



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2003/SR.44
2 December 2003

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-first session

SUMMARY RECORD OF THE 44th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 19 November 2003, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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GE.03-45326 (E) 241103 021203

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of the Democratic People's Republic of Korea
(E/1990/6/Add.35; E/C.12/Q/DPRK/1; HR/CESCR/NONE/2003/1;
HRI/CORE/1/Add.108/Rev.1)

1. At the invitation of the Chairperson, Mr. Chae Ryang Il, Mr. Jong Chol Won, Mr. Kim Won Ho, Mr. Pak Dok Hun, Mr. Ri Tcheul and Mr. Sim Hyong Il (Democratic People's Republic of Korea) took places at the Committee table.
2. Mr. RI Tcheul (Democratic People's Republic of Korea) introducing his country's second periodic report, said that the concept of Juche, which had been elaborated by President Kim Il Sung, was the foundation for the Government's policies and its system of economic, social and cultural guarantees. The Government acted in the best interest of the people, who were considered the masters of the State and society. All citizens were guaranteed the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. It was the Government's duty to implement citizens' rights, which were clearly defined in the country's legislation.
3. In the period covered in the report, the Government had focused on improving legal and institutional mechanism to ensure the implementation of the rights enunciated in the Covenant. However, the numerous challenges encountered in the process, including sudden changes in the international political arena, disappearance of socialist economies, military threats and an economic embargo, had had a serious impact on the enjoyment of rights. A series of natural disasters had exacerbated the situation by causing loss of life, destroying homes, arable land and industrial facilities, and causing hunger, the spread of disease and a reduction in industrial and grain production.
4. The Government had adopted bold measures to help its people expand arable land and modernize agriculture. An irrigation canal, extending for several hundred kilometres, had been built, making it possible to irrigate thousands of hectares. There had been new developments in farming which had helped to make good food shortages. A number of factories had been reopened and hydroelectric power stations had been built in an effort to resolve energy problems.
5. His Government was grateful to the States and organizations which had provided assistance to his country during that difficult period. The country, having tackled those challenges, had now found new impetus in reconstructing the economy, and the people were leading an equitable and stable, albeit not entirely satisfactory, life.
6. Following the historic summit between North and South Korea, in June 2000 and the adoption of the North-South Joint Declaration, relations between the two Koreas had significantly improved and were now characterized by reconciliation and cooperation. Thousands of tourists went back and forth between the two countries. Seven meetings for

separated families and relatives had been held. The two Koreas had agreed to establish a meeting home for separated families and launch an investigation into the whereabouts of separated relatives and promote letter exchanges between them. Discussions had been held between North and South Korean trade unions and religious organizations. Other joint events had been held, including artistic performances, scientific seminars, athletic games, exhibitions and trips to Mount Kumgang.

7. The Government's current priority was to further the progress achieved by its people and consolidate the system of economic, social and cultural rights. Since the second half of 2002 the Government had been taking measures to improve management of the economy to reflect the requirements of the new millennium. The Government hoped that efficient management of the economy, including optimal use of the country's natural resources, would lead to a significant improvement in the standard of living and cultural life of its people. The socialist principles of planning and regulation of prices and salaries would be upheld with a view to maximizing economic benefits; the national economy would be modernized and computerized.

8. His Government attached great importance to international human rights organizations and intended to cooperate actively with the international community in the implementation of economic, social and cultural rights and the principles of independence, peace and friendship which underlay its foreign policy.

Issues relating to the general provisions of the Covenant

Articles 1-5 of the Covenant

9. Mr. ATANGANA asked what the exact standing of the Covenant was in relation to the country's domestic legislation. He wished to know how civil society institutions which received complaints of human rights violations went about resolving them and whether their decisions were binding.

10. Mr. MALINVERNI stressed the role of non-governmental organizations (NGOs) as an important alternative source of information for the Committee in its assessment of the situation in different countries. There were no NGOs in the State party and major international NGOs did not have access to the country. The information which the Committee had received had been provided by NGOs along China's border with North Korea as well as by people who had left the country. It was difficult for the people of North Korea to make their voices heard.

11. He wished to know whether international instruments or domestic legislation prevailed when there was a conflict between the two. To what extent did national courts provide for the direct application of international instruments?

12. Economic refugees who had fled the country for reasons of hunger or poverty and had been forcibly repatriated to North Korea were treated as traitors, and placed in labour and concentration camps. He asked whether the Government believed that such treatment was a violation of human rights.

13. Ms. BRAS GOMES said that, according to a number of sources, class distinctions persisted in the country. People in the so-called “core” class, which was the highest in the hierarchy, enjoyed privileges with regard to education, housing and health services. Those in other classes were discriminated against and their rights were neither promoted nor protected. She asked the delegation to comment on the situation.
14. She wished to know whether such factors as deforestation and inadequate irrigation facilities could have contributed to the hardships endured by the North Korean people.
15. Although the Constitution provided for gender equality, women faced discrimination and gender-specific violence. They were not adequately represented in the Government and politics and very few of them occupied decision-making posts. She wished to know what measures the Government was taking to rectify the situation.
16. Mr. RIEDEL asked what had been done to ensure full independence of the judiciary. Were judges still appointed for a period of five years? Did all citizens have the right to complain of human rights violations?
17. The complaint and petition procedure referred to in the written reply to question 2 in the list of issues seemed positive, but there was no indication whether records of actual cases were kept and published; he asked whether the delegation could provide such information.
18. Mr. SADI said that to assert, as had been done in the reply to question 1 in the list of issues, that the provisions of the Covenant had been extensively incorporated in national laws and regulations suggested that some parts of it had not been. He asked the delegation to elaborate. He would appreciate learning about cases in which the rights set out in the Covenant had been invoked. He also enquired to what extent the legislative and judicial branches had taken the Covenant into consideration. How widespread was awareness of the Covenant?
19. On the complaint procedure, the reply to question 2 in the list of issues stressed that the State institution which received a complaint took immediate steps to compensate the person whose rights had been violated. He asked the delegation to cite cases in which such steps had been taken.
20. He took it that the Government’s perspective on individual rights was that they were subservient to collective rights. If that was the case, how did the Government reconcile the difference between individual rights and collective rights under the Covenant?
21. Mr. GRISSA said that, according to table 6 in the annex to the core document (HRI/CORE/1/Add.108/Rev.1), there had been a sharp decline in life expectancy since 1991, due no doubt to the hardships to which the delegation had referred. But the natural disasters had not affected everyone in the same way; it seemed that in the State party, some people were more equal than others. Rural areas and the poor were most affected. That suggested the presence of discrimination within the country. It was to be hoped that the Government intended to do more

for those most affected by such hardships. He was struck by the figure of nearly two million technicians and experts (table 8), which amounted to nearly 15 per cent of the total population; given that very high figure, it was surprising that it was not possible to overcome the hardships associated with drought. His own country, Tunisia, had frequent droughts, but it had been able to alleviate their effects. It seemed that in the State party, energies were not devoted to that goal.

22. Mr. CEAUSU noted that the delegation had evoked difficulties in connection with the changing international political context, military threats and an economic embargo. As the leaders of the Democratic People's Republic of Korea and the Republic of Korea had met in 2000, he wondered whether the delegation believed that there was still a danger of external aggression and that there was still an economic embargo which was prejudicial to the economic and social development of the country.

23. An independent judiciary was essential to ensuring the implementation of economic, social and cultural rights. In the written reply to question 2 in the list of issues, he was encouraged to read that persons who had been wrongly arrested, confined or punished could demand compensation. He asked whether citizens could also institute legal proceedings against the administrative authorities to appeal administrative decisions which they believed violated their economic, social and cultural rights and whether they could demand compensation for wrongful decisions by administrative bodies.

24. Mr. TIRADO MEJÍA asked whether any independent human rights NGOs were active in the country. He also enquired whether, pursuant to the recommendations made at the 1993 Vienna World Conference on Human Rights, a national human rights plan of action had been formulated or was at least under consideration. What activities were carried out by the State party to disseminate information on human rights?

25. He drew the delegation's attention to the concern expressed about the impartiality of the judiciary in paragraph 8 of the concluding observations of the Human Rights Committee (CCPR/CO/72/PRK).

26. He would also like to know what the State party's position was on the draft optional protocol to the Covenant.

27. Ms. BARAHONA RIERA said that, according to the delegation, the holding of talks between the Democratic People's Republic of Korea and the Republic of Korea had resulted in a climate of more open relations and reconciliation. She would like to know whether that had led to more openness in the dissemination of information on the enjoyment of economic, social and cultural rights and whether there was more training in human rights. Had there been any significant changes as a result of the talks?

28. With regard to article 2, NGOs and international relief bodies had reported that food distribution had been discriminatory and had not targeted those most in need. She asked whether allegations were true that such food relief had gone primarily to the military, and not to women and children.

29. On article 3, she noted that the Constitution provided for gender equality and that in 2001 the State party had signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women. Given the country's patriarchal culture with its traditional roles for women, she wondered whether there had been any change in the attitude towards women in politics. There were very few women in decision-making positions. Even within the family, women had an inferior position, despite the provisions of the Constitution. She asked whether the allegation was true that women who promoted equality of the sexes were accused of having bourgeois attitudes.

30. Mr. KERDOUN asked whether judges were appointed by the Government and whether a professional association for judges was allowed. He would also like to know whether the judicial system included a supreme court, courts of appeal and courts of first instance and whether there were courts for specific areas, such as labour courts, criminal courts, administrative courts, commercial courts and industrial tribunals.

31. Mr. RI Tcheul (Democratic People's Republic of Korea) said that, although his delegation was ready to cooperate with the Committee, it was regrettable and disappointing that the Committee had focused so heavily on reports by NGOs and merely repeated the false allegations which they were spreading. For what purpose and on what basis had the information been prepared? Persons who had defected to other countries were usually ready to fabricate many things. It was to be hoped that the dialogue would be more productive. The Committee could of course refer to such reports, but raising questions on the premise that they were true was insulting. His delegation had had very few contacts with the Committee; if it had had more, it would have been able to help the Committee understand the situation, and such false information would not have been so overwhelmingly used.

32. The CHAIRPERSON pointed out that reports submitted to the Committee by NGOs were public, and the Mission of the Democratic People's Republic of Korea had already received them. The Committee asked questions on the basis of those reports precisely because it was trying to understand what was happening. It was quite true that there was very little contact between the State party and the Committee, and that was true for all States parties. The members of the Committee were not United Nations officials. After the sessions, they went home to their respective countries. Between sessions, they could have no contact with States parties unless the latter so desired. The Committee's mandate was not to stand in judgement of any State party, but to monitor implementation of the Covenant, which States parties acceded to voluntarily. States parties were under an obligation to report on implementation of the Covenant. The Committee's primary function was to assist States parties. If the Committee did not understand what was happening in a given State party, it could not help that State party meet its obligations under the Covenant. The delegation should not be disappointed that NGOs had been cited: the Committee was seeking clarification from the delegation and wanted to hear its point of view. That was what a constructive dialogue was all about.

33. Mr. RI Tcheul (Democratic People's Republic of Korea) said that, while he understood the Chairperson's point, it was not the fact that the Committee used information from NGOs that was disappointing, but that it believed that information. Falsifications must not be taken at face value. It was insulting to ask questions on the basis of false allegations. The dialogue would be very constructive if it proceeded in keeping with the Chairperson's comments.

34. Mr. SIM Hyong Il (Democratic People's Republic of Korea), referring first to a question on the status of the Covenant, said that it was the same as that of domestic law. The Constitution was the basic law of the State. That meant that it was at the top of the legal hierarchy. No other laws took precedence over the Constitution. The Covenant was embodied in the legislation and policies of the Government. The obligations under the Covenant were applied in domestic laws and regulations. Thus, it was a State obligation, not an international obligation, to protect the human rights of the people. Some aspects might not be fully reflected in domestic law, in which case the Covenant was directly applicable. If there were contradictions between the Covenant and domestic law, the Covenant took precedence, and domestic law was brought into line with the Covenant. To cite an example, under the International Covenant on Civil and Political Rights, the minimum age for the death penalty was 18, whereas it had been 17 in the Criminal Code. As a result, capital punishment was no longer imposed on persons below the age of 18.

35. Several recourse procedures were available to citizens in case their rights under the Covenant were violated. Those included a well-organized complaint and petition procedure under article 69 of the Constitution as well as civil and criminal procedures.

36. Mr. PAK Dok Hun (Democratic People's Republic of Korea) said that numerous human rights organizations were active in the country, and could receive complaints and make recommendations to the competent authorities. International organizations, including United Nations human rights bodies and non-governmental organizations, were welcome to visit and several had, in fact, been invited, including Amnesty International, a parliamentary delegation from France and the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences.

37. It was not true that the Government had occasioned the forcible return and imprisonment of citizens who had left the country. In fact, most Koreans who crossed the border into China to visit relatives or to work did so with government authorization. Those who came back were not investigated unless they had committed a crime. A list of repatriated persons and details concerning them had been supplied to the Human Rights Committee, at its request, in 2001.

38. The Covenant had been translated into Korean and had been distributed to government officials, including members of the judiciary. The main points of the Covenant had been disseminated through the mass media on the anniversary of the State's accession to the Covenant and discussions and seminars on the Covenant were organized periodically. Human rights was a compulsory subject for law students in universities.

39. To date, no national action plan for human rights had been formulated and the issue of whether such a plan was necessary was still being debated. Likewise, the Government had not decided whether to accede to the draft optional protocol to the Covenant.

40. The large amounts of humanitarian assistance that had been received in response to the drought and natural disasters of the 1990s, most of which consisted of food for children, was channelled through the NGOs with offices in the country, of which there were approximately 20. Food aid shipments were usually met at the port by NGO representatives, who ensured that they were distributed to other parts of the country. While it was true that food shortages affected children first and foremost, that was because of children's inherent vulnerability, not because the food was not being distributed to them.

41. Mr. CHAE Ryang Il (Democratic People's Republic of Korea) said that in order for citizens to fully enjoy human rights and respect those of others they must be informed about the legislation embodying those rights. Human rights were taught at the primary, secondary and university levels, and were included in the curricula taught to law enforcement officers, inspectors and security officers.

42. Mr. KIM Won Ho (Democratic People's Republic of Korea) said that the allegation that discriminatory treatment based on class was practised was inaccurate. The emblem of the Workers' Party, consisting of the hammer, sickle and writing brush, represented the three main classes of workers. The allegation that food supplies were differentiated on the basis of class was totally untenable. Although legislation had been enacted on the subject of gender equality, efforts to apply the legislation needed to be strengthened. Traditional beliefs about the role of women posed obstacles to the attainment of gender equality and called for greater awareness on the part of both men and women. Currently, there were few women in decision-making positions in the Government, but that had not always been the case. Promotion was based on ability and increasing the number of women in such positions could not be forced. Current efforts focused primarily on raising the numbers of female university students.

43. It was not necessary to take steps to guarantee the independence of the judiciary because that objective had already been met. Court decisions were the exclusive responsibility of judges and there was no possibility of influencing such decisions. Virtually all court proceedings, with few exceptions, were open to the public.

44. Records relating to the human rights complaint and petition procedure were kept on a case-by-case basis for 8 to 10 years at the institution concerned, at which point they were transferred to the State archives. The examples of cases were too numerous to mention.

45. Members of the judiciary were supplied with the original text of the Covenant, analyses of the obligations undertaken, implementation guidelines and case law. Exams for judges and law enforcement officials contained questions requiring knowledge of human rights instruments.

46. Understanding the relationship between individual and collective rights in the Democratic People's Republic of Korea provided an insight into its particular style of socialism, which, essentially, strove to eliminate exploitation and oppression. The means of production were in the hands of all citizens and many deputies to the Supreme People's Assembly were ordinary workers and peasants. Individual and collective rights were intertwined: what was good for the individual was good for the group and vice versa. Since individuals lived in society, there should be harmony between individual and collective needs. If an individual expressed an opinion that was contrary to that of the group, the opinion would be taken into consideration, but efforts would also be made to persuade the individual to bring his or her opinion into harmony with the collective opinion. Care was taken not to resort to oppression in such cases.

47. The requirement to compensate victims through the various recourse procedures was very strict and, regardless of the entity making restitution, victims were assured of compensation.

Issues relating to specific provisions of the Covenant

Articles 6-9 of the Covenant

48. Mr. TEXIER said that the Committee could not be held responsible for the lack of dialogue between the Democratic People's Republic of Korea and the Committee in the past. The State party had ratified the Covenant in 1981 and was presenting only its second periodic report in 2003. Had it respected its reporting obligations, there would have been more regular meetings with the Committee.

49. According to NGO reports, access to the country was severely limited. Amnesty International had been granted access twice, but other NGOs had been obliged to gather information from Korean citizens living outside the country; increased access would greatly facilitate their work. It was also regrettable that there were no Korean NGOs which could give information from within the country.

50. It was surprising that the State party was not a member of the International Labour Organization (ILO), and merely had observer status. What was the reason for that? Did the Government plan to join in the future? The Government must surely recognize the importance of ILO, the oldest organization in the United Nations system. The State party had not ratified any of the important ILO conventions, many of which supported articles 6 to 10 of the Covenant. ILO also offered the advantage of a tripartite structure between the Government, trade unions and employers' associations.

51. Under article 6 of the Covenant, States recognized the right to gain a living through work that had been freely chosen or accepted, a right also guaranteed under the Constitution. However, it appeared that in the State party, it was the Government that allocated work, on the basis of social class. How did the Government reconcile that practice with the right to choose work? Under the Labour Law, there did not appear to be any employment contracts. In the absence of contracts, how were working conditions negotiated? Was there a minimum wage, and, if so, did it guarantee workers and their families adequate living standards?

52. Regarding equality between men and women, he wondered whether there was any difference in their wages for equal work. Did women have access to positions of responsibility? It was striking, for example, that there were no female members of the delegation.

53. Regarding the right to form trade unions, he wondered whether workers had a choice as to which union to join. For example, were there a number of unions, defined not only by sector, but also by ideology? Were there collective negotiations between employers' organizations and trade unions on issues such as wages and strikes? He would welcome information on restrictions on the right to form trade unions, and particularly on those categories of workers that were not free to join a union. According to the International Confederation of Free Trade Unions, the Criminal Code contained strict provisions on union activities which were considered to endanger State security. He would be interested to hear the definition of State security in the Democratic People's Republic of Korea.

54. Mr. KOLOSOV asked whether the notion of forced labour existed in the State party, and, if so, whether it was reflected in legislation. Was there an individual right to refuse work?

55. Ms. BRAS GOMES asked for clarification of the statement that the reason there were no women in the Cabinet was not due to inequality, but because members were chosen based on ability. Surely there was no doubt as to the ability of women to hold positions of responsibility?

56. According to the written replies, if workers exceeded their assignment in terms of quality and quantity, they were paid more than their standard salary. She wondered how the quality and quantity of work were assessed - were there pre-established rules to ensure decisions taken in that regard were transparent?

57. There seemed to be two separate social protection systems - State social insurance and State social security - both of which covered old age, illness and disability. What was the difference between the two, and how were they funded? According to the Office for Coordination of Humanitarian Affairs, if a person did not work and was not a social welfare recipient, he would not receive any allowance from the State. Did that mean that such people were left totally without protection? According to the periodic report, persons committed to reform institutions would also lose their social security benefits. She would welcome more information on the people committed to those institutions.

58. Mr. CEAUSU, referring to the written replies to question six in the list of issues, said that he would be interested to hear examples of serious violations of labour discipline, and the corresponding sanctions.

59. Regarding the right to form trade unions, he wondered how the authorities could tell in advance whether the formation of a new trade union was going to endanger State security. The conditions for the formation of trade unions in the State party seemed excessive, and severely restricted the freedom of workers. Legislation should be amended to bring the situation into line with international practice.

60. Mr. PAK Dok Hun (Democratic People's Republic of Korea) said that since joining the United Nations in 1991, the Democratic People's Republic of Korea had become a member of many organizations and specialized agencies. The Government recognized the importance of ILO and followed its activities and participated in conferences as an observer. The Government was committed to joining ILO as soon as possible, but before doing so a number of issues, such as how to organize tripartite representation, would have to be studied.

61. Mr. JONG Chol Won (Democratic People's Republic of Korea) said that under the country's socialist system the State organized the country's labour resources. Each year a plan for the distribution of labour resources was drawn up, which was taken into consideration when preparing the education plan. University graduates were allocated jobs by the Cabinet and the Ministry of Education, based on the demand for labour in various sectors, while secondary school graduates were allocated jobs by local people's committees. The preferences of the individual were taken into consideration in the allocation of jobs, and social class was not an issue.

62. As the means of production were owned by the people, the concept of employers and employees did not exist, and as a result there were no employment contracts.

63. There was no difference between men and women's wages for equal work; remuneration depended on the quantity and quality of work, which were assessed by supervisors. Women still carried out the majority of household duties, although the President aimed to change the situation. If economic conditions in the country improved, there would be more favourable conditions for women and they could be promoted to more senior positions. There were many women working in a variety of positions in various sectors. For example, in government posts at the department director level women accounted for 10 to 15 per cent, while at the division director level they accounted for 20 to 25 per cent. Some 15 per cent of those employed in heavy industry were women, while they accounted for more than 60 per cent in the financial and commercial sectors. Following the recent elections to the Supreme People's Assembly, some 20 per cent of the new deputies were women.

The meeting rose at 1 p.m.