

# UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

## UNIVERSAL PERIODIC REVIEW, 4<sup>TH</sup> SESSION DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA REVIEWED ON 7 DECEMBER 2009, AFTERNOON

### Overview

On 7 December 2009, the Working Group on the UPR examined the human rights situation in the Democratic People's Republic of Korea (DPRK). The small, relatively low level delegation of the DPRK was headed by the Ambassador of the DPRK to the United Nations at Geneva. There was wide participation on the part of States. 52 States took the floor during the interactive dialogue and 18 did not have the opportunity to speak. A small number of States offered no criticism of the human rights situation in the DPRK, but rather praised the DPRK's accomplishments in the field of human rights, particularly in its efforts to provide universal free health care and education.<sup>1</sup> Most States, however, were extremely critical and expressed serious concern about the human rights situation in the DPRK. The DPRK's presentation and responses to the questions of its peers largely mirrored the content of its national report, which categorically denied many alleged human rights abuses and largely placed responsibility on external factors. The DPRK also used its opportunity to speak in front of the Working Group to repeatedly denounce the mandate of the Special Rapporteur on the Situation of Human Rights in the DPRK.

### General information on DPRK

- DPRK is not a member of the Human Rights Council.
- The members of the troika for the examination of the DPRK were Mexico, South Africa, and Norway.<sup>2</sup>
- The national report of the DPRK vaguely states that the a government task force responsible of preparation of the report 'held consultations on 24 occasions with broad sections of public figured including from social and non-Governmental organizations', however the DPRK did not provide any clarification as to who exactly was consulted or when such consultations took place.

### Information submitted to the Working Group

The **national report** of the DPRK focuses largely on external influences, such as the Japanese occupation in the 1940s, economic sanctions on the part of the United States, and the establishment of the UN Special Rapporteur on the situation of human rights in the DPRK, rather than focusing on the human rights situation in the DPRK. It makes no reference to NGO information.<sup>3</sup> With respect to specific rights, the report contains almost no data or practical information about the exercise of human rights, or self criticism, but rather praises

<sup>1</sup> Cuba, Venezuela, Pakistan, Belarus, Myanmar, Lybian Aram Jamiyihiriya, Iran, China, Zimbabwe, Palestine and Laos.

<sup>2</sup> DPRK did not request that a member of its regional group be among its troika. There were no objections by DPRK or by the members of the troika to the selection. For a full summary of the selection of troikas, see ISHR's *Daily Update* of 8 September 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>3</sup> A/HRC/WG.6/6/PRK/1, available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/KPSession6.aspx>

legislative guarantees of human rights in the DPRK. The report also takes the position that ‘human rights are realized only under the guarantee of the State’, meaning that ‘human rights are not the rights to freedom irrespective of the State and society’, but rather that they are the rights to ‘freedom guaranteed by the State and society’.

The OHCHR **compilation of UN information** focuses on the following issues: the DPRK’s failure to ratify core human rights instruments, such as the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), and its Optional Protocol; lack of cooperation and meaningful dialogue with the Office of the High Commissioner for Human Rights; vulnerability of women and children in the DPRK to trafficking and exploitation; reports of enforced disappearances; the use of torture and cruel, inhuman and degrading punishment; lack of an independent judiciary; reports of persecution of those practising religion; the closed nature of the State and rigid control of the flow of information and media; and serious concern over lack of sufficient food for the population. The report noted various legislative developments, such as the National Plan of Action on Education for All, as positive achievements.

13 other stakeholders submitted information for the OHCHR **summary of stakeholders’ information**.<sup>4</sup> The summary touched upon a very large number of issues, including concerns about forced labour camps, the widespread use of the death penalty both inside and outside the prison system, the human rights implications of the social caste system and discrimination against vulnerable groups, guilt by association and collective punishment in the judicial system, arbitrary arrest, incommunicado detention, torture, repression of religion, insufficient access to food and other basic necessities, and the absence of legitimate civil society in the State. The report also drew attention to the disparity between legislation and actual practices of the Government and the need for greater transparency and access for humanitarian workers and UN special procedures.

## Interactive dialogue<sup>5</sup>

### **Presentation by the State**

The presentation by Mr Tcheul largely echoed the main themes of the DPRK’s national report; the DPRK’s purported commitment to the protection of human rights and its position that it is treated with selectivity and discrimination within the UN human rights system, that it is disadvantaged by natural disasters and by the past and present influences of imperialism (ie. the Japanese occupation and ongoing US economic sanctions), that its system of governance was chosen by its citizens and should be respected, and that all basic needs of its citizens are met. Mr Tcheul stated that ‘the history of the DPRK has been the history of a struggle to safeguard human rights’ and emphasised the DPRK’s accomplishments in providing universal healthcare and education, but declined to provide any comment whatsoever about many other human rights issues raised by questions submitted in advance, such as questions about forced labour, torture, extrajudicial executions, and widespread societal discrimination. Furthermore, in line with the general trend in the DPRK’s comments to emphasise external influences on the human rights situation in the DPRK, Mr Tcheul defended the DPRK’s ‘military first’ policy, asserting that ‘military pressure and threats of aggression by hostile forces’ require the people of the DPRK to ‘defend their independent lives or fall into slavery’.

### **Themes and issues**

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<sup>4</sup> A/HRC/WG.6/6/PRK/3, available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/KPSession6.aspx>

<sup>5</sup> Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive username and password. Audiovisual archives of the meetings of the Working Group ‘webcast’ are available at [www.un.org/webcast/unhrc/index.asp](http://www.un.org/webcast/unhrc/index.asp).

Some States had positive comments to make about the human rights situation in the DPRK. There was support for the DPRK's advances in ensuring the right to education<sup>6</sup> and to health.<sup>7</sup> Cuba praised the human rights record of the DPRK in light of challenges it faces. It associated itself with the DPRK's position that it is subject to unfair, **selective treatment** in the UN, particularly because of the establishment of the Special Rapporteur on the human rights situation in the DPRK, and proclaimed that the DPRK is 'a victim of an unjust economic order'. China, Zimbabwe, Pakistan, Myanmar and Laos echoed the DPRK's emphasis on external political factors and natural disasters as causes of human rights challenges in the DPRK.

Japan was one of the first speakers to take the floor and raised concerns about **abductions** of foreign nationals and requested the immediate return of Japanese and other abductees. The DPRK responded by stating that any issues regarding abductions of Japanese nationals had already been settled fully through bilateral agreements with Japan. It added that the abduction issue arose as a result of pent-up anti-Japanese sentiments of citizens of the DPRK against a backdrop of normalisation of relations with Japan. Japan later attempted to make a statement regarding this response, asserting that that it did not reflect factual accuracies and that the abduction issue between Japan and DPRK was certainly not resolved. However, Japan was interrupted by the Chair of the Working Group, who stated that Japan's comment was not an appropriate point of order as it was factual in nature, rather than procedural.

Many of the main topics of discussion during the interactive dialogue related to the **administration of justice** in DPRK. States expressed concern that judicial procedures do not meet international standards of fair trial, in particular because of lack of independence of the judiciary, lack of access to legal counsel, prolonged and arbitrary detention, and discrimination by law enforcement and judicial officials against vulnerable groups such as women and certain social classes.<sup>8</sup> The DPRK responded to these concerns by pointing out that legislation provides for independence of the judiciary and a guarantee of fair trial to all, but offered no data or information of any kind which would support its assertion that these guarantees are actually realised.

The methods of punishment employed in the DPRK also came under extremely harsh criticism. The use of the death penalty, both inside and outside the prison system, and public executions were key issues. Israel, Chile, Italy, New Zealand, and Spain all called for an end to public executions and joined Brazil, France, Italy, the Netherlands, and Lithuania in urging the DPRK to establish a moratorium on all executions with a view to abolish the death penalty. The DPRK rejected all recommendations that it abolish the death penalty and defended its practice of public executions during the discussion by stating that public executions are rare, and that the sentence is generally carried out at the request of the families of victims of violent crime.

Serious concern about the existence of labour camps and the use of forced labour as a punishment were a dominating topic of discussion.<sup>9</sup> Furthermore, the use of torture and cruel, inhuman, and degrading treatment in both labour camps and prisons was condemned by many States.<sup>10</sup> The DPRK responded by denying the widespread use of torture and pointing out the legislative prohibition on torture and inhuman punishment. With regards to conditions in 'reform institutions', the DPRK claimed that while conditions may not measure up to those in Western countries, they conform to international standards, but did not elaborate further.

In response to concerns raised by Canada and Japan about harsh punishment of repatriated citizens found to have left the State without permission, and requests by Switzerland and Greece for the decriminalisation of leaving the country without permission, the DPRK asserted that illegal border crossing is a temporary problem caused by economic difficulties that will cease in the next two to three years as economic conditions

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<sup>6</sup> Brazil, Cuba, Venezuela, Pakistan, Belarus, Libya, Iran, Slovenia, and Philippines.

<sup>7</sup> Brazil, Japan, Cuba, Pakistan, Belarus, United Kingdom, Libya, and Iran.

<sup>8</sup> France, United Kingdom, Israel, Norway, Slovenia, Sweden, and Ireland.

<sup>9</sup> United States, Australia, Israel, Canada, Sweden, Italy, Poland, Chile, Belgium, and France.

<sup>10</sup> United States, Australia, United Kingdom, Israel, Austria, Canada, Belgium, France, Norway, Slovenia, and Austria.

improve. The DPRK also drew a distinction between those crossing for economic reasons, who purportedly receive a warning and ‘education’, and those engaged in smuggling or illegal trade who may receive ‘appropriate sanctions’.

Israel, Norway, Slovenia and Canada called for an end to the practice of collective punishment and discrimination against family members of those accused or convicted of crimes. The DPRK denied that these practices occurred.

Many States urged the DPRK to ensure the **right to food** for all citizens.<sup>11</sup> Sweden, Spain, and Switzerland raised particular concern about unequal food distribution to vulnerable groups, such as women, and discrimination against certain social groups in food distribution. Belarus called for ‘continued’ food security for all and Algeria drew attention to external factors as causes of food shortages. The United Kingdom urged the DPRK to grant access to the World Food Program and to adopt economic reforms in order to increase agricultural production. The DPRK acknowledged that there have been food shortages in the DPRK, stated that food security is a top priority for the Government, and pointed to natural disasters and ‘illegal economic’ sanctions as causes of the problem.

Many States urged the DPRK to increase its **participation in the international human rights community** by allowing more access for UN special procedures and humanitarian workers, ratifying core human rights instruments such as the *Convention against Torture*, joining the International Labour Organization (ILO), and keeping up with its reporting obligations to treaty bodies. Rather than responding constructively to suggestions that the DPRK engage more actively in the international human rights community, the DPRK responded by blaming external influences for its failure to engage in the human rights community, mainly by pointing to selectivity and the application of double standards as obstacles to ratifying any instruments in ‘good faith’. The DPRK took the position that the resolution establishing the mandate of the UN Special Rapporteur on the situation of human rights in the DPRK ‘means confrontation’ and that meaningful dialogue and confrontation cannot be compatible.

Other issues discussed during the dialogue included the absence of an accredited national human rights institution in the State, militarization of children<sup>12</sup>, forced abortion in prisons,<sup>13</sup> enforced disappearances,<sup>14</sup> the occurrence of human trafficking, lack of political and economic participation by women,<sup>15</sup> violence against women,<sup>16</sup> unequal access to food, education, and health services for vulnerable groups,<sup>17</sup> and the need to facilitate family reunification.<sup>18</sup>

### Adoption of the report

The report of the DPRK was adopted by consensus on 9 December 2009. The DPRK rejected 50 recommendations, among them calls for the ‘abolition of the death penalty’, to ‘end collective punishment of families’, to ‘put an end to forced labour practices’ and to ‘put an end to the practise of extrajudicial executions’. The DPRK did not accept any recommendations at the time of the adoption of the report, but pledged to provide answers to 117 other recommendations by the 13<sup>th</sup> session of the Human Rights Council.

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<sup>11</sup> Japan, Belgium, Norway, Canada, Chile, Philippines, Belgium, Brazil, France, UK, Sweden, Spain, Switzerland, Algeria, and Belarus.

<sup>12</sup> Slovenia and Spain.

<sup>13</sup> Slovenia.

<sup>14</sup> Mexico and Chile.

<sup>15</sup> Algeria and Norway.

<sup>16</sup> Brazil, United States, and Greece.

<sup>17</sup> Japan, Republic of Korea, Norway, Sweden, India, and Switzerland.

<sup>18</sup> Republic of Korea, Israel, Germany, Switzerland, and Hungary.

Japan attempted to respond to the rejection by the DPRK of a Japanese recommendation, but was interrupted by President Van Meeuwen. He explained that only technical comments about a State's own statements are in order, but not substantive comments. The latter can be raised, however, at the time of adoption of the report by the plenary.

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