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Abuses and Due Process Violations in Pretrial Detention in North Korea

(Seoul, October 19, 2020) The North Korean pretrial detention and investigation system is arbitrary and lacks any semblance of due process, Human Rights Watch said in a report released today. Former detainees described systematic torture, dangerous and unhygienic conditions, and unpaid forced labor. The 82-page report, *Worth Less Than an Animal: Abuses and Due Process Violations in Pretrial Detention in North Korea*, provides a unique and detailed description of the country's opaque criminal justice system. It highlights North Korea's weak legal and institutional framework, and the political nature of the courts and law enforcement agencies under the ruling Workers Party of Korea.

Illustration of a North Korean pre-trial detention and investigation facility (*kuryujang*) based on former detainees' testimonies told to Human Rights Watch and the illustrator's personal experience in detention. 2020 Choi Seong Guk for Human Rights Watch

(Seoul, October 19, 2020) The North Korean pretrial detention and investigation system is arbitrary and lacks any semblance of due process, Human Rights Watch said in a report released today. Former detainees described systematic torture, dangerous and unhygienic conditions, and unpaid forced labor. The 82-page report, *Worth Less Than an Animal: Abuses and Due Process Violations in Pretrial Detention in North Korea*, provides a unique and detailed description of the country's opaque criminal justice system. It highlights North Korea's weak legal and institutional framework, and the political nature of the courts and law enforcement agencies under the ruling Workers Party of Korea.

In late 2014, police officers entered the home of Lim Ok Kyung, a smuggler in her forties from North Korea's South Hwanghae province. The police were looking for, and found, home appliances smuggled from China. Lim Ok Kyung was detained at a detention and interrogation facility (*kuryujang*) run by the police near the border. Her husband, a mid-level party member, had good connections, so she was released after 10 days. Yet that did not prevent the investigator or police guards from beating her. Lim Ok Kyung described her experience to Human Rights Watch:

Yoon Young Cheol, at the time a government worker in his thirties, also experienced the arbitrariness of the North Korean legal system. On a winter night in 2011, five men dressed as police officers entered his home and took him to the office of the secret police (*bowibu*) in the city bordering China where he lived. Yoon Young Cheol was detained and, before he was even questioned, severely beaten. It was only the next day that he found out that somebody had accused him of being a spy. He told Human Rights Watch:

Six months later, Yoon Young Cheol says the secret police concluded that he was not a spy and passed him over to the police. The police then investigated him for two more months on allegations of smuggling forbidden products such as herbal medicines, copper, or gold. After a summary trial, Yoon Young Cheol was sentenced to unpaid hard labor for five years. He explained that anybody making noteworthy amounts of money in North Korea can easily be found guilty of crimes, as most profit-making activities can be considered illegal.

The experiences of Lim Ok Kyung and Yoon Young Cheol are hardly unique. As is widely known, the Democratic Peoples Republic of Korea (DPRK, North Korea) is one of the most repressive countries in the world. It is a totalitarian, militaristic, nationalistic, and highly corrupt state. All basic civil, political, social and economic rights are severely restricted under the rule of Kim Jong Un and his family's political dynasty. The ruling party and government use the constitution, laws and regulations, control of the legal and justice system, and other methods to legitimize Workers Party of Korea (WPK) and government directives.

In 2014, a United Nations Commission of Inquiry (COI) on human rights in the DPRK established that systematic, widespread, and gross human rights violations committed by the North Korean government constituted crimes against humanity. These crimes include murder, extermination, imprisonment, enslavement, persecution, as well as enforced disappearances of and sexual violence perpetrated against North Koreans in prison and in detention after forced repatriation. The COI also documented torture, humiliation, and intimidation, as well as deliberate starvation, during investigation and questioning in pretrial detention and interrogation facilities as an established feature of the process in efforts to subdue detainees and extract confessions, particularly from people forcibly returned from China to North Korea.

This report based largely on research and interviews conducted with 22 North Koreans detained in detention and interrogation facilities after 2011 (when Kim Jong Un came to power) and eight former North Korean officials who fled the country provides new information on North Korea's opaque pretrial detention and investigation system. It describes the criminal investigation process; North Korea's weak legal and institutional framework; the dependence of law enforcement and the judiciary on the ruling WPK; the apparent presumption of guilt; bribery and corruption; and inhumane conditions and mistreatment of those in detention and interrogation facilities (*kuryujang*) that often amounts to torture.

Because North Korea is a closed country, not much is known about the legal processes in its pretrial detention system, but the experiences of those interviewed and the other evidence detailed below, show that torture, humiliation, coerced confessions, hunger, unhygienic conditions, and the necessity of connections and bribes to avoid the worst treatment appear to be fundamental characteristics.

Interviewees told Human Rights Watch that once a detainee faces an official investigation (*susa*), there is little chance of avoiding short-term sentences of unpaid hard labor at detention centers (*rodong danryeondae*, literally labor training centers) or a long-term or life sentence of hard labor at an ordinary crimes prison camp (*rodong kyohwaso*, literally reform through labor centers).

All former detainees told Human Rights Watch that they were forced to sit still on the floor, kneeling or with their legs crossed, fists or hands on top of their laps, heads down, with their eyesight directed to the floor for 7-8 hours or, in some cases, 13-16 hours a day. If a detainee moves, guards punish the detainee or order collective punishment for all detainees. Abuse, torture, and punishment, including for failing to remain immobilized when ordered, appear to be more acute when interrogators are attempting to obtain confessions. Because detainees are treated as though they are inferior human beings, unworthy of direct eye contact with law enforcement officers, they are referred to by a number instead of their names. Some female detainees reported sexual harassment and assault, including rape.

Interviewees described unhealthy and unhygienic detention conditions: very little food with low nutritious value (80-200 grams of boiled corn and soup with wild greens or radishes three times a day), overcrowded cells with no space to sleep, little opportunity to bathe, and a lack of blankets, clothes, soap, and menstrual hygiene supplies. At times, guards or interrogators allowed family members or friends to bring food, clothes, soap, blankets, or money after questioning was over. Bribes and connections could persuade law enforcement officials to ignore or reduce the charges, improve conditions and treatment while in detention, or even have the case dismissed entirely.

North Korean laws are generally vaguely phrased, and while they make passing reference to certain rights, they do not include important safeguards for defendant and detainee rights set forth in international standards. They contain important omissions and lack clear definitions, leaving them open to interpretation and maximizing the discretion of government officials to decide how, or indeed whether, to execute the law.

For instance, North Korean law recognizes citizens' right to a fair trial, and testimonies obtained under duress or inducement and confessions that are the sole evidence of proof are not supposed to be used in court. However, there is no prohibition against using evidence gathered illegally, and no safeguard for the presumption of innocence, the right against self-incrimination, or the right to remain silent. The DPRK Criminal Code and the DPRK Criminal Procedure Code do not contain any provisions allowing for judicial review of detention at the investigation or preliminary examination stages. And, because the ruling party controls all institutions in North Korea, the Party Security Committee (*dang anjeon wivonhoi*) has to give approval for law enforcement agents to finalize a decision to pursue criminal charges.

Boanseong: police, Ministry of Peoples Security, full name *inmin boanseong*, renamed in May 2020 as the Ministry of Social Security, in Korean *sahoe anjeonseong*, formerly also called *boanbu*

Boanbu: police, currently called *sahoe anjeonseong*

Boanseong danryeondae: short-term (between six months and one year) hard labor detention center run by the police

Bowi saryeongbu: Military Security Command

Bowibu: secret police, State Security Department, full name *kugga anjeon bowibu*, currently called *bowiseong*

Bowiseong: secret police, Ministry of State Security, full name *kugga bowiseong*, formerly called *bowibu*

Chepo: arrest with a warrant

Daegisil: holding cell, literally waiting room

Dang anjeon wiwonhoi: Party Security Committee

Dansok: Regulation, control, crackdown

Do: province

Gugumsil: jail, holding cell in small or remote security and law enforcement agency offices, literally detention room

Gun/Guyeok: district

Ice: methamphetamines, also called *bingdu*

Inmin boanseong: Ministry of Peoples Security, police, often referred to as *boanseong*

Inminban: neighborhood watch system, literally peoples unit/group

Jangmadang: private markets

Jeongsang: severity, circumstances (of a crime)

Jipkyulso: temporary holding facility, literally gathering place

Kimchi: vegetables, usually cabbage, fermented with salt and other spices

Kiso: prosecution

Komun: torture

Kugga bowiseong: Ministry of State Security, secret police, often called *bowiseong*, formerly called *bowibu*

Kuryu: detention without a warrant

Kuryujang: pretrial detention and interrogation facility, literally "place for detention

Kwanliso: penal hard labor colony for serious political crimes or political prisoners camps, literally control center

Kyohwaso: long-term (over one year) hard labor ordinary crimes prison camp, also called *rodong kyohwaso* or re-education camp, literally reform through labor center

Mugi rodong kyohwahyeong: unpaid hard labor for life at ordinary crimes prison camps (*kyohwaso*), literally life-term of reform through labor criminal penalty

Naegak: Cabinet

Ri: village

Rodong danryeondae: short-term (less than six months) hard labor detention center, literally labor training center

Rodong danryeonghyeong: short-term (between six months and one year) unpaid hard labor sentence, literally labor training criminal penalty

Rodong kyohwahyeong: long-term (more than one year) unpaid hard labor sentence at hard labor ordinary crimes prison camps (*rodong kyohwaso*), literally reform through labor criminal penalty

Rodong kyohwaso: long-term (over one year) hard labor ordinary crimes prison camp, sometimes also called re-education camp or *kyohwaso*, literally reform through labor center

Rodong kyoyang cheobun: short-term (between five days and six months) unpaid hard labor administrative penalty, literally labor awareness penalty

Sahoe anjeonseong: police, also referred to as *anjeonseong*, formerly called *boanbu* or *boanseong*

Sahoejeok kyoyang cheobun: short-term administrative penalty to be spent self-reflecting on proper citizenship morality, literally social awareness penalty

Si: city

Suryong: Supreme Leader

Susa: investigation

Songbun: a socio-political classification system, literally ingredient, element

Yesim: preliminary examination

Yesimwon: preliminary examination officer or preliminary examiner

Yugi rodong kyohwahyeong: fixed long-term (between one and 15 years) unpaid hard labor at hard labor ordinary crimes prison camps, literally limited term of reform through labor criminal penalty

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CRC Convention on the Rights of the Child

CRPD Convention on the Rights of Persons with Disabilities

COI Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea

DPRK Democratic Peoples Republic of Korea

FIDH International Federation for Human Rights

ICCPR International Covenant on Civil and Political Rights

KINU Korea Institute of National Unification

MPS Ministry of Peoples Security

MSC Military Security Command

MSS Ministry of State Security

NKDB Database Center for North Korean Human Rights

OGD Organization Guidance Department

SPA Supreme Peoples Assembly

UDHR Universal Declaration of Human Rights

UN United Nations

WPK Workers Party of Korea

North Korea rarely publishes data on any aspect of life in the country. When it does, it is often limited, inconsistent, inaccurate, or otherwise of questionable utility. North Korea strictly limits foreigners access to the country and contact between local residents and foreigners. It does not allow independent human rights research of any kind in the country. For these reasons, Human Rights Watch did not conduct any interviews in North Korea for this report.

This report is based on interviews and research conducted by Human Rights Watch staff and a consultant between January 2015 and May 2020. Human Rights Watch interviewed 46 North Koreans outside the country. Among them, 22 (15 women and seven men) had been held in pretrial detention and interrogation facilities (*kuryujang*) after 2011, when North Korea's current leader Kim Jong Un came to power.

We interviewed more women because they constitute the vast majority of North Koreans who are able to leave the country since surveillance is less stringent on women than men, and illegal networks are more willing to assist North Korean women as trafficked persons.

We also interviewed eight former government officials who worked at detention and interrogation facilities or had professional connections with them and who still have regular contacts in North Korea. These include three former police officers, a prison guard, an official from the Ministry of State Security (MSS, secret police, *kukka bowiseong*), a military officer who visited detention and interrogation facilities near the border, and two party officials.

All interviews were conducted in Korean. Interviewees were advised of the purpose of the research and how the information would be used. They were advised of the voluntary nature of the interview and that they could refuse to be interviewed, refuse to answer any question, and terminate the interview at any point. In all cases, interviews were conducted in surroundings chosen to enable interviewees to feel comfortable, relatively private, and secure.

Human Rights Watch did not remunerate any interviewees for doing interviews. Human Rights Watch provided minimum wage compensation to interviewees who had to miss work to make time for the interview. For those living far from the location of the interviews, Human Rights Watch covered transportation costs.

Most interviewees expressed concern about possible repercussions for themselves or their family members in North Korea and asked to remain anonymous. To protect these individuals from possible punishment, all names of former detainees used in this report are pseudonyms. Human Rights Watch also has not included personal details that could help identify victims and witnesses.

North Koreans who flee the country are almost always called defectors by North Koreans, South Koreans, foreign experts and observers, researchers, journalists, NGO workers, government officials, and so on. This report, however, refers to them simply as North Koreans or as escapees: the word defector presupposes a political motivation for leaving that may or may not be present. North Koreans leave their country for many reasons, including for economic and medical reasons.

We also conducted additional interviews with experts familiar with issues concerning North Korea's detention and prison system, activists, legal experts, and academics. We obtained and reviewed relevant documents available in the public domain from UN agencies, local NGOs in South Korea working on North Korea's detention and prison system, North Korean government agencies, researchers, and international analysts. These documents helped provide important insight into the context of pretrial detention in North Korea.

Unfortunately, many North Korean laws, internal regulations, and decrees that may be relevant to the pretrial detention and criminal procedure process are not publicly available or when accessible, may be outdated. No official information was available about the pretrial detention process for political crimes under the Ministry of State Security, which has its own set of confidential internal guidelines that supersede publicly available laws and procedures.

The relatively small number of interviews conducted for this report limits the ability of Human Rights Watch to reach conclusions about conditions in all detention and interrogation facilities in North Korea. However, the diversity in geographic location and the similarities in conditions and personal experiences of the interviewees suggest the issues identified here are of general concern. Based on our findings and previous documentation, we have every reason to believe mistreatment of detainees, dangerous and unhealthy conditions, presumption of guilt, lack of due process and flawed trials are the norm.

The Democratic Peoples Republic of Korea (DPRK, hereafter North Korea) is perhaps the world's most restrictive police state. The ruling Workers Party of Korea (WPK) oversees a complex and highly developed security system that employs strict surveillance, violence, coercion, fear, and harsh punishment to ensure ideological conformity in order to silence dissent among the country's 25 million citizens and maintain the power of the country's leader, Kim Jong Un, and the WPK.^[1]

Telephones, computers, and correspondence are monitored, the internet is inaccessible except to a very small number of high-ranking party officials, radios and televisions receive only government-authorized stations, and all media content is heavily censored.^[2] From childhood, people's thoughts are continually monitored and shaped by an all-encompassing indoctrination machine to manufacture absolute obedience to the Supreme Leader (*surjong*). Informant networks exist in every social, economic, and political group and all North Korean citizens are under constant surveillance by the party through mass associations or the neighborhood watch system (*inminban*, literally people's unit/group).^[3] An elaborate political caste system (*songbun*) classifies the population into categories based on the regimes determination of a person's loyalty and performance and assigns every individual a narrowly prescribed role in society.^[4]

The Ministry of State Security (MSS, secret police, or *kukka bowiseong*) investigates political crimes, which are considered crimes committed by enemies or counter-revolutionaries against the people, the party and the government.^[5] The MSS has its headquarters in Pyongyang and offices at the provincial (*do*), city (*si*) and local (*gun/guyeok*) levels.^[6] It officially works under the State Affairs Commission, but also reports to the Supreme Leader. It reportedly has tens of thousands of employees.^[7]

The MSS runs political prisoner camps (*kwanliso*), as well as temporary holding facilities (*jipkyulso*) at the provincial level. The MSS also operates some holding cells (*gugumsil* or *daegisil*) and a network of detention and interrogation facilities (*kuryujang*).^[8] It also runs a number of secret guarded holding buildings, euphemistically described as guest houses.^[9] The MSS is the most obscure institution within the North Korean government, as it has its own set of secret, confidential internal regulations and guidelines.^[10]

The Ministry of Social Security (police, in Korean *sahoe anjeonseong*) is responsible for maintaining law and order and social control, investigating ordinary crimes, detaining and interrogating offenders, and imposing penalties for misbehavior deemed not serious enough to prosecute under the criminal law.^[11] It is responsible for administering short-term unpaid hard labor detention centers (*boanseo danryeondae* and *rodong danryeondae*) and ordinary prison camps (*rodong kyohwaso*).^[12] The police has its headquarters in Pyongyang and offices at the provincial, city and various local (*guyeok/gun/jigu*) and village (*ri*) levels.^[13] The police also operates a network of pretrial detention and interrogation facilities (*kuryujang*) at the national, provincial, city, and local levels.^[14]

The Military Security Command (MSC, in Korean *bowi saryeongbu*) serves as the political police of the Korean Peoples Army (KPA) under the Ministry of Peoples Armed Forces. It operates under a set of secret, confidential internal regulations.^[15] It is in charge of internal security within the army, investigates and conducts surveillance of military organizations and high-ranking military officers, local party organizations, and individual cadres.^[16] The MSC reportedly runs pretrial detention and interrogation facilities and short-term forced labor detention centers (*rodong danryeondae*) adjacent to political prison camps.^[17] The MSC's mandate also extends to providing security for the Supreme Leader during his visits to military units and monitoring military and civilian movements along North Korea's northern and southern borders.^[18]

The MSS, police, and MSC report to the State Affairs Commission. The State Affairs Commission is the supreme policy-oriented leadership body of the state. It is in charge of all important state policies, including defense and the armed forces, ensuring the fulfillment of the orders of the Chairman of the State Affairs Commission, and abrogating decisions and directives of state organs which run counter to the orders of the Chairman of the State Affairs Commission and the decisions and directives of the State Affairs Commission.^[19] Kim Jong Un is the head of the State Affairs Commission.^[20]

While there is a clear official chain of command within the main security agencies, there is also control and guidance by special bodies in the party, which also have surveilling and investigative roles over senior officials or security agencies. For example, the WPK's Central Committees Organization Guidance Department (OGD) is in charge of implementing the Supreme Leader's directives. The OGD has oversight and a guiding role over the police, MSS and MSC.^[21] The OGD is also in charge of surveillance and inspection, as well as the appointment, of senior party officials.^[22]

The Prosecutors Office directly investigates crimes related to administrative and economic projects and those involving law enforcement agencies.^[23] It is one of the country's most powerful agencies, with the power to audit other state organs.^[24] Its official responsibilities include ensuring the strict observance of state laws by institutions, enterprises, organizations and citizens; ensuring the decisions and directives of state bodies conform with the Constitution, the laws, ordinances and decisions of the Supreme Peoples Assembly, the orders of the Chairman of the State Affairs Commission of the DPRK, the decisions and directives of the State Affairs Commission, the decrees, decisions and directives of the Presidium of the Supreme Peoples Assembly,^[25] and the decisions and directives of the Cabinet; and identifying and instituting legal proceedings against criminals and offenders in order to protect the state power of the DPRK, the socialist system, the property of the state and social, cooperative organizations, personal rights as guaranteed by the Constitution and the peoples lives and property.^[26] Some of the prosecutors offices have holding cells (*gugumsil*) or detention and interrogation facilities (*kuryujang*).^[27]

The prosecutors office, as all bodies connected to the party, is structured with a central prosecutors office, provincial, city, and local (*gun*) level offices.^[28] It also has special prosecutors offices, like the military prosecutors office, which has jurisdiction over ordinary crimes committed by personnel from the military and the police, the railway prosecutors office, in charge of ordinary

crimes related to the railway transport sector, and the military logistics prosecutors office, in charge of specific crimes related to the military logistics department.^[29] The prosecutors office is accountable to the Supreme Peoples Assembly (SPA), North Korea's unicameral legislature, or, when it is not in session, its presidium.^[30]

Despite the official roles of the various security agencies, in practice their remit has varied over time and in different parts of the country. This has been a function of changing political priorities, available capacity, the relative power of senior officials, and the extent to which a particular agency enjoys the trust of the Supreme Leader. The three main security agencies, the MSS, police and Military Security Command, frequently compete to gain the leaderships favor by identifying ideological opponents and threats.

The criminal justice system in North Korea, like its constitution, laws, other legal instruments, and government bodies, is a byproduct of the governments efforts to protect the leadership and its political system, and to legitimize ruling party directives. In service of these ends, it also prescribes harsh punishment for non-compliance.^[31] The system is grounded in a guiding ideology that gives primacy to the statements and personal directives of the countrys leader;^[32] the Ten Principles of the Establishment of the Monolithic Ideological System of the WPK;^[33] the rules of the party;^[34] the Socialist Constitution;^[35] and, finally, domestic laws.^[36] For example, article 2 of the criminal procedure code requires the state to carefully identify friends and enemies of the state in its struggle against anti-state and anti-people crimes.^[37] Article 162 of the constitution requires the courts to ensure obedience of state law and to staunchly combat class enemies^[38]

North Korea's legal system is governed by the law of the socialist society and national sovereignty that perform a function of the proletarian dictatorship.^[39] A Commission of Inquiry (COI) on the situation of human rights in North Korea stated the law and the justice system serve to legitimize violations, there is a rule *by* law in the DPRK, but no rule *of* law, upheld by an independent and impartial judiciary. Even where relevant checks have been incorporated into statutes, these can be disregarded with impunity.^[40]

Criminal Law, Procedure and Punishment

The North Korean system for the investigation, trial and sentencing of crimes is both straightforward and complex. North Korea's Criminal Code and Criminal Procedure Code are relatively short and, in many respects, similar to other countries. But the laws have many gaps and inconsistencies that make them complicated to understand. The country has an official, law-based judicial system, but it also has a party-based quasi-judicial system that works in parallel and can supersede the official system in an opaque manner. Arbitrariness in the application of the law adds another layer of confusion for North Korean detainees and even law enforcement personnel.

The Criminal Code was adopted in 1990, and last amended in 2015. In 2007, the Addendum of the Criminal Code, a separate law that complements the Criminal Code, was adopted and introduced stronger penalties.^[41] Broadly, criminal sanctions are applied for committing dangerous acts that with intention or negligence infringe in the sovereignty of the state, the socialist system, and law and order.^[42] The main criminal penalties are death; unpaid hard labor for life (*mugi rodong kyohwahyeong*, in Korean literally life-term of reform through labor criminal penalty); a fixed long term (between one to 15 years) of unpaid hard labor (*yugi rodong kyohwahyeong*, in Korean literally limited term of reform through labor criminal penalty); and a short term (between six months and one year) of unpaid hard labor (*rodong danryeonhyeong*, literally labor training criminal penalty).^[43]

Minor criminal offenses are dealt with under the Administrative Penalty Law, which was adopted in 2004 and was last amended in 2011. It applies sanctions to institutions, businesses, organizations and citizens who committed an offense that doesnt reach the point of requiring a criminal penalty.^[44] Violations of the law are adjudicated by the Socialist Lawful Lifestyle Guidance Committee as well as the Cabinet (*naegak*, the highest administrative and executive body of the government), the Prosecutors Office, courts, police, inspection agencies, state-owned enterprises and other institutions. All administrative penalties applied must be reported every quarter to the Socialist Lawful Lifestyle Guidance Committee.^[45]

The police can also apply the DPRK Peoples Security Regulation Law,^[46] adopted in 1992 and last amended in 2005, which authorizes the police to detain offenders and impose penalties for violations such as breaking or stealing production materials, making fake reports about government development projects, practicing fortune-telling, using unregistered computers, or copying and distributing decadent music, drawings, photos or books.^[47] This law also applies to those who violate the law and order but not to the point of deserving criminal responsibility.^[48]

The DPRK Criminal Procedure Code was adopted in 1950 and last amended in 2012. It sets out the process for detention, arrest, investigation, trial and sentencing under North Korean law.

The Criminal Code and Criminal Procedure Code apply to all security agencies, such as the police or the secret police.^[49] Time limitations and procedural steps provided by the law are usually respected for ordinary crimes handled by the police. However, the secret police, or the Military Security Command have a higher status since their main priority is regime protection and their secret internal regulations and guidelines allow them to ignore or override the Criminal Code and Criminal Procedure Code in certain circumstances.^[50]

For minor or medium political offenses, the MSS may use the DPRK Criminal Procedure Code to punish crimes.^[51] But even then suspects are frequently arrested at night, in the street or at their workplace and brought to a detention and interrogation facility, where they can spend months being interrogated at length by different security agencies.^[52] If the MSS determines that the suspect committed a minor political infraction or the case is deemed non-political it usually refers the individual for further interrogation to the police, where an investigation recommences.^[53]

North Korean law also contains important omissions. Neither the Criminal Code nor the Criminal Procedure Code contains any provisions allowing for judicial review of detention at the investigation or preliminary examination (*yesim*) stages. This gives officials wide discretion in the stages after detention or arrest. North Korean laws are also generally vague and do not adhere to international standards. They lack clear definitions, leaving them open to arbitrary interpretation that maximizes the discretion of government officials to decide how or, indeed, whether to follow the law.^[54]

North Korean law professes that the state fully guarantees human rights in handling criminal cases.^[55] While the term torture (*komun*) is not used in the law, the law forbids the use of force or inducements during evidence gathering.^[56] Testimonies obtained under duress or inducement, and confessions that are the sole evidence of guilt, cannot be used in court.^[57] Article 166 of the DPRK Criminal Procedure Code prohibits a preliminary examiner from using forceful methods to make the suspect admit the crime or to make a statement.^[58] Article 37 of the law states that the statements of the suspect received by means of coercion and inducement shall not be used as evidence. If the testimony of the suspect is the only evidence, it is admitted that the crime could not be proved. Even with the surrender and confession of a suspect, other relevant evidence must be found to be admitted. If it is objectively found that the statements of a suspect who does not acknowledge the crime are false by other evidence, the crime is recognized as proven.^[59]

There is no prohibition against using evidence gathered illegally. The law fails to include the presumption of innocence, the right against self-incrimination, or the right to remain silent.^[60] To the contrary, article 283 of the DPRK Criminal Procedure Code requires an accused to answer questions when asked.^[61] The right to legal counsel is limited as an accused can only retain a lawyer after a preliminary examiner finalizes a decision to pursue criminal liability.^[62] and because detainees do not have access to information about lawyers unless they have personal connections. In addition, all lawyers in North Korea lack independence, as they operate under the oversight of party-controlled lawyers committees.^[63]

The DPRK Criminal Procedure Code outlines the stages of investigation (*susa*), preliminary examination (*yesim*), prosecution (*kiso*), trial, and sentencing for criminal cases. The investigations goal is to uncover the criminal and hand the suspect over to a preliminary examination procedure.^[64] The aim of the preliminary examination (*yesim*) is to expose the offender and reveal all details of the criminal case completely and accurately.^[65] The duty of the prosecution is to conduct a full review of the case records of the finalized preliminary examination and hand over the criminal case to the court if it recognizes that all details of the crime have been completely and accurately revealed during the preliminary examination.^[66] The objective of the first-instance trial is to confirm crimes and criminals and to analyze them based on the law and make a court ruling.^[67]

The investigation (*susa*) period, which usually lasts a few days, is crucial, as an individual will either be released or sent to the next stage, preliminary examination, which usually results in a trial and conviction and could lead to a heavy sentence. Investigations are usually conducted by investigators from the police or the secret police, the main law enforcement agencies.^[68]

Article 135 of the DPRK Criminal Procedure Code allows law enforcement officials 24 hours to officially register an investigation with the Prosecutors Office, which can turn down the request if there are no reasonable grounds to start the investigation.^[69] During this period, the law enforcement or security official in charge of the investigation can obtain a warrant from a prosecutor allowing the arrest of a suspect for questioning for up to 10 days in a holding or waiting cell (*gugumsil* or *daegisil*) or detention and interrogation facility (*kyuryujang*).^[70] It is worth noting that none of the former detainees interviewed by Human Rights Watch ever saw a warrant.^[71] During this 10-day period the police or other investigator decides whether to release the suspect or send the case to the preliminary examination stage.^[72]

The police or investigators are also allowed to detain suspects without prosecutorial approval. In such cases, the investigator must obtain approval from the prosecutor within 48 hours of arrest (*chepo*, with a warrant) or detention (*kyuru*, without a warrant). As above, the investigator must release the suspect within 10 days of detention or send the case for preliminary examination.^[73] If the investigator cannot obtain the approval of the prosecutor, the investigator needs to prove the crime within 10 days or release the suspect.^[74]

A former police officer familiar with pretrial detention procedures told Human Rights Watch that investigators send many people accused of minor crimes to short-term hard labor detention centers, others for short-term administrative penalties to self-reflect on proper social behavior or the improper citizen behavior committed (*sahoejeok kyoyang cheobun*, literally social awareness penalty) and about half for preliminary examination.^[75] A former party official with connections within the criminal procedure system estimated that as many as 90 percent of possible cases may be dropped or sent for short-term hard labor, with only 10 percent being sent for preliminary examination, for criminal prosecution and trial.^[76] The police also need to survive, and they need to get bribes to do so, he said.^[77] Indeed, bribery is reportedly rampant. Four former government officials, including two former police officers, told Human Rights Watch that most crimes that could be considered minor would not even lead to an investigation if the offender paid a bribe or had enough connections.^[78]

The preliminary examination (*yesim*) usually takes place while detainees are in custody. The preliminary examination officer may detain or arrest a suspect if the alleged crime is punishable by hard labor for life or long-term or death, or if the suspect interferes with the investigation, does not cooperate with the preliminary examination procedure, or flees preliminary examination or trial.

In cases in which the preliminary examination starts before a suspect is detained, the preliminary examination officer may issue a subpoena to question the suspect. If the suspect is not detained before the preliminary examination is finished and the decision is to charge the suspect, the preliminary examination officer (*yesimwon*) can request an arrest warrant from prosecutors if the alleged crime is punishable by long-term hard labor, hard labor for life, or death. When the offense is punishable by short-term labor the suspect can only be arrested or detained in (undefined) special circumstances. The law says that female suspects cannot be detained three months before childbirth or within seven months after childbirth, but it is unclear whether this would be the case if a woman committed a serious crime.^[79]

While the investigation focuses on identifying the criminal, the preliminary examination is supposed to develop a complete and accurate understanding of the case, including the nature of the crime, the motives and objective, the means and role of the accused, and the results of the crime.^[80]

Law enforcement agencies, including the police, the secret police and the prosecutors office, have separate departments for investigation and preliminary examinations and the preliminary

examination officer is supposed to be from a department separate from the investigation office.^[81] The law states that the preliminary examination officer must decide whether or not to start this process within 48 hours after receiving a case.^[82] The preliminary examination must be completed within two to five months, though in some cases detainees are held much longer.^[83] A former police officer who left North Korea in 2008 claimed that if the defendant does not confess the period can be extended for up to one year.^[84]

A former police officer familiar with pretrial procedures told Human Rights Watch that he estimated that in 80 to 90 percent of cases the recommendation is to send the accused to trial on charges that would carry a short-term or long-term hard labor sentence, with the majority for long-term hard labor.^[85] He said the rest of the cases were dismissed and the accused were sent to short-term hard labor detention centers.^[86]

Because the ruling party controls all institutions in North Korea, detainees face a parallel process, a review by the Party Security Committee (*dang anjeon wiwonhoi*), before a decision to pursue criminal responsibility is finalized.^[87] This process has no statutory basis. Instead, it operates in a quasi-judicial system run by the WPK.^[88] As in other Communist countries, the ruling party oversees the courts to ensure control of the judiciary and that the courts act in conformity with party rules and policies.^[89]

The Party Security Committees main role is to implement instructions from the party concerning social order, manage judicial organizations, and ensure the uniformity and consistency of prosecutorial and judicial activities.^[90] The committees exist at all administrative levels, including local, city, provincial, and national levels. At the national party level, the committee is chaired by the party secretary and includes the director of the police and the secret police, the chief justice of the Central Court, the chief prosecutor of the Central Prosecutors office, and the director of the organization and guidance department of the WPK.^[91] The Party Security Committees reportedly meet once every 15 to 30 days, or as needed.^[92] The composition of the different security committees may vary depending on the jurisdiction and nature of the crimes.^[93]

According to former government officials and former detainees with connections in the WPK who spoke to Human Rights Watch, the Party Security Committee is supposed to review the details of each case, investigate a suspects political background, and then decide how to dispose of criminal and political cases.^[94] The committee reviews a report prepared by the preliminary examiner, which includes an overview of the case with their recommendation to pursue criminal liability and the list of alleged violations of the law. The committee then considers the political implications, and decides whether to accept or reject the recommendation.^[95] According to a former police officer, Party Security Committees accept the recommendation of criminal responsibility in almost all of the cases they receive.^[96] This process does not conform to the requirements of the Criminal Procedure Code, thus undermining many of the safeguards provided in theory by the law; the reality is that no matter what the law says, party decisions are superior in the North Korean system.^[97]

Once the Party Security Committee approves a case to be sent to the next stage, a male accuseds hair is shaved and a female accuseds hair is cut to ear length. If the accused is later found guilty, the length of the sentence is counted from that day.^[98]

At this point the preliminary examination officer has to prepare a written decision of criminal liability with specific findings, including reference to applicable laws and related penalties, and send this to prosecutors within 48 hours.^[99] The preliminary examination officer also has to inform the accused of the decision to pursue criminal responsibility and the right to choose a lawyer within 48 hours.^[100] After the accused is informed of the decision, the preliminary examination officer can interrogate the accused within 48 hours, but this can only take place between 8 a.m. and 8 p.m. Exceptions can be made, but in such cases a prosecutor has to be present.^[101]

If the preliminary examination officer concludes there is enough evidence to send the accused to trial and the prosecutor agrees, the officer informs the accused, shows the accused the case file, and asks if the accused has any questions or requests to fix errors.^[102] The preliminary examination office then writes a report and submits it, along with all case files and evidence, to the prosecutor.^[103]

After the preliminary examination officers send a case to a prosecutor, the law requires a prosecutor to conduct a full review of the case records of the finalized preliminary examination and hand over the criminal case to the court if it recognizes that all details of crime have been completely and accurately revealed during the preliminary examination.^[104]

The prosecutor is supposed to process the case within 10 days, with a possible five-day extension.^[105] When the alleged crime is punishable with short-term hard labor the prosecutor has only five days to process the case.^[106] If the prosecutor considers the evidence sufficient, the prosecutor submits a written indictment, the case records, and the evidence to the court.^[107]

Three former government officials said that while prosecutors do review cases, this is almost a symbolic step and almost all cases are sent to trial.^[108]

The objective of the first-instance trial hearing is to confirm crimes and criminals and to analyze them based on the law and make a court ruling.^[109] The court of first instance is constituted by a presiding judge and two peoples assessors.^[110] The presiding judge is required to examine the evidence and determine whether the investigation and preliminary examination process were complied with, whether the appropriate articles of the criminal code were applied correctly to the crime, whether there are criminal conspirators who were not charged, and whether the principles and procedures set forth in the criminal procedure code were followed correctly.^[111] At the trial, the prosecutor is tasked to clearly and scientifically prove the crime of the accused and whether the trial is conducted in accordance with the law.^[112]

The court must conclude the trial within 25 days, with the possibility of a 10-day extension, after receipt of the charges.^[113] Proceedings against those accused of crimes punishable by short-term hard labor must be completed within 10 days.^[114]

Following a guilty verdict, a convict can file an appeal within 10 days of the receipt of a copy of the written decision (within three days for short-term hard labor sentences).^[115] The appeals court is required to review and make a decision on the case within 25 days of receiving the appeal request (within seven days for short-term hard labor sentences).^[116] Appeals are rare, as they risk a harsher sentence and because an appeal is considered to be a challenge to the decision by the court and the WPK.^[117]

North Korean law states that in administering justice the courts are independent and judicial proceedings shall be carried out in strict accordance with the law. Yet it goes on to state that the Supreme Court, the highest court in North Korea, is accountable to the Supreme Peoples Assembly and to its Presidium when the SPA is not in session.^[118]

The lowest court that hears most first-instances cases in North Korea is the Peoples Court, which has jurisdiction at the city and county (*gun*) levels.^[119] However, for cases related to political crimes against the state and the nation, the court of first instance is the Provincial Court, the high court of a province.^[120] In cases in which there is the possibility of the death penalty or a life-term of hard labor, the Provincial Court again has jurisdiction. The Provincial Court also retains the discretion to try a case falling under the jurisdiction of the Peoples Court or to transfer a case to another Peoples Court. Generally, the Peoples Court is the first-instance court and the Provincial Court hears appeals from the Peoples Court.^[121]

North Korea also has three special courts, the Military Court, the Military Logistics Court and the Railway Court.^[122] The Military Court tries criminal cases committed by members of the military or the police or cases that affect military activities, while the Military Logistics Court tries criminal offenses committed by employees of the military logistics department or that affect the military transportation business. The Railway Court tries offenses committed by employees of the railway transportation industry or that disturb the railway transportation business.^[123]

The Supreme Court hears cases on appeal and cases contesting first-instance decisions by the Provincial Court and special courts. The Supreme Court can directly hear any first-instance case or transfer a case to another court of the same level or type as the court of original jurisdiction.^[124]

Although there are three regional levels of courts, the North Korean court system allows for only one appeal. Moreover, because the Supreme Court has the power to hear first-instance cases without any appeal, the benefits of the two-instance system may be nullified at the will of the court.^[125]

In addition to the system described above, North Korea operates a separate quasi-judicial system to exercise control over its people.^[126] This system is opaque and complex. Parts of this system are based on party decrees and structures, such as the Party Security Committee or the Organization and Guidance Department from the WPK Central Committee mentioned above, and some are secret, such as those related to the Ministry of State Security or the Military Security Command.^[127] Others, such as the Socialist Lawful Lifestyle Guidance Committee, have a legal basis.^[128] This committee is in charge of processing administrative penalties and petitions.^[129] It also oversees the countrys leading economic agencies and their leading workers so they dont abuse their power and work observing the socialist laws and regulations.^[130] It is also organized at the central, provincial, city and local levels, under the supervision of the Peoples Committees. At the central level, Socialist Lawful Lifestyle Guidance Committees appear to include five or six members including the head of the party guidance committee, the party organization director, the director of Peoples Safety, and the head of the Prosecutors Office. At the provincial and regional levels, it includes the heads and deputy head of the Peoples Committee, the head of the police, the Prosecutors Office, and a member of the legal department.^[131]

The treatment of ordinary crimes and political crimes is strictly divided. Political crimes are considered anti-state and anti-nation crimes committed by enemies or counter-revolutionaries against the party and government. These cases are under the jurisdiction of the secret police, and the Military Security Command when connected to the army.^[132] Though certainly broad, the exact powers of the Ministry of State Security are secret and therefore unclear.

North Korean citizens who have allegedly committed severe anti-state or anti-nation offenses disappear and are sent to political prison camps (*kwanliso*) without notice, trial or judicial order.^[133] There, they are held incommunicado, subjected to torture, forced labor and other severe mistreatment, and their families are not informed of their fate even if they die.^[134]

After the Great Famine of the mid-1990s, private markets (*jangmadang*) became an alternative to the public distribution of food and a source of income to stave off starvation. As trading was still technically illegal, government officials and people in positions of power, including police and secret police officers, detention and interrogation facility guards, prosecutors and party officials, saw opportunities to demand bribes to avoid detention, arrest and prosecution.^[135] Bribes soon became an important source of income for many of those in power. According to the COI, government officials are increasingly engaging in corruption in order to support their low or non-existent salaries.^[136] According to Transparency Internationals 2019 Corruption Perception Index, North Korea ranked 172 out of 180 countries.^[137]

Despite this, interviewees told Human Rights Watch those in positions of power are careful about taking bribes and would return or reject money or gifts in some cases.^[138] A former police officer told Human Rights Watch: We [government officials] also have our morals and we only get [bribes] when we can deliver. A former trader explained that government officials are very careful on who they get bribes from, and only keep [the money] when they can give what they offered or have been asked for. They dont want somebody blabbing around, word could get out there, threaten their reputation or future possible income, or end up triggering an investigation of the officer himself [for corrupt practices].^[139]

Detention facilities that the North Korean government acknowledges include:

The 2014 COI found that torture, deliberate starvation, inhumane treatment, and sexual violence were systematically imposed in detention and interrogation facilities, especially in detention facilities that initially receive persons forcibly returned by China.^[151] It also found that police and secret police systematically used severe beatings and other forms of torture during questioning until the interrogators were convinced that the accused had confessed to the totality of his or her wrongdoing.^[152] It also stated that the treatment of suspects is particularly brutal and inhumane in centers of the secret police, where suspects are typically held incommunicado in inhumane conditions in order to exert additional pressure on detainees to confess quickly to secure their survival.^[153]

The North Korean government has repeatedly rejected the findings of the COI, contending that there are no prisons in North Korea.^[154] Instead, offering a distinction that has no practical effect, the government contends that criminals are held in labor reform institutions where they are held for reform through labor (*rodong kyohwa*).^[155] These reform through labor centers (*rodong kyohwaso*), which are de-facto long-term hard labor prison camps, are run by the police to hold perpetrators of serious ordinary crimes and minor political crimes with sentences of reform through labor criminal penalty (*rodong kyowhahyeong*) for a limited term (*yugi rodong kyowhahyeong*) between one and 15 years, or a reform through labor criminal penalty for life (*mugi rodong kyowhahyeong*).^[156]

The North Korean government also strenuously denies the existence of penal hard labor colonies for serious political crimes in effect, political prisoner camps called in Korean *kwanliso*, literally control centers, which are considered a state secret.^[157] These camps are run by the secret police. Political prisoners, and in some cases their whole families, are often forcibly disappeared, held incommunicado, and detained in these camps.^[158] Prisoners in reform through labor centers and control centers are subjected to crimes against humanity, face brutal and inhumane conditions, arduous forced labor, malnutrition, and starvation due to insufficient food rations.^[159]

Mistreatment in custody is a standard feature of the criminal justice system in North Korea. Twenty-two former detainees and eight former government officials told Human Rights Watch that mistreatment of detainees is especially harsh in the early stages of questioning in pretrial detention and interrogation facilities (*kuryujang*).^[160] The former officials explained that the authorities consider harsh treatment to be necessary to obtain confessions, which are crucial in the interrogation process during the investigation and preliminary examination stages.^[161] They added that humiliation and mistreatment are considered important to preempt future crimes by detainees.^[162]

A former police officer involved in the detention processes told Human Rights Watch:

He related that in the beginning, outside food is not allowed, the same as cigarettes, or other things that may make detainees be more comfortable. Those are only allowed after the confession and the necessary documents are almost finalized. He added that:

Interviewees told Human Rights Watch that on a typical day detainees are awakened at detention and interrogation facilities between 5:30 a.m. and 7 a.m., eat breakfast, and then sit immobilized, in the manner described below, until the half-hour break for lunch (noon) and dinner (5:30 p.m. or 6 p.m.) and bed time at 10 p.m., with theoretical breaks of 10 to 30 minutes every two hours.^[165] All North Korean interviewees who were held at detention and interrogation facilities, as well as eight former government officials we interviewed, told Human Rights Watch that all detainees were forced to sit still on the floor, kneeling or with their legs crossed, their fists or hands on top of their laps, their heads down, and their eyesight directed to the floor for 7-8 hours and in some cases up to 13-16 hours a day.^[166] If a detainee moved, guards would punish the detainee or order collective punishment for all detainees. The punishments included hitting the detainees with their hands, a thick wooden stick, a leather belt or other objects, kicking them with their boots, making them sit down and stand up, do push-ups, or run in circles in a yard repeatedly, sometimes 100, 300, or even 1,000 times.^[167]

The 22 former detainees and four former government officials told Human Rights Watch detainees were forced to keep their gaze towards the floor and were not allowed to look at the face of the guards, investigators, or examiners.^[168] Ten former detainees and two former government officials said they had to refer to themselves by their given code number, not their names.^[169] They said this was because detainees were considered inferior beings and were not worthy of direct eye contact or of using their own names.^[170]

Interviewees told Human Rights Watch that individual interrogation sessions took place in separate closed-door rooms without witnesses by male investigators or preliminary examiners (police, secret police, or prosecutor).^[171] The former detainees said the interrogators asked similar questions about the case being investigated over and over, and asked the suspects to produce written confessions to their alleged crime repeatedly.^[172] If the stated or written testimonies had any discrepancies the interrogators asked them to repeat or write the account again, sometimes several times a day for several days, and punished the detainees.^[173] The former detainees said that during questioning they suffered physical violence, including being punched by officers, hit with a thick wooden stick or a thin rod, or kicked with boots.

The testimonies received by Human Rights Watch are in line with the findings of the UN COI, which found that inmates (held in detention and interrogation facilities run by the secret police), who are not undergoing interrogations or who are not at work, are forced to sit or kneel the entire day in a fixed posture in often severely overcrowded cells. They are not allowed to speak, move, or look around without permission. Failure to obey these rules is punished with beatings, food ration cuts or forced physical exercise. Punishment is often also imposed collectively on all cellmates.^[174] It also found conditions in detention and interrogation facilities run by the police are similar to that of [MSS] detention, except that suspects are often allowed to receive occasional visits from family members.^[175]

Some female detainees reported that they experienced or observed sexual violence, including rape in detention and interrogation facilities.^[176] Interviewees said that agents from the police, secret police, and the prosecutors office, most in charge of their personal interrogation, touched their faces and their bodies, including their breasts and hips, either through their clothes or by putting their hands inside their clothes. They said they were powerless to resist because their fate was in the hands of these men.^[177]

Heo Yun Mi, a former accountant in her 50s from South Hamgyong province, escaped North Korea in late 2015. She told Human Rights Watch that because her daughter had attempted to escape to South Korea she was detained for a week in early 2015 at a detention and interrogation facility (*kuryujang*) run by the secret police. She said she was forced to spend the entire time sitting on the ground in line, with her legs crossed and her hands on her knees, except when she was being questioned, had a break, was eating or was being punished.^[178] She said that officially they had 5-10 minute breaks in the morning and the afternoon, but whether they got them depended on the mood of the guards. They were monitored by a camera. She explained:

Heo Yun Mi explained that the secret police questioned her for six days. They beat and tortured her for three days. She recounted:

Heo Yun Mi's daughter was also detained in the same facility around the same time. The daughter told Heo Yun Mi that she had been questioned for two days for her attempt to cross to China by the secret police, but they only beat her on the first day. Heo Yun Mi explained:

Heo Yun Mi also described how a woman held in her cell had been questioned while kneeling on top of the heater and had been burned. They also hit her with a stick in the calves.... There was a military doctor, the woman who got burned was treated by the doctor. She also recalled that a male colleague from her work was detained at the same detention and interrogation facility run by the secret police in June 2015 for one month and could not walk properly after he was beaten.

Park Ji Cheol, a former lumberjack in his 20s from a bordering province with China who left North Korea in late 2014, was detained in detention and interrogation facilities run by the police twice, in 2010 and in 2014.^[179] He told Human Rights Watch that on many occasions he managed to avoid detention because his uncle, who was a large-scale smuggler, often gave gifts like corn-based liquor, cigarettes, mushrooms, or cash to police officers, soldiers, and MSS officials to facilitate his activities. In 2014, he was held in a police detention and interrogation facility for three days for not going to work at a government-sanctioned workplace and was then sent to a hard labor detention center for three months.

In 2010, he was also detained for smuggling, this time for almost one year, at a detention and interrogation facility. After an investigation and preliminary examination, he was sentenced to five years of hard labor at an ordinary crimes prison. Because his uncle was able to pay bribes to the right people, Park Ji Cheol ended up serving just one year before receiving a general pardon following the death of the former North Korean leader Kim Jong Il.

The detention and interrogation facility where Park Ji Cheol was held had nine separate cells. Men and women were held separately. He stayed in a 15 square meter cell holding between 13 and 16 cellmates. The detainees remained in their cell, unable to move, except when questioned by the investigator or the preliminary examiner in charge or when given permission to move by the guards. The detainees slept on the floor from 10 p.m. to 6 a.m., when the police guards woke them up and brought in a large bucket with water, which all cellmates used to wash their faces and to drink. The guards provided breakfast at 7 a.m., lunch at noon and dinner at 6 p.m. for 30 minutes. Every two hours, there was a change of guards who gave cellmates 10 to 30 minutes to walk outside to the yard or to stand. According to Park Ji Cheol:

Park Ji Cheol said that after the investigation process was over, the guards allowed his family members to pay some bribes to allow them to bring food once a week. He said:

He said the men detained with him were at different stages of the criminal process. Some were still under investigation, others were undergoing preliminary investigation or waiting for trial, and others had already been sentenced and were waiting to be transferred. Two detainees were waiting to be executed. He said:

In 2014, Park Ji Cheol was detained for three days at a police detention and interrogation facility. He told Human Rights Watch:

Kim Sun Young, a former trader in her 50s from North Hamgyong province, escaped North Korea for the last time in 2015. However, she suffered badly after being forcibly returned from China at the end of 2012.^[181] She said she was sent to a detention and interrogation facility run by the secret police near the border for a few days and after establishing that she did not commit serious political crimes was transferred to one run by the police in her hometown. She was held for five months and then sentenced to five years of hard labor at an ordinary crimes prison camp with two-and-a-half years suspended because of the bribe her son managed to pay. In the end she spent five months at the police detention and interrogation facility, followed by almost two years at the Chongori ordinary crimes prison camp.

At the police detention and interrogation facility, Kim Sun Young was held in a cell less than 12 square meters in size. The cell usually held about 12 detainees, leaving insufficient space to lie down and stretch her legs at night. Men and women were held in separate cells at the facility. She said that detainees were awakened at 7 a.m., washed their faces, and then had to sit immobilized all day for 12 or 13 hours except when they were allowed to move to eat, be questioned, or have a short break. She said:

She said women were more scared of physical punishment, so the women kept quieter than men and tried to follow the guards instructions. But the men were more rebellious and would be beaten more often. Kim Sun Young explained she could not see the beatings, but she could hear the conversations and the insults and degrading comments accompanied with sounds of violence.

Kim Sun Young said a *bowiseong* interrogator in charge of her case at the detention and interrogation facility raped her, while another police officer sexually assaulted her by touching her body

over and underneath her clothes while interrogating her. She said her fate was in their hands and she was powerless to resist.[182]

Kim Keum Chul, a former smuggler of medicinal herbs in his 30s from North Hamgyong province, escaped North Korea in 2017.[183] He was detained four times in pretrial detention and interrogation facilities between 2000 and 2014: once in the *bowiseong* detention and interrogation facility in a town bordering China and three separate times in a police detention and interrogation facility in his district bordering China. In each case he was able to shorten his time in detention after paying bribes.

Kim Keum Chul's first experience in detention under the secret police was in 2000, where he was held for just over a month for smuggling. He said he was beaten every time he was questioned. He explained that as it was a case with possible connections to Christian missionaries in China, the beatings and mistreatment were more severe, since cases connected with Christians are considered to be serious political cases. He said:

But he said that the last time police detained him in a detention and interrogation facility in 2014, bribes were more effective, and the abuse was less intense.

Yoon Young Cheol, a former government worker in his 30s, left North Korea in the summer of 2018. He was detained at a detention and interrogation facility in a border city with China in winter 2011.[184] Somebody had reported him to the secret police on suspicion he was a spy. He said the treatment in the detention and interrogation facility was harshest before extracting his confession and had no apparent procedural system. He explained:

Cells at detention and interrogation facilities are overcrowded and subject detainees to dangerous and unsanitary conditions. Former detainees report that collective cells have an average of one square meter per detainee. Most cells are reportedly around 12 to 15 square meters, with the number of detainees sharing a single cell generally varying between 11 and 16 people.[185] As noted above, former detainees who spoke to Human Rights Watch said they did not have enough space to stretch their legs and body without touching other cellmates while sleeping when the cells were full.[186] Cells often do not have running water or adequate toilets.[187]

Food was insufficient. Most detention and interrogation facilities provided food three times a day, but in small amounts, often consisting of a handful of cooked crushed corn kernels, sometimes accompanied with cabbage fermented with salt (*kimchi*) or a soup of dried wild greens or radish.

Two former detainees said two detention and interrogation facilities run by the MSS in remote areas provided even smaller amounts of food than those run by the police. Their relatives did not know where they were held, so they could not receive any food or goods from outside.[188] According to a former police officer, detainees without relatives suffer more and get weak quickly.[189]

Two former police officers said that detention and interrogation facilities are in theory supposed to provide toothbrushes, soap, blankets, and clean water, but that in reality, they have no resources and at best provide some buckets of water on a daily basis and a few blankets left behind by previous detainees.[190]

All the former detainees that spoke with Human Rights Watch said that the detention and interrogation facilities did not provide any basic needs like soap, clothes, or bedding and did not have adequate heating or cooling systems or running water, so detainees could not wash or shower properly.[191] They explained that in the large detention and interrogation facilities the toilet was an open space in the corner of the cell, sometimes with a low partition up to the chest or neck when squatting. Sometimes guards brought in a basin with water, and in some cases there was a water tap for washing.[192] Small detention and interrogation facilities had toilets in a separate building or room.[193] Four former detainees and two former police officers described detainees being covered by different types of bugs, including lice, bedbugs, and fleas, and detainees still not being allowed to move.[194]

A former police officer explained that, according to the regulation, detainees should change their clothes once every week, but the reality is that they barely can change clothes once a month, only if their families would bring them clean clothes. Those that didn't have family [or came from different regions], couldn't even change. Some detainees without family could be six months or whatever length of their time there without changing once.[195]

Another former police officer also said the smell at the detention center where he worked was terrible. [196]

Female detainees said the facilities did not provide menstrual pads; they said they used pieces of cloth torn from their own clothing or cloth that relatives were able to bring. At times, relatives could give money to the police guards who would buy some pads.[198] But one former police officer said many guards did not care about women having their period and sometimes women bled through their trousers and had no other clothes to change into, and were not able to wash properly.[199]

Baek Sol Hee, a former trader in her 40s from South Pyongan province, left North Korea in 2017.[200] She told Human Rights Watch she was detained in the police detention and interrogation facility in Suncheon, South Pyongan province, in the early 2010s for two months for selling banned products, and again in 2016 for over a month for getting into a fight with a party member with better connections than her. She was also detained in the mid-2010s at a district (*gun*) police detention and interrogation facility in South Hamgyong province and at a district secret police detention and interrogation facility in Ryanggang province a year later.

Baek Sol Hee said police officers told her the police station in Suncheon was considered a model. The conditions of the detention and interrogation facility (*kuryujang*), waiting cell (*daegisil*) and hard labor detention center (*rodong damnyeondae*) were good; and police officers from around the country visited to learn from it. She explained the offices were remodelled in 2015 and had more resources the second time she was detained there.

Out of the 50 days I was in the waiting cell, I was questioned for 10 days. There are cameras in the Suncheon detention center, guards watched the cells from cameras. If one person moved, they would make all detainees stand. Harsh police officers would make you stand for one hour. We'd get collective punishments at least three times a week. I saw people fall because they were too weak for not eating enough. In the waiting cell they didn't beat us, but in the detention and interrogation facility they'd hit you if you didn't obey.

She explained conditions and treatment in the waiting cells[201] were harsher than in the detention and interrogation facility cells:

Baek Sol Hee explained that the other two detention and interrogation facilities she was detained at, which were small and in remote areas, had worse conditions than the detention and interrogation facility in Suncheon. She described the detention and interrogation facility run by the police in South Hamgyong province in the mid-2010s:

She said the detention and interrogation facility run by the secret police in Ryanggang province near the border with China where she ended up one year later for making illegal calls overseas was the harshest.

Heo Yun Mi, a former accountant in her 50s from South Hamgyong province, left North Korea in autumn 2015 [202] She was detained at a detention and interrogation facility run by the secret police in 2015 (her case is also discussed above in the Beaten and Abused section). Her oldest daughter had tried to go to South Korea via China, without success, but another woman who also tried to go with her was caught. The *bowiseong* officials came to Heo Yun Mi's house and took her and her daughter into custody for questioning. Her daughter, a former soldier who had been released early from the army because she had tuberculosis, was released after three days and Heo Yun Mi after one week in detention. She said:

Heo Yun Mi said the general conditions were terrible. She explained the space she was held in was small, crowded, and cold. The food provided by the center (a cob or corn and soup with some wild greens and salt three times a day) was insufficient. The hygienic conditions were poor. She explained that there was some running water and the detainees could use a small plastic bucket to wash their hands, face, their teeth, and their cell. She also said the facilities were better than in other detention and interrogation facilities because it was a large detention and interrogation facility in Hamhung, the capital of South Hamgyong province. The facility usually dealt with major cases such as people trying to go to South Korea,[203] large-scale smugglers, users of cellphones, big drug cases, or trafficking. She said:

Yoon Young Cheol (his case is also discussed above in the Beaten and Abused section) was detained at a *bowiseong* detention and interrogation facility in a border city with China and then a police detention and interrogation facility before being sent to an ordinary prison camp for five years.[204] Yoon Young Cheol was making a lot of money smuggling forbidden products, like herbal medicines, copper or gold, into China. He said that one day in late 2011 someone reported to the secret police that he was a spy. He said that the conditions were terrible.

He managed to bribe the secret police and after six months the secret police established that he was not a spy. Yoon Young Cheol said the secret police found a big stash of cash when they raided his home. He agreed to exclude any mention of that money in his confession and used it to bribe the secret police officials. Then, the *bowiseong* transferred him to the police. He was detained at a police detention and interrogation facility in the same border city for two months and, as most of the investigation was already done, the police officers did not beat him up. He said:

All interviewees told Human Rights Watch that those with the capacity to pay bribes or mobilize connections received better treatment in detention. In many cases, law enforcement officials would ignore or reduce their crimes. If they were detained, they would not be held at a detention and interrogation facility or they would be released even before the official investigation started. Others would receive short or suspended sentences at hard labor detention centers or at hard labor ordinary crimes prison camps, or avoid being sent to political prison camps, depending on the latest set of directives from Pyongyang.[205]

All interviewees told Human Rights Watch that when someone is caught while committing a crime, the capacity to pay bribes and having the right connections with people who can influence the detention itself, the initial investigation and the preliminary examination are crucial to being released or receiving shorter sentences.[206]

Kim Sun Young, the former trader in her 50s from North Hamgyong province who escaped North Korea in 2015, explained she was investigated and examined in late 2012 after she had been forcibly returned from China to North Korea.[207] She said:

The relatives of Heo Yun Mi, the former accountant, also gave some bribes when she was detained by the secret police in 2015 in an effort to get her released as soon as possible.[209] She explained:

Kim Keum Chul, the former medicinal herb smuggler in his 30s from North Hamgyong province who was detained at detention and interrogation facilities four times between 2000 and 2014 (his case is also discussed above in the Beaten and Abused section), explained how being able to bribe officials improved his treatment. In his experience, bribery worked depending on the investigation type and officer in charge, connections and timing.[212] He said that in 2000, at a *bowibu* detention and interrogation facility in a town bordering China, it was impossible to use bribes. But in transit to his hometown at the Chongjin holding center, bribes made it possible to meet relatives or receive soap or clothes. He added that at his home districts police detention and interrogation facility, his father had used his connections, who agreed to build a new fence for the house of the *bowibu* official of the district in exchange for a transfer document and speeding up

the process. He also gave a pig to the police investigator to wrap up the case with a sentence of just three months at a hard labor detention center.

Kim Keum Chul said that in the mid-2000s he was not able to give bribes because he did not have enough connections with the secret police to influence the investigation, though he was able to get some extra food because the detention and interrogation facility where he was held was run by the police. In 2014, the last time he was detained, he did. His wife gave 100,000 NKW [worth between 15 and 25 kgs. of rice] and four cartons of cigarettes to the wife of the police investigator in his case, while his father gave the wife a big bag of peppers and other agricultural products. In exchange, his family members were allowed to visit every day and brought more cigarettes and other things of value. He said he was supposed to get a hard labor sentence for six months but got 15 days instead. He also had a connection with the head of the hard labor detention center, so he did not really do labor there and instead took care of the sick. He gave the head of the facility two cartons of cigarettes to thank him. Kim Keum Chul explained some of his experiences to Human Rights Watch:

Lim Ok Kyung, a former smuggler in her forties from South Hwanghae province, escaped North Korea in the summer of 2016. [213] She explained how bribes and connections were key to avoiding long detention, long-term imprisonment, or extended torture and mistreatment, but also showed their limits.

In 2014, Lim Ok Kyung was held at a detention and interrogation facility run by the police near the border with China in Ryanggang province for smuggling dozens of Chinese and South Korean home appliances to North Korea. The soldier who was helping her got in trouble with the police and she was detained.

Thanks to the connections of her husband, who was a mid-level party member, her uncle and her husbands friend, she was released after 10 days. The city police political head officer was her husbands friend, so they asked him for help and gave him some Peace cigarettes, a Japanese tobacco brand considered very high-end in North Korea. She said that while they only gave some cigarettes to a friend, the key was the good long-term relations her husband maintained. She said:

Because of her connections, Lim Ok Kyung was held in an individual cell at the detention and interrogation facility, but she was not allowed to sleep because of her fight with the guard. She explained:

She was also beaten during the three days she was questioned and forced to sit immobilized while waiting. She said:

In detention, she was barely given any food and there was no heating system. She said:

After being released, Lim Ok Kyung was scared and stopped smuggling, but she needed money to survive so three months later she started smuggling forbidden products again.

In 2015, Lim Ok Kyung was working in connection with networks that sent money from South Korea to North Korea and smuggling illegal Chinese cellphones to North Korea. One of her clients got caught with a Chinese cellphone, gave her name as the provider and five *bowiseong* officers went into her home to detain her. One of the officers happened to be her husbands former university classmate, so he managed to pay him 5,000 RMB (800 USD) for the construction of the provincial (*do*) *bowibu* building, and the case was closed.

Jun Sol, a former soldier in his 30s from Ryanggang province, left North Korea in 2017. He was detained for smuggling in 2013 by the police for almost six months and in 2016 for less than six months by the secret police for allegedly trying to escape to South Korea. He said he had some connections with the police and had some money, but one complicating factor was that prices could go up and make bribery unaffordable. [214] He said:

Bribery did not always prevent abuse. He explained:

Because trying to escape to South Korea is considered a severe political crime, in 2016, he was detained in *abowiseong* detention and interrogation facility in Ryanggang province. He said that nobody really knew where the facility was located and therefore it was not possible to pay bribes, although personal connections still were helpful. He was held there for less than six months and ended up getting just a warning and social awareness penalty (*sahoe kyoyang cheobun*) thanks to the background and connections of the person he went to China with.

The Democratic Peoples Republic of Korea (DPRK) is a state party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to a fair trial and the right to be free of cruel, inhuman or degrading treatment and torture. Freedom from torture is also a *jus cogens* or peremptory norm of international law, binding on all states. The North Korean government also has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which has been interpreted as forbidding gender-based violence against women as a form of discrimination. In addition, the DPRK is bound by international customary law contained in the Universal Declaration of Human Rights. [215]

These basic rights instruments have been supplemented over the years by interpretation and elaboration by treaty bodies, and further international principles affirmed by the United Nations, as well as considerable international jurisprudence. For example, the right to a fair trial, articulated in article 14 of the ICCPR, includes the right to an independent judiciary, which requires both that the state guarantee independence in law and in practice, and forbids pressure, influence, intervention or revision in judicial decision-making. [216] The UN Human Rights Committee, the official treaty body that monitors and interprets the ICCPR, issued General Comment No. 32 on the right to a fair trial under article 14 of the ICCPR, in which it emphasized that there is no exception to the requirement of competence, independence and impartiality of the judiciary, and that the judiciary must be protected from political interference by the executive branch and legislature as well as any form of political influence in their decision-making. [217]

Fair trial also includes the right to independent counsel for all defendants. The Basic Principles on the Role of Lawyers at article one establishes all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings, including pretrial detention. [218] The UN Human Rights Committee also set out the role of the lawyer in guaranteeing this right including the relations between a lawyer and their clients. In particular the committee emphasized that there is a right to prompt access to a lawyer, and that counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter. [219] Access to a lawyer is also considered a critical way to prevent and address other violations in detention. Juan Mendez, the United Nations special rapporteur on torture, formally recommended all people should have access to legal counsel no more than 24 hours after arrest and detention to prevent torture, as it is most frequently practiced during incommunicado detention. [220]

The right to due process includes the requirement that arrests must be carried out strictly according to the rule of law by competent officials. [221] Any ground for arrest or detention must be provided by law that conforms to international standards and has sufficient precision to avoid overly broad or arbitrary interpretation or application. [222] People detained should be informed of her or his arrest, any charges against him or her, and of his or her rights, including the right to legal representation, the right to medical treatment, the right to receive family visits and how to claim such rights. [223] Detention of persons awaiting trial should be an exception and be based on a determination for each individual that the detention is reasonable and necessary. [224]

Individuals suspected of committing a crime must be presumed innocent and should be treated as such until proven guilty in a court of law. [225] The presumption of innocence imposes the burden of proving the charge beyond reasonable doubt on the prosecution. [226] This right to be presumed innocent is considered to be an international customary norm. [227]

Access to the outside world is another safeguard against violations of fundamental rights, including torture, ill-treatment, and enforced disappearance. Detained persons who have not been tried should be allowed to immediately inform their family of their detention. [228] They should be given all reasonable facilities to communicate with their families, friends, and lawyers. [229] They should be able to receive visits, subject only to reasonable conditions and restrictions. [230] Soon after arrest and after each transfer from one place of detention to another, detainees have the right to notify or have the authorities notify a third party of the fact that they have been detained, and the location where they are being held. Detainees have the right to prompt access to their family, legal representatives, doctors, and if the detainee is a foreign national, the diplomatic mission of his or her country. [231]

While the North Korean government is not a state party to the Convention against Torture, the absolute prohibition on torture and cruel, inhuman or degrading treatment in international law is articulated in the ICCPR and the CRPD, which the DPRK has ratified and must comply with.

Officials must never use force to compel a detainee to confess to a crime or to testify against other persons. [232] The interrogation process must not include violence, threats or methods that impair an individuals capacity to make decisions. [233] Deprivation of food or water, lack of hygiene, or lack of appropriate medical care to coerce a confession may amount to torture and ill-treatment. [234] Domestic laws must prohibit the use of statements or confessions obtained through torture or other prohibited treatment in judicial proceedings. [235] Corporal punishment and any other cruel, inhuman or degrading punishments, as well as collective punishment, for disciplinary purposes must be prohibited. [236]

In order to prevent torture, all law enforcement officials must be fully informed and educated about the prohibition of torture and ill-treatment. [237] The law must also provide the right to lodge complaints against torture and such complaints must be investigated promptly and impartially. [238]

The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) call for, among other things, a limit to the number of people held in a room, depending on its size, appropriate sleeping arrangements, adequate facilities for personal hygiene, clothing and bedding, adequate food, and access to medical services. Women should be held in premises entirely separate from men and guarded by female staff. [239]

International law requires equal treatment of men and women, and forbids discrimination on the basis of sex. [240] The CEDAW obliges states to ensure that women enjoy the same fundamental freedoms and rights as men, including the rights to life and health, and to guarantee their full development and advancement. [241] This includes efforts to address attitudes and behaviors that may be harmful to women. [242]

International bodies have established that gender-based violence, or violence that is directed against a woman because she is a woman or that affects women disproportionately, constitutes a form of discrimination. [243] The committee responsible for monitoring and reporting on CEDAW (the CEDAW Committee) has clarified that states responsibility to eliminate discrimination requires them to take appropriate measures to regulate the actions of non-state actors. The particular risk of sexual violence and other forms of violence that women face in pretrial detention should be recognized, and appropriate measures should be taken to ensure womens safety. [244]

States are obliged to protect women and girls from violence, provide access to services for survivors of violence, and hold perpetrators accountable, including in cases of sexual violence. [245] In addition to protections from sexual violence, international human rights law guarantees the right to a remedy for victims of abuses. [246] In its General Recommendation on access to justice, the

CEDAW Committee recognizes that women may face additional barriers to redress and calls on states to ensure women's access to timely, adequate, effective, and proportionate remedies for abuses.^[247]

This report was researched and written by Asia division staff at Human Rights Watch. Some interviews were conducted by consultant Kim Sung-joong. The report was edited by Brad Adams, Asia director. Dinah PoKempner, general counsel, and Danielle Haas, senior editor, provided legal and program review. Seashia Vang, senior associate in the Asia Division, provided editing and production assistance. Cover and illustrations were designed by Choi Seong-Guk. This report was prepared for publication by Travis Carr, publications coordinator. This report was translated into Korean by Jinouk Chung and vetted by Choi Ha-young.

We are particularly indebted to external reviewer Lee Young-hwan, director at Transitional Justice Working Group. We are very grateful to the local NGOs, journalists, and academics who assisted in our research including Kwon Eun-kyoung, secretary general at the International Coalition to stop crimes against humanity in North Korea (ICNK); Jong Hyeon Mu, board member at Unification Media Group; Joanna Hosaniak, deputy director general at Citizens Alliance for North Korean Human Rights; Ahn Myung Chul, director at NK Watch; Cho Chung Hui, researcher at Good Farmers Research Institute; Yoon Yeo-sang, director, and Teodora Gyupchanova, researcher, at the Database Center for North Korean Human Rights- as well as those who assisted in the field, including Superman and Kim Seong-eun, missionary at Caleb Mission.

Above all, we express our sincere gratitude to all the North Korean women and men who shared their stories with us, and many others who could not be named for security reasons. We hope that this report will contribute to the reform of pretrial detention procedures and conditions, the creation of an independent judiciary and law enforcement body in North Korea and bringing to justice those responsible for these violations.

While Human Rights Watch benefitted from the expertise of many organizations and experts in preparing this report, Human Rights Watch is solely responsible for its contents. None of the findings, assessments, or conclusions of the report should be attributed to any of the organizations listed here.

Human Rights Watch gratefully acknowledges the support of donors whose generosity made this work possible, including the Robin Foundation and those who wish to remain anonymous.

[1] Human Rights Watch, *World Report 2020*, North Korea chapter, <https://www.hrw.org/world-report/2020/country-chapters/north-korea>; UN Commission of Inquiry (COI) on the Situation of Human Rights in the Democratic Peoples Republic of Korea (DPRK), Report of the detailed findings of the commission of inquiry on human rights in the Democratic Peoples Republic of Korea, A/HRC/25/CRP.1, February 7, 2014, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/25/CRP.1&Lang=E> (accessed September 22, 2014), paras. 111 & 259 -264.

[2] Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (COI), paras. 259 & 262.

[3] Between ages 7 and 13, all children must become members of the Korean Childrens Union. Their activities are overseen by members of the Kimilsungist-Kimjongilist Youth League, which is made up of students between age 14 and their early 30s, when people may finish higher education degrees. After leaving school, a citizen becomes a member of a relevant mass organization, such as the General Federation of Korean Trade Unions, the Union of Agricultural Working People, or the Socialist Womens Union of Korea (Womens Union), depending on employment and marital status. Party members also become officials of the mass associations for party members. The *inminban* is made up of about 20-40 households with one leader appointed to report to the Ministry of Social Security (police) and/or the Ministry of State Security (secret police, MSS) on unusual activities in the neighborhood. Human Rights Watch, *You Cry at Night but Dont Know Why: Sexual Violence in North Korea*, November 2019, p. 16 - 19, https://www.hrw.org/sites/default/files/report_pdf/northkorea1118_web2.pdf; COI, para. 110, 111, 183 & 260.

[4] Phil Robertson (Human Rights Watch), North Koreas Caste System commentary, *Foreign Affairs*, July 5, 2016, <https://www.hrw.org/news/2016/07/05/north-koreas-caste-system>.

[5] Formerly called *gukga anjeon bowibu* or *bowibu* for short, it carries the functions normally associated with secret police. It is also translated as National Security Agency, State Security Agency or State Security Department. DPRK Criminal Procedure Code (adopted 1950, last amended 2012), art. 46; COI, paras. 1169 & 1170.

[6] Ken Gause, Coercion, Control, Surveillance, and Punishment: An Examination of the North Korean Police State, Committee for Human Rights in North Korea (HRNK), 2012, https://www.hrmk.org/uploads/pdfs/HRNK_Ken-Gause_Web.pdf (accessed April 10, 2017), p.17 25. For more details on political prison camps and detention facilities, see section III. Pretrial Detention Facilities in North Korea.

[7] COI, para. 1169.

[8] For further details on detention and imprisonment facilities, see section III. Pretrial Detention Facilities in North Korea.

[9] COI, para. 700.

[10] Human Rights Watch interview with three former government officials, including a former MSS official, between December 2016 and October 2019.

[11] The police was called Ministry of Peoples Security (*inmin boanseong* or *boanseong*) until May 2020. It was also often translated as Peoples Security Agency or Department or Peoples Safety Agency or Department. It was formerly also called *inmin boanbu* or *boanbu* in Korean, literally Department of Peoples Security. Kim Se-won, North, Changes Name of Ministry of Peoples Security to Ministry of Social Security, June 2, 2020, *Radio Free Asia*, https://www.rfa.org/korean/in_focus/nk_nuclear_talks/namechange-06022020092208.html (accessed July 7, 2020); COI, paras. 1171 & 1172.

[12] For further details on detention facilities and ordinary crimes prisons, see section III. Pretrial Detention Facilities in North Korea. Ibid; Gause, Coercion, Control, Surveillance, and Punishment, p.26-35.

[13] Ibid.

[14] COI, para. 700; Gause, Coercion, Control, Surveillance, and Punishment, p.26.

[15] COI, para. 134.

[16] Ibid.; Gause, Coercion, Control, Surveillance, and Punishment, p. 57.

[17] COI, para. 737 & 818; Yoon Yeo-sang, Ku Hyeon-ja, Kim In-sung & Lee Ji-hyun, *Prisoners in North Korea Today*, Database Centre for North Korean Human Rights (NKDB), 2011, p. 93; Good Friends, North Korea Today No. 465, July 15, 2012, <http://www.goodfriendsusa.blogspot.ch/2012/08/north-korea-today-no-465-july-25-2012.html> (accessed June 16, 2020); Gause, Coercion, Control, Surveillance, and Punishment, p. 61.

[18] Gause, Coercion, Control, Surveillance, and Punishment, p.36.

[19] DPRK Socialist Constitution (adopted 1972, last amended 2016), arts. 106 & 109; all publicly available North Korean laws are available in Korean in the Unification Legal Database, https://www.unilaw.go.kr/bbs/selectBoardList.do?bbsId=BBSMSTR_000000000021 (accessed July 29, 2020).

[20] On April 13, 2012, the fifth session of the 12th Supreme Peoples Assembly (SPA) elected Kim Jong Un as First Chairman of the National Defense Commission of the DPRK, which was replaced by the State Affairs Commission in the 2016 amendments to the constitution. Alexandre Mansourov, Part II: The Kim Family Reigns: Preserving the Monarchy and Strengthening the Party-State, 38 *North*, December 19, 2012, https://www.38north.org/2012/12/amansourov121912/#_ednref5 (accessed February 18, 2019).

[21] Gause, Coercion, Control, Surveillance, and Punishment, p.30 & 58; Robert Collins, North Koreas Organization and Guidance Department: The Control Tower of Human Rights Denial, Committee for Human Rights in North Korea (HRNK), 2019, https://www.hrmk.org/uploads/pdfs/Collins_OGD_Web.pdf (accessed July 8, 2020), p. 13 -17.

[22] Ibid.

[23] DPRK Criminal Procedure Code (1950, 2012), art. 46.

[24] The Prosecutors Offices has oversight over the criminal process from investigation, going through preliminary examination and trial, including detention, raids or searches without the intervention of a court or judge. Also, the role of the prosecutor during trial not only include proving the crimes of the accused but also monitoring trial proceedings. DPRK Criminal Procedure Code (1950, 2012), arts.12, 14, 46 & 47; Gause, Coercion, Control, Surveillance, and Punishment, p. 93 & 94; DPRK Prosecutor Surveillance Law (adopted 1985, last amended 1998).

[25] Also often translated as Standing Committee of the Supreme Peoples Assembly.

[26] DPRK Socialist Constitution (1972, 2016), art. 156.

[27] Human Rights Watch interviews with two former detainees and four government officials between April 2016 and October 2019.

[28] DPRK Socialist Constitution (1972, 2016), art. 153.

[29] DPRK Criminal Procedure Code (1950, 2012), art. 47 & 49.

[30] The Presidium often also called Standing Committee, of the Supreme Peoples Assembly (SPA) has the power to adopt its own legislation. In 2007, the Standing Committee of the SPA s Decision No. 2483 adopted new criminal offenses for ordinary crimes as an Addendum to the Criminal Code. For further details on this law, see section II, A Flawed Criminal Procedure Law and System, Criminal Law, Procedure and Punishment. FIDH-International Federation for Human Rights, The Death Penalty in North Korea: In the Machinery of a Totalitarian State, May 16, 2013, <https://www.fidh.org/IMG/pdf/en-report-northkorea-high-resolution.pdf> (accessed May 12, 2020); DPRK Socialist Constitution (1976, 2016), art. 158.

- [31] The anti-state and anti-nation crimes in chapter 3 of the Criminal Code have fourteen provisions (from article 60 to article 73) including conspiracy to subvert the state (article 60), terrorism (article 61), anti-state propaganda and agitation (article 62), treason against the Fatherland (article 63), treason against the nation (article 68), harbouring an individual who committed a crime against the state or the nation (article 71), and failure to report a crime against the state (72). DPRK Criminal Code (adopted 1990, last amended 2015), arts. 6073; Human Rights Watch, *You Cry at Night but Dont Know Why*, p. 17 & 33 -37; Darren C. Zook, Reforming North Korea: Law, Politics, and the Market Economy, Stanford Journal of International Law, vol. 131 (2012); Citizens Alliance for North Korean Human Rights (NKHR), Status of womens rights in the context of socio-economic changes in the DPRK, May 2013, http://eng.nkhumanrights.or.kr/include/dn.php?mode=n_r_reports&ufile=20161208121226.pdf&rfile=Status%20of%20Womens%20Rights.2013.Eng..pdf (accessed July 5, 2020).
- [32] The Ten principles for the Establishment of a Monolithic Ideological System of the WPK (Ten Principles) stipulate that the instructions of the founder of the country and Eternal and Great Leader Kim Il Sung (1912-1994), his son known as the Dear Leader Kim Jong Il (1941-2011) and his grandson Kim Jong Un (1994) are legal and supreme orders. Joanna Hosaniak, Prisoners of Their Own Country, NKHR, 2004, p.57, http://eng.nkhumanrights.or.kr/include/dn.php?mode=n_r_reports&ufile=20161208131257.pdf&rfile=Prisoners%20of%20their%20own%20country%20north%20korea.pdf (accessed January 18, 2018).
- [33] The Ten Principles are the highest norms in official North Korean government ideology. They consist of ten main principles and 65 specific directives which govern the thoughts and behavior of the North Korean people. The Ten Principles describe how to establish the one-ideology system: 1) We must give our all in the struggle to unify the entire society with the revolutionary ideology of the Great Leader Kim Il Sung. 2) We must honor the Great Leader comrade Kim Il Sung with all our loyalty. 3) We must make absolute the authority of the Great Leader comrade Kim Il Sung. 4) We must make the Great Leader comrade Kim Il Sung's revolutionary ideology our faith and make his instructions our creed. 5) We must adhere strictly to the principle of unconditional obedience in carrying out the Great Leader comrade Kim Il Sung's instructions. 6) We must strengthen the entire partys ideology and willpower and revolutionary unity, centering on the Great Leader comrade Kim Il Sung. 7) We must learn from the Great Leader comrade Kim Il Sung and adopt the communist look, revolutionary work methods and people-oriented work style. 8) We must value the political life we were given by the Great Leader comrade Kim Il Sung, and loyally repay his great political trust and thoughtfulness with heightened political awareness and skill. 9) We must establish strong organizational regulations so that the entire party, nation, and military move as one under the one and only leadership of the Great Leader comrade Kim Il Sung. 10) We must pass down the great achievement of the revolution by the Great Leader comrade Kim Il Sung from generation to generation, inheriting and completing it to the end. Jeong-ho Roh, Ten Principles for the Establishment of the One Ideology System, Columbia Law School, 2006, http://www2.law.columbia.edu/course_005_L9436_001/North%20Korea%20materials/10%20principles%20of%20juche.html (accessed March 21, 2016). For a complete listing of the sixty-five directives see translation by Joanna Hosaniak, Kyung Eun Ha and Markus Simpson Bell, NKHR, <http://www.internationallawbureau.com/wp-content/uploads/2016/12/Ten-Great-Principles-of-the-Establishment-of-the-Unitary-ideology.pdf> (accessed March 31, 2017).
- [34] The North Korean government conducts all activities under the leadership of the party. DPRK Socialist Constitution (adopted 1972, last amended 2016), art.11, DPRK Constitution Text Released Following 2016 Amendments, *North Korea Leadership Watch*, (4 September 2016), <http://wp.me/pEa7r-5sF> (accessed March 31, 2017).
- [35] DPRK Socialist Constitution (1972, 2016), art.11.
- [36] Report on Human Rights in North Korea 2014, Korea Bar Association, p. 48, <http://www.internationallawbureau.com/wp-content/uploads/2016/12/Ten-Great-Principles-of-the-Establishment-of-the-Unitary-ideology.pdf> (accessed March 31, 2017).
- [37] DPRK Criminal Procedure Code (1950, 2012), art. 2.
- [38] DPRK Socialist Constitution (1972, 2016), art. 162.
- [39] *The Selected Works of Kim Il Sung*, vol. 2 (1971), p.142.
- [40] COI, para. 123.
- [41] On December 19, 2007, North Korea adopted, by Decision No. 2483 of the Standing Committee [the current Presidium] of the Supreme Peoples Assembly, an Addendum to the Criminal Code for ordinary crimes. This expanded the crimes for which the death penalty is applied. The addendum has functioned as a complement to the Criminal Code and comprises 23 articles, of which 16 stipulate the death penalty for crimes including smuggling and dealing in narcotics, seizing state property, currency counterfeiting and illicitly selling state resources. The addendum permits the application of capital punishment as long as the authorities are able to establish that the crime in question was extremely serious. FIDH, The Death Penalty in North Korea: In the Machinery of a Totalitarian State.
- [42] DPRK Criminal Code (1990, 2015), art. 10.
- [43] The death penalty cannot be applied to children or pregnant women. Criminals sentenced to hard labor for life or long-term are sent to do hard labor at ordinary prison camps (*kyohwaso*) and lose some of their rights, such as the right to vote or party membership. Those sentenced to short-term hard labor maintain their rights. Supplementary punishments may be applied in conjunction with the main penalties, such as confiscation of property, fines, forfeiture of a license, and suspension of a license. DPRK Criminal Code (1990, 2015), arts. 2738.
- [44] The most common administrative penalties are 1.) Warning, severe warning penalty, 2.) Unpaid hard labor penalty (at workplace between one and six months), and 3.) Short term (between five days and six months) hard labor penalty (*rodong kyoyang cheobun*, literally labor awareness penalty). DPRK Administrative Penalty Law (2004, 2011), arts. 13-17.
- [45] DPRK Administrative Penalty Law (2004, 2011), arts. 229-238, & 251; Park Ju-hyun, The Human Rights Guaranteeing Characteristics and Problem of the North Korean Criminal Justice System, Kyungnam University, December 2015, p. 65, http://www.riss.kr/search/detail/DetailView.do?p_mat_type=bc54d9b8bc7c4db09&control_no=a1a694fc7c4ac56ffe0bdc3ef48d419&outLink=N (accessed May 11, 2010).
- [46] The term regulation in Korean *dansok* is also often translated as crackdown or control.
- [47] Other covered offenses include extortion of institutions/peoples property, violation of import/export orders, breaking set market prices, selling food that is supposed to be provided for free, (undefined) illegal money-making, not properly taking care of agricultural machinery, illegal (unregistered) foreign currency making, stealing electricity, not taking proper attendance of government workers, mobilizing organizations or groups for projects that are not assigned to them, not mobilizing organizations or groups for assigned projects, fighting, gang fighting, public drunken behavior, public property destruction, walking on railroads or highways, making (illegal) alcohol for sale, smuggling, trafficking or crossing the border illegally, hiding bandits, misuse of ID cards, traffic violations, cutting trees, and polluting water and soil. DPRK Peoples Security Regulation Law (adopted 1992, last amended 2005), arts. 8-40.
- [48] DPRK Peoples Security Regulation Law (adopted 1992, last amended 2005), art. 7.
- [49] Human Rights Watch interview with three former government officials between December 2016 and October 2019; Gause, *North Korean House of Cards*, p. 244 and 258; White Paper on Human Rights in North Korea 2017, Korean Institute for National Unification (KINU), p. 99; DPRK Criminal Procedure Code (1950, 2012), art. 46.
- [50] Human Rights Watch interview with three former government officials between December 2016 and October 2019; COI, paras. 701 & 702; Gause, *North Korean House of Cards*, p. 244 & 258.
- [51] The Criminal Procedure Code says that the MSS will investigate and conduct the preliminary examination of political cases and the provincial court will hear the first instance trial for anti-state and anti-nation cases. However, the Supreme Court can decide to directly try political cases. DPRK Criminal Procedure Code (1950, 2012), arts. 46, 51 & 53.
- [52] COI, paras. 696 & 720-724.
- [53] COI, para. 703, for further details on a case passed from the secret police onto the police, see section IV. Abuses in Pretrial Detention and Interrogation Facilities, Beaten and Abused, Case of Yoon Young Cheol.
- [54] Human Rights Watch, *You Cry at Night but Dont Know Why*, p. 36; Citizens Alliance for North Korean Human Rights (NKHR), Status of womens rights in the context of socio-economic changes in the DPRK, May 2013, https://eng.nkhumanrights.or.kr:444/board/download.php?fileno=1101&no=3&board_table=bbs_literature&page=1&word=&searchItem=&cate_id= (accessed March 21, 2016). For example, under North Korean law, the same crime may be punished differently depending on the severity or circumstances (*jeongsang*). For instance, a person caught harassing a woman could be punished with 1.) Social education based on art. 23 and 57 of the Peoples Safety Regulation Law; 2.) Up to three months of short-term hard labor; 3.) More than three months of hard labor in severe cases under art. 191 of the Administrative Penalty Law; 4.) Up to one year of short-term hard labor for shameless cases; 5.) Up to five years of long-term hard labor for repeated or plotted cases; 6.) Up to 10 years of hard labor for those who lead or are part of gangs that bring social instability based on art. 246 of the Criminal Code; 7.) Hard labor for life; or 8.) The death sentence for delinquent behavior with (undefined) especially severe circumstances under art. 17 of the Addendum to the Criminal Code. DPRK Peoples Safety Regulation Law (1992, 2005), arts. 23 & 57; DPRK Administrative Penalty Code (2004, 2011), art. 191; DPRK Criminal Code (1990, 2015), art. 246; Addendum to the Criminal Code, art. 17.
- [55] Additional rights of suspects include 1.) the prohibition of arbitrary arrest (arrest or detention must be made in accordance with the law), 2.) the right to file a complaint (if a suspects rights are violated, he or she can file a complaint with the prosecutor within seven days of the alleged violation and the prosecutor is supposed to act on the complaint within three days), 3.) the right to contest a charge (during interrogation, a preliminary examiner is required to first inform the suspect of his or her rights, which include the right to contest a charge, offer counter-evidence, request further investigation, request a change of officers assigned to the case, including the preliminary examination officer, and to draft his/her own statement on the interrogation report), 4.) release pending trial (only suspects in crimes punishable by long-term hard labor or death who are likely to avoid preliminary examination or trial or interfere with an investigation and those suspected of offenses punishable by short-term labor in cases with special circumstances can be detained or arrested pending trial), and 5.) notification to the family (when a person is arrested or detained, his/her family or work place should be notified of the detention or arrest within 48 hours along with the reason for the detention or arrest and the detention location). DPRK Criminal Procedure Code (1950, 2012), art. 6, 168, 169, 176, 178, 182 & 258.
- [56] DPRK Criminal Procedure Code (1950, 2012), art. 37 & 166. According to a North Korean textbook on Criminal Procedure, methods of the police using force, torture or severe punishment

are harmful interrogation methods that prevent the truth from being discernible. See Ha Tae-young, The Content and Features of the Preliminary Examination System of North Korea's Criminal Procedure Act: The Construction Comment of Related Provision and the Implications, thesis, Dong-A Law Review, vol. 70, February 2016, p. 37 <https://www.kci.go.kr/kciportal/ci/sereArticleSearch/ciSereArtiView.kci?sereArticleSearchBean.artId=ART002086163> (accessed May 10, 2020) (citing Rhee Jae Do, *Theory of Criminal Procedure Volume 2*, Kim Il Sung University Publishing House, 1987, p. 155; Human Rights Watch was unable to obtain a copy of the textbook and thus unable to confirm the language quoted by Ha Tae-young).

[57] DPRK Criminal Procedure Code (1950, 2012), arts. 37 & 166; Tae-ung Baik, *Nonjudicial Punishments of Political Offenses in North Korea -with a Focus on Kwanriso*, The American Journal of Comparative Law, vol. 64, Issue 4, 1 December 2016, p. 891930, <https://doi.org/10.1093/ajcl/avx001> (accessed October 26, 2019), p. 896.

[58] DPRK Criminal Procedure Code (1950, 2012), art. 166.

[59] DPRK Criminal Procedure Code (1950, 2012), art. 37.

[60] White Paper on Human Rights in North Korea 2014, KINU, p. 208; Baik, *Nonjudicial Punishments of Political Offenses in North Korea*, p.895 & 896.

[61] DPRK Criminal Procedure Code (1950, 2012), art. 283.

[62] *Ibid.*, art. 158. For more detail on North Korea's criminal procedural detail, see next section II. A Flawed Criminal Procedure Law & System, Criminal Investigation and Prosecution.

[63] Human Rights Watch interview with a former police officer and six former detainees between April 2015 and May 2020; DPRK Criminal Procedure Code (1950, 2012), art. 62; DPRK Lawyers Law (1993), art. 8.

[64] DPRK Criminal Procedure Code (1950, 2012), arts. 133, 143 & 145.

[65] *Ibid.*, art. 147.

[66] *Ibid.*, art. 260.

[67] *Ibid.*, art. 269.

[68] *Ibid.*, arts. 10 & 46; for further details on law enforcement agencies, see section I. North Korea's Security and Law Enforcement Agencies.

[69] DPRK Criminal Procedure Code (1950, 2012), art. 135.

[70] DPRK Criminal Procedure Code (1950, 2012), art. 143; Human Rights Watch interviews with 22 former detainees and 6 former government officials, locations withheld, between January 2015 and October 2019.

[71] Human Rights Watch interview with 22 former detainees, locations withheld, between January 2015 and October 2019.

[72] DPRK Criminal Procedure Code (1950, 2012), art. 143.

[73] An investigator may arrest a suspect without the approval of a prosecutor, search the suspects body or residence, and confiscate evidence when 1.) a criminal just committed a crime or was caught while committing a crime, 2.) a victim or person who saw the crime pointed out the criminal, 3.) there is evidence of a crime in the body or residence of the suspect, 4.) a criminal or suspect tries to commit suicide or run away, and 5.) the location of the place of residence of the suspect is unclear. DPRK Criminal Procedure Code (1950, 2012), art. 142 & 143.

[74] DPRK Criminal Procedure Code (1950, 2012), art. 143.

[75] Human Rights Watch interview with a former police officer, name and location withheld, on October 29, 2019.

[76] Human Rights Watch interviews with a former government official between August 2016 and May 2020.

[77] *Ibid.*

[78] Human Rights Watch interview with four former government officials between January 2016 and May 2020.

[79] DPRK Criminal Procedure Code (1950, 2012), arts. 163, 175 & 177-180.

[80] Based on objective evidence, the preliminary examination stage seeks to uncover all facts that count without reserve to get an understanding for the resolution of the criminal case, including the nature of the crime committed by the accused, the motives and purpose, the means and methods of the crime, the role of involvement and level of responsibility of the crime. DPRK Criminal Procedure Law (1950, 2012), arts. 133 & 148.

[81] Gause, *North Korean House of Cards*, p. 264 & 273.

[82] DPRK Criminal Procedure Law (1950, 2012), art. 156.

[83] When the prosecutor, judge, or court returns a case with a possible sentence of hard labor for life or long-term, or execution, the follow up preliminary examination must be finished within 20 days. For cases with a possible short-term hard labor sentence must be finished within seven days. DPRK Criminal Procedure Law (1950, 2012), arts. 150, 151 & 157.

[84] Kim Young-Cheol, former police officer, public testimony, 10th International Conference on North Korean Human Rights & Refugees, Toronto, hosted by Citizens Alliance for North Korean Human Rights & Han Voice, August 21, 2010, http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4503&search_mode=&search_word=&pg=1 (accessed October 28, 2019).

[85] Human Rights Watch interview with a former police officer, October 29, 2019, and May 1, 2020.

[86] *Ibid.* DPRK Criminal Procedure Code (1950, 2012), art. 108.

[87] Human Rights Watch interview with two former police officers in October 2019.

[88] Kim, *The North Korean Penal Code*, p. 22 & 23; Kwak Myeong-Il, *A Study on the Change of relations between Peoples Safety Agents and Residents in North Korea*, PhD Thesis, University of North Korean Studies, 2016, http://www.riss.kr/search/detail/DetailView.do?p_mat_type=be54d9b8bc7cd09&control_no=765e38eb3e808740ffe0bdc3ef48d419&outLink=N (accessed August 19, 2020), p.35.

[89] DPRK Socialist Constitution (1972, 2019), art. 162 & 168; Kim, *The North Korean Penal Code, Criminal Procedures, and their Actual Applications*, p. 22 & 23.

[90] Human Rights Watch interview with two former government officials between August 2016 and May 2020; Kim, *The North Korean Penal Code*, p. 22-23.

[91] Kwak, *A Study on the Change of relations between Peoples Safety Agents and Residents in North Korea*, p.35; Human Rights Watch interview with two former government officials and three former detainees between January 2015 and October 2019.

[92] *Ibid.*

[93] Human Rights Watch interview with three former government officials between January 2015 and October 2019.

[94] Human Rights Watch interview with four former government officials and two former detainees between January 2015 and October 2019; Kim Young-Cheol, former police officer, public testimony, 10th International Conference on North Korean Human Rights and Refugees, Toronto, August 21, 2010; Kwak, *A Study on the Change of relations between Peoples Safety Agents and Residents in North Korea*, p.35.

[95] Human Rights Watch interview with two former government officials between October 2019 and May 2020; Kim, former police officer, public testimony, 10th International Conference on North Korean Human Rights and Refugees.

[96] Human Rights Watch interview with a former police officer, October 29, 2019.

[97] The North Korean system is built on a guiding ideology that gives primacy to the statements and personal directives of the countrys leader, then to the Ten Principles of the Establishment of the Unitary Ideological System of the WPK, the rules of the party, the Socialist Constitution, and, finally, domestic laws. Human Rights Watch interview with three former government officials between January 2015 and October 2019; Kim, *The North Korean Penal Code*, p. 41; Kwak, *A Study on the Change of relations between Peoples Safety Agents and Residents in North Korea*, p.35; Human Rights Watch, *You Cry at Night but Dont Know Why: Sexual Violence in North Korea*, p. 17 & 33 -37; Joanna Hosaniak, *Prisoners of Their Own Country*, Citizens Alliance for North Korean Human Rights (NKHR), 2004, <http://eng.nkhumanrights.or.kr/include/dn.php?>

mode=n_r_reports&ufile=20161208131257.pdf&rfile=Prisoners%20of%20their%20own%20country%20north%20korea.pdf (accessed January 18, 2018), p. 57; DPRK Socialist Constitution (1972, 2016), art. 11.

[98] Human Rights Watch interview with two former government officials between December 2017 and May 2020; Kim, The North Korean Penal Code, p. 40-41.

[99] DPRK Criminal Procedure Code (1950, 2012), arts.157 & 159.

[100] Ibid., art. 62, 158 & 159.

[101] Ibid., art. 161 & 162.

[102] Ibid., arts. 253 & 255.

[103] Ibid., art. 257.

[104] DPRK Criminal Procedure Code (1950, 2012), art. 260.

[105] Ibid., art. 261.

[106] Ibid.

[107] Ibid., art. 264.

[108] Human Rights Watch interview with three former government officials between October 2019 and May 2020.

[109] DPRK Criminal Procedure Code (1950, 2012), art. 269.

[110] Ibid., art. 273.

[111] Ibid., art. 289.

[112] Ibid., art.277.

[113] Ibid., art. 286.

[114] Ibid.

[115] Ibid., art. 359.

[116] Ibid. art. 366.

[117] KINU, 2012 White Paper, p. 195 & 196. <http://repo.kinu.or.kr/bitstream/2015.oak/915/1/0000720104.pdf> (accessed July 29, 2020); Human Rights Watch interview with former detainee who filed an appeal, location withheld, October 24, 2019.

[118] The Supreme Peoples Assembly also has the power to elect and summon the head of the Supreme Court. DPRK Socialist Constitution (adopted 1972, last amended 2019), art. 91, 166 & 168.

[119] DPRK Criminal Procedure Code (1950, 2012), art. 50; DPRK Socialist Constitution (1972, 2019), art. 159.

[120] Ibid., art. 51.

[121] Ibid.

[122] Ibid., arts. 52 & 91; DPRK Court Constitution Law (1976, 2011), art. 3.

[123] When a case has overlapping elements in a crime, the case will be tried in the court with the highest jurisdiction in the following order: 1.the Military Court; 2. the Military Supply Court; 3.the Railway Court; and 4. the Peoples Court. DPRK Criminal Procedure Code, arts.52 & 91.

[124] Ibid., art. 53.

[125] Ibid.; Baik, Nonjudicial Punishments of Political Offenses in North Korea, p. 906.

[126] Kim, The North Korean Penal Code, Criminal Procedures, and their Actual Applications, p. 20.

[127] For further details, see section I. North Korea's Security & Law Enforcement Agencies.

[128] Article 18 of the Socialist Constitution states that the state shall perfect the socialist legal system and strengthen the socialist lawful living. According to an article written by Kim Jong Il in 1982, the committee will organize and uniformly carry out various inspections over administrative and economic agencies, workplaces, and other supervisory bodies. Second, it will perform the duty of educating the workers in its area so that they will observe the laws. Third, it will decide various policies and levels of punishment for social and economic crimes. Fourth, the committee will have authority over disputes and misunderstanding that may arise between and among the related agencies in the course of executing laws and regulations, including the Kim Il Sung guidelines. DPRK Socialist Constitution (1972, 2019), art. 18; Kim, North Korean Penal Code, p. 22 (citing Kim Jong Il, *On strengthening Socialist Lawful Living*, The Kim Jong Il Collections, vol. 7, Pyongyang: The Workers Party of Korea Publishing House, 1996, p.342343).

[129] DPRK Administrative Penalty Law (2004, 2011), art. 229 & 252; Park, The Human Rights Guaranteeing Characteristics and Problem of the North Korean Criminal Justice System, p. 65

[130] Human Rights Watch interview with Cho Chung Hui, former member of a provincial peoples committee; Kim, North Korean Penal Code, pa. 21-22; Park, The Human Rights Guaranteeing Characteristics and Problem of the North Korean Criminal Justice System, p. 66-67

[131] Ibid.

[132] DPRK Criminal Procedure Code (1992, 2012), art. 46; COI, para. 134.

[133] The decision-making is centralized and involves consultation with provincial and national headquarters. If the interrogating MSS office considers the case to be serious enough to warrant an enforced disappearance to a political prison camp or summary execution this appears to require a decision from at least the MSS national headquarters. It is not clear that courts are involved in this process. COI, para. 696, 698 & 720-723; for more details regarding political prison camps, see section III. Pretrial Detention Facilities in North Korea.

[134] COI, para. 841; Mapping the Fate of the Dead: Killings and Burials in North Korea, Transitional Justice Working Group (TJWG), 2019, p 45 & 52, <https://en.tjwg.org/wp-content/uploads/2019/07/2019-Report-Mapping-the-Fate-of-the-Dead-Killings-and-Burials-in-North-Korea.pdf> (accessed July 5, 2020).

[135] Human Rights Watch interviews with 46 North Koreans and eight former government officials between January 2015 to October 2019; Human Rights Watch, *You Cry at Night but Dont Know Why*, p. 23; UN Office of the High Commissioner of Human Rights (OHCHR), The Price is Right: The violation of the right to an adequate standard of living in the DPRK, May 2019, p. 2,3 & https://www.ohchr.org/Documents/Countries/KP/ThePriceIsRights_EN.pdf; COI, para. 521.

[136] COI, para. 318.

[137] Corruption Perception Index 2019, Transparency International, January 23, 2020, <https://www.transparency.org/cpi2019> (accessed April 21, 2020).

[138] Human Rights Watch interviews with 46 North Koreans and eight former government officials between January 2015 to October 2019.

[139] Human Rights Watch interview with a former trader, location withheld, June 28, 2018.

[140] DPRK Criminal Procedure Code (1950, 2012), art. 143; Human Rights Watch interview with four former detainees between June 2018 and October 2019. The word *daegisil* (waiting room) is also used to refer to separate cells that hold detainees under questioning or investigation before starting the preliminary examination stage in some large detention and interrogation facilities (*kuryujang*).

[141] Human Rights Watch with three former government officials and six former detainees between April 2015 and October 2019; Kwak, *A Study on the Change of relations between Peoples Safety Agents and Residents in North Korea*, p. 42. The word *kuryujang* is also used to refer to the cells where detainees are held while undergoing investigation and/or preliminary examination inside the detention and interrogation facility (*kuryujang*).

[142] These holding facilities (*jipkyulso*) were originally traveler holding camps set up near trains stations for people traveling without permits, but they expanded, and many were set up near the Chinese border to hold the growing number of North Korean escapees who were caught and sent back to North Korea since the late 1990s. Yoon, Ku, Kim & Lee, *Prisoners in North Korea Today*, p. 30.

[143] The DPRK Criminal Code provides nine possible options for sentencing 1.) death, 2.) unpaid hard labor for life (*mugi rodong kyohwahyeong*, in Korean literally life-term of reform through labor criminal penalty), 3.) fixed-term hard labor (*yugi rodong kyohwahyeong*, in Korean literally limited term of reform through labor criminal penalty), 4.) short-term hard labor (*rodong danryeonhyeong*, literally labor training criminal penalty), 5.) deprivation of the right to vote, 6.) confiscation of property, 7.) fine, 8.) removal of qualifications, and 9.) suspension of qualifications. DPRK Criminal Code (1950, 2015), arts. 27 & 31.

[144] COI, paras. 423 & 819; Young-Hwan Lee, North Korea: Republic of Torture, NKHR, 2007, p. 94-97, http://eng.nkhumanrights.or.kr/data/n_r_reports/20161208121236.pdf (accessed July 5, 2020).

[145] Ibid., paras. 816 & 819.

[146] Ibid., paras. 423 & 425; Yoon, Ku, Kim & Lee, *Prisoners in North Korea Today*, p. 32.

[147] DPRK Criminal Code (1950, 2015), art. 31.

[148] The COI report contains testimonies of a few hard labor detention centers run by the secret police and the military. COI, paras. 816-818; Yoon, Ku, Kim & Lee, *Prisoners in North Korea Today*, p. 347.

[149] Cho Chung Hui, a former party official and member of a Provincial Peoples Committee, said only healthy, young, and strong people would be sent to police detention centers. These centers are a primary source of revenue and detainees are outsourced for construction projects or other labor intensive work. Rights Watch interview with a former police officer, Cho Chung Hui, Teodora Guypachanova and Alice Choi, researcher at Database Center for North Korean Human Rights between April and May 2020; Young-Hwan Lee, North Korea: Republic of Torture, NKHR, 2007, p. 98-101, http://eng.nkhumanrights.or.kr/data/n_r_reports/20161208121236.pdf (accessed July 5, 2020).

[150] Human Rights Watch interview with Cho Chung Hui, Teodora Guypachanova and Alice Choi, researcher at Database Center for North Korean Human Rights between April and May 2020.

[151] There are no official statistics on the number of North Korean women, men or children who have tried to escape to China, but the vast majority of North Koreans who are able to leave the country are women. According to the South Korean Ministry of Unification, in 2019 80.7 percent of the North Koreans who arrived in South Korea were women (845 out of 1,047); between January and March 2020 71.1 percent were women (96 out of 135). South Korean Ministry of Unification, Policy on North Korean Defectors, Number of North Korean Defectors Entering South Korea. Surveillance of women is less stringent than of men, who are required to attend their government-mandated workplaces. A major factor is illegal networks that traffic women into the commercial sex trade, including through brothels and online sex chatting services, or as brides to Chinese men. https://www.unikorea.go.kr/eng_unikorea/relations/statistics/defectors/ (accessed April 20, 2020); Human Rights Watch, *Give Us a Baby and We Will Let you Go: Trafficking of Kachin Brides from Myanmar to China*, March 21, 2019, <https://www.hrw.org/report/2019/03/21/give-us-baby-and-we-will-let-you-go/trafficking-kachin-brides-myanmar-china>; Human Rights Watch, *You Cry at Night but Dont Know Why*, p. 20-24 & 32; COI, paras. 410-412, 456, 700-717 & 1170; Human Rights Watch interview with nine smugglers, locations withheld, between January 2015 and August 2018.

[152] Ibid., para. 411.

[153] Ibid., para. 713.

[154] On October 8, 2014, Choe Myong Nam, a North Korean foreign ministry official in charge of UN affairs and human rights, said at a briefing with reporters in New York that North Korea had no prison, things like that. According to the summary record of a session of the DPRK government with the Committee on the Elimination of Discrimination against Women on July 18, 2005, Ho O Bom, then director of the legal affairs department at the presidium of the Supreme Peoples Assembly, said that people who did not understand the way his country was run often asked questions about the number of prisoners. There were no prisons in the Democratic Peoples Republic of Korea. Criminals were sent to labor reform institutions, where they worked under strict supervision and were remunerated for their efforts. UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Democratic Peoples Republic of Korea, 2009, para. 45; DPRK Criminal Law, art.31; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Summary record of the 699th meeting, July 18, 2005, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSR.699&Lang=en, para. 38; CEDAW Committee, 68th session, Summary record of the 1554th meeting, November 8, 2017, (accessed February 18, 2019) <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsKcAJS%2fU4wb%2bdIVicvG05RxP5%2bsP9Kr72JVaIpXVnDHBGgaNVpmnx6cNAIDjNXbvBlsv7xCXfotfuHerKpX%2f06EvYXGDPmTOF7jHHfOH4eOG> (accessed February 18, 2019); Cara Anna, North Korea, at UN, mentions its labor camps, *Associate Press*, October 8, 2014, <https://www.seattletimes.com/nation-world/north-korea-at-un-mentions-its-labor-camps> (accessed February 18, 2019).

[155] CEDAW Committee, 68th session, Summary record of the 1554th meeting, November 8, 2017, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsKcAJS%2fU4wb%2bdIVicvG05RxP5%2bsP9Kr72JVaIpXVnDHBGgaNVpmnx6cNAIDjNXbvBlsv7xCXfotfuHerKpX%2f06EvYXGDPmTOF7jHHfOH4eOG> (accessed February 18, 2019); COI, para. 786; DPRK Criminal Code (1950, 2015), arts. 27 & 31.

[156] DPRK Criminal Law (1950, 2015), arts. 27, 30 & 31.

[157] During the 1554th meeting of the Committee on the Elimination of Discrimination against Women with the North Korean government, Jong Song Il, a researcher at the Ministry of Foreign Affairs said, the existence of political prison camps were groundless. Confidential witness testimony indicates that diplomats of the DPRK are under strict instructions never to admit to the existence of the camps; CEDAW Committee, 68th session, Summary record of the 1554th meeting, November 8, 2017, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsKcAJS%2fU4wb%2bdIVicvG05RxP5%2bsP9Kr72JVaIpXVnDHBGgaNVpmnx6cNAIDjNXbvBlsv7xCXfotfuHerKpX%2f06EvYXGDPmTOF7jHHfOH4eOG> (accessed February 18, 2019); COI, para. 731.

[158] COI, paras. 1033-1067.

[159] Ibid., paras. 731 & 844.

[160] Human Rights Watch interview with 22 former detainees and eight former government officials, locations withheld, between January 2015 and January 2020.

[161] Human Rights Watch interview with eight former government officials between April 2015 and October 2019.

[162] Ibid.

[163] Human Rights Watch interview with former police officer, October 27, 2019.

[164] He also said that sometimes after mobilizations and loyalty demanding projects are finished, government officials from Pyongyang sent orders to detain certain heads of state-owned enterprises for not having provided enough money or laborers, as demanded. Police would detain such managers in detention and interrogation facilities for three to seven days with educational objectives, so they would make efforts to give more next time. Ibid.

[165] Human Rights Watch interview with 22 former detainees and eight former government officials between January 2015 and October 2019; Yoon, Ku, Kim & Lee, *Prisoners in North Korea Today*, p. 187.

[166] Human Rights Watch interview with 22 former detainees and eight former government officials between January 2015 and October 2019.

[167] Human Rights Watch interview with 22 former detainees and four former government officials between January 2015 and October 2019.

[168] Ibid.

[169] Human Rights Watch interview with ten former detainees and two former government officials between January 2015 and June 2018.

[170] Ibid.

[171] Human Rights Watch interview with 22 former detainees and eight former government officials between January 2015 and October 2019.

[172] Human Rights Watch interview with 22 former detainees between January 2015 and October 2019.

[173] Ibid.

[174] COI, para. 713.

[175] Ibid., paras. 713 & 717.

[176] Human Rights Watch, *You Cry at Night but Dont Know Why: Sexual Violence in North Korea*, pgs. 39-55; Human Rights Watch, UN: Expose Abuses of Women in Detention in North

[177] The COI found forced abortion, infanticide, and sexual humiliation (including physical and verbal sexual molestation and rape) against women and children forcibly repatriated from China to North Korea in detention facilities that amounted to crimes against humanity. As a matter of standard practice, forcibly returned North Korean women entering detention facilities near the border must strip fully naked in front of other prisoners and guards. While naked they are forced to perform a series of squats to dislodge money hidden in their private parts (a practice known as pumping). They are also searched for money by female, and sometimes also male, guards who insert their hands into the victims vagina using unsanitary techniques. COI, paras. 1105-1107.

[178] For further details see the case of Heo Yun Mi, described below in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Unhealthy and Inhumane Detention Conditions; unless other sources are specifically named, this account is based on Human Rights Watch interview with Heo Yun Mi (pseudonym), location withheld, August 14, 2018.

[179] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Park Ji Cheol (pseudonym), location withheld, April 16, 2015.

[180] Given the volatility and complexity around the official and market North Korean currency rate, Human Rights Watch converted the value of the North Korean won to its value of amount of rice in the time of reference.

[181] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Kim Sun Young (pseudonym), location withheld, February 2, 2016.

[182] Ibid; Human Rights Watch, *You Cry at Night but Dont Know Why: Sexual Violence in North Korea*, p. 46-48, https://www.hrw.org/sites/default/files/report_pdf/northkorea1118_web2.pdf.

[183] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Kim Keum Chul (pseudonym), location withheld, August 26, 2018; for further details see the case of Kim Keum Chul, described below in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Bribes and Connections.

[184] Unless other sources are specifically named this account is based on Human Rights Watch interview with Yoon Young Cheol, name and location withheld, October 24, 2019. For further details see Case of Yoon Young Cheol in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Unhealthy and Inhumane Detention Conditions.

[185] Human Rights Watch interview with 22 former detainees between January 2015 and October 2019.

[186] Human Rights Watch interview with 15 former detainees between January 2015 and October 2019.

[187] Ibid.

[188] Human Rights Watch interview with two former detainees, locations withheld, February 2015 and August 2019.

[189] Human Rights Watch interview with a former police officer, October 27, 2019.

[190] Human Rights Watch interview with two former police officers between July 2018 and October 2019.

[191] Human Rights Watch interview with 22 former detainees between January 2015 and October 2019.

[192] Ibid.

[193] Ibid.

[194] The COI also found that detainees at detention and interrogation facilities run by the secret police endured squalid hygienic conditions that facilitate the transmission of diseases. Medical care is provided only to those who are extremely sick or not at all. A considerable number of prisoners die from starvation or disease. COI, para. 715; Human Rights Watch interview with four former detainees and two former police officers, locations withheld, between April 2015 and October 2019.

[195] Human Rights Watch interview with a former police officer, December 12, 2017.

[196] Human Rights Watch interview with a former police officer, October 27, 2019.

[197] Ibid.

[198] Human Rights Watch interview with 22 former detainees between January 2015 and October 2019.

[199] Human Rights Watch interview with a former police officer, July 2, 2018.

[200] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Baek Sol Hee, June 26, 2018.

[201] When infrastructure and circumstances allow, detainees under investigation or interrogation are held in waiting cells and moved to detention facility cells afterwards.

[202] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Heo Yun Mi, August 14, 2018; for further details see the case of Heo Yun Mi, described above in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Beaten and Abused.

[203] Heo Yun Mi said all those that confessed trying to go to South Korea were sent to political prison camp (*kwanliso*).

[204] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Yoon Young Cheol, October 24, 2019; for further details see the above section IV. Abuses in Pretrial Detention and Interrogation Facilities.

[205] Human Rights Watch interview with 22 former detainees and eight former government officials, locations withheld, between January 2015 and October 2019.

[206] Ibid.

[207] For further detail see the case of Kim Sun Young, described above in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Beaten and Abused; Human Rights Watch interview with Kim Sun Young February 2, 2016.

[208] Ibid.

[209] Human Rights Watch interview with Heo Yun Mi, August 14, 2018; for further details see the case of Heo Yun Mi, described above in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Beaten and Abused & Unhealthy and Inhumane Detention Conditions.

[210] Giving 8.3 or presenting 8.3 products (*palsam bachida*) is used to refer to paying money or providing products in exchange for free time outside of a company or detention. On August 3, 1984, state-owned companies were allowed to create units, later called 8.3 production units, in which their affiliated workers were allowed not to attend their workplace and engage in commerce for personal profit in exchange for a fee to their employers.

[211] Human Rights Watch interview with Heo Yun Mi, August 14, 2018.

[212] For further details see the case of Kim Keum Chul, described above in Section IV. Abuses in Pretrial Detention and Interrogation Facilities: Beaten and Abused; unless other sources are specifically named, this account is based on Human Rights Watch interview with Kim Keum Chul, August 26, 2018.

[213] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Lim Ok Kyung (pseudonym), location withheld, June 28, 2018.

[214] Unless other sources are specifically named, this account is based on Human Rights Watch interview with Jin Sol (pseudonym), location withheld, June 29, 2018.

[215] The United Nations has also adopted standards that outline specific measures for the protection of rights of persons in detention. While these standards are not legally binding, they provide authoritative guidance on the treatment of detainees. These standards include: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 2015; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), 2010; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), 1985; the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1982; and the Code of Conduct for Law Enforcement Officials, 1978.

[216] International Covenant on Civil and Political Rights (ICCPR), art. 14; Basic Principles on Independence of the Judiciary, Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, August 26-September 6, 1985, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx> (accessed July 8, 2020).

[217] UN Human Rights Committee, General Comment No. 32, Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial, para. 19, <https://www.icj.org/wp-content/uploads/2014/03/Human-Rights-Committee-General-Comments-equality-before-courts-and-tribunals-report-CCPR-C-GC-32-2007-eng.pdf> (accessed July 7, 2020).

[218] Basic Principles on the Role of Lawyers, Eight UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27September 7, 1990, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx> (accessed July 7, 2020).

[219] UN Human Rights Committee, General Comment No. 32, para. 34.

[220] Juan Mendez, General Recommendation of the Special Rapporteur on Torture, para. g; UN Body of Principles, principles 17.1 & 17.2; Nelson Mandela Rules, rule 61, <https://www.ohchr.org/Documents/Issues/SRTorture/recommendations.pdf> (accessed July 8, 2020).

[221] UN Human Rights Committee, General Comment No. 35, Article 9: Liberty and Security of Person, paras. 10 & 11, <https://undocs.org/CCPR/C/GC/35> (accessed July 8, 2020).

[222] Ibid., para. 22.

[223] ICCPR, art. 9(2); United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (A/C.3/65/L.5), rule 2(1).

[224] ICCPR, art. 9(3); UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (A/RES/43/173), principle 39; UN Human Rights Committee, General Comment No. 35, para. 38.

[225] ICCPR, art. 14(2); UN Body of Principles, principle 36.1; Nelson Mandela Rules, rule 111(2).

[226] Human Rights Committee, General Comment No. 32, para. 30.

[227] Ibid., para. 6.

[228] Nelson Mandela Rules, rule 68; Human Rights Committee, *General comment No. 35*, para. 58.

[229] Nelson Mandela Rules, rules 58 and 61.

[230] UN Body of Principles, principle 19; Nelson Mandela Rules, rule 58.

[231] UN Body of Principles, principles 16.1; Nelson Mandela Rules, rule 68.

[232] UN Body of Principles, principle 21.1.

[233] UN Body of Principles, principle 21.2.

[234] UN Human Rights Committee, Communications Nos. 1209, 1231/2003 and 1241/2004: Sharifova , Safarov, and Burkhonov v. Tajikistan (CCPR/C/92/D/1209,1231/2003&1241/2004).

[235] UN Human Rights Committee, General comment No. 20, para. 12.

[236] Nelson Mandela Rules, rule 43.

[237] UN Human Rights Committee, General comment No. 20, para. 10; Nelson Mandela Rules, rule 76(1)(b).

[238] UN Human Rights Committee, General comment No. 20, para. 14; Bangkok Rules, rule 25; Nelson Mandela Rules, rule 57(3).

[239] UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Resolution adopted by the UN General Assembly, Seventieth session, December 17, 2005, <https://undocs.org/A/RES/70/175> (accessed July 8, 2020).

[240] ICCPR, arts. 2.1, 3, & 26; Universal Declaration of Human Rights (UDHR), <https://www.un.org/en/universal-declaration-human-rights/> (accessed July 8, 2020), arts. 2 & 7; International Covenant on Economic, Social and Cultural Rights, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (accessed July 8, 2020), arts. 2.2 & 3; Convention to Eliminate Discrimination Against Women (CEDAW) Committee, General Recommendations No. 19 & 35, <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx> (accessed July 8, 2020).

[241] CEDAW, arts. 2 & 3, <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf> (accessed July 8, 2020).

[242] CEDAW, art. 5.

[243] CEDAW Committee, General Recommendation No. 19, para. 6.

[244] Bangkok Rules, rule 56.

[245] CEDAW Committee, General Recommendation No.30, paras. 38(a)(c)(e), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/30&Lang=en (accessed July 10).

[246] UDHR, art. 8; ICCPR, art. 2.3; CEDAW, art. 2. See also CEDAW Committee, General Recommendation No. 28, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/28&Lang=en (accessed July 9, 2020), paras. 32, 34 & 36; CEDAW Committee, General Recommendation No. 33 on womens access to justice, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en (accessed July 9, 2020).

[247] CEDAW Committee, General Recommendation No. 33, paras. 19(a)(b)(g). See also CEDAW Committee, General Recommendation No. 30, para. 79.

Torture, Lack of Due Process, Arbitrary Punishment, Corruption Rampant

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