

A NEW LEASE OF LIFE?

DPRK FORCED OVERSEAS LABOUR IN THE EU

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INTRODUCTION

The DPRK economy relies heavily on the progressively more sophisticated and continually growing export of its workers on short fixed-term (often three years) assignments abroad. While DPRK overseas forced labour has been the focus of several reports and investigations, concrete and reliable numbers are still not within our grasp.¹ Nonetheless, using the available data and connecting these to a thorough understanding of the DPRK system,² we can come to see the rapid growth of DPRK

¹ This article is the first product of a recently started research project at the Leiden Asia Centre of Leiden University: [Slaves to the system: researching North Korean forced labour in the EU](#). A shorter version of this paper was published in French in [Korea Analysis 9](#).

² I specifically refer to the kind of systemic understanding based on sources within the DPRK state apparatus as was discussed in the 2014 Leiden conference *A state of non-legitimacy: Learning from North Korean elite voices in exile*. The book based on this conference will be out this year.

overseas labour and the structures behind it, and arrive at a rough estimate of its relative importance in the state finances of the DPRK.

It is our contention that in the increasing use of this instrument the DPRK state has successfully replicated its state ideology and practices and blended these to the demands of the international market, in effect temporarily exporting self-contained micro-versions of the DPRK surveillance and labour system to foreign environments. State control through repression and coercion within the group remain intact, as does the hierarchical structure ultimately leading to the monolithic supreme leader-system. And, like in the DPRK, economic benefits derived from the labour go directly to the state, which then redistributes a small part of these to the workers, usually just enough to sustain a level of bare sustenance, which ironically may be better in actual terms than the situation in North Korea. Although DPRK overseas labour has taken place in more than 40 countries, this paper will mainly focus on EU member countries, where the legal frameworks to deal with this kind of enterprise is in place.

EXPORTING LABOUR

It is a well-known fact that the DPRK economy has made use of exported labour since its establishment. Then, most workers were sent to the then-Soviet Union.³ With the changing of the DPRK's economic and political priorities, the focus shifted to the People's Republic of China, Africa and the Middle East. Relative recent rapprochement between the DPRK and Russia has at the same time given rise to a situation in which tens of thousands North Korean workers labour as loggers in the far east of Russia.⁴ The number of DPRK workers who legally work in China is not exactly known, although it seems to be significantly more even than the total number of DPRK overseas workers of 50,000 that fall under the category of 'forced labour' mentioned by the UN Special

³ Larisa V. Zabrovskaya , "Economic Contacts between the DPRK and the Russian Far East: 1992-2005," *International Journal of Korean Unification Studies* 15.2 (2006), pp. 95-111.

⁴ Mainly in places such as Primorye near Vladivostok, Amurskaya Oblast or Khabarovskiy Kray. See Zabrovskaya , "Economic Contacts, pp. 95-111.

Rapporteur on the situation of human rights in the DPRK, Marzuki Darusman.⁵ Statistics from the Chinese Bureau of Tourism seem to indicate much larger numbers of North Korean workers receiving temporary working permits,⁶ but more research is necessary before concluding that all DPRK workers sent abroad do indeed fall under the header of forced labour.⁷

The concerns of the UN Special Rapporteur with regard to DPRK forced labour overseas seem well founded. Human rights abuses perpetrated by the DPRK state are unfortunately well documented.⁸ And so are the working conditions of North Korean workers abroad.⁹ Working hours are long (12 to 16 hours per day), working conditions dangerous, resting days infrequent if not entirely absent (1 day per month), no individual contract is provided, salary is far below the minimum wage, freedom of movement does not exist, infringement on the rules set by the North Korean minders of the groups sent abroad are harshly punished and between 80-100% of the salary earned by the workers goes directly to the state (on average a worker receives only 120 to 150 USD per month).

The above is hardly news, although it is incessantly in the news. North Korea is bucking the trend with regard to state-imposed labour, for the International Labour Organisation recently optimistically concluded that “state-imposed forced labour is

⁵ See the report here: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N15/273/17/PDF/N1527317.pdf?OpenElement>

⁶ Kim Sökchin has used these numbers to arrive at a much higher estimate. See Kim Sökchin 김석진, *Pukhan oehwaböri ch’use-wa ch’önmang* 북한 외화벌이 추세와 전망 (Seoul: KINU T’ongil nach’imban 통일나침반 15-04, 2015).

⁷ There is a complicated discourse surrounding the terminology here, one that consists of notions expected to be universally valid yet at the same time inextricably tied up with particular historical experiences. While legal imprecision in discussing bonded labour, forced labour, compulsory labour, servitude and slavery can potentially be catastrophic, this paper will bypass that discourse and adhere to the ILO’s use of those terms as defined in International Labour Office, *Profits and poverty: the economics of forced labour* (Geneva: ILO, 2014), p. 3

⁸ See the UN COI report here: <http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIDPRK/Report/A.HRC.25.63.doc><http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIDPRK/Report/A.HRC.25.63.doc>

⁹ See for example this 2015 report: Yoon Yeo-sang and Lee Seung-ju, *Human Rights and North Korea’s Overseas Laborers: Dilemmas and Policy Challenges*, the [Database Center for North Korean Human Rights](#) (Seoul: NKDB, 2015).

declining in importance when compared to the extent of forced labour in the private economy. Of course, vigilance is needed to prevent state-imposed forced labour from resurging.”¹⁰ And even if it were new, what is to be done about anything the DPRK does, given the demonstrated incapability of the international community to convince Pyongyang to uphold even the most basic human rights?¹¹

Our incapability (exasperation perhaps) to successfully deal with DPRK human rights infringements should not distract us from what is actually going on in the DPRK and as importantly in the countries where DPRK workers are being ‘posted.’ The first thing to be noticed is that all sources point to the reasonable supposition that the DPRK has created a new and rather sophisticated instrument in the on-going struggle to keep its economy from collapsing: leasing its workers to the highest bidder, whether this be China, Qatar, Poland or the Netherlands.¹² The second thing to notice is that it is precisely the overseas human rights and other abuses perpetrated under the flag of the DPRK, which paradoxically create an opportunity for effective redressing. The two are intimately interconnected.

While noting that the DPRK is using a hybrid system that refuses to be caught in the existing terminology, it is useful to briefly refer to the standard definitions used when discussing forced labour. The ILO has defined forced labourers as, “persons meeting the definition under Convention No. 29: men and women, boys and girls were considered as being in forced labour whenever the work was involuntary as a result of force, fraud or deception, and a penalty or threat of a penalty was used to coerce them

¹⁰ See International Labour Office, *Profits and poverty*, p. 3. It should be mentioned here that North Korea is not mentioned at all in the ILO report.

¹¹ For a list of the relevant treaties the DPRK did or did not sign, see this 2015 EAHRNK report: *The will of the state: North Korean forced labour* (<https://eahrnk.org/articles/policy-and-research/the-will-of-the-state>).

¹² The countries usually mentioned as hosting North Korean workers as recent as 2013 are Algeria, Angola, China, Equatorial Guinea, Ethiopia, Kuwait, Libya, Malaysia, Mongolia, Myanmar, Nigeria, Oman, Poland, Qatar, Russia, and the UAE. See Shin Chang-hoon & Go Myong-Hyun, *Beyond The UN COI Report on Human Rights in DPRK* (The Asan Institute for Policy Studies: Seoul, 2014), p. 21. To this list should be added the Czech Republic, the Netherlands and Malta.

or their parents in the case of children below the age of 18.”¹³ Its 2014 report on international forced labour additionally offers a clear and concise typology of forced labour:

- Forced labour **imposed by the state** covers all forms of work exacted by public authorities, military or paramilitary, compulsory participation in public works and forced prison labour (within the scope of ILO Conventions No. 29 and No. 105);
- Forced labour **imposed by private agents for sexual exploitation** covers any commercial sexual activity, including pornography, exacted from the victim by fraud or force; and,
- Forced labour **imposed by private agents for labour exploitation** includes bonded labour, forced domestic work, forced labour of migrants in many economic sectors and work imposed in the context of slavery or vestiges of slavery. Forced illicit activities such as forced begging for gangs for example are also included in this category.¹⁴

Unfortunately (and inexplicably) North Korea is entirely absent from this report. Even a cursory investigation of DPRK practices with regard to overseas labour cannot fail to note the hybrid nature of the DPRK system, in which the state is the prime mover, instigating projects and gathering the workers.¹⁵ More important perhaps, it is the North Korean state that provides the rigid surveillance structure (including the punishments for infringements) that accompanies the workers wherever they go.¹⁶

¹³ Definition under Convention No. 29: “All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. See International Labour Office, *Profits and poverty*, p. 4.

¹⁴ See International Labour Office, *Profits and poverty*, p. 14.

¹⁵ And even if DPRK citizens volunteer for overseas labour assignments, domestic circumstances (which include widespread hunger and institutionalized repression by the state) that a free choice cannot be said to have been made. “According to the ILO’s survey guidelines, an individual is considered to be working in forced labour if he or she was not freely recruited and faced some form of penalty at the time of recruitment, had to work and lives under duress and the menace of any penalty or cannot leave the employer because of the menace of a penalty.” International Labour Office, *Profits and poverty*, p. 30.

¹⁶ The testimonies in International Network for the Human Rights of North Korean Overseas Labor (INHL), *The conditions of North Korean overseas labor* (Seoul: INHL, 2012) and Saeme Kim and James Burt (EAHRNK), *The will of the state* are revealing in this regard. This is what one worker said of his time abroad: “We were not allowed to do other jobs beyond our own work...At 20:00 we had our mandatory education classes for an hour. Twice a

Closely connected to the surveillance structure which attaches itself to the workers regardless of any choice of theirs, is the fact that the state demands that the workers' wages bypass the workers themselves and is directly deposited in the state's coffers.¹⁷ So far, this may seem as straightforward state-imposed forced labour, albeit outside of the physical territory of the state. But the concrete process by which North Korean labourers are sent to their respective places of work are arranged through private North Korean agents, companies registered in the countries where North Korean labour is leased out.¹⁸ The unique structure of DPRK state and society ensures that the boundaries between the state and such private entities is blurred at best. From a perspective from outside of the DPRK, however, the two are clearly separated. By fine-tuning the duties of the state and those of the privately registered (but centrally administered) and nominally foreign agents, the DPRK regime has created a sophisticated instrument of large-scale labour leasing which combines the strengths of the state (vis-à-vis the workers and vis-à-vis other states with regard to e.g. visa application procedures) with those of local agents (who know the local market economically and legally). The DPRK has developed an innovative hybrid form forced overseas labour that until now has managed to steer clear from international sanctions (if not from scrutiny).

The question as to why the DPRK would go to this trouble is easily answered. Traditional sources of hard currency have not delivered like they did in the past. According to a recent study, during the last few years income from the sale of minerals (or of the right to mine minerals in the DPRK) have been declining.¹⁹ In 2013, the DPRK earned about 1.8 billion USD through selling mineral reserves to the PRC, while in the first half of 2015 only 600 million USD was earned. The increasing economic stress in other areas as well with which North Korea has been confronted under Kim Jong Un is

week, we had our life-meetings. We were constantly given ideological education. Another one stated the following: "I thought that I needed to obey their [DPRK officials] commands in order to come out alive. I did imagine what it would be like to escape and run, but if I got caught I would have been punished by death. So I tried to find an opportune moment to escape, but it never came." (Kim & Burt, *The will of the state*, p. 36).

¹⁷ INHL, *The conditions of North Korean overseas labor*, pp. 43-46; Shin & Go, *Beyond The UN COI Report*, p. 21-27.

¹⁸ Shin & Go, *Beyond The UN COI Report*, p. 21.

¹⁹ Kim Sökchin, *Pukhan oehwaböri ch'use-wa ch'önmang*, pp. 5-17.

directly mirrored in the equally increasing use of overseas labour as a means of earning foreign hard currency.²⁰ Although it remains alchemy to a certain extent trying to estimate how much money the DPRK is actually making from the export of its workers, the ILO report is of use here to give us at least a rough estimate. North Korean workers are active all over the world, but mainly in China, Russia, the Middle East, the African continent and the EU. General statistics from the ILO show that on average US\$3,900 is earned in Africa per victim of forced labour; US\$5,000 per victim in the Asia-Pacific region; US\$15,000 per victim in countries in the Middle East; and US\$34,800 per victim in so-called developed economies. While the actual amount will vary according to the particular situation, the overall relative distribution of profits is correct. The ILO further notes that “[total] profits are highest in Asia (US\$ 51.8 billion) and Developed Economies (US\$ 46.9 billion), mainly for two reasons: the high number of victims in Asia and the high profit per victim in Developed Economies.”

The above leads to the conclusion that there are several push-and-pull factors which make the DPRK engage in the export of forced labour and which make its increasing growth a high likelihood:

1. The general lack of opportunities for the DPRK to earn foreign hard currency; the decline of those industries that specialize in earning hard currency (such as the mining industry); and the ever-present need for the DPRK to earn as much hard currency as it can.
2. The presence of the historical example of working abroad, both for the state in organizational terms and for the average citizen who remembers the riches associated with labour abroad from before.²¹
3. The almost perfect fit of the current DPRK state and social system with the needs of a system based on forced expatriate labour (the capacity to gather workers and to force them to work abroad, while adhering to domestic DPRK rules; the ability to arrange visa procedures legally and effectively through its diplomatic

²⁰ Kim Sökchin, *Pukhan oehwaböri ch’use-wa ch’önmang*, pp. 33-45.

²¹ Particularly in the sixties, but also in the eighties: see Zbrovskaya, “Economic Contacts, pp. 95-111.

representatives abroad; the normality of the state receiving the wages and redistributing these according to its own insights; the peculiar structure in which the DPRK elite has invested its economic well-being in private companies often also registered abroad which act as agents).

4. The possibility to replicate the DPRK state surveillance system and attach it to the groups of workers sent abroad, effectively recreating a mini-DPRK wherever the workers find themselves and minimize defection or outside contamination.
5. The high profits to be earned a. by sending a high number of workers to Asian countries such as China to earn the accumulation of the relatively limited profits per victim or b. by sending much fewer workers to the developed economies of the EU countries,²² but against an incomparably higher return per victim (Pyongyang's so-called flying doctors would also be an example of this).²³ In both cases the net profit is considerable.

These push-and-pull factors not only show that forced overseas labour will continue to grow, but also that in different ways China, Russia and the EU countries will in all probability continue to form the main target countries of DPRK expatriate labour.

Another crucially important conclusion to be drawn from the above is that the expatriate labour schemes of the DPRK, despite the many infringements of the human rights of the workers involved (and despite the infringements on internationally accepted labour condition standards and local employment laws), may very well generally (and ironically) benefit all parties involved. The state and its agents due to the high net profits to be gained; the workers themselves due to the relatively better working conditions and higher financial compensation compared to similar work in the DPRK;²⁴ the local partners leasing the DPRK work force due to the much lower

²² For obvious reasons, the US is not a target country for the DPRK overseas labour force.

²³ See <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3011968>.

²⁴ In average, the part of the official wage of a North Korean worker in the Kaesong Industrial Complex (which is in terms of financial compensation the apex in North Korea) is at the very most 80 dollars per month (see <http://www.voakorea.com/content/article/1870362.html>) and significantly less when in the employ of an employer who is not South Korean (<http://www.rfa.org/english/news/korea/north-koreans-make-less-money-than-their-counterparts-at-kaesong-08142015164241.html>). Although the lack of official statistics

expenditure on wages and the higher amount of working hours that can be extracted from the workers. The question then whether, despite its obvious illegality in some facets, DRPK overseas labour projects should be stopped is not as obviously answered as may seem at first sight.

Nonetheless, from a macro perspective the relief that working overseas as part of a DPRK labour brigade may bring (something that is by no means guaranteed) is short-term and falls short of offering structural solutions to the plight average North Koreans face on a daily basis, whereas the negative effects associated with these practices are long-term. Overseas labour maintains the DPRK system by stimulating human rights infringements and is in breach of local/regional, national and international laws; international treaties such as the ILO Convention; and UN resolutions.

IN CONCLUSION

DPRK overseas labour is fundamentally problematic. This is partly caused by the domestic system of the DPRK which does not protect basic human rights and which is exported along with the labour. But ultimately, this is also an excess of the capitalist logic of demand and supply, in which the DPRK can offer a more or less perfectly fitting supply of cheap, motivated and highly-trained labour to the growing international demand for cheap labour.

The DPRK's long record of human rights abuses is cause to consider the appropriateness of DPRK overseas labour with utmost caution and rigour. To this end, a qualitative and quantitative analysis as proposed in this paper is but a first step. Qualitative and quantitative analysis should be followed by legal analysis. In short, it is not only UN resolution 2094 that must be tested against DPRK forced labour in the EU,²⁵ but also the vast array of local laws (regional and national) and international treaties. At the risk of being superfluous, we mention here that it is of no import

makes it impossible to calculate the average income for North Korea, it seems to lie around the 25-30 USD mark. See <http://www.nknews.org/2014/03/how-much-money-do-north-koreans-make/>.

²⁵ This is the resolution that bans UN member states from directly or indirectly financially aiding the DPRK nuclear program or the ballistic missile program. See <http://www.un.org/press/en/2013/sc10934.doc.htm>.

whether the DPRK is signatory to such international treaties or itself a subject of such national laws: DPRK workers working overseas and the companies that lease them, and the states that host them (i.e. EU member countries) are.

Concretely speaking and in descending order from the international to the national, regulations such as the following need further investigation as to their applicability to DPRK overseas labour.

1. ILO Convention 29 and the Protocol to the ILO Convention 29. Its goal is described as follows: “a fundamental obligation of Convention 29 is to suppress all forms of forced labour. This means that states must not only criminalize and prosecute forced labour, but also – as the new Protocol makes clear – take effective measures to prevent forced labour and provide victims with protection and access to remedies including compensation.”²⁶
2. EU Directive 2011/98/eu (a single application procedure), which deals with single permits for third-country nationals to reside and work in the territory of a Member State and provides a common set of rights which guarantee equal treatment with nationals of the Member State where they reside with regard to: (a) working conditions, including pay and dismissal as well as health and safety at the workplace; (b) freedom of association and affiliation and membership of an organisation representing workers or employers.²⁷
3. EU Directive 2009/52/eu providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.
4. Foreign Nationals Employment Act of the Netherlands (similar laws exist in other EU countries), which sets out the rules permitting foreign nationals to work in the Netherlands and regulates fines and the possibility of criminal investigation in cases of suspected constructions that are designed to circumvent or evade legislation and regulations, or illegal work by fraudulent intermediaries.²⁸
(http://www.inspectieszw.nl/english/work_by_foreign_nationals/).
5. Act on Combating Sham Arrangements of the Netherlands: this laws makes it compulsory for employers to pay minimum wages, to a bank account and introduces

²⁶ See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:R203:NO

²⁷ See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:343:0001:0009:EN:PDF>.

²⁸ See http://wetten.overheid.nl/BWBR0007149/geldigheidsdatum_04-01-2016.

the notion of chain liability, according to which the original principal can be held accountable for paying minimum wages and wage tax and any abuses or illegal practices, as can the recipient of the labour leased.²⁹

The list of treaties, directives and laws mentioned above is not exhaustive. It will have become clear that apart from the qualitative and quantitative analyses, much work still remains to be done to come to a full understanding of DPRK overseas labour practices, to unpack the highly complicated complex of DPRK systemic practices, UN resolutions, international and national regulations, notion of human security and human rights, the laws of international supply and demand, and the flowing of finances. Unpacking this complicated issue may yield even more complications. Potentially, through the notion of chain liability, the DPRK state itself may come to be held accountable for the abuses and illegal practices committed in EU territory as the world's largest illegal job agency.

²⁹ See http://wetten.overheid.nl/BWBR0036706/geldigheidsdatum_04-01-2016.