



**BROKEN
CHALK**

Submission to the United Nations OFFICE OF THE HIGH
COMMISSIONER FOR HUMAN RIGHTS

CALL FOR INPUT | UNITED NATIONS SECRETARY GENERAL
ISSUED BY United Nations Secretary-General

Call for Inputs-Secretary General's Report on a Moratorium on the Use
of Death Penalty

Submitting Organization: BROKEN CHALK

April 2024

By

Sarah Kuipers

María Núñez Fontán

Ariel Ozdemir

Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31687406567

upr@brokenchalk.org

www.brokenchalk.org

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Broken Chalk is an Amsterdam-based non-governmental organisation (NGO) committed to addressing human rights violations in the education sector. It was established in October 2020. A multinational team of dedicated human rights advocates collaborates extensively on researching violations in every corner of the world.

The organisation's primary activities include removing obstacles to education, promoting peace and tranquillity in society through intercultural tolerance, preventing radicalism and polarisation, and eliminating educational opportunity gaps across different demographics.

Broken Chalk works hard in advocacy and lobbying on behalf of these educational victims, engaging with international organisations to prompt action. Additionally, the volunteers and interns working remotely worldwide at Broken Chalk prepare comprehensive reports for international organisations, stakeholders, and governments, highlighting human rights violations in education. These reports aim to draw attention to the often-overlooked aspects of human rights violations, providing stakeholders with a complete understanding and calling for the international community to act in cases where conflict halts access to education and endangers civilians' lives. This approach ensures that awareness is raised and necessary actions are taken to address these violations. Broken Chalk is genuinely international, achieving a local and global perspective in its work.

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1. Introduction

In 2020, 37 states voted against at the UNGA res 75/183 on the use of the death penalty, one of which was North Korea (DPRK).¹ However, the DPRK has not yet abolished the death penalty and therefore remains a retentionist state.² Due to its political nature and isolationist policies, the subsequent lack of access to the DPRK continues to prove a barrier to data collection on the implementation of the resolution and the abolition of the death penalty for NGOs and international bodies alike.³ However, eyewitness accounts of North Korean defectors provide vital information into the inner workings of the DPRK and the ongoing use of the death penalty. This report will outline relevant updates on the situation in the DPRK regarding the use of the death penalty, the implementation of resolution 75/183, and the impacts on human rights in the country.

2. Update on the Moratorium on Death Penalty

As mentioned above, the DPRK has not abolished the death penalty. According to Amnesty International, the most used method of executions in 2022 was shooting. It is thus hard to collect information on other methods of execution used in the DPRK, due to the secrecy of information and the lack of transparency in the state. However, it is noted that the DPRK still uses different forms of execution.

In the DPRK, the death sentence is a capital punishment which is also used for theft, murder, rape, drug smuggling, treason, espionage, political dissidence, defection, piracy consumption of media not approved by the government, statements and beliefs of Juche ideology, and are also used for crimes which do not amount to “most serious crimes” - which is a requirement under international law. According to national law, a large number of offences punished by the death penalty are “grave crimes against the very existence or essential interests of the state and the socialist cause, such as state crimes, military crimes, crimes against the state administration and homicide”. The death penalty has also been used in proceedings which were not in accordance with the fair trial principle. Moreover, according to the national law, the legal age of being prosecuted with a capital punishment (death penalty) is seventeen.⁴

¹ UN RESOLUTION FOR A UNIVERSAL MORATORIUM ON THE USE OF THE DEATH PENALTY ANALYSIS OF THE 2020 VOTE. (n.d.). Retrieved April 10, 2024, from <https://old.ecpm.org/wp-content/uploads/flyer-moratoire-GB-2020-211220.pdf>

² Amnesty International. (2024). *Death Penalty*. Amnesty International; Amnesty International. <https://www.amnesty.org/en/what-we-do/death-penalty/>

³ UNHCR Web Archive. (n.d.). Webarchive.archive.unhcr.org. Retrieved April 10, 2024, from <https://webarchive.archive.unhcr.org/20230521122407/https://www.refworld.org/docid/51a3559037.html>

⁴ DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (NORTH KOREA) Public Executions: Converging Testimonies. (n.d.). <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa240011997en.pdf>

According to some NGOs, there are not many reliable sources from the DPRK, which would provide transparent data on the death penalty. As mentioned by Amnesty International, the issue lies within the dependent media sources and lack of transparency in verification.⁵

3. Implementation of Resolution 75/183

The Democratic People's Republic of North Korea (DPRK) represents one of the most hermetic States in the world. Despite the limited resources, the UN Commission of Inquiry on human rights in the DPRK found that the gravity, scale and nature of human rights violations in North Korea reveal "*a state that does not have any parallel in the contemporary world*".⁶ Given that North Korea voted against Resolution 75/183, it can be concluded that the death penalty still exists within the State as one of its most common practices.

This situation becomes vastly problematic due to the historic background of the region. The Korean peninsula, formed by North Korea and the Republic of South Korea, has experienced the effects of the Japanese colonial occupation, the Korean War, and the long-lasting authoritarian rule of DPPK. This history translates into more than 330 outstanding cases of enforced or involuntary disappearances (WGEID cases) on DPRK only, mostly concerning disappeared North Korean citizens and South Korean abductees.⁷

This tension between DPRK and South Korea is reflected in the treatment of North Korean escapees which, despite being protected by law in South Korea,⁸ such protection is flimsy and may end in returning the escapees to DPRK, exposing them to great dangers. Upon their return, they are sent either to ordinary prison camps after an unfair trial or to political prison camps without trial, if they receive help. Moreover, some circumstances may amount to execution,⁹ as has been acknowledged by DPRK authorities in some occasions and under vague premises and justifications.¹⁰

In 2016, in a further attempt to ensure human rights' protection in DPPK and for its nationals, South Korea enacted the North Korean Human Rights Act, which provides for the appointment of a North Korean human rights ambassador and the creation of a North Korean human rights documentation centre in the Ministry of Unification.¹¹ However, until this day no progress has

⁵ DEATH SENTENCES AND EXECUTIONS 2022 AMNESTY INTERNATIONAL GLOBAL REPORT (n.d.). Retrieved April 10, 2024, from <https://www.amnesty.ch/de/themen/todesstrafe/dok/2023/todesstrafen-bericht-2022-hoehchststand-seit-5-jahren/amnesty-report-death-sentences-and-executions-2022.pdf>

⁶ Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea, UNGA A/HRC/25/63, 7 February 2014, para. 80 <[A.HRC.25.63.docohchrhttps://www.ohchr.org/files/CoIDPRK_Report](https://www.ohchr.org/files/CoIDPRK_Report)>

⁷ For more information of WGEID cases, see Joint UPR Submission - Republic of Korea (South Korea), Fourth Cycle, 42nd session (Jan- Feb 2023), 14 July 2022, pp. 6-7 <https://www.upr-info.org/sites/default/files/country-document/2023-03/JS13_UPR42_KOR_E_Main.pdf>

⁸ Republic of Korea: Protection of Defecting North Korean Residents and Support of Their Settlement Act (14 July 1997) <<https://www.refworld.org/legal/legislation/natlegbod/1997/en/14959>>

⁹ Ibid no. 6 paras. 409, 410 and 1102

¹⁰ Report of the Working Group on the Universal Periodic Review, Democratic People's Republic of Korea, Human Rights Council 42nd session, A/HRC/42/10, 25 June 2019, para. 75

<<https://documents.un.org/doc/undoc/gen/g19/184/10/pdf/g1918410.pdf?token=Z0a4GHn7kOUwH0Qou8&fe=true>>

¹¹ North Korean Human Rights Act [Enforcement Date 04. Sep, 2016.] [Act No.14070, 03. Mar, 2016., New

been made towards its implementation, thus fostering a very unsettling feeling about the current status of the death penalty in North Korea and the available measures for achieving its abolition.

4. Impact on Human Rights

While the DPRK maintains that they do not carry out public executions, credible information from defectors gathered by human rights organisations such as Amnesty International contradicts these statements.¹² As of recent reports, the DPRK has continued to employ the death penalty as a means of enforcing its authoritarian rule. The death penalty is codified into North Korean law for various lethal and non-lethal crimes. For example, the Pyongyang Cultural Language Protection Act (enacted in January 2023) bans any language deemed to have foreign influence or exhibit linguistic similarities to South Korean language.¹³ During and following the outbreak of the COVID-19 pandemic, North Korea has also enforced a 'Shoot on Sight' order at the border for anyone attempting to enter or leave the country.¹⁴ While limitations on freedom of movement have been somewhat eased for select people within and outside North Korea, the majority of the country's citizens continue to be banned from leaving, punishable by death as "treachery against the nation".¹⁵ The hundreds of North Koreans detained in the People's Republic of China (PRC) and forcibly repatriated to the DPRK every year (at least 620 in 2023 alone) face the threat of severe punishment (including death) for attempting to leave.¹⁶ The death penalty is also prescribed under North Korean law for what are considered 'serious' or 'anti-nation' crimes, broadly understood to include participation in a coup or plotting to overthrow the state; acts of terrorism for an anti-state purpose; treason (including defection and sharing state secrets), providing information on economic, social, and political national developments to any external entity, and any activity considered 'treacherous destruction'. The DPRK prescribes the death penalty for lesser crimes such as theft, destruction of military facilities and national assets, distribution of narcotics, counterfeiting, fraud, kidnapping, distribution of pornography, and trafficking in persons.¹⁷

Enactment], <<https://www.law.go.kr/lsInfoP.do?lsiSeq=181623&viewCls=engLsInfoR>>.

¹² Amnesty International (2021) Democratic People's Republic of Korea (North Korea): Public Executions: Converging Testimonies. <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa240011997en.pdf>

¹³ Hassan, T. (2023) North Korea: Events of 2023. Human Rights Watch <https://www.hrw.org/world-report/2024/country-chapters/north-korea>

¹⁴ Sifton, J. (2020) North Korea's Unlawful 'Shoot on Sight' Orders: Lethal Force at Border Needs to Comply with Human Rights Law. Human Rights Watch. <https://www.hrw.org/news/2020/10/28/north-koreas-unlawful-shoot-sight-orders>

¹⁵ Hassan, T. (2023) North Korea: Events of 2023. Human Rights Watch <https://www.hrw.org/world-report/2024/country-chapters/north-korea>; Citizens' Alliance for North Korean Human Rights (2009) The Criminal Law of the Democratic People's Republic of Korea. [https://www.hrnk.org/uploads/pdfs/The%20Criminal%20Law%20of%20the%20Democratic%20Republic%20of%20Korea_2009_%20\(1\).pdf](https://www.hrnk.org/uploads/pdfs/The%20Criminal%20Law%20of%20the%20Democratic%20Republic%20of%20Korea_2009_%20(1).pdf)

¹⁶ Hassan, T. (2023) North Korea: Events of 2023. Human Rights Watch <https://www.hrw.org/world-report/2024/country-chapters/north-korea>

¹⁷ Bureau of Democracy, Human Rights, and Labor (2022) 2022 Country Reports on Human Rights Practices: North Korea. United States Department of State. <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/north-korea/>

The DPRK often justifies these executions as necessary measures to maintain social order and protect national security, framing them within the context of defending the socialist ideals and sovereignty of the country against perceived internal and external threats.

Eyewitnesses also report that the death penalty (including public executions) has been recently used. According to reports, the DPRK has executed citizens for various crimes. In 2021, a man was reportedly sentenced to death for smuggling and selling copies of the South Korean Netflix show *Squid Games*.¹⁸ In 2022, 2 teenagers were publicly executed by firing squad for watching and distributing South Korean movies and murdering one of their stepmothers – the authorities reportedly claimed that these two crimes were “equally evil”.¹⁹ In March and April 2023, authorities reportedly put 17 young people on trial under the above-mentioned Pyongyang Cultural Language Protection Act for watching unsanctioned videos and using South Korean language.²⁰ In another case last year, 20 young athletes were reportedly sentenced to 3-5 years hard labour for using South Korean language and slang (while execution was also a possible legal punishment for their actions under the Pyongyang Cultural Language Protection Act).²¹ Executions have also been reportedly carried out for religious and superstitious activities, drugs, and the breaking of covid regulations.²² Moreover, reports indicate that infanticide and forced abortion have been used, especially in cases of mothers who were political prisoners, people with disabilities, victims of sexual violence by government officials and prison guards, and defectors forcibly repatriated from the PRC.

However, the utilisation of the death penalty in North Korea represents a gross violation of fundamental human rights including the right to life. The process lacks the most basic standards of due process and fairness, violating the fundamental right to a fair trial. Trials are often conducted behind closed doors, with defendants denied access to legal representation and facing pressure to provide forced confessions.²³ Furthermore, the arbitrary nature of the accusations and lack of transparency surrounding these executions raise serious concerns about the legitimacy of the judicial system in North Korea.

Moreover, the use of the death penalty to suppress dissent and maintain control also undermines other fundamental freedoms, such as freedom of expression, freedom of religion,

¹⁸ Lee, M. (2021) North Korean Sentenced to Death After Students Caught Watching Squid Game. Radio Free Asia. <https://www.rfa.org/english/news/korea/squidgame-11232021180155.html>

¹⁹ Son, H. (2022) North Korea Publicly Executes 2 Teenagers for Distributing South Korean Movies. Radio Free Asia. <https://www.rfa.org/english/news/korea/by-hyemin-son-for-rfa-korean-1202202204452.html>

²⁰ Hassan, T. (2023) North Korea: Events of 2023. Human Rights Watch <https://www.hrw.org/world-report/2024/country-chapters/north-korea>

²¹ Kim, J. (2023) North Korea Sentences 20 Young Athletes for ‘Speaking Like South Koreans’. Radio Free Asia. <https://www.rfa.org/english/news/korea/athletes-04132023094854.html>

²² Reuters (2023) North Korea Executes People for Sharing S Korean Media: Report. Al Jazeera.

<https://www.aljazeera.com/news/2023/3/31/north-korea-executes-people-for-sharing-s-korean-media-report>; Bremer, I. (2024) North Korea Has Executed Citizens for Violating COVID Rules: Report. NK News. <https://www.nknews.org/2024/01/north-korea-has-executed-citizens-for-violating-covid-rules-report/>

²³ Amnesty International (2021) Democratic People’s Republic of Korea (North Korea): Public Executions: Converging Testimonies. <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa240011997en.pdf>

freedom from torture, and freedom of movement. Citizens are effectively silenced through fear of severe punishment, preventing them from expressing their grievances or seeking refuge outside the country. This atmosphere of fear and intimidation perpetuated by the threat of the death penalty contributes to a pervasive culture of repression and impunity within the DPRK.



Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31687406567 | info@brokenchalk.org | www.brokenchalk.org

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