



## UPR Submission

### Democratic People's Republic of Korea (DPRK)

April 2009

#### Summary

Human rights conditions in the Democratic People's Republic of Korea (DPRK) remain dire. There is no organized political opposition, independent labor unions, free media, or civil society. There is no freedom of religion.

Arbitrary arrest and detention, lack of due process and torture and other mistreatment remain serious concerns. The DPRK runs large prison camps where hundreds of thousands of its citizens—including children—are enslaved in deplorable conditions. Periodically, the DPRK publicly executes individuals for stealing state property, hoarding food, and other "anti-socialist" crimes.

The DPRK divides the population into different categories—"core," "wavering," and "hostile"—based on the government's assessment of an individual's political loyalty. Basic services, such as access to health care and education, are parceled out according to this classification scheme.

The DPRK is a party to four main international human rights treaties: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child.

The DPRK has largely shunned dialogue with UN experts on human rights, including Vitit Muntarbhorn, who was appointed special rapporteur on human rights in the DPRK in 2004, whom it does not permit to visit the country.

This submission focuses on four core areas on which Human Rights Watch has conducted research: right to food, border crossers, children's rights and workers' rights.

#### **Right to Food**

The DPRK has largely recovered from a famine in the mid-late 1990s that killed millions of people and stunted the development of many children for life, but serious food shortages persist and vulnerable members of the population, including young children, pregnant and nursing women, the disabled and elderly, still suffer.

Non-elite members of the society are almost completely dependent on markets to access food and other necessities, since the ration system is largely defunct. They receive rations a few times each year, typically on major national holidays such as leader Kim Jong Il's birthday. Only a tiny minority, mostly high-ranking members of the Workers' Party and the security and intelligence forces, still receive regular rations.

Since the mid-1990s, the DPRK has received a large amount of foreign aid each year, but has consistently limited access to international humanitarian aid workers monitoring aid distribution inside the country.

While the Republic of Korea (ROK) was a major donor of food aid for years, providing up to 500,000 tons of rice per year and about 300,000 tons of fertilizer for spring planting, such aid stopped when conservative ROK President Lee Myung-bak took office in early 2008. The DPRK so far has rejected the ROK's offer to discuss food aid if the DPRK makes a formal request.

In May 2008, the United States agreed to provide the DPRK with 500,000 tons of food. International humanitarian agencies began distributing US food aid in DPRK in June 2008. By March 2009, almost 170,000 tons have been delivered to DPRK.

At the end of March 2009, the DPRK expelled American humanitarian workers after notifying Washington that it does not wish to receive additional US food assistance. The suspension of food aid and expulsion of aid workers occurred amid rising tensions surrounding the DPRK's planned launch of a rocket. (The DPRK launched the rocket in early April.)

U.N. investigator Vitit Muntarbhorn told the United Nations Human Rights Council in March 2009 that the situation in North Korea was "dire and desperate."

### **Border-Crossers**

Since the mid-1990s, hundreds of thousands of North Koreans have crossed into China. They include those fleeing political and religious persecution, and people who left because of the food shortage or other economic reasons. Other North Koreans have visited China with travel permits to meet their relatives, and merchants regularly cross the border for business either secretly or by bribing border guards.

The trafficking of North Korean women and girls to China persists, especially near the border. Victims are often abducted or duped into marriage, prostitution, or sexual slavery. Some North Korean women live with Chinese men in long-term de facto marriages, though they lack legal resident status and remain vulnerable to arrest and repatriation, even if they have had children with Chinese men.

In the DPRK, leaving the country without state permission is considered an act of treason, punishable by lengthy prison terms and even the death penalty. Even some children who have crossed the border without permission have been subjected to detention and severe ill-treatment upon return. The resulting well-

founded fear of persecution upon return turns many North Koreans in China and elsewhere into refugees *sur place*, even if they left for economic reasons.

The authorities in China categorically label North Koreans illegal economic migrants and routinely arrest and repatriate them, violating China's international legal obligations not to repatriate anyone where they are likely to face persecution, torture or ill-treatment. Ahead of and during the Beijing Olympic Games in 2008, China stepped up the arrest and repatriation of North Koreans.

Among those forcibly returned, North Koreans who have had contact with Christian missionaries or converted to Christianity while in China are known to receive harsher punishment. Since the foundation of the DPRK, the government has persistently persecuted religiously active people, typically categorizing them as "hostile elements."

The DPRK views Christians in particular as tools of anti-DPRK counter-revolutionary imperialist aggression. One of the most important reasons for the DPRK's repression of religious practice is its clash with the cult-like reverence of the DPRK's late founder Kim Il Sung and his son and present leader Kim Jong Il under the *juche* (roughly translated as "self-reliance") ideology.

### **Children's Rights**

North Korean children face discrimination and even punishment on the basis of the status, activities, expressed opinions, or beliefs of their parents or other family members. Collective punishment is common in the DPRK for political offenses, as entire families, including children, of those accused of disloyalty to the government and ruling party are themselves often imprisoned, sent to forced labor camps, or internally exiled to remote mountainous areas. Even if children avoid being imprisoned or sent to forced labor as part of collective punishment, they are often barred from higher education or good jobs.

The DPRK's politically determined classification system restricts children's access to education. Although all children are required to attend school for 11 years, it is generally children of the political elite who are allowed to advance to college and hold prominent occupations. Those belonging to "wavering" or "hostile" groups have very limited choice in education or work. An ideological education with an emphasis on a "military first" policy takes precedence over academic education, and from an early age children are subject to several hours a week of mandatory military training and political indoctrination at their schools.

### **Workers' Rights**

The DPRK's laws, including its labor laws, are based on the country's state ideology of *juche*, or self-reliance, socialism, communism and the policies of the Workers' Party. Guiding principles or instructions from late President Kim Il Sung have legal force that supersedes the constitution or laws. The DPRK's labor laws are composed of the Socialist Labor Law and relevant provisions in the constitution and the penal code, in addition to laws concerning foreign investors and businesses.

The state has full control over the labor market, and the law permits only labor organizations sanctioned and controlled by the state. Under the DPRK's law there is no concept of an employment contract, as workers are assigned to their jobs by state labor administrative agencies under the control of the Workers' Party. The state is responsible for providing basic services such as food, health care, education and housing, and in return for their labor, workers are paid a small amount of remuneration in cash or coupons to cover items such as supplementary food, clothes, and furniture.

The DPRK opened the Kaesong Industrial Complex (KIC) in June 2004 under a contract with Hyundai Asan Corporation and the ROK-owned Korea Land Corporation. The complex is located between the city of Kaesong and the western end of the border between the two Koreas, an hour's car ride from Seoul. A specific KIC Labor Law was drafted and adopted to govern the rights of workers employed by enterprises in the KIC.

At the Kaesong Industrial Complex, about 39,000 North Korean workers produce mostly consumer goods for South Korean businesses. The law governing working conditions in the complex falls far short of international standards on the right to elect their own representatives, form trade unions, and bargain collectively. The law also does not adequately protect workers from gender discrimination and sexual harassment, and hazardous child labor.

Moreover, the KIC Labor Law stipulates that South Korean companies shall pay wages to North Korean workers directly in cash. However, on the DPRK's demand, South Korean companies remit worker salaries to the DPRK government, which in turn pays North Korean workers a small fraction of their salaries.

North Koreans have reportedly migrated for employment in Bulgaria, China, Iraq, Kuwait, Mongolia, and Russia. In some of these countries, activists have expressed concern for workers' basic rights, including efforts by the DPRK government to restrict freedom of movement, expression, and association, the constant presence of "minders" accompanying workers, and indirect salary payments under which large portions of salaries allegedly are recouped by agencies or the DPRK government.

The DPRK is not a member of the International Labour Organization (ILO). It has not engaged ILO officials to discuss the protection of workers' rights in DPRK.

## **Recommendations**

*Regarding the right to food, the DPRK government should:*

- Allow international humanitarian agencies, including the UN World Food Programme, to resume necessary food supply operations and to properly monitor aid according to normal international protocols for transparency and accountability. These standards include having access to the entire country, being able to make unannounced visits, and being able to select interviewees at random.

- Ensure its distribution system is both fair and adequately supplied, or permit citizens alternate means to obtain food, including access to markets and aid.
- End discrimination in government distribution of food in favor of high-ranking Workers Party officials, military, intelligence and police officers, and against the "hostile" class deemed politically disloyal to the government and Party.
- Assist young children, pregnant and nursing women, the disabled, and the elderly as priority recipients of food aid.

*Regarding border crossers, the DPRK government should:*

- Allow all North Korean citizens to travel freely in and out of the country.
- Stop punishing North Koreans who are repatriated.

*Regarding children's rights, the DPRK government should:*

- Respect and ensure the rights set forth in the Convention on the Rights of the Child to each child without discrimination of any kind.
- End collective punishment of families, especially against children.
- Treat migrant and trafficked children who return to the DPRK as victims and not as criminals, and provide them with the necessary support and counseling for reintegration.
- Avoid the early militarization of children in schools.

*Regarding workers' rights, the DPRK government should:*

- Join the International Labour Organization, accede to its core treaties, and invite ILO officials to investigate and discuss protection and promotion of workers' rights in the DPRK.
- Enforce existing provisions of the Kaesong Industrial Complex Labor Law effectively and, allow workers to receive payment directly from their South Korean employers.
- Amend the KIC Labor Law to explicitly protect workers' right to freedom of association and the right to collective bargaining.
- Amend the KIC Labor Law be amended to explicitly prohibit sex discrimination and sexual harassment.
- Amend the KIC Labor Law to incorporate the North Korean Labor Law's minimum age provision and to prohibit the assignment of children under the age of 18 to dangerous or hazardous jobs.
- Act to ensure that North Korean workers living abroad enjoy the same human and workers' rights as others in the host country.
- Allow thorough on-site investigations in overseas facilities where North Koreans work, whether through the host country's inspectors or with the cooperation, for example, of experts from the International Labour Organization.

## ANNEX

### Right to Food

#### **Give North Koreans food**

For North Koreans leaving the country to escape hunger, the situation is also becoming more desperate. Refugees told of repeated announcements warning of heavier punishment for illegal border crossings. That includes most North Koreans leaving the country, since permission to travel abroad is extremely difficult and costly to obtain. The government is said to be increasing border patrols on the North Korean side.

September 26, 2007      Commentary

#### **North Korea: Ending Food Aid Would Deepen Hunger**

##### ***Resume Food Aid to North Korea's Vulnerable Population***

Emergency food aid to North Korea should not be suspended in response to the country's alleged nuclear test, Human Rights Watch said today. Since the mid 1990s, North Korea has been dependent on foreign aid to feed up to one third of its population.

October 9, 2006      Press Release

#### **North Korea: Policy Changes May Foster New Hunger**

##### ***Government Must Grant Fair Access to Food and Aid***

Recent decisions by the North Korean government to suspend the operation of the World Food Programme, ban the private sale of grain, and fully reinstate the discredited Public Distribution System could lead to renewed hunger for North Korea's already poor and destitute people.

May 3, 2006      Press Release

#### **A Matter of Survival**

##### ***The North Korean Government's Control of Food and the Risk of Hunger***

This 34-page report examines recent worrisome developments in North Korea's food policies, its marginalization of the World Food Programme, its refusal to allow adequate monitoring of food aid, and the implications of the government's new policies. Human Rights Watch noted that only a decade ago, similar policies led to the famine that killed anywhere from 580,000 to more than 3 million, according to independent researchers and nongovernmental organizations.

May 3, 2006      Report

#### **North Korea is headed toward another famine**

North Korea has also banned the buying and selling of grain by individuals at farmers' markets and ordered workers who abandoned their jobs during the famine of the 1990s to return to work, or be punished. It also announced it was reviving the Public Distribution System, under which only the state can distribute grain, through workplaces and schools. These are dangerous moves. Only 10 years ago, North Korea experienced a famine that killed from 500,000 to three million people, according to economists, demographers and aid agencies.

May 3, 2006      Commentary

## **Border-Crossers**

### **North Korea's Cruelty**

North Korea is again dominating headlines by signing a deal to close its main nuclear reactor and allow international inspectors to return in exchange for energy and economic assistance. As North Korea watchers cautiously welcome this possible step toward a nuclear-free Korean Peninsula, a deeply disturbing development has garnered almost no attention: Pyongyang's hardening policy toward North Korean border-crossers.

March 16, 2007      Commentary

### **North Korea: Harsher Policies against Border-Crossers**

The North Korean government has hardened its policy towards its citizens it catches crossing the border into China without state permission, or whom China has forcibly repatriated. Until around November 2004 those who crossed the border—often to find food—were typically released after questioning or served at most a few months in forced labor camps, a relatively light punishment by North Korean standards for what is considered an act of treason. Recent interviews by Human Rights Watch show that this relative leniency is over: in late 2004 North Korea announced a new policy of harshly punishing border crossers with prison sentences of up to five years.

March 5, 2007      Report

### **North Korea: Border-Crossers Harshly Punished on Return**

#### ***China Should Grant UNHCR Access to North Koreans in Border Area***

Human Rights Watch urged the North Korean government to stop arresting people crossing the border, and to allow its citizens the freedom of movement inside and out of the country. North Korea is a party to the International Covenant on Civil and Political Rights, which guarantees everyone the freedom to leave any country, including their own. The government thus has a legally binding obligation to ensure its citizens can exercise this right, and not punish them for it.

March 4, 2007      Press Release

### **The Invisible Exodus**

#### ***North Koreans in the People's Republic of China***

China must end the forcible return of North Korean asylum-seekers and the arrest and harassment of aid workers who assist them, Human Rights Watch said in a new report released today. The 36-page report, *The Invisible Exodus: North Koreans in the People's Republic of China*, details the exploitation and years of life underground that North Koreans endure in China. The report documents the trafficking of North Korean "wives" for Chinese men, and the torture and humiliation returnees suffer at the hands of North Korean officials.

November 19, 2002      Report

### **Children's Rights**

#### **Government Violations of Children's Rights in the Democratic People's Republic of Korea: Submission to the Committee on the Rights of the Child**

In this submission to the Committee on the Rights of the Child, Human Rights Watch provided information to the Committee on violations of the Convention on the Rights of the Child by the North Korean government.

July 4, 2008            Amicus Briefing

### **Denied Status, Denied Education**

#### ***Children of North Korean Women in China***

This 23-page report documents how such children live without legal identity or access to elementary education. These children live in the Yanbian Korean Autonomous Prefecture in eastern Jilin Province, northeast China (near its border with North Korea). Some are from North Korea while others were born in China and have Chinese fathers and North Korean mothers.

April 11, 2008            Report

### **China: Educate Children of North Korean Women**

#### ***Policies Marginalize Children, Force Family Breakups***

Many children of North Korean women living in China are denied legal identity and access to education. To comply with international standards and its own laws, China should ensure all children can go to school, without preconditions such as requiring them to show household registration papers. China should also stop arresting and summarily repatriating North Korean women who have had children with Chinese men.

April 12, 2008            Press Release

### **Workers' Rights**

#### **Mongolia: Protect Rights of North Korean Migrant Workers**

The Mongolian government should protect the human and labor rights of North Koreans coming to Mongolia to work, Human Rights Watch said today in a letter to Mongolia's minister of social welfare and labor.

August 19, 2008    Press Release

### **The US-Korea Free Trade Agreement**

#### ***Annex 22-B: A Missed Opportunity on Workers' Rights in North Korea***

This 13-page briefing paper looks at Annex 22-B of the US-Korea Free Trade Agreement (FTA) and how it flouts the spirit of the recently amended workers' rights provisions. It also makes recommendations on how to amend Annex 22 in order to effectively protect, in law and practice, the basic labor rights of the workers producing goods under the existing agreement.

August 2, 2007        Report

### **Not a sweatshop, but no 'workers' heaven'**

South Korea should be pushing to ensure its companies respect workers' rights, just as if they were operating within South Korea itself. At the same time, Pyongyang should amend the Labor Law to meet international labor standards, and allow South Korean companies to pay the workers directly. North Korea should also join the International Labor Organization, sign its core treaties and invite its officials to discuss the protection and promotion of workers' rights.

October 7, 2006    Commentary



### **North Korea: Workers' Rights at the Kaesong Industrial Complex**

This 19-page briefing paper provides an overview of labor conditions at the KIC, an industrial complex located in North Korea. It documents the KIC Labor Law's shortcomings in the areas of the freedom of association, the right to collective bargaining, the prohibitions on sex discrimination and harassment and harmful child labor, among others.

October 3, 2006 Briefing Paper

### **North Korea: Labor Rights at Risk in Joint Industrial Complex**

#### ***South Korean Companies Violate Labor Law***

The North Korean law governing the Kaesong Industrial Complex, a new industrial joint venture between North Korea and South Korean companies, should be amended to ensure adequate protections of basic workers' rights. Although labor conditions for North Korean workers at the KIC likely represent an important step forward compared with the rest of North Korea, the law governing the complex and some practices by South Korean firms operating there still fall far short of international labor protection standards.

October 1, 2006 Press Release