



# DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 19<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, APRIL-MAY 2014

### FOLLOW UP TO THE PREVIOUS REVIEW

Following its initial review, the Democratic People's Republic of Korea (North Korea) failed to explicitly express its support for any of the recommendations it received. Recommendations made by reviewing States focused on right to food, restrictions on the rights to freedom of movement, opinion and expression, the use of torture and other ill-treatment in detention facilities, the death penalty, and lack of access to the country for UN Special Procedures and other independent human rights monitors.<sup>1</sup> Despite these recommendations the North Korean government continues to engage in grave, systematic and wide-spread violations of almost the entire range of human rights.<sup>2</sup>

Kim Jong-un became Supreme Commander of North Korea following the death of his father Kim Jong-il in December 2011. However, there have been no indications of any improvement in the country's dismal human rights record. Kim Jong-un has increased border controls, condemned border crossers and threatened them with severe punishment, including death.

### THE NATIONAL HUMAN RIGHTS FRAMEWORK

North Korea has no national human rights institution or other independent, effective complaints mechanisms with a human rights mandate.

North Korea's judiciary lacks independence and Amnesty International has received reports that individuals have been executed or sent to political prison camps following grossly unfair trials or no trial at all.

#### **Lack of cooperation with the UN human rights mechanisms**

The human rights situation in North Korea continues to be shrouded in secrecy. The government continues to deny access to independent human rights monitors despite repeated UN resolutions condemning the grave, systematic and wide-spread violations of human rights in the country. Most recently the government has refused to recognize the mandate of the UN Special Rapporteur on the human rights situation in North Korea or to allow access to members of the UN Commission of Inquiry into human rights violations in North Korea, including possible crimes against humanity, which was established by the UN Human Rights Council in March 2013.

### THE HUMAN RIGHTS SITUATION ON THE GROUND

#### **Torture and other ill-treatment**

In May 2011, Amnesty International released satellite imagery that show four political prison camps (*kwanliso*) occupying huge areas of land and located in vast wilderness sites in South Pyongan, South Hamkyung and North Hamkyung provinces. Hundreds of thousands of people are estimated to be held in *kwanliso* and other detention facilities in North Korea.

Although conditions vary from one facility to another, all detainees in *kwanliso* and other detention facilities,<sup>3</sup> are subjected to torture and other forms of ill-treatment. Amnesty International has heard testimony of people being immersed in water with a plastic bag over their heads for long periods of time and being beaten while strung up just above the ground and with their hands and feet tied behind their backs.<sup>4</sup> Other forms of torture and other ill-treatment include sleep deprivation, sharp bamboo pieces being forced under the fingernails, handcuffing and suspension by the wrists. Some inmates are held in solitary confinement in cells where it is impossible to stand or to lie down. In one case a 13 year-old boy was held in such a cell for eight months during which time he was not allowed to leave the cell. Due to the combination of forced hard labour, inadequate food, beatings, lack of medical care and unhygienic living conditions, many prisoners fall ill and some have died in custody or soon after release.

Among the inmates in political prison camps are individuals held under a system of 'guilt by association'. They are sent to the camps because one of their relatives has been found guilty of political offences or other 'anti-state' crimes. These individuals are subjected to the same torture and other ill-treatment, including inadequate food rations, forced hard labour and poor living conditions, as all other detainees. Amnesty International believes that some people detained under the 'guilt by association' system are held in Total Control Zones, which means they are detained for life.<sup>5</sup>

### **The death penalty and extrajudicial executions**

North Korea has expanded the number of crimes punishable by death including extending this punishment in amendments to the Criminal Code in April 2009 to the crime of treacherous (disloyal) destruction.<sup>6</sup> Most of the offences that are punishable by death are political offences and these can be broadly interpreted. There are also reports that people have been executed for crimes which do not carry the death penalty under North Korean law. In December 2007, an Ordinary Crimes' Annex was added to the Criminal Code consisting of 23 articles, of which 16 stipulated crimes subject to the death penalty, including smuggling and drug dealing.

To Amnesty International's knowledge, North Korea does not publish official statistics related to the death penalty. However, according to the Korea Institute for National Unification there were 55 public executions in 2005, 42 in 2006, 47 in 2007, 74 in 2008, 125 in 2009, 76 in 2010, 85 in 2011, and at least 6 in 2012.<sup>7</sup>

North Korea carries out executions in public as well as in secret. Executions are usually by firing squad or hanging. Many executions are carried out without any prior investigation, trial or sentencing. Trials fail to meet international standards of fairness and due process due to the lack of independence of the judiciary.

Extra-judicial executions take place in detention facilities, including *kwanliso*, at the discretion of prison officials. Since coming to power at the end of 2011, Kim Jong-un's administration has announced a crackdown on people caught trying to cross the border into China without permission. This appears to have led to increased numbers of extra-judicial executions by border guards to prevent people from leaving North Korea.

### **The right to food**

Despite floods, North Korea's grain output has increased and the cereal deficit for the year 2012/13 was estimated at 507,000 metric tons by the UN Crop and Food Security Assessment Mission (CFSAM 2012). This is the narrowest gap in many years. However, according to CFSAM 2012, approximately 16 million North Koreans (approximately 66 per cent of the population) depend on the inadequately resourced Public Distribution System (PDS) and remain chronically food insecure and highly vulnerable to production gaps. Around 2.4 million North Koreans need regular food assistance and these include vulnerable groups such as children, pregnant women and the elderly in the most food insecure provinces. The persistent food shortages have worsened the inequality of access to food among North Koreans. The grain distribution by the PDS reportedly favours specific groups, such as officials of the Korean Workers' Party, the State Security Agency, military and military industry, and miners.

The food shortages persist in part due to failed governmental policies. In Hwanghae Province the grain situation is reported to have deteriorated, in part due to successive years of poor harvest and in part due to harvested grain being appropriated as military grain or to support the military industry. According to reports, there were starvation deaths in North Korea after the 2009 currency reform and more recently, deaths due to starvation were reported in Hwanghae

province.<sup>8</sup>

Despite modest improvements, malnutrition rates continue to be high: according to the 2012 National Nutrition Survey,<sup>9</sup> 27.9 percent of children under five suffered from chronic malnutrition (stunting) and 4 percent remained acutely malnourished (wasting). Chronic under-nutrition is a public health problem in North Korea and is one of the major underlying causes of maternal and child mortality.

Access to North Korea has improved after the April 2011 Letter of Understanding between the North Korean government and the UN World Food Program, including with increased staffing and field offices and better monitoring of food distribution. However, humanitarian aid efforts continue to be hampered by a lack of international assistance and UN agencies receiving funding for only a third (34.8 percent) of their estimates, as of August 2013.

### **Restrictions on freedom of movement**

Under national law, North Korean nationals are required to obtain permission to travel both internally and abroad. In January 2012, the authorities condemned border-crossers and threatened them with severe punishments on return to North Korea. On 19 June 2013, the Ministry of People's Security again threatened people caught crossing into China without permission with severe punishment, including to "take substantial measures to physically remove despicable human scum".<sup>10</sup> Individuals forcibly returned to North Korea are at risk of arbitrary detention, torture and other ill-treatment, forced labour, enforced disappearance and possibly death.

People returning to North Korea have appeared in propaganda messages, including in interviews broadcast by North Korean TV, to deter others from attempting to leave North Korea. In May 2013, nine North Korean teenagers were arrested in Laos and forcibly returned to North Korea via China. On their return they appeared on state-run television alleging that they had been kidnapped in China and deceived into travelling to Laos.

Kim Kwang-ho, his wife Kim Ok-shil and their daughter fled to South Korea in August 2009. Kim Kwang-ho then returned to North Korea in December 2012, followed later by his wife and daughter. In January 2013, North Korean media interviewed Kim Kwang-ho, his wife and another North Korean who had returned from South Korea. In the interviews they said they had been lured to South Korea; however, the real circumstances behind their return to North Korea remain unclear. In July 2013, Kim Kwang-ho, his wife and daughter again escaped from North Korea to China, accompanied this time by two of his wife's relatives, Kim Song-il and Kim Son-hye. The Chinese authorities detained them, but in August allowed Kim Kwang-ho, his wife and daughter to go to South Korea on the grounds that they had South Korean nationality. However, Kim Song-il and Kim Son-hye were reportedly forcibly returned to North Korea.

In 2012, Amnesty International released further satellite imagery<sup>11</sup> of political prison camp 14 (*kwanliso 14*) and the surrounding area following speculation that the *kwanliso* had been expanded.<sup>12</sup> Satellite imagery taken between 2006 and 2013 was examined to determine the nature of the observed activity in a valley northwest of *kwanliso 14*. Over that period, there was an observable increase in security. A 20km perimeter was established, encircling the Choma-bong valley, sharing over 3km of its eastern border with *kwanliso 14*. By 2010, the full perimeter was established with some 20 guard posts erected. Amnesty International is concerned for the safety of the population within the perimeter of Choma-bong valley. The activity observed in the satellite images points to a tightening in the control of movement of the local population adjacent to *kwanliso 14*, thus blurring the distinction between those detained in the camp and the valley's inhabitants.

### **Access to health**

Amnesty International research carried out in 2009 and 2010 found that people in North Korea suffer significant deprivation in their enjoyment of the right to adequate healthcare. The government's delayed and inadequate response to years of chronic food shortages, including reluctance to seek international cooperation and assistance, has led to widespread and chronic malnutrition which in turn has suppressed the immune system of many. Compounded by failed and counter-productive government policies, including the systematic failure to provide resources for basic health care, this has triggered epidemics and mass outbreaks of illnesses related to poor diet.

Although North Korea professes to have universal and free health care, in reality the government struggles to provide

even the most basic healthcare and public health information services to the population. Healthcare facilities are rundown and operate with frequent power cuts and no heating. Medical personnel often do not receive salaries, and many hospitals function without medicines and other essentials. Doctors have begun charging for their services, although this is illegal under North Korea's universal health care system, and the poor increasingly cannot access full medical care, especially medicines and surgery.<sup>33</sup> Due to a lack of resources, medical staff have little exposure or access to training on new developments or international best practice.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### Amnesty International calls on the government of North Korea:

#### *Torture and other ill-treatment*

- To take immediate and transparent action to stop the use of torture and other ill-treatment of all detainees in political prison camps and other detention facilities, including forced hard labour and denial of food quotas as punishment;
- To immediately close down all political prison camps and to immediately and unconditionally release all prisoners of conscience, including relatives being held on the basis of 'guilt-by-association'. All other inmates should be released or charged with an internationally recognizable offence, remanded by an independent court and given a fair trial in line with international standards.

#### *The death penalty*

- To immediately end public and extra-judicial executions;
- To introduce an official moratorium on executions as a first step towards abolition of the death penalty.

#### *Access to food and health*

- To respect, protect and fulfill the right to an adequate standard of living, including the right to adequate food and the right to the enjoyment of the highest attainable standard of physical and mental health;
- To ensure that government policy on access to food and health is free of discrimination and political considerations, including the Public Distribution System, and to prioritize the needs of marginalized groups, such as the very poor, pregnant and lactating women, young children and the elderly;
- To ensure effective implementation of universal health care, enshrined in the Constitution and the Public Health Law;
- To ensure that medical personnel are paid adequately and regularly and that they are properly trained in new developments and international best practice so as to carry out their duties and maintain hygienic standards.

#### *Restrictions on freedom of movement*

- To amend the Criminal Code and other relevant legislation and to remove the requirement for permission to travel internally and abroad in compliance with international legal obligations;
- To ensure that no one is detained or prosecuted for leaving the country without permission or subjected to torture and other ill-treatment, forced labour, enforced disappearance or the death penalty on return to North Korea.

### Co-operation with UN human rights mechanisms

- To grant immediate and unrestricted access to all UN Special Procedures who request a visit to North Korea as well as to independent human rights monitors, in particular the members of the UN Commission of Inquiry into the human rights situation in Democratic People's Republic of Korea and the UN Special Rapporteur on the human rights situation in the Democratic People's Republic of Korea.

## ENDNOTES

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<sup>1</sup> A/HRC/13/13, paragraph 90.

<sup>2</sup> Amnesty International, "Open Letter: Implementing recommendations to improve human rights in North Korea", 4 October 2010, ASA 24/007/2010 <http://www.amnesty.org/en/library/info/ASA24/007/2010/en>

<sup>3</sup> Other detention facilities include *kyohwaso* [long-term labour prison facility], *jipkyulso* [shorter-term labour or detention facility], *nodong danryundae* [mobile labour brigades], *kamok* [jail or pre-sentence detention facilities] or *kuryujang* [interrogation and detention facility]

<sup>4</sup> Amnesty International Media Briefing, "North Korea: Political Prison Camps", 3 May 2011, ASA 24/001/2011 <http://www.amnesty.org/en/library/info/ASA24/001/2011/en>

<sup>5</sup> Political prison camps can be divided into Total Control Zones and Revolutionary Zones. Those held in the Revolutionary Zone will typically serve a sentence and are then released (if they survive). Those in the Total Control Zone are never released. Some political prison camps have both Revolutionary and Total Control Zones within the confines of the political prison camp while other political prison camps are only Total Control Zones.

<sup>6</sup> According to Korea Institute for National Unification, "White Paper on Human Rights in North Korea," page 81, the crimes subject to death penalty in North Korea's Revised April 2009 Penal Code are: "Conspiracy to overturn the State (Article 59), Terrorism (Article 60), Treason against the State (Fatherland) (Article 62), Treacherous Destruction (Article 64), Treason against the People (Article 67), and Premeditated Murder (Article 278). According to an FIDH report on the death penalty in North Korea ("The Death Penalty in North Korea: In the machinery of a totalitarian state", 23 May 2013 <http://www.fidh.org/IMG/pdf/en-report-northkorea-high-resolution.pdf>, page 19) and according to the Database Center for North Korean Human Rights (NKDB), "White Paper on North Korean Human Rights 2012," December 2012, page 93, the range of offences that could be punishable by the death penalty also included those related to foreign exchange and in disseminating sensitive information by mobile phones. According to FIDH, "two decrees, one issued by the Department of People's Security and the other by the State Security in September 2012, called for "circulation of forex (foreign exchange) punishable by death" and "execution by [firing] squad for divulging classified information via cell (mobile) phone", respectively, (FIDH, "The Death Penalty in North Korea: In the machinery of a totalitarian state", 23 May 2013, page 19.)

<sup>7</sup> Figures cited from Korea Institute for National Unification, "White Paper on Human Rights in North Korea 2013", Table III-3, pages 105-6.

<sup>8</sup> See AsiaPress International, "Report on the Famine in the Hwanghae Provinces and the Food Situation 2012," January 2013, pp.6-16 and Korea Institute for National Unification, "White Paper on Human Rights in North Korea".

<sup>9</sup> The National Nutrition Survey 2012 was conducted between September-October 2012 by the North Korean Government's Central Bureau of Statistics, in partnership with the Child Nutrition Institute and the Ministry of Public Health, with technical assistance provided by UNICEF, the World Food Programme and the World Health Organization.

<sup>10</sup> See Amnesty International, "North Korea escalates border crackdown", 21 June 2013, ASA PRE01/305/2013 <http://www.amnesty.org/en/for-media/press-releases/north-korea-escalates-border-crackdown-2013-06-21>

<sup>11</sup> Amnesty International, "North Korea: new images shows blurring of political prison camp and villages in North Korea", 7 March 2013, ASA 24/004/2013.

<sup>12</sup> See Melvin Curtis, "Speculation time: A new kwan-li-so?" North Korean Economy Watch (blog) 18 January 2013. <http://www.nkeconwatch.com/2013/01/18/speculation-time-a-new-kawn-li-so/> (accessed 25 February 2013)

<sup>13</sup> Amnesty International, "The Crumbling State of Health Care in North Korea", July 2010 ASA 24/001/2010 <http://www.amnesty.org/en/library/info/ASA24/001/2010/en>