

Torture and Cruel, Inhuman, or Degrading Treatment or Punishment

Experienced by North Korea's Religious Minorities

Briefing report

DECEMBER 2021

Summary

1

The right to freedom from torture and other cruel, inhuman, or degrading treatment or punishment is a peremptory norm of international law. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment all prohibit the use of torture.¹

2

Torture is defined by the Convention Against Torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”²

3

Where cruel, inhuman, or degrading treatment or punishment may not satisfy the definition of torture, it has been interpreted broadly by the United Nations General Assembly “to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.”³



4

The right to freedom of religion or belief is a fundamental principle of international law that shares a normative basis with the right to freedom from torture and other cruel, inhuman, or degrading treatment or punishment. Enshrined in international human rights treaties, the right to freedom of religion or belief protects all individuals, including those who hold non-theistic and atheistic beliefs. The right to form, to adopt, and to change beliefs cannot be violated under any circumstance and limits on the freedom to manifest a religion or belief may only be applied through lawful means when necessary to protect public safety, order, health, or the fundamental rights and freedoms of others. Critically, the right to freedom of religion or belief does not protect or privilege any religious or belief system. Under international law, it protects individuals, not religious or belief systems, including those who hold non-theistic and atheistic beliefs.⁴

5

Evidence gathered by Korea Future establishes that physical and psychological forms of torture and cruel, inhuman, or degrading treatment or punishment has been perpetrated by North Korean public officials against members of religious minorities. The prolonged denial of food and sanitation, physical beating, and positional torture were most prominent and were intentionally inflicted to intimidate and punish religious persons and to obtain confessions or information. Further cruel, inhuman, and degrading treatment was enabled by the poor conditions of penal facilities that incited further harm. In every documented case, the religious adherence of the victims was considered to be fundamental to the documented violations.

6

Distinction between physical and psychological consequences of torture was deemed immaterial. Survivors of torture and cruel, inhuman, or degrading treatment or punishment commonly experienced both physical and psychological symptoms. These included bleeding, bruising, swelling, open wounds, lacerations, electrical burns, and vomiting at the time of or immediately following harmful acts. Survivors interviewed by Korea Future exhibited longer-term physical and psychological consequences, including scars, skeletal deformities, back pain, incorrect healing of fractures, somatic complaints, and depressive disorders.



7

North Korea's government has not acknowledged the use of torture and cruel, inhuman, or degrading treatment or punishment by its public officials. It has not taken steps to prohibit the use of torture nor to enable justice for victims and hold perpetrators to account. It has rejected allegations of torture and cruel, inhuman, or degrading treatment or punishment in a 2014 United Nations Commission of Inquiry report. And despite being a State Party to international human rights treaties that prohibit torture, including the International Covenant on Civil and Political Rights, the government of North Korea has failed to fully engage with the findings of the international community in relevant treaty bodies and fora.

8

As an immediate priority, the failure of the North Korean government to prohibit the use of torture and other forms of cruel, inhuman, or degrading treatment or punishment against religious adherents confers a responsibility upon the international community, through the United Nations and in coalition, to pursue an accountability strategy that targets those most responsible. This approach must be sustained and inclusive of national and international justice actors, civil society organisations, and survivors.

Recommendations

On the basis that

The North Korean government has a legal obligation to prevent and to ensure protection for its citizens against torture and other cruel, inhuman, or degrading treatment or punishment, including effective legislative, administrative, and judicial measures to prevent acts of torture.

The North Korean government must grant access to penal facilities and detainees for family members and ensure that victims of torture and other cruel, inhuman, or degrading treatment or punishment have the right to redress.

The International Criminal Court has jurisdiction over cases alleging torture and other cruel, inhuman, or degrading treatment or punishment as part of the crime of genocide or as a crime against humanity, yet has been unable to discharge its duties.

The People's Republic of China has a legal obligation to not refoul North Korean citizens who enter its territory, and, in particular, those North Korean citizens who have religious or belief identities, owing to substantial evidence that those persons will be subject to torture and other cruel, inhuman, or degrading treatment or punishment in North Korea on the grounds of their religious or belief identities.

The international community of states,
international organisations, and national
and international justice actors should:

- **Impose** targeted sanctions on individual perpetrators and state organisations responsible for torture and other cruel, inhuman, or degrading treatment or punishment committed against persons on the grounds of their religious or belief identities. Human rights sanctions that are specifically and exclusively targeted at persons proven to be involved in these egregious violations are feasible means to provide accountability for, and deter, activities that amount to serious violations of international human rights and criminal law. This may take place under existing United States, United Kingdom, Canadian, and European Union sanctions regimes.
- **Prioritise** the gathering and preservation of linkage evidence to a criminal law standard that can lay the legal groundwork for a range of future efforts to hold perpetrators of torture and other cruel, inhuman, or degrading treatment or punishment to account. The preservation of linkage evidence can support the creation of prosecution-ready dossiers of high-ranking perpetrators, indictments, and legal briefs that can support domestic, national, hybrid, and international justice mechanisms. This is critical for North Korea where the responsibility of individual perpetrators can be established but not yet their biographical and identifying details. This may provide potential for both short-term (e.g., domestic civil or criminal cases) and long-term (e.g., an ad-hoc international tribunal or hybrid court) accountability. This model would go beyond most current forms of human rights documentation and focus on laying the groundwork for a range of future legal efforts that will hold perpetrators to account for crimes against humanity and other human rights violations and abuses.

Background

The North Korean government has persecuted the followers and institutions of Korean Buddhism, Catholicism, Cheondogyo, North Korean Shamanism, and Protestantism over a period of 73 years.

A 'Period of Eradicating Superstition,' discriminatory legislation, and the state's appropriation of land and capital in the late-1940s first eroded the abilities of religious persons and communities to worship. During the Korean War (1950-1953), religious persons were explicitly targeted, detained, and killed by North Korean forces. Many adherents from institutionalised religions, such as Catholicism and Buddhism, fled to South Korea further weakening religious minorities. Since the late-1950s, the formation of the *songbun* class system, whereby religious persons are classified as hostile to the state and subject to absolute discrimination and persecution, and the expansion of a political prison camp system, which detains up to three generations of families associated with religion for life, has embedded religion and belief as a *de facto* crime in the political and social consciousness of North Korea.



Based on 237 interviews of survivors, witnesses, and perpetrators of violations of the right to freedom of religion or belief, we have identified only small communities and isolated adherents of two religions: North Korean Shamanism and Christianity. We have not documented cases of remaining adherents of Korean Buddhism or Catholicism and only one adherent of Cheondogyo.

Shamanism is the most widespread religious practice in North Korea and claims adherents from every level of society. Predating institutionalised religion on the Korean peninsula, Shamanism became an essential component of North Korea's religious landscape following the collapse of its economy in the 1990s.

Christianity claims fewer adherents, yet it is the most severely persecuted religious tradition within North Korea.

Aside from the very few North Korean Christians who inherit their faith from family members who practiced Christianity prior to the founding of the current regime in 1948, most were inducted into the religion by Christian missionaries during periods when adherents had illicitly crossed into China to find food or earn money. North Korean Christians commonly practice their faith through private prayers, proselytisation to immediate family members, and attendance at religious ceremonies in China after the adherents illegally cross the border. Underground churches consisting of small congregations exist in North Korea, but are rare and subject to extreme levels of persecution.



Protected Rights in the Convention

against Torture and Other Cruel,
Inhuman, or Degrading
Treatment or Punishment

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 14

Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.



Common forms of torture

and cruel, inhuman, or degrading
treatment or punishment



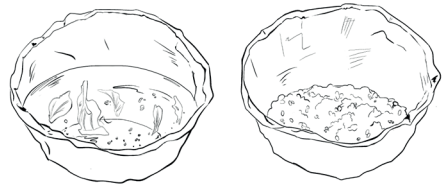
DEPRIVATION OF FOOD

The human right to adequate food is recognised under international law and is most clearly defined by the International Covenant on Economic, Social and Cultural Rights, which recognises “the right of everyone to an adequate standard of living for himself and his family, including adequate food [...].”⁶

The Committee on Economic, Social and Cultural Rights further affirmed that “**the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights.**”⁷ The right to adequate food, therefore, shares a normative basis with the right to freedom from torture and other cruel, inhuman, or degrading treatment or punishment.

The United Nations Standard Minimum Rules for the Treatment of Prisoners calls upon states to ensure that detainees are provided with “food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served” and finds that “in no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment,” which includes “the reduction of a prisoner’s diet.”⁸

Deprivation of food may be used as a method of torture or cruel, inhuman, or degrading treatment or punishment through the absolute or periodic restriction of food or the provision of polluted food to a person who is typically, but not always, detained by a state.



The deprivation of food may be intentional and used to punish, intimidate, coerce, or discriminate against a person or result from a lack of resources.

The deprivation of food is commonly applied to inflict both physical and psychological harm upon a victim. It can trigger malnutrition and the weakening of a person’s immune system and produce physical pain. Symptoms include weight loss and decaying teeth. Prolonged deprivation of food results in starvation. This may lead to bodily weakness, depression, slowed heart rate, and increased risk of infections, such as tuberculosis. The deprivation of food can lead to death in as little as eight weeks.⁹

Quote:

“The correctional officers chopped up frozen radish. There were only small pebbles and grains of sand served with the radish [...]. At first, I could not eat the radish because of the small pebbles and grains of sand crunching between my teeth. But by the fifth day, I had to eat it because I was starving.”

Quote:

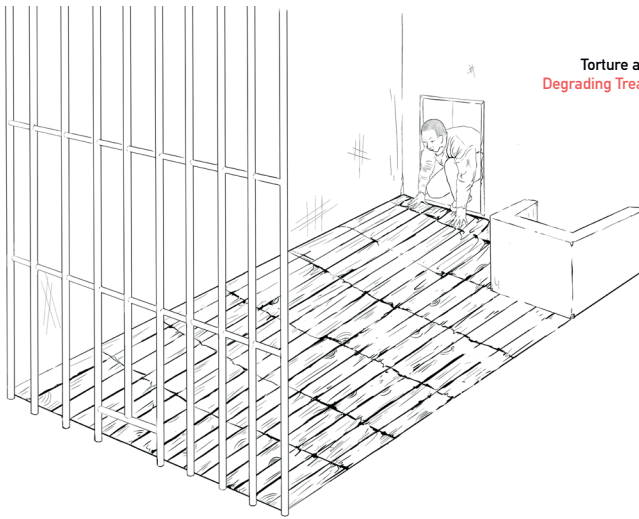
"I was extremely malnourished. My bones were showing. I kept praying in the cell because that was my only refuge. If I were to say anything about my religion, I would either have been executed by firing squad at the penal facility or transferred to a political prison camp for the remainder of my life. In the penal facility, I had to scavenge grass, beans, and potatoes from the field where I was forced to labour just to survive. I ate the crops that were still covered with dirt."

Persons who had been arrested and detained on the grounds of their religious or belief identities commonly experienced prolonged starvation, the periodic deprivation of food, and associated health consequences including malnutrition. The deprivation of food was considered by victims to be a form of punishment. For example, the meal portions for victims were reduced by one-third and they were moved into solitary confinement for one week. There, correctional officers would physically beat detainees using their fists and feet.

The physical consequences of the prolonged and periodic denial of food were marked. In the most severe cases, victims who experienced the prolonged denial of food, namely starvation, experienced bodily weakness, loss of body tissue, and became skeletal in appearance. In cases where the deprivation of food was periodic, victims experienced malnourishment to the extent that women's periods stopped and victims were unable to walk.



DENIAL OF SANITATION



The human right to health is a fundamental right that is indispensable for the exercise of other human rights, including the right to freedom from torture and other cruel, inhuman, or degrading treatment or punishment. The right to health is dependent on many factors, including “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.”¹⁰

The human right to water and sanitation is a recognised human right.¹¹ General Assembly Resolution 64/292 recognises “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.” Under international human rights law, the International Covenant on Economic, Social and Cultural Rights recognises “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” The Committee on Economic, Social and Cultural Rights further affirmed that states “are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners [...] to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a state policy; and abstaining from imposing discriminatory practices relating to women’s health status and needs.”¹²

Quote:

“Men undergo tough times at detention centres. Women undergo shameful times.”

The World Health Organisation defines sanitation as “access to and use of facilities and services for the safe disposal of human urine and faeces.”¹³

All persons, including those who are detained, must be provided with sanitation services that provide privacy and ensure dignity and that are physically accessible, safe, hygienic, secure, and socially acceptable.¹⁴ The United Nations Standard Minimum Rules for the Treatment of Prisoners calls upon states to ensure “sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.”¹⁵ States can be held accountable for any failure to ensure detainees are provided with access to sanitation.

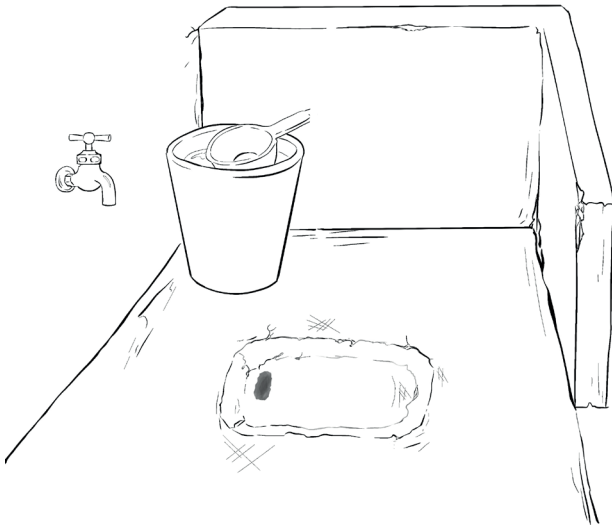
Quote:

"At one point, her breast began to fester. The penal facility was in a poor condition. I accompanied her to a hospital but they just carved her breast between 5 and 6 times with a surgical knife. It was not sharp [...]

Her breast eventually rotted further and turned yellow and black. She was not given anaesthetic nor antibiotics. The only steriliser used was salted water. I later heard from someone in the cell room that she was sentenced to a political prison camp [for her religious adherence]."

In cases where victims had been arrested and detained on the grounds of their religious or belief identities and had experienced the denial of sanitation, victims were rendered powerless through their arbitrary deprivation of liberty and the absence of due process. Further, they experienced both physical and mental effects from being denied access to sanitation. In cases where the denial of sanitation was prolonged and where the gender, age, and state of health of the victim is considered, the denial of sanitation may be considered a form of torture beyond cruel, inhuman, and degrading treatment.

The lack of safe sanitation within penal facilities led to infection and diseases, including diarrhoea. Unsanitary conditions have been linked with stunting, pneumonia, anaemia, and an increased risk of infectious diseases. More broadly, victims experienced shame and embarrassment from open defecation, an inability to wash one's body or clothes, and the denial of sanitary pads for women.





PHYSICAL BEATING



The physical beating of a person with fists, feet, or objects as forms of corporal punishment can amount to forms of torture or cruel, inhuman, or degrading treatment or punishment under international law. In the context of North Korea, physical beatings involve acts of striking or kicking a person with fists or feet either in a systematic and prolonged way or in a random act of violence; to striking a person with objects including sticks, rifles, steel rods, electrical discharge batons, and ‘*o-seung-o-gak-ja*’ (5 x 5 cm angled wooden clubs); or by crushing where a victim’s head is smashed against a solid object such as steel bars.

In cases where victims had been arrested, detained, and tortured on the grounds of their religious or belief identities, public officials from North Korea’s Ministry of People’s Security and Ministry of State Security were often either direct perpetrators who personally committed physical acts against a detainee or secondary perpetrators who held executive or administrative roles and had knowledge of the nature of the system of violations in a given penal facility and failed to prevent torture or cruel, inhuman, or degrading treatment or punishment.

Quote:

“Her lip was shredded. The officers held her hair and pounded her head against the cell bars. One officer told her to lay her hand on the ground. He stepped on it and turned his feet 90 degrees. All of her fingers broke. She was denied medical treatment [...] I told her to stop running the underground church, but she said she had church members to take care of [...] She later died after she was seriously physically beaten by Ministry of State Security officials.”

Physical beatings were performed for the purposes of obtaining a confession of a person's religious or belief identity, information identifying other persons of faith, or to punish victims for their religious beliefs. In certain cases, detainees were lined up along a cell wall and made to strike their heads against the wall. If the noise of their heads striking the wall was not deemed loud enough by correctional officers, the victims would be made to continue.

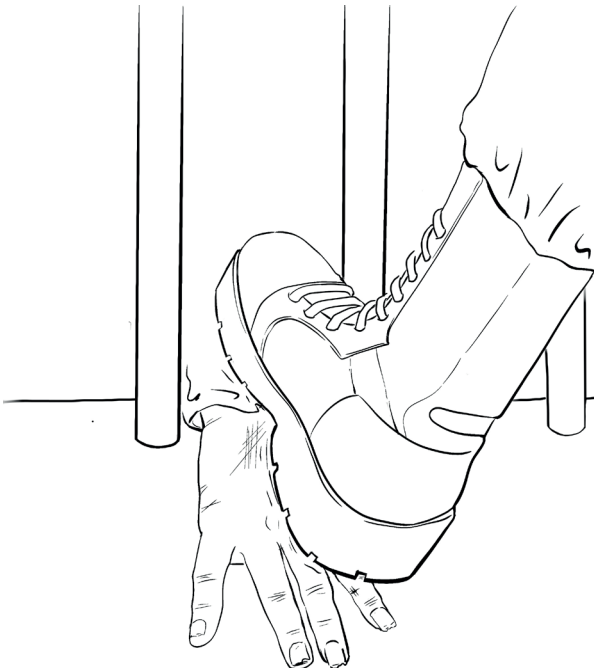
Health-related consequences arising from physical beatings were wide-ranging. Initially, beatings caused severe pain for victims. When these acts were repeated, victims experienced blunt force trauma that led to bruises, abrasions, lacerations, and fractures. Beatings also led to premature death. While investigations were not undertaken at the time of death, these deaths may be attributable to brain injury, internal organ bleeding, or organ failure, among other causes. Alongside serious physical consequences of torture, victims suffered psychological repercussions that include, but are not limited to, post-traumatic stress disorder, depression, and anxiety.



Quote:

"The correctional officers were dying to get one more piece of evidence, so they physically beat [the shaman] very badly. [The shaman] was sentenced to six months at a labour training centre."

Upon entry into penal facilities, victims were often immediately physically beaten by correctional officers as a violent form of initiation and to instil fear. One victim noted, "The first thing that happened at the penal facility was violence. That is how they make you feel the fear...you are no longer human beings." Physical beatings often intersected with psychological torture and the fear of impending physical beatings. One perpetrator told investigators, "Correctional officers ask detainees, "Do you think I am going to beat you today?" I was tasked with investigations, too, so I would say, "Hey, can you tell if I am going to write your name down [for punishment] or not?" If the victim said, "I think you will write my name," I would torment them by saying "No. I will not. How were you a shaman if you cannot even get that right?"





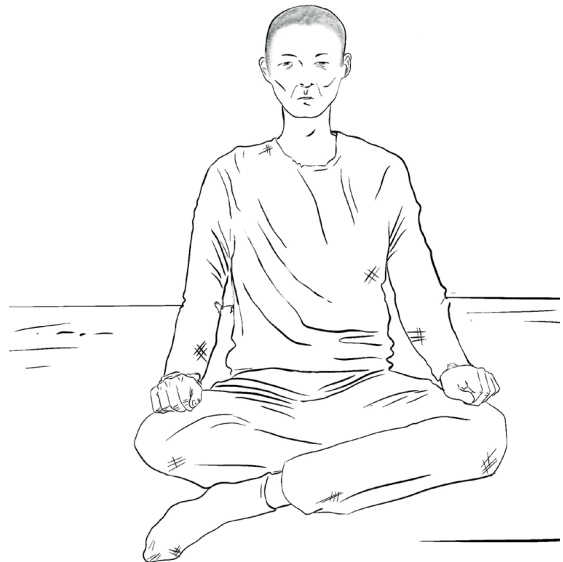
POSITIONAL TORTURE

The United Nations Committee Against Torture has viewed stress positions, which include positional torture, as acts that are contrary to the Convention Against Torture. Regarding persons who are detained, the United Nations Standard Minimum Rules for the Treatment of Prisoners finds that detainees “shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification.”

Positional torture can be manifested in numerous forms that restrain a victim in contorted, hyperextended, or other unnatural positions to cause severe pain. These forms of torture often cause injuries to ligaments, tendons, nerves, and blood vessels and characteristically leave few external marks, despite a frequency of subsequent severe chronic disability.

Quote:

“I spent eight months in detention next to [the victim], but correctional officers beat us with a club if we talked or turned our heads when we were subjected to positional torture. They told us not to move even if a fellow detainee dropped dead.”





Positional torture used against persons arrested and detained on the grounds of their religious or belief identities in North Korea is manifested through forced sitting, forced standing, forced squatting, and forced immobilisation in a cage. These acts target a victim's tendons, joints, and muscles. Commonly, victims are forced to remain seated and cross-legged on the floors of cells for several hours each day. Due to overcrowding in cells, victims must often sit in rows. Victims are forbidden from moving and talking and are either subjected to physical beating within a cell and in front of other detainees if they do move or to other forms of torture, such as the 'motorcycle posture.'

Endnotes

¹ United Nations. "Universal Declaration of Human Rights." Accessed November 22, 2021. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>; United Nations. "International Covenant on Civil and Political Rights." Accessed November 22, 2021. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>; United Nations. "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." Accessed November 22, 2021. https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf

² *Ibid*

³ United Nations. "A/RES/43/173." Accessed November 22, 2021. <https://undocs.org/en/A/RES/43/173>

⁴ United Nations. "Universal Declaration of Human Rights." Accessed November 22, 2021. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>; United Nations. "International Covenant on Civil and Political Rights." Accessed November 22, 2021. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

⁵ United Nations. "Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea." Accessed November 22, 2021. <https://www.ohchr.org/EN/HRBodies/HRC/ColDPRK/Pages/CommissionInquiryonHRinDPRK.aspx>

⁶ United Nations. "International Covenant on Economic, Social, and Cultural Rights." Accessed November 22, 2021. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁷ United Nations. "CESCR General Comment No. 12: The Right to Adequate Food (Art. 11)." Accessed November 22, 2021. <https://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>

⁸ United Nations. "The United Nations Standard Minimum Rules for the Treatment of Prisoners." Accessed November 22, 2021. https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E_ebook.pdf

⁹ Danish Institute Against Torture. "Deprivation of food." Accessed November 21, 2021. <https://www.dignity.dk/en/dignitys-work/health-team/torture-methods/deprivation-of-food/>

¹⁰ United Nations. "A/RES/64/292." Accessed November 21, 2021. <https://undocs.org/A/RES/64/292>

¹¹ *Ibid*

¹² United Nations. "CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)." Accessed November 21, 2021. <https://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>

¹³ World Health Organisation. "Guidelines on Sanitation and Health." Accessed November 21, 2021. <https://www.who.int/publications/item/9789241514705>

¹⁴ United Nations. "A/RES/70/169." Accessed November 21, 2021. <https://undocs.org/en/A/RES/70/169>

¹⁵ United Nations. "The United Nations Standard Minimum Rules for the Treatment of Prisoners." Accessed November 22, 2021. https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

¹⁶ United Nations. "CAT/C/ISR/CO/5." Accessed November 21, 2021. <https://undocs.org/CAT/C/ISR/CO/5>

¹⁷ United Nations. "The United Nations Standard Minimum Rules for the Treatment of Prisoners." Accessed November 22, 2021. https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

¹⁸ United Nations. "Istanbul Protocol." Accessed November 22, 2021. <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>



© 2021 Korea Future

***Torture and Cruel, Inhuman, or Degrading Treatment or Punishment
Experienced by North Korea's Religious Minorities***

Korea Future would like to acknowledge Stefanus Alliance International for generously funding and supporting this work. The contents of this report are the sole responsibility of Korea Future and can under no circumstances be regarded as reflecting the position of Stefanus Alliance International.

Design and data visualizations by whateyemade.com

koreafuture.org

Korea Future is registered as a Charitable Incorporated Organisation in England & Wales (1185332).