

Mandates of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; the Special Rapporteur on the right to education; and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences

REFERENCE:
AL PRK 4/2021

29 June 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; Special Rapporteur on the right to education; and Special Rapporteur on contemporary forms of slavery, including its causes and consequences, pursuant to Human Rights Council resolutions 43/25, 44/3 and 42/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the use of orphans for child labour at coal mines and other potentially harmful and hazardous working environments.

According to the information received:

On 26 May 2021, state media in the Democratic People's Republic of Korea reported that local officials, teaching staff and students of the Tonghae School for Orphans and Sohae School for Orphans sent their graduates to work in coalmines, farms and other construction sites. According to media reports and other sources, 80 graduates from Tonghae School for Orphans volunteered to work at coalmines and farms in Kangwon Province, dozens of its graduates went to the Chonnae Area Coal-mining Complex while others volunteered to work at the Phochon Cooperative Farm in Hoeyang County.

Over 20 graduates of Sohae School for Orphans went to the Ryongdae Youth Coal Mine of the Suncheon Area Youth Coal-mining Complex. Fifty graduates of the school volunteered to work at the Yoldusamchon Farm in Sukchon County and the Ryongrim Cooperative Farm in Mundok County.

Those orphans had reportedly volunteered to provide labour to fulfil their oath to repay the love the Worker's Party of Korea showed for taking care of them over the years. Although it has been reported that the orphans voluntarily consented to this work, there are allegations that the authorities often coerce orphans and street children to work at state-run construction sites or coal mines on the pretext that they would be showing loyalty to the leader and the nation.

While it is not clear what the age of these particular orphans engaging in labour was, allegedly they were below 17 years of age as the average age of children graduating from high school in the Democratic People's Republic of Korea is 17 years of age. Reportedly, it is a practice in the country that children in the secondary school are mobilized to provincial or state-run labour projects.

Subjecting children under 18 years of age to child labour in a harmful and hazardous environment such as coal mines amounts to the worst forms of child labour and is a contemporary form of slavery prohibited under international law. In the Democratic People's Republic of Korea, reportedly, the working conditions at coal mines or state-run working sites are harmful to the physical and mental health of workers, particularly if they are children. Workers are not provided with adequate housing, adequate sanitation or adequate food. They have to perform physically demanding hard labour for long hours. Despite the risk of death and injury due to the nature of the work, workers are not provided with proper medical care or insurance when they are injured at the workplace.

It is also not clear whether the orphans are paid for the labour they provide to the State. Escapees from the Democratic People's Republic of Korea have often mentioned that North Koreans are requested to volunteer for State projects through mobilization by the State and are usually not compensated for their work. Orphans who are among the most vulnerable are forced to mobilization including into *dolgyeokdae* (shock brigades) for extended periods without pay. The harsh and hazardous working conditions experienced by the orphans in the *golgyeokdae* may amount to child slavery.

Such labour practices interfere with the children's education too. After graduating from the elementary education system, not only orphans but most of the children or adolescents are subjected to regional or state-run labour projects. Allegedly, students, depending on their social status and location, spend up to 40 percent of their academic career performing physical labour for your Excellency's Government.

In its concluding observations on the fifth periodic report of the Democratic People's Republic of Korea in 2017, the Committee on the Rights of the Child also expressed its serious concern over extensive labour tasks children are requested to perform as follows:

- “(a) The fact that the State party's labour laws do not prohibit harmful or hazardous work for children under age 18;
- (b) Children being requested to volunteer extensive periods of their day to work on farms and in mines, collect wood in the forests, weed in neighbourhoods and local towns, repair railroads, clean statues and participate in forestation initiatives and construction projects (referred to as “economic assignments”), which interferes with their rights to education, health, rest and leisure, and the practice of exempting children from these tasks in exchange for money;
- (c) Children being requested to participate in mass agricultural mobilizations, with long working hours per day and occasionally for one month at a time, and their being away from their families for that period;
- (d) The practice of accepting children aged 16 and 17 to *dolgyeokdae* (military-style construction youth brigades) for 10-year periods, which entail long working hours and heavy physical work, and curtail

children's access to education.”¹

While we do not wish to prejudge the accuracy of the information received, we express our serious concern over the practice of the use of children to provide extensive unpaid labour including in harmful and hazardous conditions.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details of the orphans and children (including numbers, age and gender) currently working in mines, construction sites and government-run farms. Please explain why these orphans have been selectively chosen to work in harmful and hazardous workplaces such as coal mines. Please explain how this policy does not discriminate against children based on their economic situation or family status.
3. Please provide information about the working and living conditions of the orphans and other children who have been assigned to coal mines and farms reported in the state media.
4. Please provide information on all measures taken to guarantee the right to education of the orphans mobilized to work on the state projects.
5. Please indicate how the practice of subjecting children to the worst forms of child labour is in line with your Excellency's Government's obligations under International Human Rights Law, including the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
6. Please provide information on the progress your Excellency's Government has made to implement the recommendations made by the Committee on the Rights of the Child² to address economic exploitations of children including child rights.
7. Please provide information on the COVID-19 preventative measures your Excellency's Government has taken for children at the worksite.

¹ CRC/C/PRK/CO/5, para.54

² CRC/C/PRK/CO/5, para.55

8. Please indicate what steps your Excellency's Government has taken or is intending to take to become a Member State of the International Labour Organization (ILO).
9. Please specify if your Excellency's Government is planning to introduce legislation which criminalizes contemporary forms of slavery in the near future.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. We will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Tomás Ojea Quintana
Special Rapporteur on the situation of human rights in the Democratic People's
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Koumbou Boly Barry
Special Rapporteur on the right to education

Tomoya Obokata
Special Rapporteur on contemporary forms of slavery, including its causes and
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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, the Convention on the Rights of the Child, which your Government is a State Party to, provides the following:

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;

- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Furthermore, article 13 of the International Covenant on economic, social and cultural rights, to which your Government is also a State Party, states the following:

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

Article 10 (3) states that

“Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.”

The Universal Declaration of Human Rights (UDHR), adopted by the General Assembly of the United Nations on December 10, 1948, further contributes to international standards regarding the elimination of all forms of slavery. Article 4 states that "no one shall be subjected to slavery or servitude, slavery and slave trade are prohibited in all its forms."

In this regard, we would also like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), to which the Democratic People's Republic of Korea is a State Party. In article 8, it is stipulated that

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.