

# Women’s Rights in the DPRK: Discrepancies Between International and Domestic Legal Instruments in Promoting Women’s Rights and the Reality Reflected by North Korean Defectors

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## Introduction

North Korean women are commonly referred to as “flowers” in the Democratic People’s Republic of Korea (DPRK or North Korea).<sup>1</sup> Despite this delicate imagery, in reality, women are easily exploited for their labor and are not regarded to be as equal to man. Confucian ideology is still a big influence in North Korea and the traditional perception of gender that emphasizes male superiority can be seen in every part of society. Although there have been a series of legal measures adopted by the DPRK to advance women’s rights, there are still few positive changes that have been made.<sup>2</sup>

The DPRK became a party state to the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as CEDAW) on January 17, 2001.<sup>3</sup> CEDAW is an international convention that calls for party states to protect women from discriminations against women and to adopt measures to fight such discriminations.<sup>4</sup>

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1. “Women’s lives blossom like a garden of spring under the light of love of our Father Su-ryeong and Great Leader Comrade Kim Jung-il as every flower in the world beautifully blossom under the sun shine.” See RODONG SINMUN (July 10, 1995), <http://www.rodong.rep.kp/en/>. “Bright lives of women that made to blossom by Comrade Kim Jung-il.” See also RODONG SINMUN (Mar. 8, 1998), <http://www.rodong.rep.kp/en/>.

2. Comm. on the Elimination of Discrimination against Women, Concluding Observations on the Combined Second to Fourth Periodic Reports of the Democratic People’s Republic of Korea, at 1, U.N. Doc. CEDAW/C/PRK/2-4 (2017) [hereinafter Concluding Observations].

3. United Nations, Treaty Series, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en) [<https://perma.cc/B752-UXD9>].

4. Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, U.N.T.S. 13 [hereinafter CEDAW].

In the Rodong Shinmun, North Korea's official news outlet operated by the government, the DPRK has publicly stated that "the best conditions for a happy life are provided for all women"<sup>5</sup> and "policies have been adopted by the Leader (*Su-ryeong*) to respect women and as signs of love from the Mother Party"<sup>6</sup> Contrary to what the DPRK asserts in its second to fourth CEDAW reports, many women in the DPRK have reported that women do not enjoy protection from the government against many forms of violations including sexual violence and domestic violence.<sup>7</sup> Also, these women have reported that they are deprived of any redress despite the discriminations that they face in various areas of life including in political participation, education, and their careers.<sup>8</sup>

The DPRK is notorious for its closed society and borders. Due to the strict control of information from the outside world and seclusion from the international society, it is very difficult to verify the assertions made by the DPRK regarding its human rights conditions other than by asking people who have lived there, i.e. North Korean defectors. The findings of this research are based largely on questionnaires and interviews with North Korean defectors, the majority of whom were female. It explains the international and domestic legal instruments that govern in the realm of women's rights in the DPRK, demonstrates the common types of women's rights violations in the DPRK, and analyzes the political, social, and cultural constraints that hamper the promotion of women's rights in the DPRK. The findings are focused on the conditions of women's rights in the DPRK during period covered by the DPRK's second to fourth CEDAW state report from 2006 to 2015.

## I. Laws Related to the Promotion of Women's Rights in the DPRK

### A. The Convention on the Elimination of All Forms of Discrimination against Women

The CEDAW was adopted in 1979 by the UN General Assembly to eliminate discrimination against women and ensure equal rights for women.<sup>9</sup> The CEDAW binds all the state parties to comply with the values and guidelines in the CEDAW. Articles 1 to 16, which are provisions substantively connected to promoting women's equal rights, can be divided into two parts: first, Articles 1 to 5 state the general obligations of state parties to implement legal and social measures to prove equal rights of

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5. See RODONG SINMUN (Dec. 2, 2016), <http://www.rodong.rep.kp/en/>.

6. See RODONGSINMUN (Mar. 9, 2016), <http://www.rodong.rep.kp/en/>. In the DPRK, the Party is described as "mother," the Leader as "father" and its people as "general public (*In-min*)." The North Korean people are taught since young that the DPRK is a family community where the Leader (father) and the Party (mother) take care of people (children) with love and compassion.

7. See Concluding Observations, *supra* note 2, at 6.

8. See *id.* at 7.

9. CEDAW, *supra* note 4.

women and to redress impediments of advance women's rights<sup>10</sup> and, second, Articles 6 to 16 delineate specific areas to improve rights of women.<sup>11</sup> For the DPRK's review, the CEDAW Committee pointed out several articles that are of particular concern.<sup>12</sup> Articles 19, 23, and 33 will be examined in depth for this Article.

When the DPRK ratified the CEDAW, it made several reservations.<sup>13</sup> However, it should be noted that in 2015, the DPRK withdrew its reservations on Paragraph (f) of Article 2<sup>14</sup> and Paragraph 2 of Article 9 of the CEDAW.<sup>15</sup> On the reservation of Paragraph (f) of Article 2, the DPRK mentioned that its decision was an effort to avoid the challenges under the CEDAW in regards to the DPRK's traditional custom of men marrying younger women.<sup>16</sup> However, the DPRK did not provide any specific explanation on its reservation on Paragraph 2 of Article 9.<sup>17</sup> One can assume that reservation of Paragraph 2 of Article 9 was made in consideration of its strong state policy of preserving pure Korean ethnicity within the state. When withdrawing both reservations, the DPRK stated that its withdrawal was decided because there had been no report on discrimination against women connected to them for sixteen years.<sup>18</sup> The DPRK specifically provided that the minimum age of women for marriage set out by Article 9 of the Family Law is not in conflict with the principle of gender equality

10. Article 1: Definition of discrimination Article 2: Policy measures to be undertaken to eliminate discrimination; Article 3: Guarantee of basic human rights and fundamental freedoms; Article 4: Temporary special measures to achieve equality; Article 5: Sex roles and stereotyping. INTERNATIONAL WOMEN'S RIGHTS ACTION WATCH ASIA PACIFIC, PARTICIPATION IN ICESCR AND CEDAW REPORTING PROCESSES. 24-32 (2010) [hereinafter PARTICIPATION IN ICESCR AND CEDAW].

11. CEDAW, *supra* note 4, arts. 6-16; *see also* PARTICIPATION IN ICESCR AND CEDAW, *supra* note 11, at 33.

12. U.N. Office of the High Comm'r on Human Rights, NGOs Participation in the CEDAW 68th Session, at 1, 2017 (citing CEDAW GR No. 19 On Violence Against Women, No. 23 on Women in Political and Public Life, No. 24 on Women and Health, No. 33 on Access to Justice, No. 34 on the Rights of Rural Women), [http://seoul.ohchr.org/EN/Documents/2017/NGO%20participation%20to%20CEDAW\\_EN%20\(final\)\\_2017.pdf](http://seoul.ohchr.org/EN/Documents/2017/NGO%20participation%20to%20CEDAW_EN%20(final)_2017.pdf) [<https://perma.cc/A6JX-RLSJ>].

13. Comm. on the Elimination of Discrimination against Women, Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations relating to the Convention on the Elimination of All Forms of Discrimination Against Women, at 24, CEDAW/SP/2004/2 (2004).

14. Paragraph (f) of article 2 requires member states to "take all appropriate measure, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women," and paragraph 2 of article 9 to "equal rights with men with respect to the nationality of their children."

15. Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States Parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 2016, CEDAW/C/PRK/2-4, paragraph 7 [hereinafter CEDAW/C/PRK/2-4].

16. Comm. on the Elimination of Discrimination against Women, Consideration of Reports Submitted by States Parties under Article 18 of the Convention, at 13, CEDAW/C/PRK/1 (2002) [hereinafter CEDAW/C/PRK/1].

17. U.N. Secretary-General, *Depositary Notification*, C.N.631.2015.TREATIES-IV.8 (2015).

18. CEDAW/C/PRK/2-4, *supra* note 15, at para.15.

because, in practice, most women in the country marry in their twenties.<sup>19</sup> On the other hand, the withdrawal of paragraph 2 of article 9 is not specifically provided. The only current reservation is Article 29 which sets arbitration as a means of settlement of any dispute between two or more states on the interpretation or application of the CEDAW.<sup>20</sup>

The CEDAW obliges party states to report on their compliance to the CEDAW at least every four years.<sup>21</sup> Since its ratification of the CEDAW, the DPRK submitted its first state report in 2005 and the second to fourth state reports belatedly in 2016.<sup>22</sup> The DPRK recently submitted its replies to the list of issues and questions by which the CEDAW Committee had raised, denying allegations that they detain repatriated North Korean women.<sup>23</sup>

## B. DPRK's Domestic Legislations for Women's Rights

### 1. *The Law on Sex Equality (1946)*

The Law on Sex Equality, which consists of nine articles that generally provide for women's equal rights, is the first legal instrument the DPRK adopted.<sup>24</sup> The first article states that women have equal economic, social, cultural, and political rights with men, and the second article stipulates that women have equal rights to vote and to be elected for local and state supreme organs.<sup>25</sup> The third article guarantees that women have equal rights with men to labor and education. Articles four to eight are related to women's equal rights to men in marriage and divorce.<sup>26</sup> The ninth article nullifies any laws related to the women's rights, which the state promulgated during the Japanese occupation.<sup>27</sup> However vague the legal measures are, the DPRK's mere adoption of a legal measure to promote women's rights is meaningful. Nevertheless, the law has not provided a ground for women's political or social rights; rather, it reinforced women's participation in society as a major source of labor force.<sup>28</sup>

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19. Committee on the Elimination of Discrimination against Women, List of issues and questions in relation to the combined second to fourth periodic reports of the Democratic People's Republic of Korea, CEDAW/C/PRK/Q/2-4/Add.1, para.16 [hereinafter List of issues and questions].

20. The DPRK stated that "[t]he Government of the Democratic People's Republic of Korea does not consider itself bound by the provisions article 29 of [the Convention]," [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec) [<https://perma.cc/G2GA-8P38>].

21. See CEDAW, *supra* note 4, at art. 18.

22. See CEDAW/C/PRK/2-4, *supra* note 16, at paras. 1, 2.

23. See List of issues and questions, *supra* note 20, at paras. 11, 18.

24. See CEDAW/C/PRK/1, *supra* note 17, at 11 (quoting Law on Sex Equality, arts. 1-3, July 30, 1946).

25. See *id.* (quoting Law on Sex Equality, art. 1, July 30, 1946).

26. See *id.* (quoting Law on Sex Equality, art. 3, July 30, 1946).

27. See *id.* at 12 (quoting Law on Sex Equality, art. 9, July 30, 1946).

28. See Choi Sun-Young, *The Position of Women in North Korea and Their Changing Roles: An Analysis of Relevant Statutes*, 23 J. NE. ASIAN STUD. 87, 94-95 (2008); Kim Choong-Ryul, *A Study on the Political Status of North Korean Women in the Kim Jung Un's Regime*, 67 J. KOREAN ASS'N NE. ASIA STUD. 261, 274 (2013); Jung Sung-Im, *North Korean*

## 2. *The Socialist Constitution (1972)*

The Socialist Constitution, which evolved from the Democratic Constitution (1948), provides more concrete efforts to promote equal rights for women. Some articles explicitly state women's equal rights with men, such as Article 66, which states that general citizens can vote and be elected "irrespective of sex"; Article 77, which stipulates that women have the same social status and rights as men;<sup>29</sup> and Article 69, which guarantees general citizens' rights to submit complaints and petitions.<sup>30</sup>

It should be noted that the DPRK's Socialist Constitution asserts the general citizens' rights upon the collective principle referred to as "One for all, all for one."<sup>31</sup> This assertion connects the rights of North Korean women to the State and the Party. The connection to the political sphere requires North Korean women to be loyal to the Party to the extent that their rights are compromised for the greater good of the state. This collective ideology lays a collective, rather than individual, source of "rights." Such a premise is in contradiction with international human rights conventions to which the DPRK is a state party such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

## 3. *The Law on the Protection and Promotion of the Rights of Women (2010)*

The DPRK enacted the Law on the Protection and Promotion of the Rights of Women (hereinafter "LPPRW") in 2010.<sup>32</sup> The law specifically states that an international treaty, such as the CEDAW, to which the DPRK is a party, "shall have the same effect" as a domestic law.<sup>33</sup> The LPPRW encompasses the fundamental rights of women including social and political rights, educational, cultural, and medical rights, and labor rights. The DPRK introduced the law to the UN Human Rights Commission, stating that it "comprehensively provides for . . . the protection and promotion of women's rights, their rights to social and political life, education, health care, work, personal inviolability and property, marriage and family as well as matters related to guidance to and supervision over the protection of women's rights."<sup>34</sup>

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*Policy on Women and Its Perception on Women*, 4 J. KOREAN UNIFICATION STUD. 177, 181 (2000).

29. Democratic People's Republic of Korea's Socialist Constitution, arts. 66, 69, 77 (1998). See also *id.* art. 65 (providing that general "citizens enjoy equal rights in all spheres of State and public activities"); *id.* at art. 73 (stating that general citizens have a right to education).

30. *Id.* art. 69.

31. *Id.* art. 63.

32. See CEDAW/C/PRK/2-4, *supra* note 16, at para. 11.

33. JOANNA HOSANIAK, STATUS OF WOMEN'S RIGHTS IN THE CONTEXT OF SOCIO-ECONOMIC CHANGES IN THE DPRK 52 (2013) (quoting The Law on the Protection and Promotion of the Rights of Women, Dec. 22, 2010, art. 10).

34. Human Rights Council, Nat'l Rep. Submitted in Accordance with Para. 5 of the Annex to Human Rights Council Resolution 16/21: Democratic People's Republic of Korea, U.N. Doc. A/HRC/WG.6/19/PRK/1, at para. 12 (Jan. 30, 2014).

Moreover, the LPPRW prohibits violence against women including domestic violence<sup>35</sup> and states that those who commit rape shall be punished by “relevant institutions.”<sup>36</sup> However, the law omits the specification of the “relevant institutions” that can punish the perpetrators, disabling an effective execution of the law.<sup>37</sup>

#### 4. *The Criminal Law (2012)*

The DPRK punishes sexual violence under the Criminal Law. The law stipulates that those who rape a woman<sup>38</sup> or “force[s] a woman who is [a man’s] subordinate to have sexual intercourse with him,” will be sentenced to prison.<sup>39</sup> However, other forms of sexual violence such as attempted rape, sexual violence, or marital rape are not properly incorporated in the law, and thus there is no protection for the victims.<sup>40</sup> Another problem is that the law does not provide a definition of “rape,” nor does it specify the “relevant institutions” that can punish the perpetrators.<sup>41</sup> Thus, the relevant laws designed to protect women against sexual violence either fail to list all forms of violations against women or only provide vague terms that disable any effective execution of the laws.

Over the past decade, the DPRK amended its Criminal Law five times.<sup>42</sup> The DPRK restricted many commercial activities and made ground for prosecution of such acts under the Criminal Law in order to secure the state’s power and to tighten its control over the North Korean citizens.<sup>43</sup> Not a single provision, however, was added to protect women from gender-based violations.<sup>44</sup>

#### 5. *The Law on Compensation for Damages (2005), Criminal Procedure Act (2014)*

The DPRK established a set of legal measures that entitle women who have been discriminated upon or physically abused, to bring complaints and petitions for redress. The Law on Compensations for Damages, which was adopted in 2001 and amended in 2005, was established for “[a] strict

35. See HOSANIAK, *supra* note 33, at 64–65 (quoting The Law on the Protection and Promotion of the Rights of Women, Dec. 22, 2010, art. 46).

36. *Id.* (quoting The Law on the Protection and Promotion of the Rights of Women, Dec. 22, 2010, art. 39).

37. See *id.* (stating that the “relevant organs shall establish plans” to prevent offenses, but not listing what the relevant organs are).

38. See Criminal Code of the Democratic People’s Republic of Korea, art. 279 (2012).

39. See *id.* art. 280.

40. Comm. on the Elimination of Discrimination Against Women, Rep. on Eleventh Session, U.N. Doc. A/47/38, at paras. 4, 24(b) (Feb. 1, 1992).

41. See generally Criminal Code of the Democratic People’s Republic of Korea, *supra* note 40.

42. See *id.* at 1. The DPRK amended its Criminal Code five times in total within less than ten years: 2004, 2010, 2011, and twice in 2012.

43. Compare Criminal Code of Democratic People’s Republic of Korea (2009), with Criminal Code of Democratic People’s Republic of Korea (2012).

44. CITIZENS’ ALLIANCE FOR NORTH KOREAN HUMAN RIGHTS, THE CRIMINAL LAW OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (Sang Hyup Lee et al. eds., 2009).

system and order for the compensation of bodily injury and property damages.”<sup>45</sup> Furthermore, Article 19 of the Criminal Procedure Act states that North Korean women who suffer loss or damages due to discrimination have the rights to lodge a claim for damages against the offender.<sup>46</sup>

#### 6. *The Family Law (2009)*

The DPRK has a strong state policy committed to building the society as a “community of destiny.”<sup>47</sup> Article 1 of the Family Law provides that the mission of the Family Law is to make “the whole society . . . a socialist grand family.”<sup>48</sup> Article 8 states that women “have a right to enter into a marriage with their freewill” and Article 21 states that women can “file a divorce when the spouse severely betrayed love and faith or [are] unable to continue living as the husband and wife for other reasons.”<sup>49</sup>

#### 7. *The Law on Socialist Labour Rights (2010)*

The DPRK stated that it has amended the Law on Socialist Labour Rights to extend the duration of maternity leave in 2015 from 150 to 240 days.<sup>50</sup> The DPRK stated that the new measure has improved the maternal health recovery process and nutritional care for the newborns.<sup>51</sup>

## II. Types of Human Rights Violations and Discriminations Against Women in the DPRK

### A. Sexual Violations

Due to the deeply rooted Confucian ideology that emphasizes men’s authority over women, North Korean women are highly vulnerable to becoming victims of sexual violence in the DPRK.

#### 1. *Sexual Violations Against Women Generally*

North Korean women become victims of sexual violence in various cases and, more often than not, the perpetrators are public officials. A North Korean female defector has testified about her personal experience of being sexually violated by a public officer.<sup>52</sup> Similar testimonies from

45. CEDAW/C/PRK/2-4, *supra* note 16, ¶ 23.

46. The Criminal Procedure Law of the DPRK, Article 19.

47. Moon Jang-soon, *Study on the Political Transition of the Theory of the Large Family in North Korea*, 25 KOREAN J. POL. SCI., 49, 58 (2017).

48. Family Law of the DPRK, Article 1.

49. CEDAW/C/PRK/2-4, *supra* note 16, paras. 256, 260.

50. The amendment is included in the state report of the DPRK to the CEDAW Committee. See CEDAW/C/PRK/2-4, *supra* note 16, para. 37. Also, During the CEDAW review on Nov. 8, 2017. The DPRK stated that the Law on Socialist Labour Rights was amended to extend the duration of maternity leave in 2015 from 150 to 240 days., <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22373&LangID=E> (last visited Nov. 9, 2017). However, such change on women’s maternity leave is not indicated in the mentioned law.

51. CEDAW/C/PRK/2-4, *supra* note 16, para. 37.

52. As one female victim explained:

the North Korean defectors and research have shown that public officers demand sexual intercourse in return for favors.

Additionally, while the LPPRW, states that an unlawful search of the body of women is prohibited, it does not define what is “unlawful.”<sup>53</sup> With such vague legislation, North Korean women are easily sexually violated which is justified under the pretext of an “inspection.” North Korean female defectors have testified that this is one type of sexual assault that is prevalently committed during search and seizures.<sup>54</sup>

## 2. *Sexual Violations Against Women in Particular*

### a. Female Detainees

Women in detention facilities are in need of particular attention because they are very vulnerable to various human rights violations such as strip searches, sexual violence and unlawful detention before and after child delivery.

#### i. Strip Searches

Strip searches performed on female detainees in the DPRK are humiliating and degrading to their dignity as human beings. The DPRK’s legislations protect female detainees from illegal bodily searches. Article 143 of the Criminal Procedure Code provides that searches are only allowed for

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My husband was detained. In North Korea, even the slightest thing can be a violation of the law. I went to visit my husband while he was detained. . . . I went to the investigation department. I had to save my husband so I brought some food and [money for] bribes. But I got sexually abused by the head investigation officer. But I did not say anything. I could not accuse him of raping me. I had to save my husband so I couldn’t say anything. This was at the police office in Gilju. I could not tell anyone about this, because it would bring shame on myself. I did not say a thing about this to anyone including my parents. It’s so unfair that we undergo this. Although I had this problem, if my husband survived and got out, it would be fine. But that was not what happened. I wanted that man to be stripped of his uniform for what he did. There is a saying in North Korea that “those with a spear and sword cannot be defeated.” Even though I had a legitimate cause and proof that he had raped me, it would have not changed anything but would only bring shame on myself. There are many victims like me. This happens to a lot of us. This happens to a lot of women. I get so angry when I think about it.

DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS SUBMISSION TO THE CEDAW COMMITTEE FOR ITS 68TH SESSION § 2B, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PRK/INT\\_CEDAW\\_NGO\\_PRK\\_29168\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PRK/INT_CEDAW_NGO_PRK_29168_E.pdf) [<https://perma.cc/X8UW-6EQM>].

53. The Criminal Procedure Law of the DPRK, Article 37.

54. One female defector reported:

[Sexual violence against women] is very common. There are women trading gold. Since gold is small, they would hide it inside their uterus or under their breasts. Searches are very strict. There are guard’s check posts on the roads and you get searched there directly. Officers would take women inside to search them if they are suspicious. Even if it’s not a full body search, on a train, they would lightly touch women’s breasts as if they were joking to feel whether they were hiding gold there.

the purpose of gathering evidence.<sup>55</sup> Also, the LPPRW provides additional protection on women detainees by prohibiting illegal search of the body of women.<sup>56</sup> The law does not clearly define “illegal search.”<sup>57</sup>

A strip search is a standardized method that is applicable to all detainees without an exception in the DPRK. The Database Center for North Korean Human Rights (NKDB) found that, among seventy-three female respondents, thirty-eight women (52.1%) answered that they witnessed or heard about strip searches and twenty-one women (28.8%) have personally experienced strip searches.<sup>58</sup> A strip search of women detainees involves forcing them to get naked and squat, or undergo a vaginal search. This is usually done in order to find valuables in their bodies, rather than to find any evidence of a crime. One account explained the context of a strip search.<sup>59</sup> Another female defector described the humiliating process of a strip search.<sup>60</sup> The Commission of Inquiry on the DPRK concluded that

Interview with an anonymous North Korean female defector.

55. MINISTRY OF JUSTICE (법무부), PUKHAN YONGSŎ OSONGPOŬ HUSŎŬ (북한 형사소송법 주석) (2015) (S. Kor.).

56. CITIZENS' ALLIANCE FOR NORTH KOREAN HUMAN RIGHTS, PUKHANUI SAHOE-GYONG-CHEJOK PYONHWA ET TARUN YOSONG-INKWON SILTAE (북한사회경제적 변화에 따른 여성인권 실태) (2015) (S. Kor.), available at [https://perma.cc/9UTK-ECGR](https://kor.nkhumanrights.or.kr/include/dn.php?mode=A_reports&ufile=2040713481_ewgOnzEW_EBB681ED959CEC9D98_EC82ACED9A8CEAB2BDECA09CECA081_EBB380ED9994EC9790_EB94B0EBA5B8_EC97ACEC84B1EC9DB8EAB68C_EC8BA4ED839C.pdf&rfile=%EB%B6%81%ED%95%9C%EC%9D%98%20%EC%82%AC%ED%9A%8C%EA%B2%BD%EC%A0%9C%EC%A0%81%20%EB%B3%80%ED%99%94%EC%97%90%20%EB%94%B0%EB%A5%B8%20%EC%97%AC%EC%84%B1%EC%9D%B8%EA%B6%8C%20%EC%8B%A4%ED%83%9C.pdf).

57. See *id.*

58. Choi Sun-Young et. Al, *The UN Universal Periodic Review and the DPRK : Monitoring of North Korea's Implementation of Its Recommendations*, p. 158, (The Database Center for North Korean Human Rights, 2017)

59. In-depth Interview with anonymous North Korean male defector from Yanggang Province of the DPRK (April 14, 2017). The female defector explained:

In North Korea, it is unlawful to engage in exchanging foreign currency or any money trade. But there is no choice for us in order to survive. People need foreign currency. One day, twenty to thirty law enforcement officials surrounded us and shouted, “Stand straight, you bitches!” We were treated like animals that could understand human language. They did not regard us as human. They beat us up, drove us [to a detention facility] and made us stand in the corridor and told us that they would shoot us if we move. And then they took us into a room by three or four and told us to undress. Taking off our clothes in itself was humiliating. When women went in and took off everything that they wore, they told us to squat a number of times. When we squatted about two or three times, cash that was rolled up [and put inside] fell out. That was foreign currency that we earned for the past few days and hid [in our uteri] to spare the money. All of it was confiscated.

60. Another female defector described: “There was a uterus check. I was arrested by a river bank. There were women who came in and checked my uterus with their hands. I was so shocked by that.” Interview with anonymous North Korean female defector (Apr. 13, 2017).

In-depth Interview with anonymous North Korean female defector from Yanggang Province of the DPRK (Apr. 13, 2017).

such act amount to sexual violence.<sup>61</sup>

ii. Rape Committed by Public Official

As detainees are under the absolute control of officers in detention facilities, female detainees are extremely susceptible to being sexually violated by the officers. However, the DPRK stated in its report submitted to the CEDAW Committee that sensitization seminars were organized “to guide law enforcement officials to respect women’s dignity and not commit violations of their rights in performance of their duties.”<sup>62</sup>

In fact, thirty-nine percent of the interviewees in NKDB’s research indicated that they personally experienced, witnessed, or heard about a case related to sexual violence against women detainees.<sup>63</sup> The perpetrators are mostly officers, but they do not receive any punishment for such acts and women detainees simply become victims with almost no remedy.<sup>64</sup> It is often observed that women detainees are repeatedly raped by one or more officers.<sup>65</sup> A North Korean male defector added that sexual exploitation by officers in detention facilities commonly take place and female detainees have no choice but to give themselves to officers because that is a common way for female detainees to have better treatments during detention.<sup>66</sup>

However, a noticeable change was found through an unusual testimony which demonstrated that there is a system for making complaints

61. Hum. Rts. Council, Rep. of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea, U.N. DOC. A/HRC/25/CRP.1 ¶ 1106 (Feb. 7, 2014).

62. CEDAW/C/PRK/2-4, *supra* note 16, ¶ 23.

63. DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS SUBMISSION TO THE CEDAW COMMITTEE FOR ITS 68TH SESSION, *supra* note 54, §3.

64. *Id.* § 3A.

65. In-depth Interview with a North Korean female defector from a rural area in Yanggang Province (Aug. 25, 2017):

When I was detained in a labor training camp in 2008, I was taking a break with other male and female detainees. There was no light in the room. I was raped there by an officer. I was raped four times by force. I did not even resist after the fourth time. It did not help anyways. Generally, all the female detainees are raped . . . I hadn’t even held hands with a boy before then. It happened about a year after I graduated from high school. I could not file a complaint about it. It would not have helped even if I did, anyways.

DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS SUBMISSION TO THE CEDAW COMMITTEE FOR ITS 68TH SESSION *supra* note 54, § 3A.

66. In-depth Interview with a North Korean male defector from a rural area in Yanggang Province (Apr. 22, 2017):

I have heard of [rape in detention facilities]. What kind of woman would resist a judicial officer who says “I will save you” while pulling her. It is safe to assume that [sexual exploitation] generally occurs in prisons or any other facilities where people are detained. Judicial officers are not stupid to fail to discern who would talk about it and who wouldn’t. Silly women talk about those things. They do not know that they are shaming themselves. Smart ones would not tell anyone about it since their lives become easier. Law enforcement officials are discharged if they are caught for sexually harassing female detainees. They get criticized for neglecting “a sense of caution regarding classes” and having a sexual relationship with an enemy of their class.

including complaints against sexual violence in detention facilities.<sup>67</sup> This is an encouraging development that shows treatment of detainees is changing. Yet, it is an isolated case from other cases which predominantly illustrate that such systems did not even exist. A North Korean female defector explained that a complaint system within a detention facility existed, but it was not official and the perpetrator kept his job without facing a punishment while the victim was not protected from the harassment she faced for reporting the crime.<sup>68</sup>

Sexual violence committed by state actors such as soldiers, policemen and prison officers to female detainees is not simply violence against women; but may also constitute “torture.”<sup>69</sup> Both the Committee Against Torture and the European Court of Human Rights viewed sexual violence against women in detention as constituting torture.<sup>70</sup> Also, the International Criminal Tribunals for the former Yugoslavia and Rwanda have recognized sexual violence including rape as acts of torture, as crimes against humanity and an element of genocide in some circumstances.<sup>71</sup>

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67. Database Center for North Korean Human Rights Submission to the CEDAW Committee for its 68th Session, DATABASE CTR. N. KOR. HUMAN RIGHTS, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PRK/INT\\_CEDAW\\_NGO\\_PRK\\_29168\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PRK/INT_CEDAW_NGO_PRK_29168_E.pdf) [hereinafter *Submission*] [<https://perma.cc/EH4B-2XYL>].

68. In-depth Interview with a North Korean female defector from a rural area in North Hamgyeong Province (June 30, 2017):

I was raped when I was in a detention room of the State Security Department of Sinuiju City. I still feel ashamed of it. People don't say anything about this because they are not brave enough. Some women were called after 12 at night. After coming back to the detention room, they would cry without telling anybody anything. You can actually make a petition about it. The director of the State Security Department of Sinuiju City came once a week to check who is beating whom, what is happening in the detention room and so on. When he came, he investigated guards and they told the director who went out at what time and came back at what time. The director also had a spy. He would ask who was absent and a guard told him about me. Then he called on me and asked me why I was absent on this day at 1 am in the morning. I could not avoid answering him because he already got details. It was like making a complaint, saying that I was raped by this supervisor. I think he was grilled by the director later. Since then, he treated me very badly while treating those who did not make complaints the same as before. He gave me the work that he was supposed to do. He did this as a habit, he raped everyone who was there. He even told me that he never saw anyone who resisted like me. He said it has its own fun to face hard resistance. My life would have been a lot easier and I would have been beaten a lot less if I just have done what he wanted. I worked and was beaten more only because I resisted and made a complaint. Look at my head. I have so many scars on my head from beating and they still give me a headache.

69. U.N. Secretary-General, In-depth study on all forms of violence against women, ¶ 258, U.N. Doc. A/61/122/Add. 1.

70. See U.N. Gen. Assembly, Report of the Committee against Torture, at 82, U.N. Doc. A/51/44 (1996); See also *Algur v. Turkey*, App. No. 32574/96, Eur. Ct. H.R. (Oct.22, 2002), <http://hudoc.echr.coe.int/eng?i=001-65259> [<https://perma.cc/5VKG-F2SF>].

71. Crimes of Sexual Violence, U.N. Int'l Criminal Tribunal for the former Yugoslavia, <http://www.icty.org/en/features/crimes-sexual-violence> [<https://perma.cc/Y2MZ-56GE>].

## b. Female Subordinates at Work Place

Under Article 281 of the Criminal Law, a man can be prosecuted for forcing a woman who is his subordinate to have sexual intercourse with him.<sup>72</sup> Among others, many testimonies of North Korean defectors indicate that sexual violence is often committed against female officers serving in the army by their superiors. However, perpetrators are rarely prosecuted and victims usually do not enjoy legal protection.<sup>73</sup> Female subordinates who are victims of sexual harassment or sexual violence are very reluctant to report the crimes due to a strong characteristic of hierarchy within the military for fear of unfavorable treatment. Rather, if victims are found to be pregnant, they would be forcefully released. This is referred to as “release due to living (*sang-hyual jae-dae*)” which means “forced release.”<sup>74</sup> In doing so, victims are not entitled to get any compensation. Such expulsion from the military is not only considered to be extremely dishonorable, but it also affects the expelled female soldiers when they apply for the Party membership, which is regarded as a huge achievement and honor in the DPRK.

As protective measures for victims of sexual exploitations, the DPRK stated in its report to the CEDAW Committee that “[i]dentities of the victims of sexual exploitation-related crimes were kept in strict confidence who were compensated in accordance with the Law on Compensation for Damages.”<sup>75</sup> However, victims are not only unable to get any compensation, but they are expelled from their career.<sup>76</sup>

## 3. Victims of Human Trafficking

The DPRK asserted that repatriated women who were found to have had “illegally crossed the border because of economic difficulties” or “as victims of human trafficking” were not subject to any legal punishment.<sup>77</sup> Contrary to this, the majority of respondents answered that North Korean

72. Joseon Minju Juui Inmin Gonghwa Guk Hyeongbeop [The Criminal Law of the Democratic People's Republic of Korea] art. 279, 280, <http://www.yeslaw.com/lims/front/page/fulltext.html?pAct=view&pPromulgationNo=172111> [<https://perma.cc/J7C4-KQB8>].

73. See, e.g., Megha Mohan, *Rape and no periods in North Korea's army*, BBC News (Nov. 21, 2017), <http://www.bbc.com/news/stories-41778470> [<https://perma.cc/HA3P-ETMW>].

74. [North Korean Female Soldiers Daily Suffer From Rape' Forcefully Released Due to Living (*sang-hyual jae-dae*) in Place of Perpetrators] “북한 여군, 매일 성폭행 시달린다 가해자 대신 생활제대 당하” Kookmin Ilbo, April 26, 2016, <http://news.kmib.co.kr/article/view.asp?arid=0010565004> [<https://perma.cc/R54C-RCYE>].

75. CEDAW/C/PRK/2-4, *supra* note 16, ¶ 71.

76. “I did not think that serving in the army as a woman in North Korea was difficult. But, my comrade got the ‘sang-hual jae-dea’ because she got pregnant . . . . She was raped by an officer. I did not know that she was pregnant because she tightly wrapped her belly. I think she was forced to have an abortion from the military authorities. It was considered a very embarrassing thing, so she did not report to anyone that she was raped. She kept it to herself.”

In-depth Interview with anonymous North Korea female defector From Yanggang Province (October 20, 2017).

77. See *id.* at para. 72.

women repatriated from China, including victims of human trafficking, faced detention in training camps or prisons under the criminal charge of “illegal border crossing.”<sup>78</sup> While the victims of human trafficking are in detention facilities they are not only subject to human rights violations faced by other female detainees but are also subject to additional human rights violations.

#### B. Forced Abortion

There has been a lot research that provides the evidence that abortions are commonly forced upon North Korean women in the detention facilities of the DPRK, who have been repatriated from China. When repatriated women are found to be pregnant, they are forced to undergo an abortion.<sup>79</sup> This practice has continued based on the DPRK’s strong policy for maintaining a pure Korean ethnicity and as punishment for betraying the country and going to China.<sup>80</sup> NKDB’s findings show twenty-seven percent of respondents answered that they either had witnessed or heard about forced abortions carried out on pregnant women repatriated from China.<sup>81</sup> This counters women’s reproductive rights protected under the CEDAW and violates the DPRK’s own law that states pregnant women should be protected.

#### C. Infanticide

Another serious reproductive right of women committed against repatriated North Korean women is infanticide. Abortion is not forced upon repatriated women when they are found to be in their late pregnancy or about to give birth.<sup>82</sup> Rather, their babies would be killed after they give birth.<sup>83</sup> Typical way of killing babies is to suffocate them by putting them on their belly.<sup>84</sup> Such practice is continued to maintain the pure Korean ethnicity and to punish North Korean women for betraying their country.<sup>85</sup>

#### D. Domestic Violence

Within a family, women are subject to men, the husband or the father, and men are regarded to have a very strong authority over the wife and children.<sup>86</sup> As for domestic violence, North Korea stated in its report that

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78. *Submission, supra* note 68.

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

83. Rachael Denhollander, *North Korea Shock: Newborn Infants Are Murdered While Mothers Forced to Watch*, LIFENEWS.COM (Feb.19, 2014), <http://www.lifenews.com/2014/02/19/north-korea-shock-newborn-infants-are-murdered-while-mothers-forced-to-watch/> [<https://perma.cc/B4JU-WH79>].

84. *Id.*

85. Database Centre for North Korean Human Rights Submission to the CEDAW Committee for its 68th Session, Database Centre for North Korean Human Rights, at p 3.B.

86. *Id.* at Art. 1.

“[d]omestic violence is not a social problem in the DPRK.”<sup>87</sup> But, NKDB’s findings indicate that domestic violence is so severe that it requires effective and urgent countermeasures.

Although the LPPRW prohibits violence against women including domestic violence, the law does not clearly define “domestic violence,” or any specific provision to prosecute perpetrators and to protect victims.<sup>88</sup> In fact, ninety-four percent of the respondents answered that there were no preventive measures or national efforts to curb domestic violence. NKDB observed that, no matter how severe it may have been, “violence within a family” was not generally considered as a “crime” punishable by law in the DPRK.<sup>89</sup> As much as domestic violence was regarded as a negligible event, there was no service or facility intended to help women who are victims of domestic violence.<sup>90</sup>

Additionally, women should be entitled to the right to file for divorce to prevent further harm when they suffer from domestic violence. The LPPRW provides that women are entitled to file for a divorce when there is an issue between the married couple. NKDB received a testimony, however, suggesting that such right was not properly guaranteed in reality.<sup>91</sup>

#### E. Interference to Freedom of Marriage

The DPRK allegedly ensures women’s freedom of marriage under two pieces of legislation and protects it from any state interference.<sup>92</sup> The Socialist Constitution, the LLPRW, and the family law of the DPRK guarantee women’s freedom of marriage.<sup>93</sup> However, NKDB found that thirty per-

87. CEDAW/C/PRK/2-4, *supra* note 16, Add. 1 ¶ 40. \_\_\_

88. *Supra* note 88, ¶ 2.A.

89. *Id.*

90. In-depth Interview with a North Korean female defector from a rural area in North Hamgyeong Province (April 03, 2017):

There’s so much domestic violence in North Korea. No measure is taken even though wives make complaints of violence to the court. Anyway, as long as you bribe the [law enforcement officials], there’s no need to make fuss about it. Problems caused by domestic violence are not considered to be worth dealing with. No one wants to get involved in family fights.

DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS SUBMISSION TO THE CEDAW COMMITTEE FOR ITS 68TH SESSION § 2B, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PRK/INT\\_CEDAW\\_NGO\\_PRK\\_29168\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PRK/INT_CEDAW_NGO_PRK_29168_E.pdf) [<https://perma.cc/Z3C4-CJ8U>].

91. *Id.*

There is an anti-South Korean operations liaison office. People working there are spies. They would look at pictures and select one [they like] of their future wife’s. A hundred pictures would be sent [to Pyongyang] from the countryside. They check the family background and everything else and if a man likes a woman, she is sent there. A list was made and sent to Pyongyang from my neighborhood.

Domestic violence is just too common. Women get beaten. They have no one to turn to and talk about this. When it becomes unbearable, women would file for divorce at the court. Even so, not all of them can divorce their husbands. Both of them must agree.

92. CEDAW, *supra* note 17, paras. 256-57.

93. *Id.* at paras. 259-60.

cent of the respondents had knowledge of forced marriage.<sup>94</sup> Some testified that women had been forced to marry government officials, such as spies or personal guards of the Leader, against their will. This practice is referred to as “the Fifth Section.”<sup>95</sup> Also, a male respondent who worked at a public security department testified that there is a department responsible for selecting bride candidates for high officials.<sup>96</sup>

Forced marriage is not even commonly known amongst most North Koreans, as the selection process is only carried out in certain regions, mostly in cities located around the border area in the DPRK.<sup>97</sup> High-ranking officials are shown the photos of the candidates and in turn select one or more.<sup>98</sup> The selected women then are summoned to Pyongyang, the capital city of the DPRK, to be thoroughly examined before they are eventually selected as bribes of the high-ranking officials.<sup>99</sup> Once selected and wed, they are not allowed to go back to their hometown or meet their family members because of the dangers of releasing confidential information.<sup>100</sup> Some of respondents stated that it is true that North Korea women think it is an honor and a promotion in the society to be selected, but the selected women are not allowed to refuse such arrangement if the high officials select them.<sup>101</sup>

Also, women’s marital rights should be protected until divorce, with no interference from the state. Nevertheless, the DPRK did not respect

94. Thomas Hunt, *Kim Jong-Un Splurges ‘£2.7million on Lingerie for Women in his Pleasure Squad,’* SUNDAY EXPRESS (Apr. 6, 2017), <https://www.express.co.uk/news/world/788497/Kim-Jong-Un-North-Korea-underwear-alcohol-Trademap-missile-US> [<https://perma.cc/LBK4-LP9W>].

95. *Id.*

96. In-depth Interview with an Anonymous North Korea Male Defector From a Rural Area in Yangang Province (Apr. 13, 2017):

I worked at 5th Section of Office 3 of the Supreme Guard Command. My work was connected to the 5th section. I was in charge of recruiting public officials who would work at the 5th section. When male officials in the department reach the age in which they should get married, they can choose their wives from a list of women submitted to them. In doing so, the women’s opinion does not matter. Every year, a list of women is submitted for this purpose. Marriages are not always forced upon women who are chosen. However, if a man serves the Leader, he is not to be discharged and a woman of his choosing has no choice but to marry him.

97. In-depth Interview with anonymous North Korea female defector From North Hamgyeong Province (Apr. 10, 2017):

There is an anti-South Korean operations liaison office. People working there are spies. They would look at pictures and select one [they like] of their future wife’s. A hundred pictures would be sent [to Pyongyang] from the countryside. They check the family background and everything else and if a man likes a woman, she is sent there. A list was made and sent to Pyongyang from my neighborhood.

98. *Id.*

99. *Id.*

100. In-depth Interview with anonymous North Korea female defector From South Hamgyeong Province (Apr. 10, 2017):

Women are forced to marry [to spies] through 5th Section. [. . .] They live a ‘closed life’ because their husbands are spies.

101. BRADLEY K. MARTIN, UNDER THE LOVING CARE OF THE FATHERLY LEADER: NORTH KOREA AND THE KIM DYNASTY 309 (2007).

women's marital rights. NKDB found that thirty-six percent of the respondents knew of forced divorces.<sup>102</sup> The following testimonies point out that a forced divorce occurs when one spouse is a party member and the other is a political criminal bound to go to a political prison camp. A divorce was forced upon a spouse, who is a member of the Workers' Party, because staying married to a political criminal would mean expulsion from the Party.<sup>103</sup>

#### F. Discrimination in Political Participation

The DPRK has ensured women's political rights in the texts of the Socialist Constitution and the LPPRW.<sup>104</sup> First, the Socialist Constitution stipulates that the DPRK shall provide all conditions for women to play as full a role in society as men and all citizens at the age of seventeen or above shall have the right to be elected irrespective of their gender.<sup>105</sup> Second, the LPPRW provides specific provisions to promote women's rights, requiring the state to increase the share of female representatives in each People's Assembly and to elect, train and appoint female officers without discrimination.<sup>106</sup>

The recommendations for advancing women's political rights seem to have been implemented because some respondents noted that the number of female representatives in People's Assemblies increased although the share might vary based on the characteristics of different regions. In NKDB's research, forty-two percent of the respondents answered that the number of female representatives in the local People's Assemblies or officials in party political organs had increased from 2010 to 2014.<sup>107</sup>

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102. Choi Sun-Young et. Al, *The UN Universal Periodic Review and the DPRK: Monitoring of North Korea's Implementation of Its Recommendations*, p. 58 (The Database Center for North Korean Human Rights, 2017).

103. In-depth Interview with anonymous North Korea female defector from South Hamgyeong Province (Apr. 10, 2017):

If the husband has committed a crime the couple is forced to divorce. The father and the son are sent to a prison camp. During this period (2010-2014), a lot of people were sent to political prison camps. One of my comrades was the leader of a people's unit, so in this position he would be issuing certificates saying 'Husband 000 is divorced from his wife 000 from today.' The certificates are given to each of the spouses. The wife stayed in that residence and the husband and the son left. Nobody asked the wives about their opinion.

*(I have not witnessed this myself but it was at the time of the Jang Song-taek incident. That woman was a party member and her husband did not know that his family was connected to Jang Song-taek. He was a very distant relative of Jang Song-taek and his last name was 'Jang.' When the case was being dealt with, people came into her house to get her husband because he was part of Jang's family, which is a traitor's family. His wife opposed them. She was forcefully deported to the countryside. They told her that she must behave herself like a party member and then forcefully divorced her from her husband).*

104. See Choi Sun-Young et. al., *supra* note 103, at 56-57.

105. See *id.*

106. In-depth Interview with anonymous North Korea female defector From Yangang Province (Apr. 13, 2017).

107. In-depth Interview with anonymous North Korea female defector From North Hamgyeong Province (Apr. 10, 2017):

I lived in the Kim Jong-suk County. There are a lot of women workers because Kim Jong-suk did many public deeds there. Because of this, a lot of women are assigned as officials in the Kim Jong-suk County. The county party officials as well as the head of the administrative committee are women. The head of People's Committee is also a woman.<sup>108</sup>

This testimony shows how the share of women representatives or officials can be different from region to region. The Kim Jong-Suk County is a historically meaningful place known for the revolutionary works of Kim Jong-Suk (Kim Il-Sung's wife). As a result, women's public activities appear to have been encouraged there more than other areas.<sup>109</sup>

As stated above, the right to participate in politics was not guaranteed to all women during the period between 2010 and 2014. Contrary to the Social Constitution, women with bad family background and social status were discriminated against and prevented from participating in politics.<sup>110</sup> The testimonies show that the share of women representatives or officials have indeed increased in some regions as required by the recommendations. It should also be noted that the increase in female representatives did not contribute to the promotion of women's rights because voting was just a formality that did not reflect the true opinion of the people. Thus, the increased number of female officials did not necessarily lead to an increase in protection and promotion of women's rights.

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There is an anti-South Korean operations liaison office. People working there are spies. They would look at pictures and select one [they like] of their future wife's. A hundred pictures would be sent [to Pyongyang] from the countryside. They check the family background and everything else and if a man likes a woman, she is sent there. A list was made and sent to Pyongyang from my neighborhood.

108. In NKDB's research, 42 percent of the respondents answered that the number of female representatives in the local People's Assemblies or officials in party political organs had increased from 2010 to 2014. See Choi Sun-Young et al., *supra* note 103, at 59.

109. In-depth Interview with Anonymous North Korea Female Defector from Yang-gang Province (Apr. 11, 2017):

I lived in the Kim Jong-suk County. There are a lot of women workers because Kim Jong-suk did many public deeds there. Because of this, a lot of women are assigned as officials in the Kim Jong-suk County. The county party officials as well as the head of the administrative committee are women. The head of People's Committee is also a woman.

110. In-depth Interview with Anonymous North Korea Female Defector from Yang-gang Province (Apr. 11, 2017):

I have seen female representatives of the People's Assembly. Our citizens are voting just formally. People simply submit a ballot with the name of the candidate already [written] on it. It is meaningless. It is just a formality. There are cases in which women become managers at the special office. The manager of the textile factory was a woman. Women can be Party managers or members of the Party Committee. Only women, who have graduated from a university, served in the military and are loyal to the Party can hold such positions. Women with a bad social status and family background can never take these posts. Also, those who were in prison cannot take such posts either.

### III. Constraints in the DPRK in the Prevention of Human Rights Violations Against Women and Protection of Their Rights

#### A. Systematic Leniency in Enforcing Legislations

The enforcement of domestic legislation is generally not adhered to in the DPRK as there are higher laws that supersede them. Even if a domestic law was to be enforced, corruption among law-enforcement officials is so prevalent that it seriously impedes effective enforcement.

Modern states have a responsibility to protect women from violations of their rights.<sup>111</sup> Also, under general recommendation No. 19 of the CEDAW, states can be held responsible for not exercising due diligence both in prevention of violations of women's rights and in prosecutions for acts of violence against women.<sup>112</sup> For example, the Inter-American Court of Human Rights held that a State must take action to prevent human rights violations committed by non-State actors, investigate allegations of violations and punish wrongdoers.<sup>113</sup> Exercising due diligence is based on principles of non-discrimination and good faith in application.<sup>114</sup>

Domestic legislation in the DPRK does not work to the same effect as they do in states that are under the system of the "rule of law." A study showed that North Koreans consider the Leader's statements or the Party's directions to have stronger legal authority than domestic legislation.<sup>115</sup> Thus, public officials are required to strictly enforce the Leader's statements and the Party's directions rather than domestic legislation.<sup>116</sup> Although the DPRK enacted the LLPRW which was designed to protect women's rights and prevent gender-based violations, it has limited significance in improving the women's rights in the DPRK, as they are not regarded as binding law.

Moreover, it is a prevalent practice among the law-enforcement officials in the DPRK to receive bribes from people who break the law. For instance, the accused who allegedly raped a woman in violation of the

111. See Rebecca Cook, *Enforcing Women's Rights through Law*, 3 GENDER & DEV. 8, 9 (1995).

112. UN Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 19, 11th Session (1992).

113. See generally *Velasquez Rodriguez*, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 4 (July 29, 1988).

114. *Id.*

115. See Roh, J., *Ten Principles for the Establishment of the One-Ideology System*, COLUM. L. SCH., [http://www2.law.columbia.edu/course\\_005\\_L9436\\_001/North%20Korea%20materials/10%20principles%20of%20juche.html](http://www2.law.columbia.edu/course_005_L9436_001/North%20Korea%20materials/10%20principles%20of%20juche.html) [https://perma.cc/JPL5-556M].

116. Directions from the Party, orders from the Su-ryeong, instructions of Kim Il-sung and Kim Jung-il, the Ten Principles of Mono-Ideology have more legal authority the Constitution and any other laws. See Song In-ho, Lectures on Law for Unification : Basic Theories and Major Issues, Law Times, p. 124 (2015); North Korea's legal system can be explained "to consist of the instructions or statements of the top officials, the rules of the Workers' Party of Korea, the Constitution and laws, in order of authority." Also, "the supra-constitutional status of the Party rules is found in Article 11 of the Constitution, which provides 'the Democratic People's Republic of Korea shall conduct all activities under the leadership of the Workers' Party of Korea.'" See Korean Bar Association, Report on Human Rights in North Korea, p. 48 (2014).

Criminal Law would evade punishment if he bribes the law enforcement officials.<sup>117</sup> When someone violates a criminal law, an investigation should be ensued to prosecute the perpetrator and for a victim of the crime to be remedied. However, cases of violence against women tend to be overlooked and condoned in the DPRK, which explains why they are not investigated properly.

## B. North Korean Women's Lack of Awareness of Women's Rights

Many North Koreans were not aware of domestic legislation such as the LLPRW, despite the DPRK's assertion that they were disseminated through public holdings to the public. The DPRK stated that it has legal instruments for women to receive compensation for the damages they suffer from criminal acts, such as the Law on the Compensation for Damages enacted in 2005.<sup>118</sup> The LPPRW specifically entitles women to file claims for damages against the institution or the person responsible for the violations.<sup>119</sup>

Moreover, rights in North Korea are interpreted strictly under the Su-ryeong ideology which teaches North Koreans that political life only comes from the Leader.<sup>120</sup> The collectivism pervades in every part of the North Korean society and is referred to as the theory of a "Large Family" in North Korea, regarding the Leader as the father, the Party as the mother, and general citizens as children in a family.<sup>121</sup> This is to establish an absolute authority of the Leader. This theory makes the DPRK's already entrenched patriarchal culture more secure and has considerably affected women's role in society. Since the theory was invented, "North Korean Women," which is a magazine published by the Women's Union, began to emphasize female virtues such as duty, responsibility and loyalty.<sup>122</sup>

NKDB's findings show that, with the absence of any effective policies to educate or raise awareness on women's rights, the superiority of men is commonly emphasized in the perception of gender roles, and also realized

117. In-depth Interview with anonymous North Korea female defector From Yanggang Province (Apr. 21, 2017):

Nothing is fair in North Korea. If I have nothing to give, I can be punished for things I didn't do. Small issues can become big ones. That happens because public officials have to have achievements. If I do not have anything to give, I can receive a prison sentence when my offense is punishable for several months of labor training center.

118. CEDAW/C/PRK/Q/2-4, *supra* note 16, Add.1, para. 24.

119. The LPPRW, Article 46.

120. See Roh, *supra* note 120; "Kita Chosen no Seiji Taisei, "Kaigai Jijo" [Journal of World Affairs] vol.61-2, 46-59, February 2013) (translated into English by JIIA) at 2 available at: [https://www2.jiia.or.jp/en/pdf/digital\\_library/korean\\_peninsula/160331\\_Takashi\\_Sakai.pdf](https://www2.jiia.or.jp/en/pdf/digital_library/korean_peninsula/160331_Takashi_Sakai.pdf) [<https://perma.cc/WC3E-PCYA>].

121. Charles K. Armstrong, *Familism, Socialism and Political Religion in North Korea*, 6 TOTALITARIAN MOVEMENTS AND POLITICAL RELIGIONS 383 (2005); Megan L. Gill, North Korea: The Role of Propaganda in the Sustainability of the Kim Regime (Nov. 1, 2012) (unpublished Master's Thesis, Georgetown University) (on file with Georgetown University Library).

122. Moon Jang-soon, Study on the Political Transition of the Theory of the Large Family in North Korea, Korean Journal of Political Science, 62 (Vol. 25, No. 3, 2017)

in society. The majority of the respondents described the relationship between men and women as men being “the sky (high)” and women as “the ground (low).”<sup>123</sup> Such perceptions of gender roles seem to have been strengthened without any resistance over time in the DPRK and have affected every part of society. For instance, testimonies included the restriction of certain activities such as riding cars or motor bikes, as they are typically regarded to be within the “men’s sphere.”<sup>124</sup>

As such, the North Korea women’s unawareness of legislation related to promoting women’s status and ignorance of their rights due to the collective culture that emphasizes women’s subordinate position to men hampers the improvement of women’s rights.

### C. Inherent Characteristics of Government Organizations Relevant to Women’s Rights

There are two government organizations that the DPRK stated to be institutions intended to enhance women’s rights and protect them from sex-based discriminations: the Women’s Union and the National Committee for Implementing International Human Rights Treaties.<sup>125</sup>

#### 1. *Women’s Union*

The Women’s Unions was established in 1945 in order to effectively disseminate policies based on the Party’s directions among the general public.<sup>126</sup> The Women’s Union is the largest organization for women in the DPRK whose members are made up of married women that do not work outside of the home. Kim Il-Sung’s statements on duties and purposes of the Women’s Union demonstrate that it is a political institute designed to make women subservient to the state.<sup>127</sup>

The DPRK acknowledged the limiting effects of the traditional patriarchal North Korean society in its state report.<sup>128</sup> As part of the effort to fight against this, the DPRK stated that the Women’s Union played “a pivotal role in the dissemination and awareness-raising efforts” in respect of women’s rights.<sup>129</sup> During the CEDAW’s 68th Session, the DPRK reiterated the role of the Women’s Union as “promoting and advancing the

123. Choi Sun-Young et. Al, *The UN Universal Periodic Review and the DPRK*, The Database Center for North Korean Human Rights, p. 66

124. *See id.*

125. *See id.*

126. *See* Soon Hwi Lim, *Chosen Nyusung Beunsuk*, KOREAN INST. NAT’L UNIFICATION, Research Series 03-03, at 4-5.

127. Members of Women’s Union must “be perpetually loyal to directions of the Socialist Party regardless the time, location and circumstances in which they work” through “cultivating the Party’s policies and traditions of revolutions in them.” Rodong Shin-mun, “*Regarding Work Assessment of the Central Committee of the Women’s Union*”, Sept. 2, 1965.

128. UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW: Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women*, June 1, 2016, CEDAW/C/PRK/2-4, paragraph 53.

129. *Id.*, para 56.

rights of women” and it aims “to disseminate the State’s laws and policies among women.”<sup>130</sup>

Forty-six respondents of NKDB’s research were members of the Women’s Union while they were in the DPRK.<sup>131</sup> When asked about education on raising awareness of women’s rights, seventy-two percent answered that they had never received any.<sup>132</sup>

The DPRK also asserts that the Women’s Union keeps “track of the implementation of the State policy and legislation on gender equality.”<sup>133</sup> However, almost eighty-five percent of the respondents answered that the Women’s Union did not initiate any activities to promote women’s rights.<sup>134</sup> One interviewee’s account clearly explained that the Women’s Union is not an organization for raising women’s awareness on their rights, but rather is a highly-politicized institution where mandatory lessons on Kim Il-Sung’s ideology and forced labor was constantly imposed.<sup>135</sup>

Chosun Women, the by-monthly publication published by the Women’s Union, represents policies and situations regarding North Korean women.<sup>136</sup> It introduces directions made by the Su-ryeong, Party’s policies, and stories of exemplary women. Editorials contained in Chosun Women have justified subservient status of women to the Leader based on two reasons: (1) the Leader Su-Ryeong has liberated women from bondage of colonization and (2) further promotion can be made only by following directions of the Su-Ryeong.<sup>137</sup> Thus, women’s social engagement is not encouraged to realize women’s rights, but to make women be obedient to the Party’s policies by being faithful to the Su-Ryeong.<sup>138</sup>

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130. OHCHR, Committee on the Elimination of Discrimination against Women examines the reports of the Democratic People’s Republic of Korea, 68th session.

131. See Choi Sun-Young et. Al, *supra* note 103, at p. 124.

132. See *id.*

133. See *id.*

134. See *id.*

135. In-depth interview with a North Korean Defector from Yanggan Province (Apr. 21, 2017):

At the Women’s Union meetings, we are told that we are to make sacrifices for the success of our Leader either through financial support or physical labor such as paving roads or constructing railroads. This is mandatory; so, if we fail to show up, we will be fined. I did it just because I had no choice. Otherwise, I would have been criticized at the Women’s Union meeting. This is not about giving advantages to women . . . . Even though I hated it, I had to do these things because if I didn’t, I had to pay money. It’s similar to forced labor.

DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS SUBMISSION TO THE CEDAW COMMITTEE FOR ITS 68TH SESSION *supra* note 54, § 1.

136. Suzy Kim, *Revolutionary Mothers: Women in the North Korean Revolution, 1945-1950*, 52 *COMP. STUD. SOC. & HIST.* 742, 754 (Oct. 2010).

137. Lee Mi-Kyung, *Women’s Policy of the North Korea Through the View of Ideal Women with Contents Analysis of ‘Chosun Women’*, 28 *STUD. ON SINO-SOVIET AFF.* 145, 157 (2004).

138. *Id.* at 158.

## 2. *The National Committee for Implementing International Human Rights Treaties*

The DPRK formed the National Committee for Implementing International Human Rights Treaties in April 2015 (henceforth National Committee) with an objective of ensuring that the requirements of human rights treaties, to which the DPRK is a State Party including the CEDAW, are integrated into the State policy and implemented.<sup>139</sup> Especially with respect to the CEDAW, the DPRK stated in its state report that:

[t]he National Committee carries out periodic surveys for women's status and situation at institutions, enterprises and organizations" and make recommendations to the Presidium of the SPA [Supreme People's Assembly], the Cabinet, law enforcement organs and other related bodies. It also engages in the dissemination of the Convention and the Concluding Comments and the preparation of periodic reports to be submitted to the treaty bodies.<sup>140</sup>

During the review of combined second to fourth periodic reports of the Democratic People's Republic of Korea to the CEDAW 68th Session, which took place in November 8, 2017, one of the experts asked questions regarding the National Committee including the question of who were the members of the National Committee, and how it ensured that the CEDAW was integrated in the State's policy.<sup>141</sup> The delegations answered that:

it composed of representatives of a number of ministries, including on foreign affairs, public health, education, and labour, as well as of representatives of law enforcement agencies, including the Ministry of People's Security, the Central Court and the Central Prosecutor Offices . . . . It had 108 members of which 27 per cent were women.<sup>142</sup>

However, the National Committee was established simply to show the international society that it has a legitimate institute to implement human rights treaties within the DPRK. Institutes related human rights were built to pacify criticism of human rights violations and to demonstrate to the outside world that the DPRK has mechanisms to guarantee human rights.<sup>143</sup> Thus, the National Committee in the DPRK by itself should not be considered as proof that the human rights treaties including the CEDAW are effectively implemented.

### D. *Undue Pressure of Shame Imposed on Victims in the Society*

Women who are victimized by violence, especially sexual violence, are considered to be at fault for becoming victims of such crimes. Since sexual harassment is not a punishable crime, and even sexual violence against women is not properly prosecuted in the DPRK, women who are victims of

139. CEDAW/C/PRK/2-4, para 20

140. *Id.*

141. *See supra* note 138.

142. *Id.*

143. In-depth interview with a former staff of foreign affairs department of the DPRK stated that human rights institutes are to evade criticisms from other countries.

such crimes easily become victimized again with social stigma, if they reveal their experiences.

#### IV. Recommendations to Promote Women's Rights in the DPRK and Conclusion

##### A. Recommendations to the Government of DPRK<sup>144</sup>

- Abolish the illegal practice of forcefully arranging marriages of women to government or military officials
- Establish special units in every local People's Safety Department to combat domestic violence that include at least one female officer and monitoring on a regular basis of domestic violence under their charge
- Amend the Family Law and the Law on Promotion and Protection of Women's Rights to ensure a woman's right to file for divorce without consent from her husband, in cases where he is a habitual perpetrator of domestic violence; Give the court power to issue and enforce an order to prohibit the perpetrator's access to the victim
- Criminalize domestic violence
- Incorporate human rights, gender equality and self-defense classes into the agenda of the regular meetings of the Women's Union
- Provide mandatory gender-sensitive training directed to judicial and law enforcement officers every month
- Abolish the practice of conducting forced abortions on women carrying non-Korean babies
- Establish centers within the People's Safety Department to receive phone calls from women who are in an emergency related to violence against women and effectively disseminate information of such service through TV broadcast and meetings of the Women's Union or In-min Ban (mandatory meetings of each neighborhood)

##### B. Recommendations to the International Human Rights Treaty Bodies to Which the DPRK is a State Party such as the CEDAW

Recommendations to the international human rights treaty bodies

- Ask the DPRK questions that specifically require concrete data such as locations of institutions providing services related to protecting human rights, numbers of such institutions and kinds of services that they provide, number of recipients of such services and names, ages and residence of the recipients
- When data/evidence is given in a form of statistics, ask specific procedures as to how the original data was gathered and which regions are taken into the calculation
- If possible, get the answers from the DPRK with promises of improvement of specific areas

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144. Some of them are from the NKDB's publication, Choi Sun-young et al., *The UN Universal Periodic Review and the DPRK: Monitoring of North Korea's Implementation of Its Recommendations*, 220-21 (Database Center for North Korean Human Rights, 2017).

## Conclusion

It is commendable that the DPRK has ratified the CEDAW and has established legislative measures to protect women from violence and guarantee equal protection. However short of internationally accepted human rights standard the DPRK may fall, such actions show that the DPRK is nonetheless trying to be a responsible member of the international community. However, many findings show that women's rights are far from reaching the international standards, because of patriarchal traditions that are entrenched to the North Korean society and the national institutions related to women's rights, which are used to mobilize women to work for the state, rather than represent their rights. North Korean women are still very vulnerable to becoming victims of domestic violence, sexual violence (especially by public officials), forced abortions in detention facilities and forced labor without effective legal protections. Violence and discrimination against women have persistently continued without significant resistance from North Korean women due to their general lack of knowledge of their rights.

In order to improve the rights of North Korean women, concerted international efforts to understand harsh realities of North Korean women and advocate for their rights are crucial. Furthermore, considering the magnitude and gravity of violations against women's rights, the relevant bodies of treaty should develop and implement strategies to pressure the DPRK to truly implement and enforce the international human rights treaties including the CEDAW and the legal formalities already established within the DPRK.

