly been abducted from the Republic of Korea, of which 3,310 have been returned after having been held for 6 months or so (source: Report of the Special Rapporteur on the situation of human rights in the Democratic People's, Republic of Korea to the Human Rights Council, Marzuki Darusman, A/HRC/22/57, 1 February 2013, para. 114, available at: http://www.ohchr.org/documents/hrbodies/hrcouncil/regularsession/session22/a.hrc.22.57_english.pdf).

8. On 28 March 2012, in its first correspondence to the United Nations Office of the High Commissioner for Human Rights, the Institute for the Research of Human Rights, located in Pyongyang, argued that people who flee from the DRPK were not defectors, asylum seekers or refugees, but illegal immigrants who leave the country for economic reasons or to escape criminal charges. According to the UN Secretary General, even if certain persons may not fit the definition of refugee when they leave the DPRK, they may become refugees sur place because they have a valid fear of persecution upon return, given that leaving the country without authorization is a criminal offense (source: Situation of human rights in the Democratic People's Republic of Korea, Note by the Secretary-General, A/67/370, 13 September 2012, para. 58 to 63, available at: http://www.fidh.org/IMG/pdf/rapportonu.pdf).

9. Human Rights Council 19th session, 'Human rights situations that require the Council's attention', resolution A/HRC/19/L.29, 22 March 2012, available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/ResDecStat.aspx.



Off-nadir image of Ch'ŏngjin camp (also known as camp 25), showing new buildings erected outside of the main camp area, 5 January 2013. [11]

b. The DPRK's prison camp system

The DPRK's prison camp system (*kwalliso*) is a unique detention facility, sometimes referred to as a gulag system.[10]

Here, thousands of people most of them unaware of the reasons for their imprisonment or of the crimes they are accused of – are reportedly held by reason of "guilt by association". No domestic legal instrument refers to the existence of these camps, which is denied by the DPRK.

Most of the above-mentioned issues or patterns of violations, including the right to life, may actually be attributed to their mode of operation. The prison camp system is characterized by routine executions, torture, forced labour, and denials of the right to health. The majority of prisoners are expected to remain in the camps until their death; they have no access to a lawyer and no right to a trial.

In his 2013 report to the Human Rights Council (A/HRC/22/57), the Special Rapporteur on the human rights situation in the DPRK stated that:

> *"Grave human rights violations in the prison camps (or) even the mere existence of such camps, with slave-like conditions for political prisoners, may qualify as crimes against humanity under Article 7, paragraph 1, of the Rome Statute, sub-paragraphs (c) enslavement, and (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law. He also notes that the particularly inhumane conditions and treatment to which detainees in political prison camps are exposed on an intentional basis could give raise to crimes against humanity".*

In March 2010, the Special Rapporteur sent a letter to the DPRK, "raising concerns about allegations of forced labour and limited access to basic necessities, such as food, shelter, clothing, sanitation and medical treatment in the prison camp system. He [the Special Rapporteur] noted the allegation that the camps hold a large number of persons who have been detained for expressing political opinions, defecting or engaging in acts against the Government, or who are family members of accused persons".

On 3 October 2012, five mandate holders[12] sent a joint letter to the DPRK on the alleged use of labor camps for political prisoners. To date, they have received no response.

10. These camps are today loca ted in Ch'ŏngjin , Hoeryŏng, Kaech'ŏn, Hwasŏng, Pukchang and Yodŏk.

11. *See North Korea's Camp 25*, Digital Globe and HRNK, page 19, available at: http://hrnk.org/uploads/pdfs/HRNK_Camp25_LR.pdf

12. Namely the Special Rapporteur on the human rights situation in the DPRK; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; and the Working Group on Enforced and Involuntary Disappearances.

II. INTERNATIONAL INSTRUMENTS APPLICABLE TO THE DPRK

1. Applicable human rights norms

a. The right to life in the ICCPR

The DPRK became a party to the International Covenant on Civil and Political Rights (ICCPR) on 14 September 1981.[13] The ICCPR strictly protects the right to life. According to its Article 6,

> *"1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. 2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes […]. This penalty can only be carried out pursuant to a final judgment rendered by a competent court. […]. 5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. 6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant".*

Furthermore, General Comment n. 6 of the Human Rights Committee stipulates that "the right to life enunciated in article 6 of the Covenant [...] is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation."[14]

Following growing international criticism of the DPRK, the regime sent notification of its withdrawal from the ICCPR to the UN Secretary General on 25 August 1997. The UN Secretary General objected to this notification on the basis that withdrawal from the treaty requires the consent of all other signatory States.[15] While the DPRK continues to argue that it is no longer obliged to adhere to the ICCPR, it nevertheless remains bound by the treaty's language and principles under international treaty law.

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13. The DPRK is also party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Covenant on Economic, Social and Cultural Rights (IESCR) all of which it ratified on the same day as the ICCPR.

14. CCPR General Comment n.6: the right to life, (art.6), 30 April 1982, para. 1, available at: http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/84ab9690ccd81fc7c12563ed0046fae3?Opendocument

15. See UN Treaty Collection, status of International Covenant on Civil and Political Rights 1966 (Chapter IV (4)) note 8, available at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#8

The Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, was adopted by the UN General Assembly in 1989. It emphasized the importance of abolishing the death penalty, and strictly adhering to valid and fair legal processes where it is retained. Although not binding on the DPRK, this protocol highlights the international trend towards abolition.

b. Resolutions on a moratorium on the death penalty

To date, 58 countries retain the death penalty.[16] However, the global trend is towards universal abolition. In the last five years, Uzbekistan, Argentina, Burundi, Togo, Gabon and Latvia have all abolished the death penalty for all crimes. The year 2012, nevertheless, saw an upsurge in executions in Asia and the Middle-East, which has been strongly condemned by the United Nations Office of the High Commissioner for Human Rights.[17]

Meanwhile, since 2007 the UN General Assembly has adopted several resolutions calling all states to adopt a moratorium on the death penalty. In December 2012, a resolution (the fourth time in 6 years) was adopted by a record vote of 110 in favor to 39 against, with 36 abstentions. The DPRK voted against.[18]

In this resolution, the General Assembly expressed its deep concern about the continued application of the death penalty, calling on States to respect international safeguards guaranteeing the protection of the rights of persons facing the death penalty.[19] States were called upon not to impose capital punishment for offences committed by persons under 18 years of age or pregnant women. They were also called upon to reduce the number of offences for which the death penalty might be imposed and establish a moratorium on executions with a view to abolishing the death penalty.[20]

Although not legally binding, these resolutions carry considerable moral and political weight. They are a reminder of the commitment of UN member States to work towards abolition of the death penalty. They constitute an important indication of the unmistakable global trend towards abolition of the death penalty, and should serve as a model guide for states still imposing this form of punishment.

c. Jus cogens on the arbitrary deprivation of life

In addition to the protection of the right to life, customary international law includes the prohibition of arbitrary deprivation of life, defined as the violation of specific legal requirements,

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16. For the list of countries retaining the death penalty in 2012see 'Death sentences and executions 2012', Amnesty International, 2013, available at: http://www.amnesty.org/sites/impact.amnesty.org/files/PUBLIC/2012DeathPenaltyAI.pdf.

17. 'UN concerned over the growing use of the death pealty in Middle East and Asia', 5 April 2013, UN News Centre, available at: http://www.un.org/apps/news/story.asp?NewsID=44570&Cr=death+penalty&Cr1=#.UWPweRymdnA

18. Third Committee, 40th meeting, voting sheet for the resolution on a moratorium on the use of the death penalty, A/C.3/67/L.44/Rev.1, 19 November 2012, available at: http://www.un.org/en/ga/third/67/docs/voting_sheets/l.44.Rev.1.pdf ; and UN General Assembly Resolution on a moratorium on the use of the death penalty A/RES/67/176, 20 December 2012, available at: https://www.un.org/en/ga/67/resolutions.shtml

19. Economic and Social Council resolution 1984/50 of 25 May 1984, 'Safeguards guaranteeing protection of the rights of those facing the death penalty', available at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx

20. UN General Assembly Resolution on a moratorium on the use of the death penalty A/RES/67/176, 20 December 2012, available at: https://www.un.org/en/ga/67/resolutions.shtml

which include a procedural component, centered on the right to a fair trial and the legality of the execution; and a substantive component that entails, among others, the imposition of the death penalty for only the most serious crimes and minimum standards of protection for vulnerable groups. Arbitrary deprivation of life was recognized by the Human Rights Committee in 1994 in its General Comment No. 24 as a peremptory norm (or *jus cogens*), signalling that it cannot be overridden by other norms:

> *"While there is no hierarchy of importance of rights under the Covenant, the operation of certain rights may not be suspended, even in times of national emergency. [...] And some non-derogable rights, which in any event cannot be reserved because of their status as peremptory norms, are also of this character - the prohibition of torture and arbitrary deprivation of life are examples".*[21]

States that retain the death penalty therefore not only violate the right to life, but also the prohibition of arbitrary deprivation of life.

Transparency is among the fundamental due process safeguards that prevent the arbitrary deprivation of life. These safeguards help to prevent errors or abuses, and ensure fair and just procedures at all stages. Secrecy, by contrast, denies the human dignity of those sentenced, many of whom are still eligible to appeal. It also denies the rights of family members to know the fate of their closest relatives and its limitation is essential to ensuring respect for the right to freedom from cruel, inhuman or degrading treatment or punishment.[22]

Any State must therefore disclose information on the number of persons sentenced to death, the number of executions actually carried out, the number of death sentences reversed or commuted on appeal, and the number of instances in which clemency has been granted; all broken down according to the offence for which the condemned person have been convicted. Condemned persons, their families, and their lawyers should be provided with timely and reliable information on the procedures and timing of appeals, clemency petitions, and executions. Respect for privacy cannot offset transparency obligations where a prisoner does not want their experience on death row or the fact of their execution to be made public.

The Human Rights Committee has also observed that carrying out executions before the public is a practice that is "incompatible with human dignity".[23] The experience of some countries with public executions clearly illustrates the fundamental difference between revealing the information needed for the public to make informed decisions about the death penalty and the use of death as a public spectacle, which is itself a most inhuman form of punishment. Indeed, exhibitions of bloodletting are not necessarily informative, and information need not be accompanied by violent displays.

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21. CCPR/C/21/Rev.1/Add.6, 10, available at: http://ccprcentre.org/doc/ICCPR/General%20Comments/CCPR.C.21.Rev1.Add6_%28GC24%29_En.pdf

22. For further see UN Special Rapporteur on Extrajudicial Executions, *Handbook on the law and policy of unlawful killings (2004-2010),* chapter B on transparency, available at: http://www.extrajudicialexecutions.org/application/media/Handbook%20Chapter%206%20The%20death%20penalty.pdf

23. Concluding observations of the Human Rights Committee: Nigeria, CCPR/C/79/Add.65, 24 July 1996, para. 282, available at: http://www.unhchr.ch/tbs/doc.nsf/0/4e0517e23534f9088025648a004b6354?Opendocument

The subject of extrajudicial, summary or arbitrary executions, which are closely related to the death penalty, has been discussed for many years. In March 1982, the United Nations mandated a Special Rapporteur on summary or arbitrary executions to submit a comprehensive report to the Commission of Human Rights on the occurrence and extent of the practice of summary or arbitrary executions, together with their conclusions and recommendations.

The mandate was renewed in 1992 with the title widened to include "extra-judicial" – indicating that the Commission had adopted a broader approach to the mandate on executions to include all violations of the right to life as guaranteed by a large number of international human rights instruments. Importantly, the mandate covered all countries, irrespective of whether a State has ratified relevant international conventions.

In his 2010 report to the Human Rights Council,[24] the current Special Rapporteur summarized the legality of the application of the death penalty as follows:

> *"[G]iven the fundamental nature of the right to life, the circumstances in which the death penalty may lawfully be applied are strictly circumscribed. Executions carried out in violation of those limits are unlawful killings."*[25]

The report outlines States' obligations to respect:

> *"Fair trial guarantees, including judicial independence, the right to counsel, an effective right to appeal, and the right not to be coerced or tortured to give evidence. When a State's judicial system cannot ensure respect for fair trials, the Government should impose a moratorium on executions."*[26]

As outlined below, none of the international obligations outlined by both the UN Special Rapporteur on extra-judicial, summary or arbitrary executions or the Human Rights Committee are respected by the DPRK. To the extent that such executions are thereby rendered a violation of the prohibition on the arbitrary deprivation of life, the DPRK can therefore be regarded as being in breach of a peremptory norm of public international law.

24. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, A/HRC/14/24, 20 May 2010, available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.pdf

25. Ibid. at para. 50.

26. Ibid. at para. 51(a).

2. UN human rights mechanisms applicable to the DPRK

a. The Special Rapporteur and the newly-established Commission of Inquiry

The DPRK's persistent lack of cooperation with existing UN human rights mechanisms, and continuing reports of systemic, widespread and grave violations of human rights in the country, led the Commission on Human Rights to establish a mandate for a Special Rapporteur on the situation of human rights in the DPRK in 2004.[27] The Commission on Human Rights requested:

> *"The Special Rapporteur to establish direct contact with the Government and with the people of the Democratic People's Republic of Korea, including through visits to the country, and investigate and report on the situation of human rights in the Democratic People's Republic of Korea and on the Government's compliance with its obligations under international human rights instruments."*[28]

Pursuant to this initial resolution (annually renewed) and subsequent resolutions of the General Assembly, the Special Rapporteur has submitted two reports every year: one to the Human Rights Council, and another to the General Assembly. Since 2004, the Secretary-General and the Special Rapporteur have presented 22 reports to UN Member States, along with 16 resolutions adopted by the General Assembly and its subsidiary organs since 2003.

As noted in the Special Rapporteur's latest report to the Human Rights Council, the United Nations have focused on "nine inter-linked issues or patterns of violations of human rights" in the DPRK, including violations of the right to life; "in particular the abusive application of the death penalty and the use of public executions…".[29]

The same report is replete with the documentation of international concerns regarding the DPRK's use of the death penalty and numerous attempts to engage in dialogue or outright condemnation of the widespread practice in the DPRK:

> *"The General Assembly resolutions adopted between 2006 and 2012 on the Democratic People's Republic of Korea repeatedly expressed serious concern at the persisting reports of systematic, widespread and grave violations of civil, political, economic, social and cultural rights in the Democratic People's Republic of Korea, including torture, public executions, […] imposition of the death penalty for political and religious reasons, […] From 2008 onwards, the General Assembly has strengthened its approach and expressed very serious concern about these violations."*[30]

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27. The successive *Special Rapporteurs* have been Vitit Muntabhorn (Thailand) from 2004 to 2010 and Marzuki Darusman (Indonesia) from 2010 to the present.

28. Situation of *Human Rights in the Democratic People's Republic of Korea, 15 April 2004, E/CN.4/RES/2004/13, para 6. , available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=9760

29. Report of the Special Rapporteur on the situation of human rights in the Democratic People's, Republic of Korea to the Human Rights Council, Marzuki Darusman, A/HRC/22/57, 1 February 2013, para. 6(g), available at: http://www.ohchr.org/documents/hrbodies/hrcouncil/regularsession/session22/a.hrc.22.57_english.pdf

30. Ibid. At para. 9.

The report goes on to document apparent deception by the DPRK in the modification of its penal code to assuage international criticism by reducing the number of crimes eligible for the death penalty, only to add many more back in an addendum to the Criminal Code for ordinary crimes:

> *"In relation to capital punishment, the Secretary-General noted in 2011 that the number of offences carrying the death penalty had been reduced from 33 to 5. However, he expressed concern at the fact that, of those five offences, four are essentially political offences (Articles 44, 45, 47 and 52 of the Criminal Code) couched in terms so broad that the imposition of the death penalty may be subjective and arbitrary."*[31]

The United Nations High Commissioner for Human Rights called on 14 January 2013 for a full-fledged international inquiry into serious crimes in the DPRK. On 22 March, the Human Rights Council adopted by consensus a resolution extending the mandate of the Special Rapporteur for a period of one year and establishing, also for a period of one year, "a Commission of Inquiry comprising three members, one of whom being the Special Rapporteur, with the other two members appointed by the President of the Human Rights Council".

The resolution reads:

> *"The Commission of Inquiry will investigate the systematic, widespread and grave violations of human rights in the DPRK, including the violation of the right to food, the violations associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, violations of freedom of expression, violations of the right to life, violations of freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other states, with a view to ensuring full accountability, in particular where these violations may amount to crimes against humanity […] The Commission of Inquiry will present an oral update to the Council at its 24th session and to the General Assembly as its 68th session, as well as a written report to the Council at its 25th session".*[32]

The right to life - and consequently the death penalty - is an explicit part of the mandate of the commission of inquiry.

b. The Universal Periodic Review

The Human Rights Council's Universal Periodic Review (UPR) was created in 2006 in the same resolution as the Human Rights Council itself. It is the only universal mechanism for reviewing the human rights records of all UN Member States, making recommendations for improvements in states' domestic human rights practice. The UPR establishes a record for comparison and reflection on successive UPR sessions. By October 2011 the Human Rights Council had reviewed the record of all UN Member States and has, since then, been in the process of a new round of reviews.

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31. Ibid. at para. 89.

32. Resolution on the situation of human rights in the DPRK, A/HRC/22/L.19, 18 March 2013, para. 5 and 10, available at: http://ap.ohchr.org/documents/alldocs.aspx?doc_id=21380

The DPRK's first UPR was conducted in December 2009.[33] The DPRK's State Report actually contained a section on the "Right to life", opening with the assertion that the DPRK regards the right to life as an essential requirement guaranteeing the very existence of the human being and effectively ensures that the right to life and existence is protected.[34]

The DPRK further claimed that:

> *"No person is arrested, detained or arbitrarily deprived of life, according to the Constitution and the Criminal Law, unless he/she has committed a very serious crime. Death penalty is imposed only for five categories of extremely serious penal offences and the sentence of death is not imposed for a crime committed by persons below eighteen years of age nor is it carried out on pregnant women."*[35]

Following the submission of the DPRK's State Report and its presentation together with an interactive dialogue and responses, the UPR Working Group issued recommendations for consideration and responses from the DPRK. The Working Group made 167 recommendations, 50 of which did not enjoy the support of the DPRK. These included the recommendation to establish a moratorium or abolition of the death penalty and calling for an end to public executions and secret executions.[36] The 117 other recommendations remained pending, making of the DPRK the only State not accepting any. On 21 December 2010, the General Assembly expressed its serious concern at:

> *"The refusal of the Government of the Democratic People's Republic of Korea to articulate which recommendations enjoyed its support following its universal periodic review by the Human Rights Council, and regrets the lack of actions taken to date to implement the recommendations contained in the final outcome"*.[37]

DPRK's second UPR is scheduled at the UPR session in April or May 2014. It is currently very unlikely that the DPRK will consider or implement the recommendations made by other states. However, the DPRK and several states hold bilateral dialogues which can present other opportunities to raise human rights concerns or engage a dialogue on human rights issues.[38]

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33. National Report Submitted in Accordance with Paragraph 15(A) of the Annex to the Human Rights Council Resolution 5/1, Democratic People's Republic of Korea, A/HRC/WG.6/6/PRK/1, 27 August 2009, available at: http://www.ohchr.org/EN/HRBodies/UPR/PAGES/KPSession6.aspx

34. Ibid. at para. 33.

35. Ibid. at para. 34.

36. Report of the Working Group on the Universal Periodic Review, Democratic People's Republic of Korea, A/HRC/13/13, 4 January 2010, para. 91, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KP/A_HRC_13_13_PRK_E.pdf

37. UN General Assembly resolution A/RES/65/225, 18 March 2011, para. 1 (c), available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/65/225

38. For example, the DPRK and Sweden have held since 2005 a bilateral dialogue on confidence building, regional security issues and broader issues.

III. THE SCALE OF DEATH PENALTY IN THE DPRK

1. Constitutional and other domestic laws

Since their establishment, both the DPRK and the Republic of Korea have retained the death penalty. However, the latter is considered to be abolitionist in practice as it has not executed anyone since December 1997.[39] Most importantly, the use of the death penalty in the DRPK is particularly extensive and substantially different from its use in other countries, including the Republic of Korea.

The DPRK's current constitution, first adopted in 1972 and revised in 1992, 1998 and most recently in April 2009,[40] does not guarantee the right to life nor restrict the use of the death penalty. The closest reference to the right to life is in Article 64: "the State shall effectively guarantee the genuine democratic rights and freedoms as well as the material and cultural well-being of all its citizens", and Article 79: "Citizens are guaranteed inviolability of the person."

In February 1987, the DPRK made significant revisions to its Criminal Code, reducing the number of crimes punishable by death from 33 to 5; 4 of these are essentially political offences couched in terms so broad that the imposition of the death penalty may be subjective and arbitrary.

From then on, additional partial revisions have been made on at least seven occasions: in March 1995, on 19 April and 26 July 2005, on 4 April and 18 October 2006, and 26 June and 16 October 2007. In April 2009, the DPRK made another important amendment to its Criminal Code, when it expanded the list of crimes punishable by death from five to six by adding "treacherous (disloyal) destruction" (Art. 64). It added a prescription period of 20 years for those crimes punishable with the death penalty.

On 19 December 2007, the DPRK adopted, by Decision No. 2483 of the Standing Committee of the Supreme People's Assembly (SPA), a unique form of law, referred to as an "addendum to the Criminal Code for ordinary crimes", which expanded the "crimes" for which the death penalty is applied. The addendum was a very significant legislative act, given that it was formally adopted by the SPA Presidium 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. It 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. The addendum

39. In February 2010, however, the Constitutional Court of the Republic of Korea ruled the death penalty was "a legal punishment that can deter crime for the sake of the public". (source 'South Korea court rules death penalty legal, BBC, 25 February 2010, available at: http://news.bbc.co.uk/2/hi/asia-pacific/8536355.stm

40. Socialist Constitution of the Democratic People's Republic of Korea: http://www.wipo.int/wipolex/en/details.jsp?id=9781

permits the application of capital punishment as long as the authorities are able to establish that the crime in question was "extremely serious".

The scope of crimes punishable by the death sentence has further increased following the announcement in September 2012 of two public decrees called "circulation of forex punishable by execution" (by the Department of People's Security) and "execution by gun squad for divulging classified information via cell phone" (by the State Security Department, SSD).[41]

As a result, the total number of crimes that carry the death penalty in the country stands at 24. Of these, at least 9 have a mandatory death sentence requirement, including crimes like kidnapping, theft, damaging or destruction of state or military property, currency counterfeiting, smuggling and introducing narcotics or jewels and colored metals into the black market. Such legislation that leaves courts with no choice but to impose death sentences for specific crimes violates various human rights standards: "A mandatory death sentence, even where killing was intentional, necessarily fails to take into account mitigating circumstances that might otherwise show the specific crime to be less serious."[42] Furthermore, the addendum, by containing a number of vague expressions, leaves room for arbitrary decisions by the authorities.

In spite of recent legal reforms, the death penalty may therefore still be carried out for a large number of crimes, sometimes defined in broad and vague terms. Moreover, there is a lack of guarantees to protect citizens from abusive or arbitrary use of the death penalty, as the next section will show.

The 2004 Criminal Procedure Law sets out strict provisions regarding the execution of death sentences. The executing agency, after receipt of a copy of the court decision and the execution order, may only carry out the execution in the presence of a prosecutor and with the approval of the SPA Presidium (Articles 419, 421 and 422). In addition, the executing agency must notify the sentencing court of the implementation of the death sentence within three days of execution (Article 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. This contradicts Article 179 of the 1999 Criminal Procedure Law allowing "on-site public trials".

The DPRK has a system that envisages special and general amnesties: special amnesties may be granted to individual criminals, while general amnesties may be granted to all criminals serving a sentence for a certain category of crime. In 2009, when the Constitution was revised, the State included a section that authorized the Chairman of the National Defence Commission to grant special amnesties, while the power to grant general amnesties was conferred up on the Standing Committee of the Supreme People's Assembly (Article 53 of the Criminal Code). Past practice shows that general amnesties are usually granted on special occasions, such as during the founding anniversary of the Korean Workers' Party. "Grand amnesties" are granted on predetermined dates, such as the birthdays of Kim Il-Sung and Kim Jong-il, the anniversary of the Party or of the founding of the Republic. However, State announcements have never clarified the number of prisoners amnestied nor the profile of those who would benefit from such amnesties, and indeed whether such persons are or were condemned to death.

41. FIDH interview with officials from the Government of the Republic of Korea, December 2012, Seoul.

42. Extrajudicial, summary or arbitrary executions, note by the Secretary General, A/67/275, para. 61, 9 August 2012, available at: http://www.ohchr.org/EN/HRBodies/SP/Pages/GA67session.aspx

List of crimes punishable with the death penalty in the DPRK's domestic legislation

Criminal Procedure Law (last revised in 2007)

Article 60 – Plots against National Sovereignty: "In cases of extremely grave offenses, he or she shall be committed to lifetime reform through labor or subjected to death penalty" ***(discretionary)***

Article 61 – Terrorism: "In cases of extremely grave offenses, he or she shall be committed to lifetime reform through labor or subjected to death penalty and confiscation of his or her property." ***(discretionary)***

Article 63 – Treason: "In cases of extremely grave offenses, he or she shall be committed to lifetime reform through labor or subjected to death penalty and confiscation of his or her property." ***(discretionary)***

Article 64 – Damage or destruction: "In cases of extremely grave offenses, he or she shall be committed to lifetime reform through labor or subjected to death penalty and confiscation of his or her property." ***(discretionary)***

Article 68 – Perfidy against the People: "In cases of extremely grave offenses, he or she shall be committed to lifetime reform through labor or subjected to death penalty and confiscation of his or her property." ***(discretionary)***

Article 266 – Intentional murder. While this article does not specifically include the death penalty, it specifies a minimum sentence of 10 year hard labour, with the assumption that the absence of upper limit leaves open the use of capital punishment. ***(discretionary)***

2007 addendum to the Criminal Code for ordinary crimes

Disrupting Preparations for War:

Article 1 – Extremely grave crime of deliberate damage or destruction of resources reserved for purposes of combat and military facilities. ***(mandatory)***

Theft of Government or Public Property:

Article 2 & 3 – Extremely grave crime of seizing state property ***(mandatory)***

Article 4 – Extremely grave crime of the deliberate damage or destruction of state property ***(mandatory)***

Violating Socialist Economic Order

Article 5 – Extremely grave crime of currency counterfeiting. ***(mandatory)***

Article 6 – Extremely grave crime of smuggling and introducing jewels and colored metal onto the black market. ***(mandatory)***

Article 8 – Crime of illicitly selling the State's resources. ***(discretionary)***

Violating Socialist Culture:

Article 11 – Extremely grave crime of smuggling and introducing narcotics onto the black market. ***(mandatory)***

Article 17 – Extraordinarily grave act of delinquency. ***(discretionary)***

Article 18 – Crime of illegal business operations. ***(discretionary)***

Article 19 – Extremely grave crime of deliberately inflicting aggravated bodily injuries. ***(discretionary)***

Article 20 – Extremely grave crime of kidnapping. ***(mandatory)***

Article 21 – Extraordinarily grave crime of rape. ***(discretionary)***

Article 22 – Extremely grave crime of theft of private property. ***(mandatory)***

Article 14 – Extraordinarily grave crime of escape from prison. ***(discretionary)***

Article 23 – Crimes punishable by lifetime reform through labor or death penalty in exceptional circumstances. ***(discretionary)***

Public decrees of September 2012

"Circulation of forex punishable by execution" (by the Department of People's Security)

"Execution by gun squad for divulging classified information via cell phone" (by the State Security Department).

2. Facts and figures on the death penalty

The scale of the application of the death penalty cannot be verified due to intense State secrecy. The only available sources are testimonies from witnesses who escaped abroad, reports by human rights NGOs and data from the government of the Republic of Korea, which has created specific bodies to monitor the human rights situation in the DPRK.

Estimates place the DPRK among the top 10 countries in the world for the number of executions carried out on an annual basis. Indeed, the DPRK was among the 21 countries to have carried out executions in 2012.[43] According to a South Korean NGO called the Database Center for North Korean Human Rights (NKDB), close to 3,000 executions have been carried since the establishment of the DPRK in 1948. While there is no clear data for the period running up to the late 1980s, the number of executions has significantly increased in the 1990s, as an attempt to maintain public order during the Arduous March. The NKDB has itself recorded 1559 executions during that decade, and 910 cases in the 2000s.[44]

According to the Anti Death Penalty Asia Network (ADPAN), an Asian network of NGOs campaigning for the abolition of the death penalty, there were more than 60 reported cases of executions in 2010 and 30 cases in 2011.[45] The only confirmed cases relate to high-ranking officials, whose execution infiltrated the media. In March 2010, former director of planning and finance Pak Nam-Hŭi and Deputy Director Ri T'ae-Il were executed for treason as scapegoats of the failed currency reform in December 2009.[46] In 2011, officials of the State Security Department including Deputy Director Ryu Kyong, were executed for espionage, probably as part of a purge in the army.[47] In 2012, executions have continued with at least 15 reported executions, including the one of Kim Chol, a high-ranking military official who was publicly executed for merrymaking during Kim Jong-il's mourning period.[48]

According to the NKDB, 86.7% of past executions were public executions, with a ratio higher in the 1990s (91.8%) than in the 2000s (80.7%). While it appears that public executions were predominantly carried during the Arduous March, evidence remains unclear as to whether public executions are still performed today.

> ***Example of execution during the 'Arduous March' famine*** *- Witness 6 recalls seeing the execution of a woman in her mid-thirties, probably from the suburbs of Pyŏngyang. She was already close to death when she was taken to the execution poll in the backyard of a market place, and had probably been tortured. A judge*

43. Countries where execution were reported in 2012: Afghanistan (14), Bangladesh (1), Belarus (3+), Botswana (2), DPRK (6+), Gambia (9), India (1), Iran (314+), Iraq (129+), Japan (7), Pakistan (1), Palestinian Authority (6, Hamas de facto administration in Gaza), People's Republic of China (+), Saudi Arabia (79+), Somalia (6+; 5+ by the Transitional Federal Government, and 1 in Puntland), South Sudan (5+), Sudan (19+), Taiwan (6), United Arab Emirates (EAU) (1), United States of America (43), Yemen (28+). Nb: ''+" indicates an unknown number of (further) executions. (source: 'Death sentences and executions 2012', Amnesty International, 2013, http://www.amnesty.org/sites/impact.amnesty.org/files/PUBLIC/2012DeathPenaltyAI.pdf)

44. NKDB, White Paper on North Korean Human Rights 2012, page 112.

45. 'North Korea', Anti-Death Penalty Asia Network, available at: http://adpan.net/facts-figures/retentionist-2/north-korea/

46. FIDH interview with officials from the Government of the Republic of Korea, December 2012, Seoul.

47. '2011: Ryu Kyong, Kim Jong-un rival', 4 January 2012, ExecutedToday.com, available at: http://www.executedtoday.com/2012/01/04/2011-ryu-kyong-kim-jong-un/

48. Julian Ryall, 'North Korean army minister executed with mortar round', The telegraph, 24 October 2012, available at: http://www.telegraph.co.uk/news/worldnews/asia/northkorea/9630509/North-Korean-army-minister-executed-with-mortar-round.html

came and read a document detailing the reasons for her execution. The women accidentally killed her son's friend. While the two boys were arguing for a pencil, her son accidentally killed his friend by pushing him. The woman buried the body in her yard, but because it was during the time of the famine, she boiled one of the boy's arms to eat it. When the agents eventually found the body, they found a bone as evidence.

The NKDB further estimates that 12.1% of executions were secret executions. The judicial character of secret executions remains unclear; their evidence is naturally difficult to come by and often requires second or third hand accounts.

Executions have reportedly been carried out to punish crimes of murder, cannibalism, human and drug trafficking. Executions are particularly frequent inside the prison camp system. Here prisoners are punished for breaking the camp's rules, or for attempting to escape. Executions are reported in higher frequency along the northern part of the DPRK, especially in the provinces of North Hamgyong, South Hamgyong, Ryanggang, South Pyongyan as well as in Pyongyang. Apart from Pyongyang, these regions have been particularly affected by food shortage and are the main routes for escapees attempting to cross the border.

Article 32 of the Court Sentence and Decision Implementation Law stipulates that death sentences shall be carried out by firing squad, with nine shots normally fired. However, hanging is also practiced. There are also unverified reports of cruel, inhuman or degrading practices;[49] however FIDH was not able to confirm these.

In brief, the death penalty in the DPRK is not only applied on a large scale, but it is also closely inter-linked with the other systematic and widespread human rights violations in the country.

49. *The Hidden Gulag*, a Report by the Committee for Human Rights in North Korea, second edition', 2012, page 55-56, available at: http://www.hrnk.org/uploads/pdfs/HRNK_HiddenGulag2_Web_5-18.pdf

IV: DEATH PENALTY AS AN "ARBITRARY DEPRIVATION OF LIFE"

In applying the death penalty, the DPRK violates, among other international human rights obligations, the right to a fair trial, the prohibition of public and secret executions, as well as the prohibition of the death penalty for non-serious crimes and the imposition of minimum standards of protection for vulnerable groups.

1. Denial of the right to a fair trial

On paper, the revision of the Criminal Procedure Code in 2004 allowed for some progress in the definition of criminal charges. Some provisions that used to allow for broad interpretations were deleted, and more clarity was provided on a number of other crimes. The number of articles consequently increased from 118 to 245. The revision also introduced a new provision requiring court trials to be open to the public (Art. 271, Sect.1). However, only ordinary citizens have since then been tried in open courts while officials and party cadres continue to be tried in closed courts.[50]

Some articles are still not in line with international standards or contain terms that are undefined or are vague, thus creating scope for misinterpretation or abuse by the State. For instance, the definition of "labour training" and "training detention facilities" remains unclear; the broad interpretation of the category of "political crime" remains possible and elements such as "crimes by association" are maintained. Similarly vague terms, like "extremely grave crime" and "reform through labour", are contained in the addendum to the Criminal Code adopted on 19 December 2007.[51] A number of provisions also stipulate punishment for acts that would not normally warrant criminal liability. All of these can provide the basis for arbitrary.

The DPRK's judicial system is heavily influenced by the regime in power. In addition to the opaque nature of the ordinary courts, there is a parallel quasi-penal regime which does not comply with rule of law guarantees such as judicial independence, respect for the rights of the accused and access to a lawyer.[52] Moreover, in the absence of an independent judiciary, the right to a fair trial can not be applied. The above-mentioned "Ten Principles" guiding the KWP are, actually, often above the judicial system. The KWP is reportedly informed in advance of trials, and may pronounce sentence alternatives before an actual trial takes place. The party not only determines whether or not to detain a suspect, but also systematically influence the trial process.

50. Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, A/HRC/19/65, para 31, available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-65_en.pdf

51. Ibid. para. 34.

52. Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vitit Muntarbhorn, A/61/349, 15 September 2006, para. 15, available at: http://ap.ohchr.org/documents/dpage_e.aspx?c=50&su=59

FIDH was told that no execution actually takes place without the agreement of the authority of the highest levels of the KWP. A number of witnesses met by the FIDH even claimed that during different periods of socio-economic unrest, such as the Arduous March, the KWP would set arbitrary quotas for a certain number of executions per community to maintain public control.

> ***Executions based on forced confessions -*** *Witness 12 recalls an execution in 2000 or 2001. The defendant had been invited for a drink by a friend, and had taken his shaving knife with him hoping to shave later in the day. In the market place, the two had met another friend, the son of a member of the security service. The defendant had a fight with the latter and the knife accidentally wounded him. He was accused of attempted murder. Although he claimed it was an accident, he was arrested. In the 70's, his own father had been accused of spying and sentenced to death. Therefore, the defendant had a bad rating for ideological purity, sŏngbun, and was accused of seeking revenge. He was detained and interrogated for about 6 months. Witness 12 does not know if the defendant was tortured because nobody had access to him. The defendant was denied visitors and was said to have been starved. Under the law the defendant had to confess his guilt, which was why there were 6 months between the defendant's arrest and execution. However, he refused to confess. One month before the execution, the defendant was tried and sentenced. Only the relatives of the prisoner were able to attend. On the day of the execution, an official read out a statement and asked the defendant if he had a last word to say. He said he was innocent and that it was an accident. He was not gagged, but he had no strength left so it was hard to hear him. The authorities did not return the body to the family for burial.*

While defense attorneys may plead their case by elaborating a defendant's motives, purposes, the genuineness of his/her penitence, and request due consideration of these factors in the final verdict, the Criminal Procedure Law defines these lawyers as government employees who must strive to safeguard KWP's various policies. As such defense attorneys have the duty to enlighten the people and justify the KWP's policies throughout the trial process. Their duty is therefore limited to "pointing out the seriousness of the crime committed and make the offender (defendant) deeply remorseful of his/her acts before the people and the fatherland by analyzing and clearly proving the offender's motives for the crime."[53] The underlying idea is that defense attorneys do not necessarily stand for the protection of defendants' rights. Furthermore, the law rejects the concept of defense against prosecution and promotes the protection of the State's ideals, emphasizing the court's power and authority to sanctions, and denying the status of the defendant as a party other than to be proven guilty.

Article 160 of Constitution and Article 272 of the Criminal Procedure Law guarantee the independence of courts. However, the KWP has the power to remove judges. Moreover, while trials are legally "open to the public", FIDH found that no one not specifically invited would consider attending a trial for risk of being viewed by the authorities with great suspicion or as a trouble maker.

Investigation and preliminary examinations for ordinary crimes fall under the jurisdiction of the

53. Kim Soo-Am, *'The North Korean Penal Code, Criminal Procedures, and their Actual Applications'* (Korea Institute for National Unification, 2006).

Ministry of People's Security. However, treason, any anti-State crime and political prisoners fall under the jurisdiction of the State Security Department (SSD). The latter intervenes even in crimes such as rape or robbery in order to identify any possible political ramifications. For example, citizens forcibly repatriated from China are treated as political prisoners and undergo interrogation by the SSD for "treason against the fatherland". In such cases, there is no formal trial and SSD prosecutors routinely usurp the role of the courts.

> ***Summary execution for treason -*** *Witness 6 recalled that in June 1999, Kim Jong Il released a decree to crack down on drugs and other subversive activities. Inspections began and denunciation was encouraged. However, few people came forward and therefore the military intervened in Witness 6's locality. A few days later, nine people were sentenced to death. When witness 6 was studying in class, they were told to go to the airport, which was no longer used. Everyone was told to come and watch, except those who could not walk. They went with kindergarten children. At the back of the crowd, they were surrounded by military vehicles, with troops ready to shoot if anyone attempted to leave the area. Witness 6 remembers the details of only seven of the nine executed that day: a woman doing business with Chinese nationals; a woman manager of a beer factory; the chief of a shoe factory (who was also a local secretary of the KWP); an SSD agent; another SSD agent in charge of the security in a local mine; a university student; and a woman chief of the Ban (the peoples' unit), who was over 50. They were each tied to individual poles. The identity and charges for each prisoner was read. The first woman was accused of earning a certain amount of money and of possessing a mobile phone. The money had been found in her house, and she was therefore accused of spying for South Korea. The director of the shoe factory was accused of receiving money from a foreign bank and the chief of the Ban was accused of traveling back and forth to China; both were accused of earning "black money". In outlining the accusations against the SSD agent, an insult for "Japanese" was used. It was also announced that these persons were sentenced to death without appeal. The prisoners were gagged without being allowed to speak first. The machine guns used by the firing squad had a tripod, and a single volley had sufficient force to kill the victims instantly.*

While investigators and police remain the principle agents for the detection of violators of the DPRK's laws, there is also a substantial culture of citizen informants, meaning that every citizen has the duty to report to the political hierarchy, especially if having responsibilities in the Ban. Any suspicion of wrong doing must be reported immediately, even by family members, who will otherwise suffer the same punishment. Citizen informants try to collect information on illegal and unlawful activities but work on a merit basis. They must therefore amass any and all information on the daily routine of all local residents. According to testimonies collected by FIDH, this frequently results in false confessions by scared citizens. Moreover, preliminary examination is reportedly frequently undertaken by agents from the Ministry of People's Security or the SSD, separately from investigators and prosecutors.

In short, the DPRK is characterized by the systemic denial of the right to a fair trial, leaving the door open to the systematic arbitrary application of the death penalty.

© drawing: Oh Sung Il

Drawing representing a public execution

2. On-site public executions and secret executions

Public executions and secret executions, though unverified, are steadily accounted for. Meanwhile, the DPRK has persistently continued to deny their existence. As detailed above, both types of executions are strictly prohibited under international human rights law. Public executions also violate some provisions of the DPRK's own 2004 Criminal Procedure Law.

There is presently no source that can confirm how frequently public executions are carried out in public areas, and inside or outside political prison camps; nor whether the public is always summoned and forced to attend or whether onlookers are composed merely of passers-by. Nevertheless, there have been many reports of public executions in front of large crowds drawn from schools, businesses, and farms that were notified in advance. Some prisoners have reportedly even been executed in front of their families. Executions have also reportedly been carried out in areas such as vacant lots next to a river stream, markets, stadium or public squares. Other locations mentioned by several witnesses interviewed by FIDH have included SSD detention facilities, political prison camps and military camps. However, the extent to which these executions were based on judicial decisions or are extra-judicial remains unclear. [54]

54. The NKDB reports 143 cases of summary executions, including 42 in the 1990s and 68 in the 2000s (source: NKDB, White Paper on North Korean Human Rights 2012, page 102).

Some reports have detailed the following procedures preceding public execution:

> *"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."* [55]

However, several testimonies speak of executions carried out without a trial and solely for public intimidation. In the 1990s, the death penalty also appeared to be frequently imposed for crimes resulting from economic hardship.

Public executions are used to serve as examples (known as *"Sibŏm game"*). Witnesses 1, 3, 5, 7, 9, 10 and 12 all stated that children sometimes younger than 10 are made to watch public executions by their schools in order for them to learn by example. However, it seems that children from higher class are not asked to attend public executions. In the late 1990s announcements of public executions by loudspeaker were common. Agents from the Ministry of People's Security would reportedly sit at a table near the execution pole acting like judges in a courtroom, and read the charges, accusing the defendant of "damaging the reputation of the Party". Before their execution, the defendants would be asked to make a final speech in which they were made to repent such as: "Although I am loved by the Party, my actions were wrong", etc.

High-ranking officials have also been publicly executed. In 1997, at the peak of the *Arduous March*, Mr. Seo Kwan-Hee, the Central Secretary of the Agriculture division was executed in Pyŏngyang by firing squad. He was made responsible for the great famine. At the public execution site, the Pyŏngyang Regional Court's justice sentenced him to death for "working as an American spy for more than 30 years and deliberately failing the Party's agricultural policy, such as implementing inappropriate seeds…".[56]

Public executions are reportedly widespread in the prison camp system, but FIDH was not able to collect first-hand information in that regard.

Testimonies on public executions

> ***Witness 2*** *saw in 1997 the public execution of a man by firing squad for selling human flesh, in a vacant lot near the market place of Ch'ilgol in the district of Mangyŏngdae (Mangyŏngdae kuyŏk), on the outskirts of Pyŏngyang. During the summer of the same year, in the municipality of P'yŏngsŏng (P'yŏngsŏng-si), in the area of Hach'a (Hach'a-dong), in a valley (kol), witness 2 saw the public execution by firing squad of a 26 years old man for murder, two men for burglary, and a women for prostitution. A week later, witness 2 saw the public execution by firing squad of two men for murder, on the road after Ponghak, in P'yŏngsŏng, South P'yŏng'an. In the summer of 2000, a demobilized soldier was publicly shot for the murder of a*

55. NKDB, White Paper on North Korean Human Rights 2009.

56. Shin Joo Hyun, 'Local Agriculture Officials Prosecuted', Daily NK, 6 December 2006, available from North Korea Economy Watch at: http://www.nkeconwatch.com/category/agriculture/page/33/

woman and her daughter. The witness recalls the soldier had broken into the house of one of his friends, a returnee from Japan, to rob him, in the area of Victory N°3 (Sŭngni 3 dong), Unification street (T'ong'il kŏri) in the district of Rangnang (Rak Rang kuyŏk or Rangnang kuyŏk), Pyŏngyang.

***Witness 3** saw the execution of a man in his thirties by firing squad in 2003, accused of cutting electric lines to sell them. Witness 3 was told to attend the execution by the Party secretary working in his factory, in order to dissuade other workers from stealing electric lines. It happened in the South P'yŏng'an province, Sunchŏn city.*

***Witness 9** saw a women executed in a stadium in 2006 for human trafficking and smuggling. Later, witness 9 saw the execution of a man who had stolen a cow to feed his family. He was publicly executed by firing squad in the market place.*

3. Death penalty applied to non-serious crimes

The notion of "most serious crimes", under international law, includes crimes requiring an intention to kill and resulting in the loss of life.[57] The Special Rapporteur on extra-judicial, summary or arbitrary executions has stated that:

> *"With respect to particular offences, the Commission on Human Rights and the Human Rights Committee have determined that a wide range of specific offences fall outside the scope of the "most serious crimes" for which the death penalty may be imposed. These include: abduction not resulting in death, abetting suicide, adultery, apostasy, corruption, drug-related offences, economic crimes, the expression of conscience, financial crimes, embezzlement by officials, evasion of military service, homosexual acts, illicit sex, sexual relations between consenting adults, theft or robbery by force, religious practice, and political offences."*[58]

The last of these has presented particular complexities, inasmuch as offences against the State or the political order are often drawn broadly and ambiguously so as to encompass both non-serious and very serious crimes and leave the Government discretion in defining the offence.

Some of the crimes carrying the death penalty in the DPRK's Criminal Code could be considered to be among the "most serious" crimes. Moreover, some crimes, being only pronounced in general terms, allow discretion in determining when offences such as murder or treason would fall into the "most serious" category. In specifying terrorism (Article 61) and treason (Article 63), the Criminal Procedure Law requires an "extremely grave offense", leaving open the option of lifetime reform in a prison camp or the death penalty. Article 266 relating to intentional murder, does not specifically call for the death penalty but specifies a minimum of 10 years hard labor with an assumption that the lack of an upper limit leaves open the use of the death penalty.

57. Handbook (n.20), Ch. 6, p. 59, citing Report on Mission the United States of America (A/HRC/11/2/Add.5, 28 May 2009, Para. 23).

58. Ibid, pp. 66-67, citing Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/4/20, 29 January 2007, para. 39-53, 65., available http://www2.ohchr.org/english/bodies/chr/special/sp_reportshrc_4th.htm

Witness 2 *saw in September 1997 the public execution by firing squad of six men belonging to a gang near the village of Paeksa (Paeksa-ri) in Sinŭiju. They were accused of stealing some goods on the P'yŏngyang-Sinŭiju road. In the same month, witness 2 saw the public execution of a 26-year-old man for cutting and selling 50 meters of a trackless trolley car line between Sinŭiju and South Sinŭiju, and on the same day he witnessed another public execution of two workers from the Nagwŏn Machineries Joint Company (Nagwŏn kigye yŏnhap kiŏpso), for cutting and selling copper from telecommunication lines on charges of contraband.*

Witness 2 *said that in 2009 and 2010, in Sinŭiju, more than 10 people were publicly executed for counterfeiting money and foreign currency (Oehwa pŏli kigwan).*

4. Death penalty against vulnerable groups

Article 6(5) of the ICCPR and Article 37(a) of the Convention on the Rights of the Child, which the DPRK has ratified, prohibit the imposition of the death sentence on children below the age of 18.

The same applies for pregnant women. Article 6(5) of the ICCPR prohibits the execution of pregnant women and the 1984 ECOSOC Safeguards Guaranteeing Protection of the Right of Those Facing the Death Penalty extend this protection to mothers with recently born children.

The DPRK declared that no pregnant women or children are executed in the country:

> *"Death penalty is imposed only for five categories of extremely serious penal offences and the sentence of death is not imposed for a crime committed by persons below eighteen years of age nor it is carried out on pregnant women."*[59]

However, some pregnant women have reportedly undergone forced abortion in prison camps before being executed.[60] However, FIDH has not been able to collect first hand information on this issue. Likewise, it seems that little effort is made to accurately determine the age of young people sentenced to death.

Execution of entire families during the famine - *Witness 10 explained that during the famine, cases of cannibalism were common, especially of isolated children, including orphans. In 1995 an entire family was executed for eating a man they had killed. The children aged 12 and 9 were also executed for eating the human flesh. According to the witness, the entire family was executed to deter acts of cannibalism and the children were included.*

59. DPRK's State Report for the UPR's National Report, Universal Periodic Review (n. 32), para. 34.
60. See account of parallel meeting with the Commission on Human Rights by A Woman's Voice International, on 6 April 2004, available at: http://www.awomansvoice.org/nl1-2004-2.html

CONCLUSION AND RECOMMENDATIONS

While this report has principally echoed testimonies of executions from the late 1990s, it has also highlighted several persistent patterns. These include the continuous application of the death penalty on a large-scale; the use of public and secret executions; the arbitrary character of judicial processes; the application of the death penalty to non-serious crimes and most probably against vulnerable groups.

This report also highlighted that in spite of legal reforms, the scope of crimes attracting the death penalty has increased over the past few years, including following the recent adoption of two new decrees in July 2012.

As a result of its investigations, FIDH concludes that the death penalty in the DPRK is applied in total opacity, in a way that, in addition to violating the right to life, is an arbitrary deprivation of life. Moreover, the systematic use of extra-judicial mechanisms, summary processes and arbitrary applications, frequently create some confusion on whether executions result from the death penalty, or should be categorized as extra-judicial killings. While the DPRK's authorities are notorious for their carrying out of extra-judicial, summary or arbitrary executions outwith the legal framework of the death penalty, secrecy and lack of information make these incidents impossible to verify.

Even though the creation of a mandate of Special Rapporteur in 2004 has largely contributed to increasing international awareness of the array of human rights violations perpetrated in the DPRK, it has not led to any substantial improvement. The DPRK has continued to become increasingly adept at deflecting reports by the United Nations and any form of international criticism on its human rights record.

FIDH therefore makes the following recommendations:

To the Democratic People's Republic of Korea:

- Immediately put an end to all executions, both inside and outside the prison camp system, and including public and secret executions;
- Establish an immediate moratorium on the death penalty as a first step towards abolition, and take steps to reduce the scope of this penalty to the most serious crimes only, as defined under international human rights law;
- Suppress its mandatory character;
- Publish detailed statistics on death sentences and executions, ventilated by gender and by crime;
- Revise the Criminal Procedure Code so as to erase criminal offenses that are essentially political or too broadly defined as per international human rights standards;
- Immediately improve conditions of detention in all detention facilities so as to ensure that no detainee is subject to torture or cruel, inhuman or degrading treatment or punishment;

- Guarantee the independence of the judiciary and the right to a fair trial as per international human rights standards;
- Report back on progress achieved to relevant international human rights mechanisms.

To the UN Special Rapporteur on extra-judicial, summary or arbitrary executions, the UN Special Rapporteur on the situation of human rights in the DPRK, and the UN Commission of Inquiry on the DPRK:

- Investigate the consistent use of the death penalty as an arbitrary deprivation of life in the DPRK, as well as executions through extra-judicial mechanisms, summary processes and arbitrary executions in the DPRK.

To the UN Secretary-General:

- Include a review of the DPRK's use of the death penalty and implementation of the recommendations above in his comprehensive report on the situation in the DPRK as called for in the UN General Assembly resolution of 20 December 2012 (A/RES/67/181).

To all UN Member States:

- Within the framework of bilateral engagements with DPRK, and during the second Universal Periodic Review of the DPRK and the 68th session of the General Assembly, urgently call upon this State to improve the overall human rights situation in the country, beginning with the establishment of an immediate moratorium on the death penalty and executions; and to end the prison camp system including the unconditional release of its current prisoners.

ANNEXES

1. Glossary

"Police"	See: Inmin poan-bu.
Arduous March	*Konan-ŭi haenggun,* metaphor for the famine (1994-1998) following a State propaganda campaign in 1993: *"Fighting against thousands of enemies in 20 degrees below zero, braving through a heavy snowfall and starvation, the red flag fluttering in front of the rank".*[61]
Ban, or pan	Peoples' unit, i.e. the smallest administrative unit, at work or for daily life.
Bowibu, powibu	See: State Security Agency (SSA). State Security Department (SSD)
Ch'ŏngjin-si	Municipality of Chongjin.
Ch'ŏngjin, Chongjin *kyohwa-so and kwalli-s*	Camp number 25, detention center and reeducation center for political prisoners.
Chipkyŏl-so (jipgyulso)	Shorter term : labor or detention facility ; gathering place.
Choego Inmin Hoe-ui	See: Supreme People's Assembly.
Chosŏn, Chosun, Joseon	See: DPRK.
Chosŏn inmin'gun	See: Korean People's Army.
Chosŏn minjujui Inmin Konghwaguk	See: DPRK.
Chosŏn minjujuŭi inmin konghwaguk kukpang wiwŏnhoe	See: National Defence Commission of DPRK
Chosŏn Nodong-dang	See: KWP.
Chosŏn Rodong-dang	See: KWP.
Chuch'e sasang	Known as the "self reliance ideology", insists on the economical auto-sufficiency and political independence.
Department of People's Security	See: Ministry of Public security; See: Inmin poan-bu. (police)
DPRK	Democratic People's Republic of Korea (DPRK), "North Korea", *Chosŏn minjujui Inmin Konghwaguk,* or *Chosŏn* (called *Puk Han* by South Koreans).
Famine	See: Arduous March.
Gukga anjeon bowibu	See: State Security Agency (SSA). State Security Department (SSD)
Hoeryŏng, Hoeryong *kwalli-so*	Camp number 22, detention center for political prisoners.
Hwasŏng, Hwasong *kwalli-so*	Camp number 16, detention center for political prisoners.
Hyŏngmyŏnghwa kuyŏk	In a *Kwalli-so*, non life-time prisoners area in the camp, "revolutionary area".
Inmin poan-bu, poan-bu (boan-bu)	Ministry of People's safety ; Ministry of Public security ; police dealing with "economic crimes". (MPS)
Juche ideology	See: *Chuch'e sasang.*
Kaech'ŏn, Kaechon *kwalli-so*	Camp number 14, detention center for political prisoners.
Kamok	Jail, pre-sentenced detention. South Korean term.
Kangwŏn Province	*Kangwŏn to* ; Gangwon for South Koreans.
Kim Chŏng-Il	See: Kim Jong-Il.
Kim Chŏng-Un	See: Kim Jong-Un.
Kim Il-Sŏng	See: Kim Il-Sung.
Kim Il-Sung, or Kim Il Sung	The name Kim Il-Sung (Kim Il-Sŏng), name of a legendary anti-Japanese guerilla fighter, was taken by Kim Sŏn-Ju (1912-1994), the DPRK's first leader.
Kim Jong-Il, or Kim Jong Il	Kim Chŏng-Il. Born in 1941 (in Soviet Union ?) or 1942 (in a anti-guerilla camp in Paektu-san ?), die in December 2011. Succeeded his father as DPRK Leader in July 1994.

61. Demick, Barbara (2009). Nothing To Envy, Ordinary Lives in North Korea. (Spiegel & Grau. 2006); p. 69.

Kim Jong-Un	Kim Chŏng-Un.
Kim Sŏn-Ju	See: Kim Il-Sung.
Konan-ŭi haenggun	See: Arduous March.
Korean Labor party	See: KWP.
Korean People's Army	*Chosŏn inmin'gun* (KPA). Founded on 8 February 1948.
KPA	See: Korean People's Army.
Kukka anjŏn powibu	See: State Security Agency (SSA). *State Security Department (SSD)*
Kuryu-jang	Interrogation and detention facility.
Kwalli-so	"North Korean gulag", detention center for political prisoners ; politcal penal-labor colony ('control and managing place')
KWP	Korean Workers' Party, *Chosŏn Rodong-dang* (called *Chosŏn nodong-dang* by South Koreans), or Korean Labor party , or Workers' Party of Korea (WPK), (as another translations). Founded in August 1946.
Kyohwa-so	North Korean reeducation center ; long term prison labor facility ; place to make a good person through reeducation
Kyoyang-so	Labor detention facilities ; place to make a refined person through teachings and nurturing (for women border crossers)
Ministry of People's safety	Ministry of Public security; See: Inmin poan-bu. (police)
Ministry of Public security	See: Inmin poan-bu. (police)
Ministry of State Security	See: State Security Agency (SSA). State Security Department (SSD)
National Defence Commission of DPRK	Highest level State Body. Technically part of the Supreme People's Assembly. The Fifth Session of the 12th Supreme People's Assembly, held on April 13, 2012, proclaimed Kim Jong-il as the "Eternal Chairman of the National Defence Commission". The Constitution was revised to replace it with the "First Chairman" post, with the late leader's son and successor Kim Jong-un appointed to the new position; *Chosŏn minjujuŭi inmin konghwaguk kukpang wiwŏnhoe*
National Defense Committee	See: National Defence Commission of DPRK
Nodong-dan	See: *Rodong-dan.*
North Hamgyŏng Province	*Hamgyŏng puk to*
North Korea	See: DPRK.
North P'yŏng'an Province	*P'yŏng'an puk to*
P'yŏngyang	DPRK's capital city and large administrative zone around the city. Pyeongyang.
Powibu, bowibu	See: State Security Agency (SSA). *State Security Department (SSD)*
Puk Han	See: DPRK.
Pukchang (...)	Detention center for political prisoners.
Pyongyang, or Pyeongyang	See: P'yŏngyang.
Revolutionizing zone	See: *Hyŏngmyŏnghwa kuyŏk.*
Rodong-dan, or rodong ryŏndae	Mobile labor brigade ; labor training corps.
Ryanggang Province	*Ryanggang to*; Yanggang for South Koreans.
Sibŏm game	North Korean citizens term to describe the public executions serving as example, as a "game for example", "display game".
Sip tae wŏnsik	"The Ten principles for the establishment of the one-ideology system"
Sŏn'gun	North Korea's "Military First" policy prioritises the Korean People's Army in the affairs of State and allocates national resources to the army first. Established in 1960 but actively implemented in 1994.
Songbun	See: *Sŏngbun ch'ulshin.*
Sŏngbun ch'ulshin	Social-class mark given by the status of the father when one is born. Can be de-classed. Exemple : Soldier, peasant, worker, intellectuals.
Songun	See: *Sŏn'gun.*
South Hamgyŏng Province	*Hamgyŏng nam to*
South P'yŏng'an Province	*P'yŏng'an nam to*

State Security Agency (SSA)	The SSA, also called State Security Department of North Korea or the Ministry of State Security is an autonomous agency reporting directly to the Supreme Leader. (Different from the police, deals with political crimes) ; *Kukka anjŏn powibu or Gukga anjeon bowibu*
State Security Department (SSD)	See: State Security Agency (SSA).
Supreme People's Assembly	Parliament of DPRK. The National Defence Commission of the Presidium in the Supreme People's Assembly is the highest body of the State. *Choego Inmin Hoe-ui.*
Suyong-so	South Korean term : place of incarceration. See the North Korean terms : *kwalli-so, kyohwa-so...*
T'odae	Positive or negative sub-categories of social-class related to the social class of the ancestors before 1945 of one person : heroes of revolution, anti-Japanese guerilla fighter, land-lord, peasants, born in the Southern part of the peninsula, etc.
Ten principles	See: *Sip tae wŏnsik.*
Total control zone	See: *Wanjŏk t'ongje kuyŏk.*
Wanjŏk t'ongje kuyŏk	Zone in a *Kwalli-so*, North Korean gulag. Isolated life-time political labor colony.
Workers' Party of Korea	See: KWP.
WPK	The Workers' Party of Korea. See: KWP.
Yodŏk, Yodok, *(kwalli-so)*	Camp number 15, detention center for political prisoners.

2. The "Ten Principles"

The "Ten principles for the Establishment of the One-Ideology System" were proposed by Kim Young Joo in 1967 and officially announced by Kim Jong Il in 1974:

1. We must give our all in the struggle to unify the entire society with the revolutionary ideology of the Great Leader Kim Il Sung.
2. We must honor the Great Leader comrade Kim Il Sung with all our loyalty.
3. We must make absolute the authority of the Great Leader comrade Kim Il Sung.
4. We must make the Great Leader comrade Kim Il Sung? revolutionary ideology our faith and make his instructions our creed.
5. We must adhere strictly to the principle of unconditional obedience in carrying out the Great Leader comrade Kim Il Sung's instructions.
6. We must strengthen the entire partys ideology and willpower and revolutionary unity, centering on the Great Leader comrade Kim Il Sung.
7. We must learn from the Great Leader comrade Kim Il Sung and adopt the communist look, revolutionary work methods and people-oriented work style.
8. We must value the political life we were given by the Great Leader comrade Kim Il Sung, and loyally repay his great political trust and thoughtfulness with heightened political awareness and skill.
9. We must establish strong organizational regulations so that the entire party, nation and military move as one under the one and only leadership of the Great Leader comrade Kim Il Sung.
10. We must pass down the great achievement of the revolution by the Great Leader comrade Kim Il Sung from generation to generation, inheriting and completing it to the end.[62]

62. 'Ten principles for the Establishment of the One-Ideology System', Columbia University, available at: http://www2.law.columbia.edu/course_00S_L9436_001/North%20Korea%20materials/10%20principles%20of%20juche.html

3. List of meetings in Seoul

List of meetings organized during FIDH mission to Seoul, 10-22 December 2012.

South Korean authorities

- National Human Rights Commission of Korea;
- Ministry of Foreign Affairs and Trade;
- Ministry of Unification;

NGOs, think-tanks and media

- Free North Korean Gulag;
- Radio Free Chosun;
- Open Radio North Korea (ORNK);
- Students Alliance for North Korean Human Rights (YoungNK);
- North Korean Youth for North Korean Human Rights;
- Seoul Bookboo Hana Center (Welfare Community Center for North Korean);
- Network for North Korean Democracy and Human Rights (Nknet);
- North Korea Strategy Centre;
- Database Center for North Korean Human Rights (NKDC);
- NK Intellectuals Solidarity (NKIS);
- PSCORE;
- Sejong Institute;
- Professor Eun Suk Choi, Specialist of North Korean Law, Institute for Far Eastern Studies, Kyungnam University.

North Korean asylum seekers

- Witnesses 1 to 12 (anonymous).

4. Photos of witnesses

© photos: FIDH

Photos of witnesses 3, 4, 12 & 13 met by FIDH mission in December 2012

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Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.
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FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

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inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

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FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

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