

Position Paper 2

Conceptual Developments Concerning Women in Detention in the DPRK Penal System

MARCH 2024

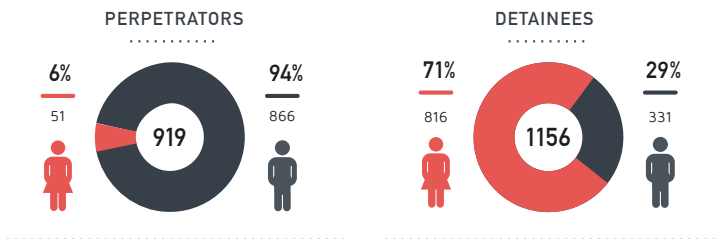
Introduction

In January 2020, the Democratic People’s Republic of Korea (DPRK) closed its border with the People’s Republic of China (PRC). The partial re-opening of the border in 2023 placed North Korean women who had previously escaped the DPRK or who had been trafficked into the PRC at risk of forced repatriation and subsequent human rights violations in the DPRK penal system.

Since a United Nations Commission of Inquiry (COI) on human rights in the DPRK concluded its mandate in 2014, a growing body of evidence has revealed that forcibly repatriated North Korean women are increasingly vulnerable to acts of gender-based violence in the DPRK penal system that result in physical, sexual, and psychological harm and suffering. Yet United Nations Human Rights Council (UN HRC) Resolutions on the situation of human rights in the DPRK have not yet used language that acknowledges these specific gendered vulnerabilities of women in detention. For example, the 2023 UN HRC Resolution expresses concern at the treatment of repatriated persons in the DPRK, but it does not make specific reference to the vulnerabilities faced by women in detention, including sexual and gender-based violence.¹

Korea Future proposes an amendment to the 2024 UN HRC Resolution to ensure that it urges the DPRK to take all necessary steps to acknowledge and take immediate steps to end sexual and gender-based violence against forcibly repatriated women in detention and to provide information on the treatment of women in detention as a vulnerable group.

GENDER DISTRIBUTION



Proposed amendment to the 2024 UN HRC resolution

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2. [m] “Ensuring that citizens of the Democratic People’s Republic of Korea who have been expelled or repatriated to the Democratic People’s Republic of Korea are able to return in safety and dignity, are treated humanely and are not subjected to any kind of human rights violation, including enforced disappearance, arbitrary execution, torture and ill-treatment, **and sexual- and gender-based violence**, and providing information on their status and treatment, **in particular women in detention**;

- 2023 UN HRC resolution. “Situation of human rights in the Democratic People’s Republic of Korea”

Paragraph 2.(m) of the 2023 UN HRC Resolution urges the DPRK to ensure that forcibly repatriated persons are “treated humanely and are not subjected to any kind of human rights violation”. As a result, the UN HRC’s resolution falls short of the standard set by other UN bodies, in that it does not urge the DPRK to ensure that women in detention are protected from sexual and gender-based violence. By contrast, the joint letter issued by United Nations Special Procedures mandate holders clearly articulates the need to recognise the gender-specific vulnerabilities of forcibly repatriated women in detention. Members of this [signatory] group are the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights in the DPRK, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on violence against women and girls, and the Working Group on discrimination against women and girls.

Paragraph 2.(m) must be amended to urge the DPRK to take immediate steps to end “sexual and gender-based violence” against forcibly repatriated citizens, while granting specific attention to “women in detention”. This addition would recognise the suffering of survivors and families of victims, while also drawing the DPRK’s attention to its legal obligations to prevent gendered human rights violations in its penal system.

PATTERNS OF SEXUAL AND GENDER-BASED VIOLENCE

Forcing a detainee to undress completely or partially	195	134	Strip search or body cavity search without reasonable necessity
Penetrative acts with body part or object	81	62	Forced abortion
Non-consensual physical contact, including groping, massaging, kissing, and hugging	55	54	Depriving a detainee of access to hygiene, treatment or medicine related to sexual or reproductive health
Verbal sexual harassment	46	28	Forcing a detainee to conduct private bodily functions in the view of others
Circumstantial information suggesting that sexual violence occurred	22	11	Punishing for refusing to engage in sexual activity
Coercing a detainee to perform sexual services for favourable treatment	7		

Supporting evidence for the amendment

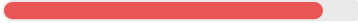
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In 2017, the Committee on the Elimination of Discrimination against Women (CEDAW) recognised that the prohibition of gender-based violence against women has evolved into a principle of customary international law, binding all states.² In the same year, the CEDAW Committee urged the DPRK “to protect women in detention from violence, in particular sexual violence...by addressing the situation of repatriated women in detention”.³ To date, the DPRK has not ensured the protection of women in detention.

In August 2023, *The Economist* reported that “as many as 2,000 North Korean defectors are now languishing in Chinese prisons, awaiting a possible forced return to [the DPRK]”.⁴ In response, United Nations Special Procedures mandate holders issued a joint letter, expressing the “utmost concern for the physical and psychological integrity of the aforementioned individuals, their alleged arbitrary detention and the serious risk of refoulement to the DPRK in violation of international law”.⁵ The Republic of Korea confirmed that around 600 persons had been forcibly repatriated from the PRC to the DPRK in October 2023.⁶

INTERACTIONS OF VULNERABLE GROUPS ⁷

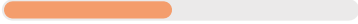
• **94%** OF SGBV SURVIVORS IDENTIFIED AS FEMALE •



• **70%** OF ALL THE REPATRIATED DETAINEES IDENTIFIED AS FEMALE •



• **43%** OF SGBV SURVIVORS WERE REPATRIATED FROM CHINA •



In the 2023 joint letter, Special Procedures mandate holders stated that they were “deeply concerned about the specific violations to be suffered by repatriated women” and that “female prisoners are particularly susceptible to violence, including to rape, forced prostitution, sexual harassment”.⁸ Korea Future’s documentation establishes that numerous forms of widespread and systematic sexual and gender-based violence have been perpetrated in DPRK penal facilities against forcibly repatriated North Korean women. These patterns of human rights violations demonstrate that women’s experiences in detention differ from those of men and require specific safeguards for their protection from gender-specific violations. The following examples from Korea Future’s interviews with former detainees illustrate the types of sexual and gender-based violence repatriated women in detention face.

INVASIVE BODY CAVITY SEARCHES

Invasive, unhygienic, and often penetrative body searches are systematically conducted against repatriated women who are forced to undress in front of fellow detainees, correctional officers, and untrained facility personnel. Male detainees are subject to strip searches, but rarely experience body cavity searches.

"When I arrived at the City Ministry of State Security (MSS), two women were assigned the two of us and stripped us completely. They made us take off our bras to check if there was anything in them. They put on rubber gloves and stuck their hands in our wombs as deep as they can go, and sent us to the prison cell."

- Case of A2090

"I've seen a pregnant woman come in, Kim from Hyesan. She was 26 at the time. They forcefully aborted her baby in January 2015. One day, before I went to the hospital, the smell of blood was everywhere and a correctional officer came and started cursing at us, asking which dirty prisoner was on their period. They shouted, "who is it!?" But no one replied. Then the woman fell over. Her botched abortion made her lose so much blood and she went to the hospital... they aborted the baby because the baby was Chinese. They get rid of pregnancies from China without exceptions."

- Case of A0029

FORCED ABORTIONS AND INDUCED PREMATURE LABOUR

Repatriated women who are pregnant are subject to induced miscarriages and forced abortions prior to and during their imprisonment. Abortion methods used by DPRK public officials are unhygienic and violent, and victims are not provided with medical assistance for post-abortion care. Victims can also be subjected to forced labour immediately after their miscarriage or abortion.

VERBAL SEXUAL HARASSMENT

Repatriated women are vulnerable to verbal sexual harassment from public officials within penal facilities. Harassment centres on victims' experiences of sexual intercourse or marriage to Chinese men and direct or indirect references to the victims' sexual body parts.

"Do you like Chinese balls that much!?" They say these things to us, to the women that lived in China...The women who bring their children that they had in China are severely beaten. Verbal abuse is a given but since we are criminals, since we were caught for running away, we just have to accept it. What else can we do?"

- Case of A2505

Conclusion

The United Nations High Commissioner for Human Rights has stated, “North Koreans have an undeniable, compelling need for international protection”.⁸ This is especially true for forcibly repatriated women in detention, as shown by the statements of UN working groups and Special Rapporteurs in 2023, all of which call for a recognition of their gender-specific vulnerabilities. The UN HRC must acknowledge the vulnerabilities of repatriated women in the DPRK penal system in its 2024 resolution to draw attention to decades-long patterns of human rights violations against this group, including pervasive sexual and gender-based violence. By doing so, it will also further close an existing gap of protection concerning the overwhelmingly female population of the DPRK penal system.



¹ United Nations Human Rights Council, Situation of human rights in the Democratic People's Republic of Korea, April 4, 2023, A/HRC/RES/52/28, paras 1(e), 1(d), 31.

² Committee on the Elimination of Discrimination against Women, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, July 6, 2017, CEDAW/C/GC/35, para. 2.

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>

³ Committee 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, November 22, 2017, CEDAW/C/PRK/CO/2-4, para. 46. <https://www.ohchr.org/en/documents/concluding-observations/concluding-observations-combined-second-fourth-periodic-reports>

⁴ The Economist, North Korea's borders are creaking open, August 27, 2023. <https://www.economist.com/asia/2023/08/27/north-koreas-borders-are-creaking-open>

⁵ United Nations Human Rights Council, Joint Allegation Letter by Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls, July 18, 2023, Ref.: AL CHN 9/2023. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28210>

⁶ Yonhap News Agency, (LEAD) Unification ministry says many N. Koreans in China believed to have been repatriated, October 13, 2023. <https://en.yna.co.kr/view/AEN20231013003751315>

⁷ Korea Future, North Korea Prison Database. <https://nkpd.io/>; United Nations Human Rights Council, Joint Allegation Letter; Office of the High Commissioner for Human Rights, China must not forcibly repatriate North Korean escapees: UN experts [Press release], October 17, 2023. <https://www.ohchr.org/en/press-releases/2023/10/china-must-not-forcibly-repatriate-north-korean-escapees-un-experts>

⁸ United Nations Human Rights Council, Joint Allegation Letter.

⁹ United Nations Security Council, Open briefing on the human rights situation in the Democratic People's Republic of Korea (DPRK) [Meeting coverage], August 17, 2023, S/PV.9398. <https://press.un.org/en/2023/sc15387.doc.htm>



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