

The statement of Peace and Human Rights NGOs' for United Nations Universal Periodic Review of the Democratic People's Republic of Korea

**Catholic Human Rights Committee
Peace Network
SARANGBANG Group for Human Rights**

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I. Introduction

1. The 6th session of the United Nations Universal Periodic Review (UPR) of the Human Rights Council will take place from November 30 of 2009 to December 11 of 2009. One of the countries examines will be the Democratic People's Republic of Korea (DPRK).. Regarding this event, Peace and Human Rights advocacy groups of the Republic of Korea (ROK) including Catholic Human Rights Committee, Peace Network, and SARANGBANG Group for Human Rights are submitting to the United Nations Human Rights Council a report containing our progressive stance on the DPRK's human rights issues. We hope that the human rights situation in the DPRK will be improved through the UPR and expect active cooperation of both the government of the DPRK and the international community.

Summary

2. This Report contains the following concerns of progressive Peace and Human Rights advocacy groups in the ROK: the historical condition of the Korean Peninsula in which North and South Korea are coexisting; human rights principles to be understood not just pertaining the DPRK but a part of the historical condition of the Korean Peninsula; and the realities of life in the DPRK:

In this manner, this Report:

- (a) emphasizes the necessity to approach human rights issues of the whole Korean Peninsula, taking into the consideration of human rights within DPRK is closely interrelated with human rights of the ROK both politically and historically;
- (b) insists all parties concerned with DPRK's human rights including the international community, the government of the ROK, and the DPRK human rights advocacy groups in the ROK must act in a manner of solidarity with the people of the DPRK so they can be a subject of their own human rights improvement. These all parties must not take an ambiguous position stating a desire to improve human rights through means or measures that are actually against of human rights;
- (c) recommends initial measures for the government of the DPRK to improve the human rights situation of its people including the freedom and guarantee of assembly

and speech, the abolition of capital punishment, the improvement of human rights in detaining facilities, the elimination of conventional oppression against women, and the establishment of independent human rights assurance .

Historical Background and Human Rights in the Korean Peninsula

3. As a result of the Korean War, which is an outcome of the Cold War, millions of people were killed or seriously injured, and most of Korea's social and industrial infrastructure was destroyed. The hostile relationship between the North and the South remains today. While still in a state of armistice, the two Koreas continue to maintain an antagonistic relationship and use such status quo for their structural competition and survival or as an excuse to commit violations of human rights to the people of both countries respectively. In case of the ROK, the National Security Law, which is also widely known in the international community, is a great example because many efforts to improve democracy of the ROK have been punished by the National Security Law. . To this extent, the human rights situations of the North and the South Koreas cannot be understood as a separate phenomenon but needs to be comprehended together along with other related themes such as the Cold War, the Korean War, the division of Korea, and an ongoing ideological conflict. Therefore, the true meaning of human rights improvement can only be achieved when it is approached from the perspective of peace and human rights of the whole Korean Peninsula rather than separate issues of the North or the South Korea. This is how we are trying to approach and solve the human rights issues of both the DPRK and the ROK and this is a definition of the concept, 'Human Rights on the Korean Peninsula,' which is based on the indivisibility, interdependence and interrelatedness of human rights.

4. From the concept of 'Human Rights of the Korean Peninsula', some concerns arise in respect to the acts of North Korean Human Rights Organizations in the ROK which only pursue so called, 'North Korean Human Rights.' This includes distortion of the DPRK's actualities based on their own animosity toward the DPRK, attempts of executing advocacy acts without the consideration of basic principles of human rights, lack of understanding in various other aspects of human rights due to their sole concentration on DPRK, and over-emphasized abuses of human rights acts in DPRK to justify and conceal human rights violations occurring in the ROK.

5. We also convey our apprehension to participating states to the UPR regarding previous witnesses and reports of human rights violations in the DPRK which disseminated limited and exaggerated information due to an Anti-Communist and Anti-DPRK ideology, and a confrontationist approach. Parties must be cautious of the few limited witnesses being referenced repetitively in related reports and white papers, and often recognized as facts. Considering the government of the DPRK is not providing enough information and the government of the ROK is also restricting access to necessary information related to the DPRK, the quality of information regarding the human rights situation in the DPRK must be thoroughly assessed and analyzed. Also, both the governments of the DPRK and the ROK should exert every effort to improve such situation of restricted information.

II. Our Principles of Approach to DPRK's Human Rights

The Primary Subject of Human Rights Improvement is the People of the Concerned Society

6. As Article 1.1 of the International Covenant on Civil and Political Rights (CCPR) is about the self-determination, we confirm that the primary subject of the human rights improvement in the society of the DPRK should be its own people. The international community including the ROK can assist and support the improvement of the human rights situation but cannot improve it by themselves. We note that the United States of America's invasion to Iraq, which was based on the assertion that its purpose was to improve the human rights situation, acted against human rights causing civilian deaths of more than 90,000 people since the invasion in 2003. (<http://www.iraqbodycount.org>). The international community and the ROK must seek a way to improve the human rights situation in the DPRK while respecting its people as the most primary subject.

Realization of Universal Human Rights Respecting Historical and Cultural Background

7. The Universality of human rights is one of the most important principles. However, we indicate that a specific method and form to realize such universality cannot be standardized. It should be stated that there is a possibility of even retreating human rights conditions when imposing a standardized system in context with different historical and cultural backgrounds. This is reaffirmed in Article 5 of the Vienna Declaration and Programme of Action, as it states, "...national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind...." Nevertheless of such effort, it is true that there has been limitation to the United Nations' human rights regimes including systems of national human rights resolution and Special Rapporteur. Such systems often applied double standards to human rights or were used as a means to add political pressure. It is for this reason that the DPRK rejected both the Human Rights Council resolution and the Special Rapporteur on the Situation of Human Rights in the DPRK. Should the United Nations insist to enforce such standardized regimes on the DPRK, we express our concern that this misses an opportunity to improve the actual situation through communication and cooperation. Improvement of the situation cannot be accomplished by political pressure. Thus, we reaffirm the necessity of a more careful approach and respect toward the DPRK's historical, cultural, and political backgrounds- the socialistic political structure of East Asia-in order to truly improve the human rights situation in the DPRK.

Our perception on the reality of human right in the DPRK

8. To understand the human rights situation in DPRK accurately, we are going to look at the society from its internal perspective. Only when we interpret human rights and their violations through DPRK's social principal, the government and the people of DPRK can sympathize with us and would be more willing to work toward

improvements in human rights conditions. Meanwhile, we would like to give credit to the DPRK government for its effort in trying to improve human rights conditions. The DPRK government has been stressing over the years that its various social security systems such as mandatory medical and education have ensured human rights. It is also worth noting that 'The Law on Sex Equality' was enacted in 1946 to stress the rights of women. However, the conditions have deteriorated due to recent food shortages and the economic crisis, and military threat and economic sanctions by the international community including the U.S.A. and Japan have contributed greatly in worsening human rights conditions. Although we are trying to understand the situation, we are concerned about the current human rights condition. It has come to our attention that militarism in DPRK has heightened, there is over emphasis on military liberalism and the use of phrases like 'Military First', 'Respect Guns, Respect Military' in the Rodong Sinmun have increased. In addition, we are concerned over discrimination against groups such as women, the disabled and sexual minorities. The issues of right to food, and Civil and Political Rights, which have been raised several times over the years, still need improvement even though we tried to interpret from the standpoint of DPRK social principle. We hope that DPRK government makes a positive effort to improve the issues mentioned above.

From 'North Korean human rights' to human rights on the Korean peninsula

9. We are examining how the focus on North Korean human rights', the naming and shaming of DPRK has a political effect. Human rights violations exist in all countries, and blaming a particular country politically doesn't contribute to improvement. Continual criticism of human rights in DPRK by South Korea and the international community adds to the existing tensions in the Korean peninsula, the two countries still stand face to face militarily. As the relations between the ROK and DPRK have worsened and the fear of military confrontation has escalated, human rights criticisms of the DPRK by the ROK government and some human rights organizations have escalated. The ROK government pushed for enactment of the law on human rights in DPRK and pushed the UN Commission on Human Rights to criticize conditions in DPRK. Some ROK's human rights organizations on North Korea flew balloons over northern sky with propaganda notes inside, further escalating tension. Meanwhile, the right to live peacefully of the people of both countries is being threatened. We would like to reaffirm that peace in the Korean peninsula is the right of all people living in Korean peninsula. As the people actually living in Korean peninsula who are the beneficiary of the right to live in peace, we oppose the politicalisation of DPRK human rights. The human rights in DPRK will improve only through a humane process.

10. Human rights conditions in the region are inter-linked. Historically, the division of the Korea has contributed greatly to the current human rights status. During the intensified military conflict, both countries oppressed freedom of thought, conscience, and expression and freedom of association and demonstration of its people through the development of inhumane system, that leads to large numbers of political prisoners and prisoners of conscience. The competition of military spending distorted the financial structure of both governments, and the strong militarism in both nations resulted in a degradation of human rights conditions. We believe that human rights in DPRK and

ROK are intertwined and would like to stress again the importance of looking at the human rights on the Korean peninsula. Human rights conditions can only improve by a collective effort by both DPRK and ROK.

Analysis and Concern over so-called 'North Korean Human Rights'

11. The human rights condition in DPRK needs more improvement. However, some ROK based organizations approach human rights in DPRK with a narrow interpretation and actually distorted the concept of human rights. Firstly, this is partly based on a history of an Anti-Communist and Anti-DPRK ideology which was the basis for ROK's military dictatorship that prevailed until early 1990s. Their ideological background stands in the way of understanding the condition of DPRK comprehensively. Secondly, while these organizations emphasize the universality of human rights, they show no interest and an inhumane attitude toward human rights issues in ROK. It is sad that some of these organizations have very close relationships personally and politically with groups violating human rights, and maintain silence over the violation of those rights in ROK. Thirdly, they disregard historical questions such as universality of human rights and distinguishing human rights generation, make their own interpretation on human rights unilaterally, and distort the concept. Generally, the ROK human rights organizations on North Korean human rights promote tensions, threatening peace in the Korean peninsula. They also play a role in bringing down not only human rights conditions in DPRK but also in ROK, too.

The Difficulty of Gathering Information on DPRK and Concern

12. Article 19 of CCPR states, " the right to freedom of expression... shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice" but it is very difficult to determine human rights condition on DPRK in ROK. The National Security Law in ROK still limits gathering information on DPRK and it has legislation that may punish people in the reason of thinking and speaking about DPRK freely. Hence, only selected and limited information that was filtered by the government is available in ROK. In addition, the DPRK government is passive reluctance in sharing information is reducing improvement in human rights. This situation leads to information with unconfirmed sources and speculation receiving great attention. The DPRK government needs to provide accurate information when a question of violation is raised rationally. In the case if such violation, the DPRK government should actively provide measures to correct the human rights violation. We are repeating the paragraph 5 of this report, and expect the DPRK government to take appropriate measure to dissolve these difficulties.

DPRK Should reflect on its 'Human Rights Question' openly

13. We would like to clarify that there is no state free from human rights violations. All states including both ROK and DPRK should make an effort to improve human rights condition. We are deeply concerned over the DPRK government's thinking on human rights that was stated in the Rodong Sinmun on the November 11th, 2008, "We would

like to clarify over and over again that in our socialist system of people being the center of the system which treasures respect for the people and civil and political rights, human rights violation cannot exist from the beginning." We hope that the DPRK government examines its human rights conditions and has a will to improve them, so it can really move closer to being a system of people at the center.

III. Concern for DPRK's reality

14. We expect The DPRK's political system to guarantee and enhance the rights of the DPRK's people better. Even though there is limited information on the rights of the DPRK, we convey the concern and proposal for the DPRK's reality in the view of the human rights on the Korean peninsula, through a humanitarian process, not through political criticism.

Freedom of thought and conscience

15. Regardless of the political systems' differences, freedom of thought and conscience must be guaranteed. When reading the article from the Rodong Sinmun about non-socialist group inspection or broad provisions of political crimes in Article 61, Anti-state Propaganda and Sedition and in Article 67, Treason against one's people of the criminal law, the possibility of punishment based on mere differences in thought and conscience is concerning. The principle that the state should not punish people on account of freedom of thought and conscience will be confirmed in the following paragraphs

Freedom of assembly

16. On November 5th, 2008 the DPRK criticized the government of ROK for suppressing candle-light rallies in the Central Committee of Chosun Democratic Women's Union spokesperson's speech, etc. However, the possibility that the government of DPRK may also be repressing the freedom of assembly in similar ways as the government of the ROK as reported in paragraph 125 and 126 of Second periodic report of the DPRK on its implementation of CCPR (1999) and in paragraph 31 of Second periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights(CESCR)(2002) is concerning. Setting forth the national security and public order as reasons for assembly prohibition, and reporting that the punishment is possible under the Law on Public Security Control with unclear elements of crime on assembly acts, are similar to the attitude of the government of the ROK, who described mass candle-light rallies to be illegal demonstrations by the pro-DPRK influences and limited assembly to strict permission rather than allowed under the Constitution. When problems concerning public welfare cannot be solved within the system, freedom of assembly and demonstration, as the last resort of people to express their opinions may become the final means to protect other rights. For such reasons, information on ▷ whether assembly can be prohibited in advance, ▷ under what conditions it can be prohibited in advance, ▷ whether a complaint possible, which are presented in paragraph 24 of the concluding observations by the Commission on CCPR and additional information on ▷ which assemblies were reported according to the

procedures in the recent years, ▷ how many of the reported assemblies were prohibited, ▷ why the assemblies were prohibited should all to be released.

Freedom of speech and publication

17. In a democratic society, the presence of citizens' critical opinions, the delivery of the opinions to policy making institutions' upper offices, and the communication of opinions to the members of society are all important. Despite numerous speech and publication institutions presented in paragraph 119 of the Second periodic report of the DPRK on its implementation of CCPR(1999), there is a concern whether critical opinions or minority opinions on the party and people's committee are circulated in the DPRK through speech and publication. That realization of "Uniform guidance to publication industry" and "Singular guidance" presented in Article 4 of the DPRK's Press Law can repress critical opinions and damage freedom of thought and conscience is confirmed. Adding to paragraph 23 of concluding observations by the Commission on the CCPR, operation of speech and publication institutions that are independent from the party and people's committee and able to perform critical functions, is proposed. The form of National Human Rights Institutions system recommended by the United Nations may be referred to this process.

Death Penalty

18. There is obviously no more important human right than that of life itself. Therefore, the complete abolition of death penalty is supported. In this respect the DPRK's intention through Second periodic report of the DPRK on its implementation of CCPR(1999) of its aim to completely abolish the death penalty and to prescribe, through several revisions, more strictly the elements of crime for death penalty in the criminal law is positive. However in the view of law enforcement, on analyses of the reality is impossible because the number of cases and charges of death penalty are not released. Moreover, DPRK's active explanation about several reports on public executions performed and the death penalty enforced in accordance with decrees or directions, not the legal procedures such as the Criminal Procedures Act, is necessary. The use of the death penalty as a tool to discipline people based on fear is opposed. The DPRK is expected to release information on the number of cases, charges and methods of death penalty and take effective measures to completely abolish. The Commission on CCPR's concluding observations that four out of five crimes with death penalty (the Criminal Law ; Article 59 Conspiracy against the state power, Article 60 Terrorism, Article 62 Treason Against One's nation, Article 67 Treason against one's people, Article 278 Intentional Grave Murder) are essentially political crimes and that due to broad wording a sentence of death penalty may be subjective is agreed, and specific measures to resolve such concerns are demanded to be taken.

Detention facilities

19. Attention is paid to the general fact that human rights violations are likely to arise in detention facilities isolated from social life. As the DPRK acknowledged, in a situation where food has been scarce since the mid 1990s, there is high possibility that the life

and health of detainees in detention facilities may be impaired due to the food scarcity. Also the possibility of abuse in the detention facilities of the DPRK, just as abuse were frequent in the detention facilities of the ROK, is concerning. The concern grows especially with political criminals, or separate facilities detaining only political criminals. In a hostile situation between the DPRK and the ROK, the possibility that political criminals may exist in DPRK, as in the ROK, is concerning and the fact that freedom of thought and conscientious expression is violated when political criminals are punished for the sake of social control is confirmed. The authenticity of the reports related to political criminals and detention facilities, that unlike general penal criminals the political criminals are imposed punishments in a single-trial system not open to the public and detained by the National Security Agency without undergoing legal procedures of a judiciary, law court or prosecutor's office, must be confirmed. That the less open to the public the detention facilities are, the more likely human rights violations may arise is emphasized, and the government of DPRK is proposed to execute independent investigation on detention facilities to address several kinds of concerns for them and to release the results. Also the government of DPRK is expected to enhance the continual supervisory function about detention facilities through an independent National Human Rights System.

Right to food

20. Since the mid 1990s the government of DPRK has acknowledged the food shortage and requested help from the international community. The DPRK's food shortage is understood to have been aggravated by a combination of factors: natural disasters, collapse of the social economic system, economic sanctions imposed by the international community, increase in the DPRK's armaments due to United States-DPRK military confrontation and government personnel's corruption. To address the internal issues, the government of DPRK has the obligation to take appropriate measures in order to minimize the damage caused by food shortages. The government of DPRK's efforts to solve this problems, as shown in the Rodong Sinmun, etc, is positive but putting the military as a priority in distribution is worrisome for it may aggravate the food situation. Attention is paid to the fact that in difficult situations of food or economic crises, the socially disadvantaged such as the aged, children, women and the disabled are easily exposed to human rights violations. The international society and the ROK should provide humanitarian aid to the DPRK, and the DPRK should accept without conditions and take measures to fairly distribute the food, with socially disadvantaged as priorities.

Protection of Women's Rights

21. We draw attention that DPRK has taken action in law and policy to promote women's participation in society by entering the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). However, we are still concerned because according to paragraph 85 and 86 of Consideration of reports submitted by DPRK under CEDAW(2002), the DPRK does not consider differences in the proper age for marriage between men and women as discrimination against women. In the same report, it emphasizes women's role in child rearing in paragraph 93. We are concerned

because these points condone the tradition and national customs enforcing a discriminatory gender role upon women. Under the circumstances where the responsibility of house work and child rearing placed on women is not decreasing and the worsening economic situations demand extra economic activities of women, the discrimination can worsen and negatively affect women's health. In response to this, the DPRK government needs to emphasize through improvements in family and education law the responsibility of society as a whole which both genders involved in house work and child rearing, that this is not solely women's responsibility in the traditional role.

22. According to paragraph 105 and 106 of Consideration of reports submitted by DPRK under CEDAW(2002), DPRK reports that there is no reported cases of prostitution and that it is a regrettable crime. However, we draw attention to other reports that North Korean women voluntarily and involuntarily get involved in human trafficking and prostitution in order to sustain their family due to economic distress. Under these circumstances, differences in related laws and regulations give heavier penalties to women and expose women with low economic standing to criminal persecution. We emphasize that the situation women are forced into prostitution is an ongoing process to worsened discrimination against women. The DPRK government should ensure women forced into prostitution are not exposed to criminal penalty under the Criminal Law Article 261 for prostitution and become re-victimized. At the same time, it should establish policies to prevent causes of prostitution.

23. In paragraph 244 and 245 of Consideration of reports submitted by DPRK under CEDAW(2002), the DPRK promotes child birth, because of short supply of labor in the country, and reported that there is pressure for couples to produce grand children for their parents. We confirm here again that the social pressure for women to produce children against their own will is a form of discrimination. The DPRK promotes child birth in its 2nd Mothers' Convention in 1998 and Guidelines of Giving Child. The DPRK indicated in paragraph 140 of Second periodic report of the DPRK on its implementation of CCPR(1999) that it "does not regulate to control child birth at the national level." However, the social atmosphere where child birth is emphasized can "forbid" contraception and abortion. The practice of illegal abortion when the society forbids will negatively affect women's health. We expect that the DPRK government will put their efforts in establishing population policies that will improve women's rights to health and self-determination, and that it will analyze the reasons why women do not want children, in order to devise related solutions.

Protection of Human Rights by Policies

24. An establishment of National Human Rights Institutions is expected in order to promote effective human rights protection domestically and devise accessible human rights protection policies for individuals in terms of International Human Rights Regime and Regional Human Rights Regime and effective application of International Human Rights Law domestically. The DPRK indicates in their Report on the Implementation of the International Human Rights Convention that institutions such as the National Coordination Committee for the Implementation of CEDAW, the National Coordination Committee of the Implementation for the Convention on the Rights of the Child, and

others can highlight on their efforts in establishing human protection policies and their operation.

25. However, in order to properly act as a National Human Rights Institution which watches, safeguards, and corrects human right violations committed by national agencies or authorities, the institution should be independent from the government, any party, or other agency that can influence its power over in the course of its operation in accordance with Principles relating to the Status and Functioning of National Institutions for Promotion and Protection of Human Rights. At the same time, National Human Rights Institutions should have functions to secure independently people's human rights that could be violated by government agencies, and review the current human rights situation and be able to devise policies to improve that. From this perspective, we propose that the DPRK make transparent the organization, operation, and activities of its Domestic Human Rights Regime including the National Coordination Committee for the Implementation of CEDAW and the National Coordination Committee of the Implementation for the Convention on the Rights of the Child. We further propose devising human rights protection functions at these institutions which are separated from the judicial agencies.

26. In addition, we expect the DPRK to establish National Human Rights Institutions that are independent and responsible for human rights incidents and issues according to international standards. Also, we expect the DPRK to proactively participate in exchanging ideas and opinions on human rights issues with High Commissioner for Human Rights, Human Rights Council and International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in its efforts of promoting human rights protection and participating proactively in the international community as a member.

IV. Conclusion

27. A State can be an active party in helping actualize human rights while it can also be an active member in committing human rights violations. This fact can be applied to the DPRK and we implore the DPRK to take proactive steps in realizing human rights in the country. In the process, human rights of the whole population of the Korean peninsula should be put into perspective and the DPRK is an active entity in realizing their rights. Based on the DPRK's reflection of the universal human rights, we expect to actively contribute to human rights on the Korean peninsula where the two countries, the DRPK and the ROK coexist.