



CONNECTION

DENIED

RESTRICTIONS ON MOBILE PHONES AND OUTSIDE
INFORMATION IN NORTH KOREA

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Cover photo: A woman talks on a mobile phone at the Monument to Party Founding in the capital, Pyongyang. 11 October 2015.
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EXECUTIVE SUMMARY

North Korea remains one of the most isolated countries in the world. The leader of the country, Kim Jong-un, wields absolute power, directing all aspects of government and exerting substantial control over most spheres of everyday life.

In February 2014, the United Nations Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (the Commission) issued a 372-page long report documenting violations spanning the full range of human rights, many of which amounted to crimes against humanity.

Among other violations, the report detailed arbitrary detentions, torture, executions, enforced disappearances and political prison camps, violations of the freedom to leave one's own country and of the right to food and related aspects of the right to life. The report found an "almost complete denial of the right to freedom of thought, conscience and religion, as well as of the rights to freedom of opinion, expression, information and association".

The Commission's report, which was commended by the United Nations General Assembly (UNGA) in December 2014 and referred to the UN Security Council, noted that one of the "most striking features of the state has been its claim to an absolute information monopoly and total control of organized social life."

For this report, Amnesty International undertook research to document how the North Korean government is responding to the challenge arising from the wider availability of new technologies, including mobile phones. The report finds that rather than allowing users to access the full potential of the technology, the North Korean government has sought to maintain its absolute monopoly over communications and the flow of information through a combination of increased controls, repression and intimidation of the population.

These efforts by the authorities — which appear jointly aimed at preventing North Korean citizens from learning about the situation outside of their country and at obscuring the extent of human rights violations taking place in the country to the external world — negate the right of North Korean citizens to seek, receive and impart information freely regardless of frontier, a fundamental component of the right to freedom of expression.

While the violations described in this report may arguably appear less horrific than some of the violations described in the UN Commission report and elsewhere, such as arbitrary executions or mass incarceration in political prison camps, restrictions on the right to communicate and exchange information in fact contribute in a fundamental way to the general situation of rights deprivation in North Korea.

Research for this report was carried out through first-hand interviews with academic and legal experts on North Korea, staff of NGOs working on North Korea and North Koreans who have left the country. The research also undertook a comprehensive review of relevant North Korean laws, domestic and international media reports, as well as UN reports and academic publications.

The North Korean state owns all telecommunications, postal and broadcasting services. There is no independent media. The government's Propaganda Department maintains control over all television, radio and newspaper content. Through pervasive surveillance, both technological and physical, the state also maintains control over communications in and out of the country. This control has continued even with the recent changes in North Korea, and the range of newly available telecommunications technology.

Due to severe food shortages, a grey market economy began to grow in North Korea during the late 1990s. Traders who smuggled in food also brought into the country other goods including clothing, DVDs of foreign television dramas and movies, mobile phones and SIM cards. People who lived and worked close to the Chinese border were then able to connect to Chinese mobile phone networks.

These mobile phones not only facilitated the grey market trade but also enabled North Koreans to communicate privately with people outside the country without using the monitored landlines in post offices. To this day, North Koreans refer to these phones as "Chinese mobile phones", regardless of the country of manufacture.

Speaking on the phone to individuals outside North Korea is not in itself illegal, but private trade of telecommunications devices from other countries is against the law and individuals who make calls on "Chinese mobile phones" can face criminal charges. Depending on the content of the conversation, charges could include brokerage or illegal trade and, if speaking to someone in South Korea or other countries labeled as enemies, more serious charges such as treason.

In 2008, the government initiated a domestic mobile phone service that only allows calls within the country, not outside. This service, operated through a joint venture with the Egyptian company Orascom, is hugely popular today and has more than 3 million subscribers. Similarly, North Korea has a domestic, closed-off internet system that only allows access to domestic websites and email. Unlike other countries that censor particular web content or temporarily cut off internet access during government-declared emergencies, North Korea completely denies access to the World Wide Web to the vast majority of its citizens. Foreign citizens visiting and living in the country, on the other hand, can pay for access to international mobile phone services and the World Wide Web. Visitors with these temporary mobile services through a pre-paid SIM card cannot call domestic numbers.

In order to document how authorities control communications in and out of the country and in particular the usage of "Chinese mobile phones", Amnesty International interviewed individuals who had direct experience in North Korea calling someone outside the country on these phones, and those who had called back into North Korea once they left the country. Recent, verifiable and direct sources of information are scarce due to the considerable time it takes for these individuals to reach safety and to feel secure enough to relate their experiences. The Commission highlighted this challenge in its 2014 report. Amnesty International was nonetheless able to identify and interview 17 individuals who had recent experience with the mobile phone systems. Most of the 17 individuals came from border areas where using Chinese mobile networks is possible. Nine of them came from homes that owned such phones.

Perhaps in response to these developments, after coming to power in 2011 Kim Jong-un tightened border security, resulting in a dramatic reduction in the number of North Koreans arriving in South Korea that had been steadily increasing in previous years. Individuals who

spoke to Amnesty International reported a similar tightening of control over communications near the border in order to stop the cross-border movement of people and to exert more control over the grey market trade.

North Korean specialists as well as some interviewees reported that the state has increased monitoring and often blocked mobile signals on the Chinese networks, and imported state-of-the-art surveillance devices. Individuals' testimonies also confirmed findings of the Commission, which reported that a special department of the State Security Department had sophisticated equipment to pick up the emissions of "Chinese mobile phones". Individuals who reported having experienced the surveillance and the jamming of signals first hand told Amnesty International that they saw these actions as a tactic to intimidate potential users of "Chinese mobile phones."

This monitoring and surveillance also extends to other forms of information sharing, including entertainment media. The 17 individuals interviewed by Amnesty International, as well as numerous academics, human rights experts and NGO workers, confirmed that an ongoing, systematic effort by the North Korean government to control all the information accessible inside the country was under way.

The North Korean authorities' denial of the right for its citizens to receive and impart information across borders and their attempts to increase the surveillance, intimidation and suppression of "Chinese mobile phones" users constitute severe and on-going human rights violations.

Restrictions to the right to freedom of expression must be provided in law, necessary and proportionate to achieve legitimate objectives such as protecting national security or public safety, public health or morals and the rights and reputation of others. Despite the necessary technology for making international calls or accessing the World Wide Web being available, the North Korean government continues to maintain an absolute monopoly on information including cross-border phone communications, foreign entertainment media and the internet. The authorities use vaguely worded laws to arbitrarily target individuals for exercising their right to freedom of expression and place restrictions on this right that are unnecessary, disproportionate and arbitrary and hence violate international law.

Any interference with individuals' right to privacy can take place only in cases envisaged by the law, which itself must ensure the right to freedom of expression, among other human rights. Testimonies in this report describe arbitrary surveillance, which does not comply with international laws and standards.

Simply speaking to individuals in another country, or private viewing of audio-visual materials from another country, even if that country is deemed an enemy by state authorities, does not itself constitute circumstances where national security is threatened. Any arrests for the purpose of extorting bribes are a form of arbitrary detention and prohibited under international law. Individuals interviewed spoke of the common practice, corroborated by experts on North Korea, of paying a bribe to authorities to avoid detention. Three individuals reported offering to pay authorities when caught making a call outside the country or watching foreign media, and two out of the three were released after paying the bribe.

The lack of access to information also negatively impacts the enjoyment of a wide range of economic, social and cultural rights, such as the right to education, and the right to take part in cultural life and to enjoy the benefits of scientific progress. While the International

Covenant on Economic, Social and Cultural Rights, to which North Korea is a party, requires states to take steps to progressively achieve the full realization of the right to take part in cultural life, there is a core obligation to immediately eliminate any barriers or obstacles that inhibit or restrict a person's access to one's own culture as well as other cultures, including without consideration of frontiers.

Amnesty International urges the North Korean government to lift all restrictions on the freedom of expression unless there is a clear justification in line with international human rights law, and allow unhindered flow of information between individuals in North Korea and the rest of the world. The authorities should cease the arbitrary surveillance of and interference with communications that is unnecessary, untargeted, and without legitimate aim.

North Korean authorities must take steps to enable all persons within the country to take part in cultural life and enjoy the benefits of scientific progress and its applications. Amnesty International urges the government to allow North Koreans full and uncensored access to the World Wide Web and other international internet data and services and international mobile telephone services.

The North Korean government must further ensure that everybody in North Korea is able to communicate with family members including with family members in other countries without interference unless justified in line with international human rights law.

METHODOLOGY

FIGURE 1 – MAP OF NORTH KOREA, SHOWING KEY CITIES MENTIONED IN THE REPORT AND THE GEOGRAPHIC LOCATIONS WHERE THE 17 INDIVIDUALS FROM NORTH KOREA LAST RESIDED



Note: the boundaries and names shown and the designations used on this map do not imply acceptance by Amnesty International.

Independent human rights investigations are impossible in North Korea due to current restrictions and conditions in the country. Even remotely interviewing North Koreans living in the country about human rights violations would place them at significant risk of retaliation, including arrest and detention. As a result, this report is based on interviews with North

Koreans now living outside the country, academic and legal experts on North Korea, staff of NGOs working on North Korea as well as a review of secondary materials including reports by the United Nations, dozens of academic journal articles and media reports.

Even once outside the country, North Korean nationals remain concerned about their status as well as about that of family members left behind. To protect individuals who agreed to be interviewed, they are identified by pseudonym unless otherwise noted in the report. Their place of origin or the occupation of family members has also been changed in some instances, in order to reduce the risk of possible retaliation by North Korean authorities.

Interviews were carried out between February and November 2015 in Seoul, Daegu, and Asan in South Korea, and Tokyo and Osaka in Japan. In order to get up to date information in particular on the use of phones to communicate between individuals inside and outside North Korea, Amnesty International sought out individuals who had direct experience with these modes of communication. A total of 17 individuals were found who experienced using a mobile phone in North Korea prior to leaving the country or experienced contacting individuals in North Korea through mobile phones once outside the country.

Amnesty International sought individuals who had recently left the country so as to get as current information as possible on the restrictions on mobile phone use, restrictions on access to information and the practice of authorities in implementing these restrictions. Of these 17 individuals, most left North Korea in 2009 or later (14 out of 17), and were predominantly from the Ryanggang and North Hamgyong provinces, which share borders with neighbouring China (13 out of 17). This reflects the fact that people living close to the border can more readily access Chinese mobile networks, if not also more readily leave the country. Among those interviewed were a few private traders, including a trader of mobile phones, as well as an electrical engineer who worked on mobile phones.

Any information stemming from North Korea has to be evaluated carefully, as verification is often difficult, there is a history of false or at least exaggerated statements, and any information available is often subject to misuse by other interested parties. To mitigate the risk of using incorrect or falsified information, Amnesty International used rigorous standards in the collection, assessment and analysis of the information contained in this report, and only worked with known NGOs and contacts with proven track records. Most of them are acknowledged below. Information given by individuals originally living in North Korea was further checked against information given by experts on North Korea or other secondary sources for authenticity. Amnesty International interviewed a total of 19 experts and staff of organizations working on North Korea.

Interviews of individuals originally from North Korea were held in settings where the individuals would not feel threatened. Individuals were not paid for providing information, and financial compensation provided, if any, was limited to transportation and food costs. All individuals voluntarily consented to be interviewed and were informed of the purpose of the interview.

Amnesty International also contacted Orascom Telecom Media and Technology Holding S.A.E, the Egyptian telecom company who is a major shareholder of a mobile phone service provider in North Korea. A letter requested detailed information about services available to subscribers, including international and internet data services, and any restrictions thereon, as well as details about how the company handled possible requests from authorities for personal information on and data generated by users. As of early February 2016, the

company had not yet responded, and Amnesty International sent a second letter for follow up.

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Mobile phone mast tower in the Chinese-Korean border. The left side of the fence is China, and the right side is North Korea. (Source: Sokeel Park, Liberty in North Korea)

1. HUMAN RIGHTS AND FREEDOM OF INFORMATION IN NORTH KOREA

“We should take initiatives to reduce to ashes imperialist ideological and cultural infiltration, and set up double or triple ‘mosquito nets’ to stop the viruses of capitalist ideology from infiltrating our border ...”

Kim Jong-un, Speech at the 8th Conference of Ideological Officials of the Korean Workers Party, Pyongyang, 24 February 2014.

1.1 THE STATE OF HUMAN RIGHTS IN NORTH KOREA

North Korea remains one of the most isolated countries in the world. In 2014, the UN Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea (the Commission) issued its report, with detailed findings that exposed violations of almost the entire range of human rights including areas such as torture and inhuman treatment, arbitrary arrest and detention, enforced disappearances, violations associated with political prison camps, as well as violations of the rights to life, to food, and to freedom of expression.¹

Individuals are routinely imprisoned after unfair trials, or no trials at all. In many cases, the “crimes” they are accused and convicted of do not meet the criteria for internationally recognized crimes. Family members are also imprisoned under a tradition of “guilt-by-association” (*yeonjwaje*), as a form of collective punishment. The Commission found that many of the violations amounted to crimes against humanity. It urged that those responsible for these crimes and other human rights violations must be held to account.

The North Korean government has been on the whole uncooperative with the investigation of

¹ UN, *Report of the Commission of Inquiry* (2014), para 13.

the Commission, neither permitting its members unrestricted access to the country, nor providing them with the necessary information to enable them to fulfil their mandate. Among other measures, the Commission called on the Security Council to take appropriate action to ensure accountability, including through consideration of referral of the situation in North Korea to the International Criminal Court. The Security Council noted, in its first ever discussion of the issue in December 2014, the North Korean authorities' refusal to allow the Commission entry to the country for investigation, and called on countries with influence over North Korea to assist in clarifying the allegations of massive human rights violations in the country and to encourage it to allow independent investigators free access to the country.² The human rights situation in North Korea was again discussed by the UN Security Council on 10 December 2015, International Human Rights Day, during which the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, stated that the continuing gross rights violations in North Korea "pose a threat to international peace and security."³

The true state of human rights in North Korea has for long remained highly opaque, owing partly to the lack of independent domestic media, and the lack of information exchange between North Korea and the rest of the world. Any lack of access to information, and thereby restriction on the freedom of opinion and expression, negatively impacts the enjoyment of various other human rights. The internet is an enabler, facilitating the realization of other human rights including a wide range of economic, social and cultural rights, such as the right to education, and the right to take part in cultural life and to enjoy the benefits of scientific progress.⁴ Apart from this inability to receive information across borders, it also remains extremely difficult for people in North Korea to tell the outside world about systematic, widespread and gross human rights violations such as executions, torture, forced labour, and other ill-treatment. This is not possible unless they first leave the country, and only then can they share their information. However, North Koreans are not free to travel abroad and leaving the country without permission is against the law. Those caught and returned face harsh treatment. Criminal Law Article 221 states that those who illegally cross the border are liable to up to one year of training labour camp, and when such act is serious, they are liable to up to five years of hard labour for reform.

Testimonies of former detainees and prisoners have confirmed the existence of political prison camps, where they were subject to extrajudicial executions, torture, forced hard labour and other ill-treatment.⁵ Amnesty International commissioned analysis of satellite images to further document the existence of these camps and the changes in their size and facilities

² UN, Security Council Meeting Records, S/PV.7353, 22 December 2014, www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7353.pdf (accessed 14 September 2015).

³ UN News Centre, "UN human rights chief calls for DPR Korea to be referred to International Criminal Court", 10 December 2015, www.un.org/apps/news/story.asp?NewsID=52791#.VmuUeEp94dU (accessed 12 December 2015).

⁴ UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, para 22, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015). See Chapter 5.

⁵ UN, *Report of the Commission of Inquiry* (2014).

over time.⁶ The government nonetheless continues to deny their existence.

1.2 CONTROL OF COMMUNICATIONS AND INFORMATION IN NORTH KOREAN LAW AND PRACTICE

Until recently, North Koreans have had an extremely limited exchange of information with the outside world, due to the near-absolute control of information by the state, along with tight control of information and telecommunication technologies that could be accessed.

Although the constitution of North Korea does contain language that guarantees some form of freedom of expression (Article 67), there is no clear provision that circumscribes this freedom in a similar way as the Universal Declaration of Human Rights (UDHR), which includes the freedom “to seek, receive and impart information and ideas through any media and regardless of national frontiers” (UDHR, Article 19). The constitution also declares the inviolability of the person and of the home is guaranteed: “No citizens can be placed under control or be arrested nor can their homes be searched without a legal warrant” (Article 79).

However, in North Korea, control of the state and its legal system rests with the Workers’ Party of Korea. Article 11 of the constitution states that the “Democratic People’s Republic of Korea shall conduct all activities under the leadership of the Workers’ Party”. Further, relevant party bylaws state that “the Workers’ Party takes the revolutionary thought of the great leader, Kim Il-sung, and the Juche ideology as the one and only leading guideline”, making it clear that the Workers’ Party’s absolute guidance are the instructions of Kim Il-sung, the founder of the state.⁷ The instructions of the leader of the state thus supersedes all laws, exemplified and compounded by the fact that the security agencies serves the leader himself, rather than the law or the people of the nation. Therefore, provisions related to the freedom of expression, or other human rights, contained in the constitution do not guarantee that people can enjoy these rights, since they remain subject to the dictates of the leader of the state and party instructions.

In an address during a conference for ideological officials in North Korea, Kim Jong-un ordered that “[W]e should take initiatives to reduce to ashes imperialist ideological and cultural infiltration, and set up double or triple ‘mosquito nets’ to stop the viruses of capitalist ideology from infiltrating our border.”⁸ The political guideline to restrict and intercept information exchange between North Korea and the outside world cannot be more evident.

The North Korean state monopolizes the content and ways of transmitting all information,

⁶ Amnesty International, *North Korea: New satellite images show continued investment in the infrastructure of repression* (Index: ASA-24/010/2013); Amnesty International, *North Korea: New satellite images show blurring of political prison camp and villages in North Korea* (Index: ASA-24/004/2013); Amnesty International, *North Korea: Political prison camps* (ASA-24/001/2011).

⁷ Ken Gause, *Coercion, Control, Surveillance, and Punishment. An Examination of the North Korean Police State*, Committee for Human Rights in North Korea, 2012, www.hrnk.org/uploads/pdfs/HRNK_Ken-Gause_Web.pdf (accessed 15 October 2015).

⁸ Kim Jong-un, Speech at the 8th Conference of Ideological Officials of the Korean Workers Party, Pyongyang, 24 February 2014, www.nkleadershipwatch.wordpress.com/2014/02/26/kim-jong-un-addresses-ideology-officials-conference-and-attends-photo-op/ (accessed 11 December 2015).

including the ownership of all telecommunications, postal and broadcasting services, as stipulated in its constitution (Article 21) as well as its Communications Law (Articles 1 and 2).⁹ Article 37 of the Communications Law also prohibits international organizations, agencies, businesses, organizations and citizens of other countries from installing or operating any wireless or satellite broadcasting facility, although exceptions can be made for joint-ventures (see below).

There is no independent media and all media content including television, newspapers and radio is controlled by the Publication and Broadcasting Department, which operates within the Propaganda Department of the Workers' Party of Korea.¹⁰ Due to this monopoly as well as strict controls on communications, the North Korean state has been able to control to a very large extent what kind of information is received by its citizens.

While this particular lack of access to unsupervised communication and independent information is not as dire as the gross human rights violations that occur, for example, in detention facilities as set out in the report of the Commission, it is a pervasive concern that affects almost everyone, and is intrinsically linked to other violations, including of economic, social and cultural rights.

MOBILE PHONE SERVICES

The rise of the unofficial private economy since the late 1990s, when the country faced severe food shortages, has led to significant changes in North Korea. As a result of the breakdown of the public distribution system of food, "grey markets" became common as a source of food and income. As traders smuggled in food, clothing and other goods from China, they have also brought in mobile phones and SIM cards that enable North Koreans living near the border areas to access the Chinese mobile networks and communicate directly with people outside North Korea. Mobile phones used in North Korea to access Chinese networks are usually referred to as "Chinese mobile phones" (*chunguk sonjonhwa*) irrespective of where they are manufactured. These phones were ground-breaking in the sense that they technically enabled ordinary citizens, who were not government officials, to make contact with the outside world without being bound by limitations of the domestic landline phone system.

Perhaps in reaction to the use of these "Chinese mobile phones", the North Korean government rolled out a legal mobile phone service in 2008, which to date still does not allow international calls for nationals, as opposed to foreign nationals. The government had made one prior attempt to introduce mobile services in 2002, but abruptly announced a ban on mobile phones in 2004 following a massive explosion at Yongchon Station in North Pyongan Province that was allegedly triggered by a remote-controlled wireless handset.¹¹ The current service, offered through a joint-venture service provider named Koryolink, has been able to operate with minimal government interruptions since its launch.

⁹ Translation on file at Amnesty International.

¹⁰ UN, *Report of the Commission of Inquiry* (2014), paras 205–207.

¹¹ Peter Nesbitt, *Emerging Voices on Korea: New Trends in North Korea* (2011), Joint US-Korea Academic Studies, Korea Economic Institute, www.keia.org/sites/default/files/publications/emergingvoices_final_peternesbitt.pdf (accessed 15 October 2015).

Mobile phones under the domestic system have become hugely popular in North Korea today, with 3 million subscribers signing up for the service, and network coverage expanding to cover 94% of the country's population of about 25 million.¹² Koryolink is a joint-venture between the Egyptian company Orascom Telecom Media and Technology Holding S.A.E. (Orascom) and the state-owned Korea Post and Telecommunications Corporation (KPTC). Despite the earlier mentioned constitutional requirement that all telecommunications services be owned by the state, such a joint venture is allowed under the current North Korean legal framework. In Article 37 of the North Korean Constitution, state institutions, enterprises or associations are encouraged to "establish and operate equity and contractual joint venture enterprises with corporations or individuals of foreign countries within a special economic zone".

Orascom, as holder of 75% of the stake in the joint venture Koryolink, obtained a 25-year licence with exclusive access for four years between 2008 and 2012. In a statement in November 2015, however, it was revealed that a new domestic state-owned mobile operator may be merged with Koryolink, a move that would reduce the power of Orascom as Koryolink's major shareholder. In the statement, Orascom admitted its difficulties in imposing control over Koryolink, as well as getting its profits out of North Korea, citing the sanctions imposed on the country as the reason.¹³

In this context, it is noteworthy that the UN framework of corporate responsibility includes the principle that corporations must respect human rights wherever they operate and regardless of the host state's ability or willingness to do so, and that enterprises need to put in place proactive measures, including due diligence processes, to ensure they do not cause or contribute to human rights abuses.¹⁴ The UN has also noted that communications and information technology companies have a role to play in respecting international human rights, particularly the right to privacy, and freedom of expression.¹⁵ This responsibility extends not only to the companies' own activities, but also to its business relationships. Companies can be held to account for any abuses they commit.

FOREIGN NATIONALS' ACCESS TO MOBILE PHONES

Also prompted by the North Korean government's need for hard currency income, authorities

¹² Reuters, "North Korean capital shows flashes of prosperity amid country's isolation", 8 October 2015, www.reuters.com/article/2015/10/08/us-northkorea-anniversary-idUSKCNOS21KK20151008 (accessed 15 October 2015).

¹³ Orascom, "OTMT Announces the Adaptation of a Revised Accounting Treatment for its North Korean Subsidiary Koryolink and the Conclusion of its Acquisition of Beltone", Public statement, 15 November 2015, www.egx.com.eg/downloads/Bulletins/182837_2.pdf (accessed 25 November 2015).

¹⁴ UN OHCHR, *UN Guiding Principles on Business and Human Rights* (2011), endorsed by the UN Human Rights Council in Resolution 17/4 on the issue of Human Rights and Transnational Corporations and other Business Enterprises, UN doc. A/HRC/RES/17/4, 6 July 2011; UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, paras 44, 45, 76, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015).

¹⁵ UN Human Rights Council, *The right to privacy in the digital age — Report of the OHCHR*, UN doc. A/HRC/27/37, 30 June 2014, para 44.

started in 2013 to allow foreign nationals to obtain local SIM cards at the Pyongyang airport in order to make and receive international phone calls (except to South Korea), to call other foreign nationals in the country, and to access internet data on the World Wide Web as they would in other countries. As of July 2015, a prepaid 3G SIM card costs USD80, with the value deducted on a per-minute basis as calls are made to various countries, and costs varying for each destination country. Data costs extra, at USD200 for 2 gigabytes, according to media reports.¹⁶ The service is only for foreign nationals, and they are not able to call domestic phones. In order for ordinary North Koreans to make calls out of the country, they have to use the “Chinese mobile phones”, or use one of several stop-gap methods to do so with North Korean phones.

Recently, the North Korean government has taken steps to ensure that all SIM cards acquired by foreign travellers are deactivated as they leave the country. This prevents North Koreans from accessing the internet or calling people in other countries using a phone loaded with a SIM card left behind by foreign nationals.¹⁷ The effort clearly shows the intention of the North Korean state to ensure that the general North Korean public does not have access to international mobile phone and data services, while still obtaining hard currency revenue by selling foreign nationals such access.

INTERNET

Although the technology for accessing the internet is available in North Korea, it is only accessible by foreign nationals and a select few in the country.¹⁸ None of those interviewed for this report had any experience of accessing the World Wide Web prior to leaving North Korea. Only one individual reported that her uncle, who was with the military, had been able to access the internet. Some North Koreans are known to be able to access an isolated system that is known domestically as the “computer network”, and sometimes mistakenly reported internationally as an “intranet”.¹⁹ The network is in fact a closed-off internet limited to domestic North Korean users, which provides connection only to domestic websites and email, although none of the individuals interviewed appeared to be acquainted with the system.

In this regard, the situation in North Korea is quite exceptional in that the general population is completely denied access to the World Wide Web. This goes far beyond other state-ordered restrictions of the internet, such as the content-specific blocking of websites²⁰ or the

¹⁶ Korea Herald, “Instagram adds to trickle of info out of North Korea”
www.koreaherald.com/view.php?ud=20150708001010 (accessed 15 October 2015).

¹⁷ Reuters, “North Korea tightens grip on phone SIM cards used by tourists”, 1 September 2014,
www.reuters.com/article/2014/09/01/us-northkorea-mobilephone-idUSKBN0GW1MC20140901
(accessed 15 October 2015).

¹⁸ North Korea Tech, “Internet access, computers and high-tech life at PUST”, 30 January 2014,
www.northkoreatech.org/2014/01/30/internet-access-computers-and-high-tech-life-at-pust/ (accessed 15 October 2015).

¹⁹ For example, see North Korea Tech, “A peek inside North Korea's intranet”,
www.northkoreatech.org/2015/07/06/a-peek-inside-north-koreas-intranet/ (accessed 18 November 2015). Instead, an intranet is typically defined as a set of content shared by a well-defined group within a single organization.

²⁰ Human Rights Committee General Comment No. 34: Freedoms of opinion and expression, UN doc.

temporary cutting-off of access during what governments consider emergency situations; this total disconnection, and the restriction of access to available technology to a small elite gives a whole new meaning to the term “digital divide”.²¹

VIDEO DISCS AND OTHER AUDIO-VISUAL DATA

While the World Wide Web remains off limits to virtually all ordinary North Koreans, video discs and USB sticks containing media content produced outside the country have become available, either for purchase on the grey market, or by circulation and copying among family and friends. The low cost of video discs has made it an easily accessible and popular way for people to access audio-visual materials originating from outside the country. These recorded media are not only used at home, but also secretly in public venues. The government in fact shut down public computer rooms in Pyongyang to prevent people from viewing foreign videos using the equipment there.²² It is nonetheless more difficult to stop the use of video discs in private homes. In a survey of people who had previously lived in the country, commissioned by the US Broadcasting Board of Governors in 2010, DVDs were found to be the most common form of access to outside media in North Korea.²³

RADIO AND TELEVISION

Television is the most widely used media platform in North Korea. In the survey commissioned by the US Broadcasting Board of Governors, 73% percent of the respondents indicated that they watched television while in North Korea, with one third of television viewers claiming to have viewed foreign content.²⁴ Due to the country's shared borders with South Korea, China and Russia, it is possible for households in parts of North Korea to receive television and radio signals originating from these countries, or even further away. As the material aired from these countries may contain information that the North Korean government may perceive as threatening to its grip on power, strict restrictions exist in terms of the types of appliances that households can own and use. Traders nonetheless bring in electrical appliances that would allow North Koreans in some areas to receive television and radio signals from South Korea, China or other countries.

1.3 EVERYDAY SURVEILLANCE

The above mentioned limited channels allow people in North Korea to exchange information with the outside world, but the North Korean state has developed many ways of carrying out surveillance of and obstructing communications, as detailed in this report. In parallel to that, a number of laws are used to harass, detain and prosecute people who are seeking to

CCPR/C/GC/34, 12 September 2011, para 43.

²¹ UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, paras 49, 61, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015).

²² Amnesty International interview with Nam-soo (pseudonym, man in his 30s, who left North Korea in 2011) in Daegu, South Korea on 3 March 2015. The Korean word for public computer rooms used during the interview was *PC bang* which is a South Korean term literally meaning “computer rooms”.

²³ Nat Kretchun and Jane Kim, *A Quiet Opening: North Koreans in a Changing Media Environment*, InterMedia, 2012, www.intermedia.org/a-quiet-opening-in-north-korea/ (accessed 15 October 2015).

²⁴ Kretchun and Kim, *A Quiet Opening*.

exchange information with the outside world, as outlined earlier, as well as in Chapters 3 and 4.

Before the introduction of more technologically advanced forms of surveillance, the North Korean government had for long relied on more traditional, “person-to-person”, social control methods to keep watch over people who could access outside media, such as the neighbourhood *inminban* system. Loosely translated as “neighbourhood” or “people’s group”, the *inminban* groups were created in 1945 following Korea’s liberation from Japan. They operate under the orders of the Korean Workers’ Party, with local party committees usually appointing the group’s leader. The leaders need to be of “good” family background, and consult frequently with agents of the State Security Department (SSD) and the Ministry of People’s Security.²⁵

Today, each *inminban* generally consists of 20 to 40 households living either in a neighbourhood or an apartment building. Each *inminban* shares the duty of monitoring its members, providing ideological education, and serving as a conduit for various mobilization campaigns. Every North Korean national is required to belong to an *inminban*. The group meets once or twice a week, attended by representatives of each household, who often tend to be women who do not work outside the home. Group leaders watch closely the behaviour and personal relations of residents under their supervision, and have the authority to visit homes at any time, day or night.

In addition to the pre-existing *inminban*, the North Korean government has recently also set up dedicated units to track down people who make phone calls to other countries using “Chinese mobile phones”, as well as accessing outside information through other media. Individuals who were interviewed also reported the increasing use of technologically advanced surveillance equipment, some of which is imported from other countries and is capable of recording conversations or jamming mobile phone signals. In other words, state interference in citizen’s privacy and surveillance of their communications has become even more intrusive, while at the same time there is an increase in the limited channels through which individuals can access information from outside the country.

²⁵ Ken Gause, *Control, Surveillance, and Punishment. An Examination of the North Korean Police State*, Committee for Human Rights in North Korea, 2012, www.hrnk.org/uploads/pdfs/HRNK_Ken-Gause_Web.pdf (accessed 15 October 2015).

2. ACCESS TO MOBILE PHONE SERVICES

“I used the mobile phone for business, but also helping others deliver money, or connecting to their relatives. Many people do this, but (...) they never tell each other.”

Kwang-il (pseudonym), man in his 40s who left North Korea in 2013. Currently living in Seoul, South Korea.

2.1 ACCESS TO INTERNATIONAL MOBILE PHONE SERVICE

As briefly shown in the last chapter, the North Korean government poses strict restrictions on the use of mobile phones, and it is particularly difficult to make unmonitored international calls. For most North Koreans, making an international phone call meant going to the local post office to place the call, before the appearance of “Chinese mobile phones”. Certain government offices are connected to the international telephone network, but even there, access is tightly controlled. Ji-eun a woman in her 50s, recounted:

“I had some relatives in China. Until 2005, I could make official phone calls to them in the provincial post office, by paying a fee. After 2005, we had to apply with an official application, and get permission from authorities in order to make the calls. In my case, I had to write down my counterpart's name, and how I got to know her, and what would be said in the conversation. I only made calls to China, but I know others who called Japan and the United States. I am not sure why the rules have been changed.”²⁶

The stepping up of the restrictions on placing international calls in recent years can probably be attributed to the increasing number of North Koreans who were fleeing the country, a trend before Kim Jong-un came to power in 2011 but since then the numbers have dropped. The lack of privacy in post offices makes it difficult for North Koreans to use these official services to contact family, relatives or friends who fled, as it would subject them to the risk of arrest by the authorities.

With the use of “Chinese mobile phones” close to the border becoming a possibility, more and more North Koreans take this opportunity, as well as the associated risks, to make

²⁶ Amnesty International interview with Ji-eun (pseudonym), woman in her 50s, who left North Korea in 2013, in Seoul, South Korea on 21 May 2015.

contact with people outside the country. Out of the 17 individuals interviewed, 12 had used “Chinese mobile phones” to talk to a party outside North Korea at some point before they left the country for good, and nine were from households that owned a “Chinese mobile phone”. Either their families purchased these phones directly, or received them from business partners in China if they were involved in grey market trade. As mentioned previously, private trade of telecommunication equipment from other countries is punishable by law (Article 37, Communications Law of North Korea).²⁷ However, individuals who left North Korea more recently (2011 or later) said it was possible to buy these phones and SIM cards on the grey market directly. The SIM cards are not expensive by international standards, but according to Bak-moon who left North Korea in 2011, they are costly when the value is understood in terms of prices or wages in North Korea:

“Illegal smugglers brought in SIM Cards, they are sold for RMB100 [Chinese renminbi, or yuan, equivalent to USD16] or so, depending on credit on the card. That was a lot of money: about 10 months of salary officially, but if you buy food it can feed a person for one month.”²⁸

In addition to buying your own phone, some individuals also mentioned using a borrowed “Chinese mobile phone” but this is also risky. According to Yon-hwa, a woman in her 40s, if the owner of the phone was under investigation by state security agents for possible cross-border activities, the person borrowing the mobile phone would also become a target:

“When the owner of the mobile phone actually confessed that he has loaned the phone to someone during the investigation, the person who borrowed it was also arrested. The reason why the owner was investigated was because he was able to spend more money all of a sudden. When people become able to afford certain things without specific reasons, they are subject to investigation.”²⁹

For most others, who do not own “Chinese mobile phones”, buying the service of a “broker” would be more common. An illegal and unregulated system of brokers exists primarily to facilitate cash remittances from North Koreans who left the country to their families or relatives who remain in the country. These brokers, having their own mobile phones, also act as a channel of communication between the family members. In such cases, contact is normally initiated from outside North Korea, and may involve the sending of money into the country. According to Ju Yang, a young woman who now works with a non-profit organization in South Korea, who used a broker to communicate with her father when she was still living in North Korea:

“I used the [Chinese] mobile phone through a broker. He regularly came to visit. The broker was sent to me from my father. In that way I was able to use the mobile phone. My father was already in South Korea at that time, but he did not literally send this person from there. The brokers were people working in North Korea or China. My father

²⁷ See Chapter 1.

²⁸ Amnesty International interview with Bak-moon (pseudonym, man in his 20s, who left North Korea in 2011) in Seoul, South Korea on 26 February 2015.

²⁹ Amnesty International interview with Yon-hwa (pseudonym, woman in her 40s, who left North Korea in 2013) in Seoul, South Korea on 26 May 2015.

*contacted these brokers to visit me.*³⁰

THE BROKER SYSTEM FOR CALLS AND REMITTANCES

According to individuals interviewed, the broker system usually consists of up to three middle persons, apart from the two callers: one Chinese national (Party A), one ethnic Korean who is a Chinese national travelling between China and North Korea (Party B), and one North Korean national (Party C). Generally, facilitating a call goes hand-in-hand with a payment of remittance.

In order for a person in South Korea to call someone in North Korea who does not have their own Chinese mobile phone, it is necessary to make a cash remittance of at least KRW 1 million (approximately USD900) through the broker system. The money is first sent to the account of Party A in China, who then makes a phone call to Party B in North Korea, and asks him or her to pay the remitted amount minus commissions to Party C, with Party B's own available cash. Party C then delivers the cash to the recipient. Since Party B possesses a Chinese mobile phone, is a Chinese national, and can receive phone calls from China while in North Korea, he or she is able to facilitate a phone conversation between the money sender and the recipient.³¹

In terms of transaction costs, each of the three parties in the broker system collects a 10% commission out of the total amount remitted. This adds up to a total commission of 30%. Another individual told us there are cases where one broker would perform the roles of both Parties B and C and collect 20% commission.

In other words, for those North Koreans who do not own a Chinese mobile phone, it will be almost impossible to receive a call from their family or relatives who have left the country, unless the caller is ready to make a sizeable remittance, and pay 30% commission. Although some reports have shown some transfers to be fast and efficient,³² any caller also bears a risk of the remaining 70% money being sent but not delivered.³³

Although brokers, in addition, act as conveyers of information, they often do not want to see families reunite in South Korea. Once North Koreans leave and rejoin their families in South Korea, the brokers are no longer needed, and they lose business as a result.³⁴

2.2 CONTACTING FAMILY AND FRIENDS IN NORTH KOREA FROM OTHER COUNTRIES

People who have left North Korea often want to contact their families, relatives or friends to let them know that they are safe once they have reached another country. While this is possible, they can only do so if the intended recipient in North Korea owns or has access to a

³⁰ Amnesty International interview with Ju Yang (Woman in her 20s, who left North Korea in 2010) in Seoul, South Korea on 28 May 2015.

³¹ Amnesty International interview with Soo-yae (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

³² Kim Yon-ho, *Cell Phones in North Korea: Has North Korea entered the telecommunications revolution?*, 2014, uskoreainstitute.org/wp-content/uploads/2014/03/Kim-Yonho-Cell-Phones-in-North-Korea.pdf (accessed 15 October 2015).

³³ Amnesty International interview with Ji-eun (pseudonym, woman in her 50s, who left North Korea in 2013) in Seoul, South Korea on 21 May 2015.

³⁴ Amnesty International interview with Cho Dong-hyun (Man in his 30s, who left North Korea in 2003) in Seoul, South Korea on 26 February 2015.

“Chinese mobile phone”. If they don't already have one, often the person who has left will try to send them a phone, for example one bought in South Korea, Japan or China. Depending on the model of the mobile phone, they may be able to receive text messages and even pictures once connected to a Chinese network.

Kang Mi-jin, a reporter at Daily NK, an online newspaper based in South Korea, spoke about her experience of sending mobile phones to North Korea, and her communications with contacts:

“Unlike in the old days, talbukja [individuals from North Korea residing in foreign countries], now actually send mobile phones to their families in North Korea. Personally, I sent two smart phones into North Korea recently. They were not only for business, also for communicating with family. The smart phones are just like Chinese-made smart phones, although they are made in South Korea. We put in a Chinese SIM Card and load it with Chinese apps, so it looks just like a Chinese phone. We only use KakaoTalk [a South Korean chat application]. Internet access is possible but it will cost a lot.”³⁵

The mobile phones are sent not through official postal channels, but typically by paying a bribe to soldiers at the border. So-kyung, a North Korean woman who now lives in Japan, mentioned that it is getting more expensive to go through this route, because of strengthened security at the border in recent years.

“[The soldiers] were trying to make money by playing a postal role. The soldiers rarely reported on people, as they really needed money. When we sent the mobile phone, we had to pay about RMB1000 [approximately USD158], in a combination of cash and goods amounting to that value. These days the bribe can be up to USD500. The cost has gone up because I heard the surveillance has been strengthened, and the risk is higher for the soldiers.”³⁶

Due to the very high costs of “sending” a mobile phone into North Korea, many people who left the country would opt to pay for the service of a broker, who would help these clients send money to their family or friends in the country and at the same time allow them to use the broker's phone to call the recipient of the money. Hae-ju, a woman who lived near the Chinese border, said:

“Phones are used for making money. People who own ‘Chinese mobile phones’ are looking to make money. If you do not send money to your children [in North Korea], these people will not let you have conversation using their phones. I am not yet ‘capable’, as I need to be able to provide KRW1 million [South Korean Won, equivalent to approximately USD900]. These people in the middle require the sending of money as a condition, and charge a broker fee ... If my children had a phone, I could call them directly. But at the moment, I have to find someone who has a ‘Chinese mobile phone’

³⁵ Amnesty International interview with Kang Mi-jin, currently a reporter at Daily NK, woman in her 40s, who left North Korea in 2009) in Seoul, South Korea on 4 March 2015.

³⁶ Amnesty International interview with So-kyung (pseudonym, woman in her 40s, who left North Korea in 2005) in Tokyo, Japan on 24 March 2015. USD500 is approximately RMB3150. In other words, the bribe has increased almost threefold over the years.

in North Korea. That is very secretive too, because it is illegal.”³⁷



Cho Dong-hyun (age early 30s), left North Korea 2003. A student in Seoul, South Korea at the time of interview.

Out of the 12 individuals (only 14 were asked this question) who have made phone calls to North Korea from South Korea or Japan, six went through these brokers, as the people whom they tried to reach were not in possession of a “Chinese mobile phone”. This included Cho Dong-hyun, a man in his 30s, who reported:

“Nobody had a mobile phone where I lived. When I need to contact my mother, I would contact a Chinese broker, who would call someone who has a [Chinese] mobile phone near the border, and they would find my mother... It was very inconvenient for her to

³⁷ Amnesty International interview with Hae-ju (pseudonym, woman in her 40s, who left North Korea in 2012) in Daegu, South Korea on 3 March 2015.

travel 16-20km whenever she needed to use a phone [that could connect to a Chinese network].”³⁸

In addition to having to remit sizeable amounts of money, their family often also had to bear the risk of surveillance and travel a long distance in order to collect the money, and to speak through the broker’s phone in order to confirm their receipt of the money. In the case of Myong-jin, a man whose home was some distance from the border, the surveillance prevented his family from collecting the money.

“Yes I tried and contacted my family two or three times. They still live in the same place. They asked me to send money. But due to surveillance, they were not able to go to Siniju to collect the money ...”³⁹

Individuals who own “Chinese mobile phones” often themselves provide broker services to other people. These broker services are also illegal according to the Criminal Law (Article 112, see box on *Criminalization of Unauthorized Communications* in Chapter 3 for details), but might not have been necessary in the first place, if international telephone services were readily available, and not subject to surveillance or arrest. Kwang-il, who worked mostly as a trader, was one such individual that profited from owning a “Chinese mobile phone”.

“I used the mobile phone for business, but also helping others deliver money, or connecting to their relatives. Many people do this, but they never know each other. I could feel other people doing this same thing but they never share this information. Between people who do it, they can feel it happening but they never tell each other.”⁴⁰

As indicated by these testimonies and other published reports, the North Korean government has imposed increasingly severe restrictions on people trying to make phone contact with parties outside the country, and vice versa. By imposing a near total ban on international calls on mobile phones, the North Korean government has deprived people of the opportunity to regularly contact their family members abroad, and the freedom to seek, receive and impart information regardless of frontiers. Further, the attempts to communicate with people in other countries has subjected individuals to surveillance and arbitrary arrest.

³⁸ Amnesty International interview with Cho Dong-hyun (Man in his 30s, who left North Korea in 2003) in Seoul, South Korea on 26 February 2015.

³⁹ Amnesty International interview with Myong-jin (pseudonym, man in his 40s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

⁴⁰ Amnesty International interview with Kwang-il (pseudonym, man in his 40s, who left North Korea in 2013) in Seoul, South Korea on 18 May 2015.

CALLING NORTH KOREA: THE RISK OF PROSECUTION IN SOUTH KOREA

According to the Ministry of Unification of South Korea, more than 27,000 North Koreans had settled in the country by the end of 2014. The number of North Koreans arriving in the South had increased between the mid-1990s and 2011, but has been decreasing since 2012, from more than 2,500 to fewer than 1,500 per year. Settlers from the North become citizens of South Korea after spending a few months in residence in a facility that, according to the South Korean government, acclimatizes them to life in the South.

People living in South Korea who contact residents in the North run the possibility of violating the South Korean National Security Law (NSL). The law contains extremely vague clauses, including with regard to contact with individuals related to the North Korean state:⁴¹

“Any person who makes contact with a member of an anti-government organization or a person who has received an order from it, by means of a meeting, correspondence or other method, with the knowledge of the fact that it threatens to endanger the existence and security of the nation, or democratic fundamental order, shall be punished by imprisonment for not more than ten years.” (Article 8, National Security Law of South Korea, amended by Act No. 4373, 31 May 1991)

The South Korean government made a statement regarding this issue two decades ago in 1995, when the international telecommunications company AT&T first made it possible for consumers to make long-distance calls to North Korea. The South Korean government at the time stated that any of its citizens, including those with status as US permanent residents, would need special permission from the Ministry of Unification before communicating with North Korea residents through telephone or fax. Failing to report would mean prosecution under the NSL.⁴²

In reality though, few if any individuals have been prosecuted under the NSL simply for trying to contact family members left behind in North Korea by mobile phone, according to South Korean human rights lawyer Jang Kyung-wook. However, these officially illegal calls could increase the criminal charges brought against an individual if he or she is prosecuted for other offences, such as traveling to North Korea without prior government permission. Jang also noted, while the authorities technically have an obligation to investigate when people making these calls are reported, they are also careful not to interrupt these crucial channels for much-needed information on North Korea to come out of that country.⁴³

2.3 DOMESTIC MOBILE PHONE SERVICE

Findings from the interviews reflect the popularity of the domestic mobile phone service in North Korea, with 10 out of the 17 individuals interviewed having used a North Korean mobile phone through the Koryolink network before they left the country. Nine of them were from households that owned these phones. Nonetheless, the cost of owning a mobile phone can be extremely high compared to the average level of income in the country, as explained

⁴¹ Amnesty International, *The National Security Law: Curtailing freedom of expression and association in the name of security in the Republic of Korea* (Index: ASA 25/006/2012).

⁴² Kim Kyung-hyun, *The Remasculinization of Korean Cinema*, Duke University Press, 2014, p286.

⁴³ Amnesty International interview with Mr Jang Kyung-wook, human rights lawyer, Seoul, South Korea on 9 December 2015.

by a woman in her 40s named Yeon-hee.⁴⁴

"I bought my daughter's phone for RMB3000 [USD475], and my own phone for RMB1000 [USD158]. RMB3000 was like two full months of income if you were trading clothing in the market. [My daughter's phone] was a top-of-the-line model, like a smart phone. I wanted to give it to her because I got to know her classmates. Some of them had this kind of phone, and it's a symbol of affluence."⁴⁵

While mobile phones are important to young North Koreans for social reasons, rural people also try to save money to buy one, because they find it important for their livelihoods. Dae-hun, originally from rural North Hamgyong province, said:

"The mobile phone was important because: merchants need it to do business, and young people use it to show off to their peers. For us, since we are in the mountains and raising bees, it is crucial to know the weather. If you have a mobile phone, you can receive the weather information ... The price range was between USD200-500. It will take several years if you only save your monthly income. I have just tightened my budget and continued to save money to get USD200 [about 1.6 million North Korean Won]."⁴⁶

A number of individuals spoke not only about the financial hurdles of getting a mobile phone, but also the administrative ones, and the corruption that is involved in the process. Potential buyers of North Korean mobile phones must visit the Communications Technology Management Office in their localities. In addition to completing the necessary paperwork, approval is required from the relevant Ministry of People's Security official, who is equivalent to a local police officer. All of these officials are able to use their discretion over the procedures as an opportunity for their own gain and ask for bribes.⁴⁷ Myong-jin, a North Korean man now living in Seoul, found it better to pay the bribe than to wait:

"Officially it takes six to eight months [to get a mobile phone]. I didn't want to wait, so I just bought it off [unofficial channels]. Originally it would cost USD150, but I paid USD300. I did that because official channels were complicated, and there was a lot of paperwork. It was also necessary to visit government and security departments."⁴⁸

Due to the uncertainty over the procedures that North Koreans have to go through in obtaining a domestic mobile phone, a "fast-track service" offered by "fixers", who are usually closely related to officials, has emerged. Out of the nine individuals whose household owned

⁴⁴ Official data regarding the GDP per capita of North Korea is not released publicly. As of 2011, the figure was estimated as USD1800. Source: US Central Intelligence Agency, "The World Factbook", www.cia.gov/library/publications/the-world-factbook/geos/kn.html (accessed 1 December 2015).

⁴⁵ Amnesty International interview with Yeon-hee (pseudonym, woman in her 40s, who left North Korea 2013) in Seoul, South Korea on 18 May 2015.

⁴⁶ Amnesty International interview with Dae-hun (pseudonym, man in his 50s, who left North Korea 2013) in Daegu, South Korea on 3 March 2015.

⁴⁷ Daily NK, "Cellphones Still a "Rich" Man's Game", 5 June 2014, <http://www.dailynk.com/english/read.php?num=11930&catId=nk01500> (accessed 15 October 2015).

⁴⁸ Amnesty International interview with Myong-jin (pseudonym, woman in her 40s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

a North Korean mobile phone, six went through these “fixers,” in purchasing their North Korean mobile phones. Soo-yaе, a young woman in her 20s, was one such individual:

“I paid RMB1700 [USD260] for a new phone. It was a folding-style one. I bought that in the jangmadang [market]. There were some people selling those phones as a personal business. In Pyongyang, there are stores for phones, but in my area you get it through individuals [like a fixer], and s/he will help with the paperwork. It takes two to three days to get the phones. People who are related to government are doing this business.”⁴⁹

According to Myong-jin, “fixers” are usually closely related to officials in the government. She further reported:

“The government allocates a certain quota to the mobile phone ‘business people’, and ordinary people are not able to access it. Most of the ‘business people’ are the wives of the members of the Worker Party, wives of the police or the State Security Department officials. They sell the quota out and make money. The ‘phone business people’ told me about this quota. They told me that each city, province is allocated a certain number of phone subscriptions given a certain period of time.”⁵⁰

A report on these “fixers” published by the US-Korea Institute, however, explains that they obtain large numbers of mobile licences first by offering a small gift of cash or food to poor rural people, and asking them for their personal information which the fixer then uses to register a licence; in this way, they take possession of that individual’s personal phone licence and resell it.⁵¹ Then they sell the licences off together with handsets at a profit to others who might otherwise have to wait for months to obtain a mobile phone.

Although this “fixer” activity could be interpreted as punishable under Article 167 of the Criminal Law of North Korea (based on the 2009 version), this article was removed from the 2012 version of the law for unknown reasons.⁵² In any case, state authorities seemingly rarely intervene due to the close relationships between these “fixers” and officials.

It should also be noted that all individuals who went through these “fixers” reported that they paid for their North Korean handsets using foreign exchange (such as Chinese yuan or US dollars). The handset business is possibly a way for the North Korean state to collect foreign currency, thereby preventing some of the individual accumulation of foreign currency savings as gained through the booming grey market trade. This is facilitated by ensuring that sales of

⁴⁹ Amnesty International interview with Soo-yaе (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

⁵⁰ Amnesty International interview with Myong-jin (pseudonym, woman in her 40s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

⁵¹ Kim Yon-ho, *Cell Phones in North Korea: Has North Korea entered the telecommunications revolution?*, 2014, uskoreainstitute.org/wp-content/uploads/2014/03/Kim-Yonho-Cell-Phones-in-North-Korea.pdf (accessed 15 October 2015).

⁵² “A person who, for personal gain, installs unauthorized telephones multiple times, fails to install authorized telephones in a timely manner, or makes normal telephone calls impossible shall be punished by short-term labour for less than two years.” (Article 167, Criminal Law of the DPRK, 2009 version).

handsets are carried out by a group of “fixers” who are closely related to officials.

Local people have come up with solutions using domestic phones to make calls out of the country. One solution is to first have a person living near the border receive a call from outside the country using a “Chinese mobile phone”, and that person would call another North Korean mobile phone to enable a third person to join the conversation. By placing the two phones against each other, the two separate phone calls can be merged into one.⁵³ Another solution, according to Kwang-il who left North Korea in 2013, is to try to tamper with the North Korean phone and use a SIM Card that can function on a Chinese network.⁵⁴

Despite these alternative ways of using domestic mobile phones, they are still very expensive to obtain, even more so if North Koreans go through unofficial channels and their availability does little to alleviate the fact that North Koreans are officially cut off from outside information, whether it is contact with family members living abroad or simply learning about foreign developments. Domestic mobile phones are not facilitating North Koreans’ access to and freedom of information, they are part of the state’s concerted effort to keep its citizens isolated.

Article 19 of the ICCPR guarantees, as part of the right to freedom of expression, the “freedom to seek, receive and impart information and ideas of all kinds, regardless of any frontiers ... through any ... media”, restating the principles contained in Article 19 of the UDHR. Article 17 of the ICCPR sets out that everybody’s correspondence is protected by the right to privacy (see also Article 12 of the UDHR); this includes communications by phone,⁵⁵ as well as correspondence between family members across borders. By disallowing any unmonitored international phone conversations, and in the case of domestic mobile phones, any international communication at all, and by the concerted effort to disrupt and punish any such correspondence through international phone systems, the North Korean government shows that it has no intention to honour these guarantees. These across-the-board bans and practices cannot be justified on “national security” or any other grounds.

⁵³ Amnesty International Interviews with Jiro Ishimaru, journalist of Asia Press in Tokyo, Japan on 27 March 2015; and with Yon-hwa (pseudonym, woman in her 40s, who left North Korea 2013) in Seoul, South Korea on 26 May 2015.

⁵⁴ Amnesty International interview with Kwang-il (pseudonym, man in his 40s, who left North Korea 2013) in Seoul, South Korea on 18 May 2015.

⁵⁵ Human Rights Committee General Comment No. 16: Right to Privacy, UN doc. CCPR/C/GC/16, 28 September 1998, para 8. See Chapter 5.

3. SURVEILLANCE AND ARBITRARY ARRESTS FOR THE USE OF PHONES

*“My mother's friend was sent to **danryondae** because her conversation on the phone got detected. She got into trouble not because she was criticizing the regime, but because she was asking for money [during the call]...”*

Jong-hee (pseudonym), woman in her 20s who left North Korea 2014. Currently living in Seoul, South Korea.

Surveillance exists in many forms in North Korean society. This chapter focuses on the different techniques deployed by the North Korean state to make the use of “Chinese mobile phones” as difficult and risky for the user as possible. These techniques include plain physical surveillance, investigation by state security agents, especially if one belongs to a group considered as “suspect” by the state, jamming and blocking of telecommunication signals, technological detection of users’ location and covert recording of conversations.

3.1 SURVEILLANCE OF USE OF CHINESE MOBILE PHONES

HEIGHTENED SURVEILLANCE UNDER KIM JONG-UN

Although surveillance, in general and specifically with regard to the use of information and telecommunication technology, was a fact of life even before Kim Jong-un came to power in December 2011, domestic and border security has significantly tightened since then. Fourteen of the 17 individuals interviewed by Amnesty International experienced or witnessed surveillance of the use of mobile phones. According to their testimonies, households with family members who are suspected of having left the country are often the targets of increased surveillance. Jong-hee, one of the younger individuals that was interviewed, mentioned:

“Everybody was monitoring everybody else in North Korea. In neighbourhoods, and in workplaces, people monitoring each other. There is a suspicion that if a poor household is starting to spend a lot of money, people would report that type of anomaly. When this

is reported, the local police agents will visit the family.”⁵⁶

For state agents, a noticeable increase of household spending could imply money being sent from a family member outside the country. According to Kang Mi-jin, who formerly lived in North Korea:

“They have this list of people from the population registration under special attention of the SSD [State Security Department]. They focus on monitoring people on this list. The families of talbukja [individuals from North Korea residing in foreign countries] are separately categorized. Whether they are really making phone calls or not, so they are also under surveillance. Agents regularly visit their houses, and even say that they would spend the night there.”⁵⁷

In addition to people leaving the country, another part of the reason for the strengthened surveillance near the border was the role of “Chinese mobile phones” in private, grey market trade, which is illegal but necessary in North Korea. According to Ji-eun, who was involved in trade while in North Korea and is currently maintaining contact with her family while living in South Korea:⁵⁸

“It is getting harder and harder to do business. In the past year [2014], only really powerful people got to do a little bit of illegal trade... It is necessary for this illegal trade to happen because everyone, including government officials, makes money through this trade. In Ryanggang province, there are no factories, and it is also not a good place for farming. People need this trade for their living, so there is a repeated cycle of tightening and releasing of restrictions. This year, the crackdown on trade is especially harsh, and the surveillance on communications also steps up. But [the use of “Chinese mobile phones”] continues. People just go to mountains and be careful.”

The individuals interviewed mentioned a number of changes implemented by the authorities, including more signal blocking devices near the border, strengthened monitoring systems, and the introduction of imported state-of-the-art surveillance devices. Kang Mi-jin also claimed that surveillance of “Chinese mobile phones” was being implemented in a hospital in Hyesan near the Chinese border, using a room disguised as a research facility for the Ministry of the People’s Armed Forces.⁵⁹ Kang and a number of others mentioned the use of imported wave detectors to deter people living near the border from calling South Korea or other countries. Some experienced what might be electromagnetic interference from the North Korean state on Chinese mobile networks, likely through the emission of radio waves. Yon-hwa noted:

⁵⁶ Amnesty International interview with Jong-hee (pseudonym, woman in her 20s, left North Korea 2014) in Seoul, South Korea on 26 February 2015.

⁵⁷ Amnesty International interview with Kang Mi-jin (Currently reporter of Daily NK, woman in her 40s, who left North Korea 2009) in Seoul, South Korea on 4 March 2015.

⁵⁸ Amnesty International interview with Ji-eun (pseudonym), woman in her 50s, who left North Korea in 2013, in Seoul, South Korea on 21 May 2015.

⁵⁹ Daily NK, “Hospital used as cover for border surveillance” , 9 May 2014, www.dailynk.com/english/read.php?catId=nk01500&num=11849 (accessed 15 September 2015).

“Previously, in the late 1990s, it was easy to catch the [Chinese mobile] signal, so it was relatively free. I have used Chinese phones even as early as that ... But recently in 2012 and 2013, it has been very hard to catch the signals, and I had to go deep inside the mountains, far from residential areas. It’s probably because the government knows about these phones.”⁶⁰

The surveillance and jamming of mobile phone signals is perceived by some as a tactic used by the North Korean state to create fear among the people making these phone calls. According to individuals interviewed, surveillance or line jamming typically manifests itself during a phone call as static noise, causing a sense of fear for both parties of the call. Yon-hwa recounted:

“When I was in North Korea talking on the phone with my father, my phone call was disconnected because the authorities also used radio interference to interrupt phone calls. He thought that I was arrested, or in some kind of trouble. Luckily I was not.”⁶¹

The creation of fear among the people can also take forms that are less technical, for instance by creating inaccurate information about the security situation of family members, as a way of investigating whether North Koreans are in touch with their family members who have fled the country. Soo-yae gave an example of this tactic.

“When I left the country, I did not tell my parents. So they did not know that I was in the South. They thought I was dead or something. The government actually tested my parents, and told them that I was in the hospital and was dead. My parents were shocked. My father went to check in the hospital, but found the woman who died to be 40 years old. But then the government was convinced that they genuinely did not know about my whereabouts, and they were not followed any further. My mother later told me about this on the phone.”⁶²

Tactics such as the one described above also constitute a form of harassment of families in their own right.

PORTABLE SURVEILLANCE DEVICES AND COVERT RECORDING OF CONVERSATIONS

The individuals interviewed reported having seen or heard about, from affected friends, portable surveillance devices of different sizes and forms used by state agents to monitor mobile phone communications. On analyzing the information they gave against the years they last lived in North Korea, it appears that older-generation, larger devices the size of backpacks are being used in conjunction with new, smaller devices that would fit in the pocket of a security agent.⁶³ The persons interviewed tended to agree that the new

⁶⁰ Amnesty International interview with Yon-hwa (pseudonym, woman in her 40s, who left North Korea in 2013) in Seoul, South Korea on 26 May 2015.

⁶¹ Amnesty International interview with Ju Yang (Woman in her 20s, who left North Korea in 2010) in Seoul, South Korea on 28 May 2015.

⁶² Amnesty International interview with Soo-yae (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

⁶³ Amnesty International interview with Bak-moon (pseudonym, man in his 20s, who left North Korea in 2011) in Seoul, South Korea on 26 February 2015.

surveillance technology was imported, although information on the country of origin was inconclusive.⁶⁴

According to the UN Commission of Inquiry's report, a special department, "Bureau 27", also known as the Transmission Surveillance Bureau, of the SSD has sophisticated equipment to pick up the emissions of "Chinese mobile phones".⁶⁵ Eun-mi, a woman who was once arrested for using one of these phones, reported:

*"Bureau 27 of the SSD has this monitoring device. They are put into backpacks, and agents hold this antenna-shaped device in their hands with red lights blinking. They said it was a detecting device. When the Bureau 27 agents came to arrest me, they took off their coats and there were these electric cords strapped around their bodies."*⁶⁶

Jiro Ishimaru, a journalist from Asiapress in Japan and specialist in coverage of North Korea news, also wrote:

*"The secret police from Bureau 27 in Pyongyang are specialists in covert intelligence and digital operations. If the case is to crackdown on 'obscene materials', it is a moral matter, and the police deal with these issues. But when the secret police appears, it is deemed to be a political issue."*⁶⁷

Bak-moon, who was an engineer before leaving North Korea, added:

*"I heard that there are more advanced German-made monitoring devices that could recognize the contents of communications. They can figure out the position of the mobile phone signal precisely. They only have a small number of these devices in North Korea. They bring it to areas where they have a high density of mobile phone signals to monitor. I heard that some people were caught using cell phones by these devices."*⁶⁸

Some individuals mentioned that it was possible to record full conversations using these devices, or even for the devices to reproduce the recorded conversations in text form, although none of them had actually heard a recorded conversation played back to them or seen a transcript. Yeon-hee explained how this would work:

⁶⁴ The information in interviews on the place of production was mostly based on hearsay. A number of possible countries were named, including Germany, Russia, China and the United States of America.

⁶⁵ UN, *Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, UN doc. A/HRC/25/CRP.1, 17 February 2014, para 220, www.ohchr.org/Documents/HRBodies/HRCouncil/CoIDPRK/Report/A.HRC.25.CRP.1_ENG.doc (accessed 15 October 2015).

⁶⁶ Amnesty International interview with Eun-mi (pseudonym, woman in her 40s, who left North Korea in 2014) in Seoul, South Korea on 22 May 2015.

⁶⁷ Asiapress, "The Firing Squad Executions of North Korean Entertainers - North Korean State's Crackdown on "Political Videos", 2013, www.asiapress.org/rimjin-gang/news/2014/01/30161103.html (accessed 10 September 2015).

⁶⁸ Amnesty International interview with Bak-moon (pseudonym, man in his 20s, who left North Korea in 2011) in Seoul, South Korea on 26 February 2015.

“I heard that when security agents were walking, they gather the signals. If signals are detected, they follow the signal. Then they get in front of the house and record the conversation. Then they finally walk into the house, and then interrogate about the phone call. If the caller denies, they would play back a recorded conversation. Usually callers would hide their phone but because of the recorded conversation many people were caught – including my friends.”⁶⁹



Yeon-hee (pseudonym), who was formerly a school teacher and left North Korea in 2013. Picture taken in Seoul, South Korea in May 2015.

The Human Rights Committee, the UN body that reviews implementation by states parties of the obligations under the International Covenant on Civil and Political Rights (ICCPR), has stated that no interference with the right to privacy can take place except in cases envisaged by the law, which itself must comply with all provisions of the ICCPR.⁷⁰ Currently, these

⁶⁹ Amnesty International interview with Yeon-hee (pseudonym, woman in her 40s, who left North Korea in 2013) in Seoul, South Korea on 18 May 2015.

⁷⁰ Human Rights Committee General Comment No. 16: Right to Privacy, UN doc. CCPR/C/GC/16, 28

rules are not clearly laid out in North Korean law. Among other things, no effective safeguards are in place to prevent abuse of power or the arbitrary use of surveillance. Without the necessary laws and safeguards in place, one cannot but conclude that surveillance is not justifiably targeted and conducted in a manner that is proportionate to the stated aims, such as protecting national security or combatting serious crime.

North Korea lacks the institutional or legal frameworks, but especially the political will, to perform a form of restricted surveillance of communications that would comply with international law and standards. Given such circumstances, any surveillance, whether electronic or otherwise, interceptions of communication, wiretapping and recording of conversations, as detailed in testimonies in this report, cannot be performed in a manner that is lawful and justifiable. The arbitrariness of surveillance on mobile phone use is further supported by these testimonies, showing the North Korean state to have violated the right not to be subjected to arbitrary or unlawful interference with one's privacy (ICCPR, Article 17; UDHR Article 12).⁷¹

AVOIDING SURVEILLANCE

To avoid arrest, North Koreans have devised a number of tactics in order to prevent their mobile signals from being detected by security agents. These include keeping conversations with parties outside the country short, and making sure that they are not using the real names of persons during conversations. They also often go up mountains in order to avoid their signal being jammed or detected, as well as being physically seen by security agents.

"I was using someone else's phone. Conversations must be very short and concise. We had to get to a specific spot to use the mobile phone. When going there, I was also concerned that people might see me during the trip."⁷²

When the "Chinese mobile phones" are not in use, they must be turned off not only to prevent the ringer from going off, but also to conserve electric power which is scarce in North Korea. Typically, the battery and the SIM card will be separated from the phone and kept in separate places. Sometimes, the SIM card may even be kept at a place outside the household.⁷³ This way, the phone cannot be switched on by agents during random testing in the event of house searches.

3.2 ARBITRARY ARRESTS AND THE EXTORTION OF BRIBES

In the event SSD agents catch a North Korean making an international call on a "Chinese mobile phone", arrest is likely. So-kyung described what she believes is the usual procedure when an international call signal is detected by authorities:

September 1998, para 3. See Chapter 5.

⁷¹ Human Rights Committee General Comment No. 16: Right to Privacy, UN doc. CCPR/C/GC/16, 28 September 1998, para 8.

⁷² Amnesty International interview with Hae-ju (pseudonym, woman in her 40s, who left North Korea in 2012) in Daegu, South Korea on 3 March 2015.

⁷³ Amnesty International interview with Kwang-il (pseudonym, man in his 40s, who left North Korea in 2013) in Seoul, South Korea on 18 May 2015.

*"In a bad case, we would be sent to the political prison camp, where we would expect a long prison term. In a lighter case, we would be sent to a reform facility, and imprisonment would be for 1-2 years. Most people got out with a bribe though. They were caught in the first place because the government detected their signals using special machines. This happened even before 2005."*⁷⁴

According to the Criminal Law in North Korea, mobile conversations with people outside the country as such are not illegal, but these conversations, particularly those with people living in South Korea, can easily be linked to vague offences that are listed under the criminal law, such as brokerage, illegal trade or even treason, and lead to arrest. Yeon-hee explained that:

*"After the person is caught, the secret agency then checks all the phone call history to see whether the parties called were Chinese or South Korean ... If you are found calling South Koreans, you can be released only if you bribe right away, and say 'I got this phone second hand, somebody else made this call.'"*⁷⁵

People whose conversations are overheard can face punishment even for content that would not be recognized as a criminal offence internationally. For example, Jong-hee told Amnesty about a case where a woman was punished only because she asked for money to be sent to her.

*"My mother's friend was sent to danryondaе [reform through labour facility] because her conversation on the phone got heard. She got into trouble not because [she] was criticizing the regime, but because she was asking for money. She was sent to danryondaе for six months for ideological re-education and labour."*⁷⁶

THE CRIMINALIZATION OF UNAUTHORIZED COMMUNICATIONS

The Criminal Law (2012 amendment) of North Korea does not designate conversation with foreign nationals itself, whether face-to-face or through telephone, as a crime. But if the content of the conversation can be interpreted as evidence of treason (Article 63), private trading of foreign currency (Articles 106, 107, 108), illicit trade (Article 111), brokerage (Article 112), illegal business activities (Articles 114 and 115) or smuggling (Article 119), it can result in varying levels of punishment. The most severe punishment for treason is death, while the other offences are punishable by "reform through labour" for up to 10 years.

The Telecommunications Law (2011, Article 38) includes provisions making citizens, or responsible staff of agencies, businesses, or other organizations liable for respective administrative punishment. These situations range from the illegal import or sales of telecommunications equipment from other countries, to the failure to provide the conditions that ensure the smooth operation of telecommunications.

Although bribery has worked according to many of the individuals interviewed, it may not work in all cases. Two were caught on the spot by SSD agents for using "Chinese mobile

⁷⁴ Amnesty International interview with So-kyung (pseudonym, woman in her 40s, who left North Korea in 2005) in Tokyo, Japan on 24 March 2015.

⁷⁵ Amnesty International interview with Yeon-hee (pseudonym, woman in her 40s, who left North Korea in 2006) in Seoul, South Korea on 18 May 2015.

⁷⁶ Amnesty International interview with Jong-hee (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 26 February 2015.

phones". One of them was questioned and then released, but Eun-mi was unable to bribe her way out, and was detained for weeks for communicating with someone outside the country.

"The SSD agents are usually stationed in Chongjin. On the day [I was arrested], they were near the border area. On their way going back to Chongjin, they were waiting for the train. As my place was near the railway, SSD detected my mobile signal during their waiting time and I got arrested. The phone call was about eight minutes; the SSD people later told me it was foolish of me to use the phone for that long."

"Communicating with someone in South Korea can be punished with imprisonment. But if you bribe the SSD people, they will fabricate documents and you can avoid imprisonment. When the SSD people came to my house, I put the mobile phone into the rice bag in the hallway in order to hide it, but they found it after some time. After I was caught, the SSD agents asked for RMB3000 [USD475] as a bribe. I said I would pay, but they saw my husband in the same picture with Kim Jong-il, and figured they were in a household of a high level official. So they did not take a bribe and just reported me."

Eun-mi was sent to the SSD detention facility in the county, and was detained for 20 days.

"There I saw people who were deprived of basic needs. The SSD agents confiscated the sanitary napkins of some cellmates, and gave them away to the agents' own acquaintances. The meals provided were only corn soup, but even after they put it in front of you, you can only eat after getting permission. One cellmate ate before she got permission, and she was beaten up. Some people were avoiding drinking water because they swallowed money before they were arrested. And they were afraid the money would come out in their feces."

"My husband pulled strings to get me out. The steel gates of the SSD facility was also used by construction workers [of my husband's department]. With these relations, he was able to get me out."⁷⁷

Any arrest or detention as punishment for the exercise of the right to freedom of expression is considered arbitrary, as are any arrests for the purpose of extorting bribes.⁷⁸ Any arrest of North Koreans solely because they were speaking on the mobile phone with people outside the country, therefore, violates not only their right to freedom of expression, but also the right to liberty and security of person (ICCPR, Article 9; UDHR, Article 9).

⁷⁷ Amnesty International interview with Eun-mi (pseudonym, woman in her 40s, who left North Korea in 2014) in Seoul, South Korea on 22 May 2015.

⁷⁸ Human Rights Committee General Comment No. 35: Liberty and security of person, UN doc. CCPR/C/GC/35, 16 December 2014, paras 16, 17. See Chapter 5.

4. RESTRICTIONS AND SURVEILLANCE ON ACCESS TO OTHER OUTSIDE INFORMATION

“There is this unit number 109 in the SSD, which is also known as the *gurupa*.⁷⁹ They do targeted checks on TVs, radios to see whether they had fixed channels, and whether there are illegal CDs.”

Chung-dok (pseudonym), a man in his 20s who left North Korea 2013.

4.1 RESTRICTED ACCESS TO SOURCES BEYOND THE MOBILE PHONE

In parts of the country, people are able to receive television and radio signals from South Korea, China or other countries. More recently, DVDs, USB sticks and other media containing content produced outside the country have also become available either for purchase on the grey market, or by circulation and replication among family and friends. North Korean authorities have thus made extra efforts to control the access to outside information through these sources.

To prevent people from receiving broadcasts from other countries, the North Korean government restricts the channels that can be received on televisions. A few people interviewed indicated that it was necessary to purchase unregistered, smuggled television sets and radios in order to watch or listen to broadcasts originating outside North Korea. For example, Chung-dok, a man in his 20s, told Amnesty:

“I went to a friend's house where there was a television that could receive South Korean broadcasts, and we watched that. It's just a normal television – when you adjust the

⁷⁹ A North Korean term based on the word *группа* in Russian, which means “group” in English.

antenna, it can catch South Korean signals. [The picture quality] was quite clear, and we were able to watch South Korean dramas directly. The government actually fixes the channels on TVs, so people who actually do these things to catch South Korean signals usually have more than one television.”⁸⁰

The government also actively jams radio and television signals originating from South Korea. It appears that jamming activity is prevalent in cities, as a former Pyongyang resident named Nam-soo reported that it was only possible to receive South Korean broadcasts at sites some distance from cities, using suitable appliances.

“In the City of Pyongyang, it is impossible to catch the [South Korean] television, since there is [electromagnetic] interference. You need to get at least 20km away from the city. During my school days I was able to listen to foreign radio. There was no interference back then. After graduation, it became impossible. Government installed machines to create interference to shut out radio signals from South Korea, and this was the same with the television.”⁸¹

In addition to appliances, cross-border traders have smuggled DVDs from China into North Korea, usually using fake covers that would disguise discs containing South Korean material as state-endorsed North Korean movies.⁸² Some North Koreans also cover up by watching state-endorsed materials when their house is being searched for DVDs containing material from outside the country. Kang Mi-jin told Amnesty:

“The issue with DVD players is that when they lose electricity we cannot get the DVD out of the machine. When the boanwon [security agents]⁸³ come, they first cut the power supply and then bust into homes. If that happens, you’ll have to hide the whole machine or else they’ll know what you are watching. To avoid being caught, we played two different videos at once. One was a legal one, and the other was a South Korean drama. When the security agents come in, we’d hide the South Korean one. They would then think we were watching the North Korean movie and leave.”⁸⁴

The North Korean government attempted to ban the use of DVD players, but apparently it had little success. Yeon-hee told Amnesty:

“The North Korean government was trying to get rid of all DVD players, but most homes

⁸⁰ Amnesty International interview with Chung-dok (pseudonym, man in his 20s, who left North Korea in 2013) in Daegu, South Korea on 3 March 2015.

⁸¹ Amnesty International interview with Nam-soo (pseudonym, man in his 30s, who left North Korea in 2011) in Daegu, South Korea on 3 March 2015.

⁸² Amnesty International interview with Soo-yaе (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

⁸³ The Korean word used during the interview was *boanwon*, which refers to agents from the Ministry of People’s Security (MPS, or *inmin boanbu*). The MPS functions as the national police of North Korea. Its mandates range from maintaining law and order to controlling traffic. It also oversees the country’s non-political prison system.

⁸⁴ Amnesty International interview with Kang Mi-jin (Currently reporter of Daily NK, woman in her 40s, who left North Korea in 2009) in Seoul, South Korea on 4 March 2015.

in Hyesan still have DVD players. Previously at the inminban (people's neighbourhood units) meeting in late 2012, it was announced that DVD players would be confiscated. Even though the government wanted to take them, almost no one had them confiscated. When someone knocked on the door, people would just hide them."⁸⁵

More recently, USB sticks and mobile phones became convenient means of proliferating audio-visual materials originating from abroad. They also have the advantage of being small and can be easily removed and hidden in case of raids by security agents. According to Soo-yae:

*"My friends have computers. Some are from China and some are made in North Korea. Chinese ones have better quality, but North Korean ones are cheaper... Most of my friends have Chinese ones and use them to copy movies to USB sticks. We've been doing this for seven or eight years. This is the main way in which South Korean dramas get passed around."*⁸⁶

Some NGOs have also been actively sending radios, DVDs and USB sticks into North Korea. The North Korea Strategy Center, based in Seoul, dispatches as many as 2,000 to 3,000 USB sticks preloaded with South Korean dramas and films per year. The USB sticks are typically picked up by street traders and sold on the grey market. Before sending USB sticks, the said organization also sent DVDs and radios to North Korea.⁸⁷ Although this is a possible method to send media content and other information into North Korea, it can put individuals who obtain and consume these materials at risk of surveillance and arrest.

By depriving people of access to audio-visual materials produced outside the country, the North Korean government is also interfering with the rights of individuals to take part in cultural life and to enjoy the benefits of scientific progress and its applications (ICESCR Article 15(1)(a)). The UN Committee on Economic Social and Cultural Rights (CESCR) has stated that, as part of the "core" obligations under the ICESCR, states parties must eliminate, with immediate effect, any barriers or obstacles that inhibit or restrict a person's access to other cultures, without consideration for frontiers of any kind.⁸⁸ The current restrictions constitute an excessive interference on the part of the North Korean state, in violation of the right to take part in cultural life.

4.2 SURVEILLANCE OF ACCESS TO FOREIGN MEDIA

North Korean law, as it currently stands, does not specify the circumstances under which authorities are empowered to carry out surveillance. In any case, the private viewing of audio-visual materials produced in another country, even if that country is deemed an enemy by state authorities, does not by itself constitute circumstances where national security is

⁸⁵ Amnesty International interview with Yeon-hee (pseudonym, woman in her 40s, who left North Korea in 2013) in Seoul, South Korea on 18 May 2015.

⁸⁶ Amnesty International interview with Soo-yae (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

⁸⁷ Amnesty International interview with Mr Kang Cheol-hwan, Executive Director of the North Korea Strategy Center in Seoul, South Korea on 2 April 2015.

⁸⁸ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 21: Right of everyone to take part in cultural life, UN doc. E/C.12/GC/21, 21 December 2009, para 55(d).

threatened. It is also not a legitimate justification for the type of surveillance being implemented by the North Korean state. While lacking in terms of legal basis as well as justification, the person-to-person surveillance system as shown through testimonies is intrusive, and could affect any person in the neighbourhood at anytime, day or night.

According to individuals interviewed by Amnesty, surveillance activities of the neighbourhood unit, or *inminban*, now extends to the observation of people's radio and television-watching habits. In each *inminban*, there is at least one informant working for the State Security Department (SSD), who reports on any suspicious activities, and also observes the neighbours. Individuals interviewed also confirmed the surveillance activity of the authorities on the people who are believed to be watching outside television or videos. Former Pyongyang resident Nam-soo said:

*"The inminban leader knows the neighbourhood and how many people are in each household. He polices around the neighbourhood. If there are other people staying in the house. He will check if the people have reported to the police office. This was done to find out if there is someone spying. These days, the practice is used also to check if there are illegal electronic appliances being used in the household, including radios and foreign DVDs."*⁸⁹

In addition to the *inminban*, the North Korean government formed dedicated structures to deal with the issue of citizens accessing outside media. Chung-dok mentioned the existence of these units:

*"There is this unit number 109 in the SSD,⁹⁰ which is also known as the gurupa. They do targeted checks on TVs and radios to see whether they had fixed channels, and whether there are illegal CDs. They work day or night. They can visit someone's home and then just search. If there is nobody home, they couldn't just break in. But if there is someone, they have the power to go inside. I am not sure whether they have other work, but their priority is checking on TVs, radios etc."*⁹¹

The existence of these "109 squads" confirms the intention of the North Korean state to restrict individuals' access to outside information through surveillance and interference with their privacy.

The UN Human Rights Committee has stated that any interference with people's privacy or home must be lawful, in accordance with the provisions, aims and objectives of the ICCPR, and reasonable in the particular circumstances, or else it is arbitrary.⁹² The surveillance

⁸⁹ Amnesty International interview with Nam-soo (pseudonym, man of age 30s, left North Korea 2011) in Daegu, South Korea on 3 March 2015.

⁹⁰ The author was unable to verify the structure under which the 109 Unit exists. Another source says that it has been set up by the Korean Workers Party, without any indication that they operate under the SSD.

⁹¹ Amnesty International interview with Chung-dok (pseudonym, man of age 20s, left North Korea 2013) in Daegu, South Korea on 3 March 2015.

⁹² Human Rights Committee General Comment No. 16: Right to Privacy, UN doc. CCPR/C/GC/16, 28 September 1998, para 4.

activities carried out by North Korean authorities violate the right to be protected against arbitrary interference with privacy, family, home or correspondence (ICCPR, Article 17; UDHR, Article 12).

ARRESTS AND OTHER CONSEQUENCES

Under Article 185 of the Criminal Law in North Korea, people “listening to hostile broadcasting and collection, keeping and distribution of enemy propaganda” can be punished by “short-term labour” for up to one year. In cases where the person commits a grave offence, he or she shall be punished by “reform through labour” for up to five years. What constitutes “hostile broadcasting” and “enemy propaganda” is, however, not clearly defined. According to Professor Park Jeong-won, an expert on North Korean law, audio-visual materials produced outside North Korea, in particular those from South Korea and the United States, could be regarded as such materials, and anyone found trading, keeping and watching them can end up being arrested and punished.⁹³

Two of the 17 individuals interviewed told us either of their own experience of being arrested, or of the arrest of a close family member for watching videos from other countries. In both cases, the arrested person had to pay a bribe in order to be released. Bak-moon related:

“I was also arrested for watching South Korean drama, but my friends raised money to pay a bribe and I was released for 200,000 North Korean won. There are cases where people bribed in-kind instead of cash.”⁹⁴

Yeon-hee told Amnesty about paying a bribe to get her daughter out of trouble:

“Some security agents come to look at some foreign novels or songs existing in the mobile phone. In that case I will have to bribe, and I tell them ‘I don’t know how to use this stuff...’ My daughter was once caught with a Japanese movie on her phone. The movie was on a memory card, copied among friends. Fortunately it is easy to bribe your way out of these problems in Hyesan, because there are so many illegal activities there. These kind of issues are not a priority [for the authorities].”⁹⁵

As in the case of the arrest of people making calls using “Chinese mobile phones”, any arrest of people seeking and receiving outside information that is not justifiably banned for specific and proportionate reasons is considered arbitrary.

⁹³ Amnesty International interview with Prof Park Jeong-won, Professor of Law at Kookmin University, Seoul, South Korea on 27 May 2015.

⁹⁴ Amnesty International interview with Bak-moon (pseudonym, man of age 20s, left North Korea 2011) in Seoul, South Korea on 26 February 2015. Without being able to pinpoint when the bribe was paid, conversion of the North Korean won to other currencies would be difficult in this case due to the co-existence of an official exchange rate and a rather volatile black market exchange rate.

⁹⁵ Amnesty International interview with Yeon-hee (pseudonym, woman of age 40s, left North Korea 2013) in Seoul, South Korea on 18 May 2015.

REPORTED EXECUTIONS RELATED TO DVDS FROM SOUTH KOREA

While there have been no reports of death sentences related to the use of “Chinese mobile phones”, at least three of the individuals interviewed spoke about executions related to watching, trading or duplicating audio-visual materials that were either from South Korea or labelled as pornographic. Amnesty International has also previously reported about executions in North Korea allegedly for watching banned videos from South Korea.⁹⁶

While testimonies show that isolated cases of executions related to audio-visual materials may have occurred, the lack of information about the precise circumstances makes it difficult to determine if the executions were for simple use or viewing of these materials, or for smuggling, or perhaps are reports perpetuated by the authorities as a tool of fear to dissuade people from watching or sharing external information and entertainment.

Chung-dok told Amnesty that he saw the public execution of a man who was caught watching a pornographic video with his wife and other women.⁹⁷ The execution took place at the Hyesan airport, with everyone in the city summoned to watch it happen, while the women were sent to prison. The timing of this event matches a Japanese media report of an execution, which reported the man was charged with importing and distributing ‘obscene recording materials’.⁹⁸ This probably referred to pornographic material, but was subsequently interpreted by some western media as meaning South Korean TV drama.

Two other individuals told Amnesty that they had heard about people being executed for distributing or watching videos from South Korea, although they were not direct witnesses. Eun-mi said: “This person who smuggled DVDs, was executed with the charge of spying in 2010. He was one of the employees working for my husband. Everyone was doing some sort of smuggling, but this particular person used to brag about being wealthy. He was targeted because of that. Also, people found smuggling South Korean DVDs can get executed – they are subjected to heavier punishment than smuggling other goods.”⁹⁹

Soo-yae related:

“My friend’s friend living in Chongjin got caught, and was publicly executed for watching South Korean drama and listening to South Korean songs. That’s why we hand out to really reliable friends only. This was when Kim Jong-un became the ruler. The North Korean government sends public notifications through labour party groups. This announcement was handed down officially to different groups [meaning inminban], but it never happened in my own city ... The government held executions to show to people that they are in control, and warn them against watching South Korean drama ... I believe the public execution is true. My father’s group also shared this information, and also my mother’s group. This kind of widespread information is true. The announcement is usually printed and posted in places. The content itself is announced during education or

⁹⁶ Amnesty International, *Death sentences and executions in 2013* (Index: ACT 50/001/2014).

⁹⁷ Amnesty International interview with Chung-dok (pseudonym, man of age 20s, left North Korea 2013) in Daegu, South Korea on 3 March 2015.

⁹⁸ Jiro Ishimaru, “The Spread of ‘Impure Recordings’ Lead to Executions in Hyesan and Chongjin City”, November 2013, www.asiapress.org/rinjijin-gang/news/2014/01/30155011.html (accessed 15 October 2015).

⁹⁹ Amnesty International interview with Eun-mi (pseudonym, woman in her 40s, who left North Korea in 2014) in Seoul, South Korea on 22 May 2015.

*self-reflection sessions.*¹⁰⁰

While it is difficult to verify these executions, it is clear that the North Korean authorities are actively spreading the message that trade or use of these videos and DVDs could lead to possible execution, in an attempt to deter individuals from accessing the materials and prevent the proliferation of information and cultural products that are not endorsed by the state.

¹⁰⁰ Amnesty International interview with Soo-yaе (pseudonym, woman in her 20s, who left North Korea in 2014) in Seoul, South Korea on 19 May 2015.

46 Connection Denied
Restrictions on mobile phones and outside information in North Korea

5. NORTH KOREA'S RESPONSIBILITIES UNDER INTERNATIONAL LAW AND STANDARDS

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Article 19, Universal Declaration of Human Rights

As a state party to a number of UN treaties on human rights, North Korea has the obligation to ensure that all individuals within its territory and subject to its jurisdiction, power or control can enjoy the rights as recognized in the relevant treaties.

North Korea acceded to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 14 September 1981. Although North Korea sent a notice of withdrawal from the ICCPR to the UN Secretary General on 23 August 1997, the Covenant contains no provision for withdrawal. As elaborated in an *aide mémoire* to the government of North Korea, the Secretary General responded by expressing his opinion that such action is not possible without the agreement of all parties.¹⁰¹ North Korea apparently agreed with this treaty interpretation, because it subsequently submitted its second periodic report under the ICCPR in December 1999 in keeping with the obligations of that treaty.¹⁰²

¹⁰¹ UN Secretary General, “Aide mémoire” of 23 September 1997, contained in *Notification by the Democratic People's Republic of Korea*, UN doc. C.N. 467.1997.TREATIES-10, <https://treaties.un.org/doc/Publication/CN/1997/CN.467.1997-Eng.pdf> (accessed 1 December 2015).

¹⁰² UN Human Rights Committee, *Second periodic report of the Democratic People's Republic of Korea*

TREATY OBLIGATIONS OF NORTH KOREA

North Korea is a state party to the following international treaties on human rights:

- International Covenant on Civil and Political Rights (ICCPR), acceded to on 14 September 1981
- International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to on 14 September 1981
- Convention on the Rights of the Child (CRC), ratified on 21 September 1990
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), acceded to on 27 February 2001
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, ratified on 10 November 2014

In addition, North Korea signed the Convention on the Rights of Persons with Disabilities on 3 July 2013, but has yet to ratify the treaty.

Article 19(2) of the ICCPR provides that every person “shall have the right to freedom of expression; this right 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”. Article 19 of the ICCPR in this regard restates and elaborates on the principles enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR).

As stated by the UN Human Rights Committee, the body tasked with monitoring the implementation of the ICCPR, states must guarantee “the *expression and receipt of communications* of every form of idea and opinion capable of *transmission* to others” (emphasis added), and that the right to freedom of expression “protects all forms of expression and the means of dissemination”, including “all forms of audio-visual as well as electronic and internet-based modes of expression.”¹⁰³ Restrictions to the exercise of the right to freedom of expression, as set out in Article 19(3), must be provided by law, and necessary and proportionate to protect legitimate public interests, such as national security or public safety, public health or morals, and the rights or reputation of others. This means, among other things, that all restrictions must be the least intrusive available to achieve the legitimate objective. Further, legal provisions relating to treason laws and similar legal provisions may not be invoked to suppress information that does not in fact harm national security. In particular, states should never have monopoly control over media.¹⁰⁴

The previous chapters have shown that North Korea’s “absolute monopoly on information”¹⁰⁵

on its implementation of the International Covenant on Civil and Political Rights, UN doc. CCPR/C/PRK/2000/2, submitted by the North Korea government on 25 December 1999, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fPRK%2f2000%2f2&Lang=en (accessed 29 September 2015).

¹⁰³ Human Rights Committee General Comment No. 34: Freedoms of opinion and expression, UN doc. CCPR/C/GC/34, 12 September 2011, paras 11, 12.

¹⁰⁴ Human Rights Committee General Comment No. 34: Freedoms of opinion and expression, UN doc. CCPR/C/GC/34, 12 September 2011, paras 23-34, 40.

¹⁰⁵ UN Human Rights Council, “Situation of human rights in the Democratic People’s Republic of

includes across-the-board bans of unsupervised communications by phone with recipients in other countries, foreign media, and the internet, despite relevant technology being available. The authorities use vaguely-worded laws to arbitrarily target individuals for solely exercising their right to freedom of expression. These laws do not provide effective safeguards against government abuse, but instead are used to harass and detain people who are seeking to exchange information with the outside world. The restrictions in this context, whether based on laws or not, are enforced through intrusive surveillance by the state, and exact potentially harsh punishments if individuals are caught. Concepts such as protection of “national security” or “morals” are abused in completely unnecessary, disproportionate and arbitrary ways that render the restriction framework contained in Article 19 essentially obsolete. In other words, prohibitive restrictions are the norm, and minimal freedoms are the rare exception. Therefore, North Korea is not guaranteeing the right to freedom of expression as required by its obligations under the ICCPR.

In addition to the right to freedom of expression, Article 17(1) of the ICCPR maintains that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence...”. The UN General Assembly and the UN Human Rights Council have emphasized the importance of the right to privacy for the realization of the right to freedom of expression.¹⁰⁶ Correspondence includes communications by phone or other means of modern technology, such as the internet, and the underlying principle of its integrity and confidentiality prohibits in principle any surveillance, interception or recording, with restrictions and limitations only allowed for under certain exceptional circumstances, for example for the purpose of the administration of criminal justice.¹⁰⁷ Even in these cases, authorizing laws and decisions by state authorities must be specific and proportionate, and must be subject to effective safeguards. Interference from the state “can only take place on the basis of law”, which itself must be compatible with the ICCPR, and that specifies “in detail the precise circumstances in which such interferences may be permitted.”¹⁰⁸ Any surveillance on communications must be authorized in accordance with laws that are publicly accessible, sufficiently clear so that people can anticipate the conditions under which authorities are empowered to resort to such surveillance measures, and that provide for effective safeguards against abuse.¹⁰⁹ Article 17 also requires that people be protected from arbitrary interference from the state, even when it is provided under the law. The Human Rights Committee has stated: “The introduction of the concept of arbitrariness is intended to

Korea”, UN doc. A/HRC/RES/28/22, 8 April 2015, OP1(a), http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/28/L.18 (accessed 29 September 2015).

¹⁰⁶ UN General Assembly, *The right to privacy in the digital age*, UN doc. A/RES/68/167, 21 January 2014, www.un.org/ga/search/view_doc.asp?symbol=A/RES/68/167; UN Human Rights Council, *The right to privacy in the digital age*, UN doc. A/HRC/RES/28/16, 1 April 2015, www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/RES/28/16 (both accessed 15 December 2015).

¹⁰⁷ UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, paras 57, 59, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015).

¹⁰⁸ Human Rights Committee General Comment No. 16: Right to Privacy, UN doc. CCPR/C/GC/16, 28 September 1998, paras 3, 8.

¹⁰⁹ UN OHCHR, report, *The right to privacy in the digital age*, UN doc. A/HRC/27/37, 30 June 2014, para 28.

guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances.”¹¹⁰ The law and practices of the North Korean state violate essentially all aspects of Article 17. Apart from the intrusive surveillance employed by the North Korean authorities with regard to what information its citizens are communicating or consuming in post offices or at home, the virtually across-the-board ban on international calls on mobile phones also unjustifiably deprives people of the opportunity to regularly contact their family members living in other countries and to have private correspondence.

The ICCPR also protects individuals from being subjected to arbitrary arrest or detention in Article 9. Any arrest or detention “as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19) ... and the right to privacy (art. 17)”, as are any arrests for the purpose of extorting bribes.¹¹¹ North Korean authorities violate this right by arresting individuals for their legitimate exercise of rights, and arresting individuals for criminal purposes, such as for the purpose of extorting bribes. The general practice of arresting people for seeking and receiving outside information not justifiably banned, does not comply with the requirements of having specific and proportionate reasons.

Any lack of access to information, and thereby restriction on the freedom of opinion and expression, in addition negatively impacts on the enjoyment of a wide range of economic, social and cultural rights, such as the right to education, and the right to take part in cultural life and to enjoy the benefits of scientific progress.¹¹² The ICESCR obliges states parties to recognize the right of everyone to take part in cultural life in Article 15(1)(a). While in itself a “broad, inclusive concept encompassing all manifestations of human existence”, the Committee on Economic, Social and Cultural Rights (CESCR) has explained that the term “to take part” includes the component of “access to” cultural life, which covers, among other things, everyone’s “right to learn about forms of expression and dissemination through any technical medium of information or communication”. Accessibility is a necessary condition for the full realization of this right, and includes making the enjoyment of this right physically and financially reachable for all, as well as “the right of everyone to seek, receive and share information on all manifestations of culture in the language of the person’s choice, and the access of communities to means of expressions and dissemination.”¹¹³ The rights to culture and to scientific progress include a right to have access to and use information and

¹¹⁰ Human Rights Committee General Comment No. 16: Right to Privacy, UN doc. CCPR/C/GC/16, 28 September 1998, para 4.

¹¹¹ Human Rights Committee General Comment No. 35: Liberty and security of person, UN doc. CCPR/C/GC/35, 16 December 2014, paras 16, 17.

¹¹² UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, para 22, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015).

¹¹³ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 21: Right of everyone to take part in cultural life, UN doc. E/C.12/GC/21, 21 December 2009, paras 15(b), 16(b), 68.

communication technologies.¹¹⁴

The CESCR has further explained that the promotion and respect for cultural rights is essential for human dignity and the interaction between individuals and communities in the world, requiring both non-interference and positive action. It also explained that the obligation of states to respect this right requires them to refrain from directly or indirectly interfering with its enjoyment, encompassing effectively the need to adopt measures aimed at achieving respect for the freedoms enshrined in Article 19 of the ICCPR, one of the rights to which everyone's right to take part in cultural life is intrinsically linked.¹¹⁵ If any measure is taken which limits the right to take part in cultural life, the state has to prove it is justified, including that it is in pursuance of a legitimate aim, strictly necessary, and in compliance with other human rights laws and standards, such as set out elsewhere in the ICESCR as well as in the ICCPR.¹¹⁶ The CESCR has expressed deep concern about restrictions placed on access to information, including foreign publications and the internet, and has urged states to remove restrictions on freedom of information and expression, to enable all persons under their jurisdiction to take part in cultural life, and enjoy the benefits of scientific progress and its applications.¹¹⁷

While the ICESCR requires states parties to take steps to progressively achieve the full realization of the right to take part in cultural life (Articles 2(1), 15(2)), involving a wide margin of discretion, they also have "core" obligations to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights set out in the ICESCR. For Article 15, this means that states are obliged to eliminate *with immediate effect* any barriers or obstacles that inhibit or restrict a person's access to one's own culture as well as *other cultures*, without discrimination and *without consideration for frontiers of any kind*.¹¹⁸ Furthermore, states must regulate the responsibilities of private entities, including businesses, in relation to the effective implementation of everyone's right to take part in cultural life.¹¹⁹

¹¹⁴ UN Human Rights Council, *Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed*, "The right to enjoy the benefits of scientific progress and its applications", UN doc. A/HRC/20/26, 14 May 2012, para 19, www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-26_en.pdf (accessed 15 December 2015).

¹¹⁵ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 21: Right of everyone to take part in cultural life, UN doc. E/C.12/GC/21, 21 December 2009, paras 1, 6, 48, 49(b).

¹¹⁶ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 21: Right of everyone to take part in cultural life, UN doc. E/C.12/GC/21, 21 December 2009, paras 19, 46, 65

¹¹⁷ UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the People's Republic of China (including Hong Kong and Macao)*, UN doc. E/C.12/1/Add.107, 13 May 2005, paras 39, 68.

¹¹⁸ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 21: Right of everyone to take part in cultural life, UN doc. E/C.12/GC/21, 21 December 2009, paras 55, 66 (emphasis added).

¹¹⁹ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 21: Right of everyone to take part in cultural life, UN doc. E/C.12/GC/21, 21 December 2009, para 73.

While this particular form of violation of economic, social and cultural rights has not yet received much international attention, and while not seen as immediately threatening to human life and dignity, it is part and parcel of the all-encompassing restrictions on the freedoms of opinion and expression, right to privacy and equal access to information noted with serious concern by the UN General Assembly in its resolution on the situation of human rights in North Korea.¹²⁰

Each of the rights in the international treaties just mentioned is also included in the UDHR, specifically Article 9 (arbitrary arrest and detention), Article 12 (arbitrary interference with his privacy, family, home or correspondence), Article 19 (freedom of opinion and expression) and Article 27(1) (right to participate in cultural life and to share in scientific advancement). These articles of the UDHR form part of customary international law that all states are obliged to observe. Regardless of whether it considers itself to have withdrawn from the ICCPR, North Korea must ensure enjoyment of the above rights for all people in the country and subject to its jurisdiction, including citizens and non-citizens.

According to Frank La Rue, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Articles 19 of the ICCPR and the UDHR were “drafted with foresight to include and to accommodate future technological developments through which individuals can exercise their right to freedom of expression.”¹²¹ The framework of international human rights law is, therefore, equally applicable to new communication technologies such as the internet. With such a platform that facilitates participatory information sharing, individuals in countries where there is no independent media become able to share critical views, find objective information, assert their rights, and also participate in public debates concerning social, economic and political changes to improve their situation. Particularly for marginalized groups and developing countries, broadly available access to the internet or other means of information or expression is important in eliminating inequality within and between states. In the Special Rapporteur’s opinion, therefore, the states’ obligation to promote and facilitate freedom of expression – and the associated means – together with the role of the internet as an indispensable tool for human rights and development, means that states need to work, as a priority, towards making the internet widely available, accessible and affordable for all segments of the population.¹²²

¹²⁰ UN General Assembly, *Situation of human rights in the Democratic People’s Republic of Korea*, UN doc. A/RES/69/188, 21 January 2015, OP 2(v), www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/188 (accessed 10 December 2015).

¹²¹ UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, para 21, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015).

¹²² UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN doc. A/HRC/17/27, 16 May 2011, paras 2, 19, 57, 62, 66, 85, www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (accessed 20 November 2015).

6. CONCLUSIONS AND RECOMMENDATIONS

“The reason why I escaped was because I watched videos from South Korea even when I was very young ... I got to know about the situation there, and I thought I shouldn’t live any longer in North Korea ... This is the reason why the North Korean government is blocking the information from the people, in order to keep the secrets from them.”

Soo-yae (pseudonym), a woman in her 20s who left North Korea in 2014.

Amnesty International’s research demonstrates that despite some limited introduction of information and telecommunications technologies on the part of the North Korean government, the state has shown virtually no willingness to allow greater freedom for its people to access outside information. Not benefitting from the limited access accorded to foreign nationals, most North Koreans are still prohibited from accessing the World Wide Web, or from freely calling relatives, business contacts or other people outside the country using mobile phones. People who live close to the border can potentially make international calls using smuggled mobile phones that connect to Chinese networks or through the services of “brokers”, but even so, they are under significant risk of surveillance and arrest by the dedicated units formed to exercise control over telecommunications.

At the same time, the North Korean state also strictly controls what information people can receive, by allowing no independent press or media in the country, and essentially none from other countries. While there are limited practical possibilities of accessing audio-visual material generated outside through television, radio, video discs, USB sticks, and mobile phones, the state continues to exercise severe restrictions. Person-to-person as well as

government systems of surveillance intrude into the privacy and homes of individuals, and often subject them to arbitrary arrest, detention and harsh punishment.

These restrictions on seeking, receiving and imparting information across national frontiers, together with the related surveillance and other forms of obstruction and harassment, do not meet international laws and standards ensuring the right to freedom of expression and the right to be protected against arbitrary interference with privacy, family, home or correspondence. While the actions on the part of the state may serve to insulate the North Korean government from civil movements and political opposition, they are put in place at the cost of the enjoyment of human rights. At the same time, the restrictions also perpetuate the mutual misunderstanding between people in North Korea and other countries, and does not help dispel any inaccuracies about the situation in the country.

The individuals interviewed by Amnesty International have demonstrated a clear understanding regarding the importance of information and telecommunication technology in various aspects of daily life, including the education of the younger generation, agricultural production, domestic and cross-border trading, as well as maintaining contact with family in other parts of the world. The increasing importance of the private grey economy in providing for the livelihoods of North Koreans is one reason why restrictions on international mobile phone services and accessing outside information should be ended. However, more importantly, these restrictions must also be stopped for the realization of other human rights, including the freedom of thought, as well as various social, cultural and economic rights. The full realization of the rights to freedom of expression, including access to information across frontiers, is negatively impacted by the systemic obstruction and harassment of the North Korean authorities.

RECOMMENDATIONS

The violations to the rights to freedom of opinion, expression and association in North Korea received the attention of the UN Human Rights Council, which in early 2015, among other things, expressed grave concern over the findings of the Commission of Inquiry as to the “denial ... of the freedom of opinion, expression and association, which is enforced through an absolute monopoly on information”, and urged the North Korean government to ensure the enjoyment of these rights, “including by permitting the establishment of independent newspapers and other media”.¹²³

Amnesty International would add to this recommendation, and urge the North Korean government to lift all unjustified restrictions on the freedom of expression, and allow unhindered flow of information between individuals and groups in the country and the rest of the world. It must also ensure the right of individuals to be protected against arbitrary or unlawful interference with their privacy, family, home or correspondence.

Specifically, Amnesty International recommends the North Korean authorities:

- End the harassment, intimidation, arbitrary arrest and detention, torture or other ill-treatment, or execution of individuals for exercising their right to freedom of expression, and

¹²³ UN Human Rights Council, “Situation of human rights in the Democratic People’s Republic of Korea”, UN doc. A/HRC/RES/28/22, 8 April 2015, OP1(a), 2(a), http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/28/L.18 (accessed 29 September 2015).

immediately and unconditionally release those detained or imprisoned solely for exercising this right.

- End the ban on North Koreans accessing international mobile telephone services, including voice calls and text messages.
- Allow North Koreans full and uncensored access to the World Wide Web and other international internet data and services.
- Allow the establishment of independent newspapers and other media, and end all censorship of domestic and foreign media.
- Allow free access to the internet, social media, international communications, foreign broadcasts and publications, including the popular culture of other countries.
- End surveillance of communications that is unnecessary, untargeted or without any legitimate aim.
- Ensure that everybody in North Korea is able to communicate with family members and others, including with family members living in other countries, without interference unless justified in line with international human rights law.
- Abolish or amend all legal provisions that unjustifiably limit the right to freedom of expression, including Criminal Law Article 185, which is used to punish individuals watching South Korean films and television programmes, with the aim of bringing the law into line with international law and standards.
- Take steps to achieve everyone's right to take part in cultural life, and enjoy the benefits of scientific progress and its application, nationally and internationally, including through immediately removing any barriers to access of information and communications technology.

The North Korean government should also, including through efforts with joint-venture business partners:


- Make mobile phone and internet services available to all North Koreans without any limitations other than those that are applicable for individuals serving a custodial sentence or other limitations against specific individuals ordered by a judicial authority, and in compliance with the principles of necessity and proportionality under international law.
- Make the application process to purchase North Korean mobile phones as simple and transparent as possible, so that all users can access mobile phone services within a reasonable timeframe through recognized outlets, without having to go through “fixers” who illegally benefit in the process.
- Work towards making information and means of communication accessible without discrimination and affordable to all.
- In its co-operation with business partners, regulate the responsibilities of the corporate sector in relation to the effective implementation of everyone's right to take part in cultural life.


- Introduce or increase the availability of free public access points to the internet and work towards introducing internet access in schools and other public facilities.



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RESTRICTIONS ON MOBILE PHONES AND OUTSIDE INFORMATION IN NORTH KOREA

The Democratic People's Republic of Korea (North Korea) remains one of the most isolated countries in the world. The leader of the country, Kim Jong-un, wields absolute power, directing all aspects of the government and exerting substantial control over most spheres of everyday life. The North Korean government maintains a monopoly over communications and controls the flow of information in and out of the country.

Since the severe food shortages in the 1990s, traders who smuggled food into North Korea also brought in other goods including mobile phones and SIM cards. People living and working close to the Chinese border were then able to connect to Chinese mobile phone networks and communicate with people outside the country without using the monitored landlines in post offices. Foreign television dramas and movies also became available through smuggled DVDs or other media, despite a continuing, systematic effort by the government to control all the information accessible inside the country.

Based on first-hand interviews with North Koreans who have left the country in recent years, as well as analysis from academics and legal experts, this report shows how the North Korean government has negated the right of its citizens to seek, receive and impart information freely regardless of frontier, a fundamental component of the right to freedom of expression.