



PEOPLE FOR PROFIT

north korean forced labour on a global scale

edited by

REMCO E. BREUKER and IMKE B.L.H. VAN GARDINGEN

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Remco E. Breuker and Imke B.L.H. van Gardingen

PEOPLE FOR PROFIT:
NORTH KOREAN FORCED LABOUR ON A GLOBAL SCALE

Introduction

Remco E. Breuker and Imke B.L.H. van Gardingen

We started our previous report by noting that a North Korean welder had burned to death while working on an assignment on a Polish shipyard in 2014. Chŏn Kyŏngsu's (전경수) gruesome death galvanised awareness of what precisely had been happening to DPRK labourers all over the world. It seems fitting to introduce our follow-up report by telling a bit more about Chŏn, the details and stories that have emerged during the research of the past year and a half.

Chŏn, a native of Pyongyang's Man'gyŏngdae neighbourhood, was 41 when he died. He left behind a wife and a nine-year-old son. A man of few words, generally liked by his peers, he did not drink or smoke, but he was fond of the North Korean card game *chup'ae*. He had worked in Poland for less than two years when he died. Originally, he was assigned to do work that paid badly, but he pleaded with management to be transferred to somewhere he could either earn more or be sent home. Perhaps because he was a trusted worker, who functioned as a cell secretary and organised ideological lectures, he was assigned a position as a welder.

According to a former colleague, Chŏn's accidental death was not the result of his own negligence, but due to a lack of ventilation in the space where he was welding, leading to a build-up of gas. Sparks from the welding ignited the gas and Chŏn burnt to death. After the accident, it was not immediately clear who had died, because the body had been burnt beyond recognition. However, Chŏn's smartphone was discovered, intact, near the scene of the accident, and pictures of his family identified the phone as his. Chŏn died two weeks after his birthday on 15 August, the day the Korean peninsula celebrates its liberation from Japanese domination.

The story of Chŏn's death has taken years to collect and put together; in order to garner the meagre details we now know, we had to dig through reports written in Polish

by the Polish Labour Inspectorate, talk to North Koreans who worked abroad, do research in European Union (EU) member states and in South Korea, and sift through seemingly endless digital and other archives, to try to form a picture of the situation that Chŏn was in. Despite our efforts, it is still an incomplete and fragmented story, much of which we will never know. In that sense, it is very much like our research. Despite our best efforts, it is still an incomplete and fragmented story, much of which we will never know.

There are a number of reasons for us, as project team leaders and as researchers, to say that we have never felt more strongly that while the research done is incomplete and fragmented, realistically it may be as good as it is possible to get. There is the fact that the project was never staffed full-time. Most of us had to somehow combine this research with our regular duties. This situation was compounded by, among others, the transnational and interdisciplinary nature of the research, which readily transports one from familiar surroundings to professional terra incognita; the sheer diversity of sources needed; the many research locales; geographical distinctions; the various historically formed practices in different places; the interplay between governments, private companies, state institutions, workers, and the like; and the fact that the issue is extremely politicised. These factors created a complex and layered discourse that still awaits analysis. Thus, achieving any kind of definitive analysis with a small, part-time team – no matter how talented and hardworking – was never a realistic option.

Usually, an academic faced with such a situation will try to get a grant, so that extra funding buys time and expertise. The politicised nature of the discourse in this case, however, made applying for grants almost impossible. Politically neutral grants are fiercely competitive and the DPRK's peculiar international position precludes, for example, many EU grants (surprisingly on the grounds of principle). Those subsidies that were available to us, we had to say no to, due to the real possibility of political intervention and – real or perceived – association with overt political and ideological objectives.

Why, then, the decision to publish admittedly incomplete and fragmented research? To a certain extent, all research is always incomplete and fragmented, of course, but that is a rather unsatisfactory explanation. The reason to publish now is not that we feel we are anywhere near to what could reasonably be called the end of the research project, but because we judge we have enough to mark a substantial moment. Simply put, this is but a stop on the way to the final destination. We also hope that, by publishing our findings to date, we are contributing to the formation of a critical mass, academically and in terms of human rights, which will help create increased synergies.

This volume is partly a follow-up of the previous report, in that its focus is again Poland. This is regrettable and unfortunate in certain respects, but inevitable in others. But, it is also new insofar as it is an attempt to begin mapping the phenomenon of DPRK overseas labour globally and historically. As such, the now historical case of the Czech Republic has been investigated in detail; apart from its inherent historical value, it also contributes to our understanding of DPRK overseas labour in a broad, structural perspective over the – relatively – *longue durée*. The chapter on Africa is, in a way, the antithesis of the Czech Republic chapter. Not in the sense that it is ahistorical – history plays a crucial role in the

research on Africa – but rather in the sense that while our research into the presence of DPRK labour in the Czech Republic has finished, our work with respect to Africa is ongoing. The Africa chapter also contributes to a wider understanding of DPRK overseas labour, but, at the same time, it signals this project's intention to delve much deeper into the DPRK presence in Africa, historically and presently. The chapter on Russia impressively chronicles the experiences of DPRK individuals working there. It also highlights a number of characteristics that, while apparently prevalent in Russia, may also be found in other regions that await further investigation. One way of investigating the presence of North Korean workers abroad is to focus on the financial networks that instigate and facilitate the contacts that shape DPRK overseas labour. The case of Taiwan shows just how difficult research on DPRK networks abroad is – and how necessary. The dearth of available sources on Taiwan contrasts sharply with the wealth of information available for Poland: the analysis of the networks is not any easier though. The networks chapter also illuminates the fact that DPRK networks are structures. That said, it is the most unfinished chapter in terms of research that remains to be done. The chapters on enforcement and awareness map the impact that our previous report has had on different levels, nationally and internationally.

Enforcement remains a thorny issue. The chapter on non-enforcement is forced to conclude that, by giving room to DPRK overseas forced labour and contemporary slavery, we are all – in a general sense – complicit. Whether academically, politically, financially, ideologically, administratively, or in other ways, it has become clear that, ultimately, it is profitable enough not to make DPRK overseas forced labour impossible. Ironically (at least, if there is a place where irony slowly morphs into tragedy), the sanctions imposed on the DPRK and monitored by the UN Panel of Experts have been circumvented and, indeed, lack their intended teeth as a result of overseas North Korean labour being vigorously enabled and defended by the same states that declared themselves in favour of sanctions to stop the development of nuclear and other weapons.

At the heart of this volume is a concrete investigation into accountability. To our surprise and dismay, we found ourselves focusing again on Poland and the DPRK workers there. Given the consistent association of overseas DPRK labour with instances of human trafficking, contemporary slavery, forced labour, labour exploitation, and sanction evasions, we wonder whether this chapter, with its specific focus on those individuals, networks and companies, knowingly or often unknowingly, involved, will give rise to further action, legal or otherwise. It is the lack of awareness that is so concerning. If companies cannot tell they are relying on North Korean forced labour in their – short – production chain, how can we not breach the human rights of DPRK workers? How can we not contribute financially to further strengthening the nuclear capabilities of the DPRK? We do not even see it when it is happening right under our noses.

Academically, this volume has, as hoped, contributed to the further consolidation of the validity of North Korean perspectives in North Korean Studies – in particular those of a group maligned on both sides of the 38th parallel: refugees, defectors, exiles, or whatever inevitably politically charged term one uses to refer to former citizens of the DPRK state with the inside knowledge and experience so needed in this academic field. The testimo-

nies we collected have frequently turned out to be verifiable with other (archival) sources, driving home the importance of DPRK refugees' perspectives and experiences. I hope that this volume, as well as its forerunner, make clear that this methodological advocacy does not come at the expense of critical rigour.

One of the characteristics of overseas DPRK labour today is that, in contrast with how it started in the 1960s, only persons perceived as loyal to the state, but whose knowledge is not seen as a risk to that same state, are allowed to go: 'Even now that there are not enough people to send abroad, applications to go abroad are not accepted from those who worked for the First Brigade [*the construction regiment devoted to building exclusively for the Kim family*], former members of the Guard Command, university graduates, inhabitants of neighbourhoods in Pyongyang such as Man'gyŏngdae and Yongsŏng, former employees of the Central Liaison Department [*training ground for spies*], convicted criminals [*prison camps or mobile labour brigades*], and people with a bad background.'¹

This is in fact something that was implicit in our first report: the surprising find that almost three quarters of the workers at Crist Shipyard were party members. Another characteristic revealed by the testimonies of former workers is the relative efficiency of 'human post' (*in'pyŏn* 인편), the practice of sending money and/or letters with colleagues who were returning home or who had earned a month's leave after three to seven years abroad.² While some of the findings of our previous report were confirmed (one worker who had been caught stealing was punished by having his pay withheld for a year; the key role played by security service minders; ideological sessions are part and parcel of life overseas), others were contradicted (despite the rules, all workers had smartphones, although it is not clear if they were fully functional; some workers had more social interaction with locals than we previously thought).³ Former diplomat T'ae Yongho told us that fights between female workers at Polish tomato farms were encouraged by management as a way of channelling frustrations and anger about the hard work, non-payment, and being cut off from their families for three or more years.⁴ A former male worker in Poland stated the same about his group.⁵ A further disturbing fact about overseas labour is that workers who have been wronged, know better than to try and exact revenge during their stay abroad. They wait until they return to North Korea and then take vengeance on the perpetrator.⁶

Another academic contribution this volume hopes to make is in our insistence that overseas DPRK labour is more than a political and ideological matter: indeed, it is of vital importance to the running of the DPRK and can reveal a great deal that is otherwise hard to access. Related to this is our conviction that proper academic investigation of this, on many levels, hugely important phenomenon is long overdue due to the overt politicisation of the relevant discourses.

1) Interview with Mr K., 19 December 2017. Although we have found exceptions to this, this does seem to be the rule.

2) Ibid.

3) Ibid.

4) Conversation with T'ae Yongho, Seoul, 30 April 2017. According to Mr K., there were still more than a hundred North Korean women picking tomatoes in Poland when he fled in June 2017.

5) Interview with Mr K., 19 December 2017.

6) Ibid.

Introduction

Let us finish this introduction by repeating the assertion that this volume, albeit unfinished, fragmentary, and incomplete, brings to light new information, new insights, and, in particular, a number of avenues to be academically explored in the future. While we intend to pursue some of those avenues, individually and/or as a group, we hope that we will be joined in our research efforts by a diverse variety of colleagues. The three epilogues that conclude this volume may serve as examples of such academic efforts, resulting in a joint academic dialogue.

CHAPTER I

Setting the Background: Labour Conditions in the DPRK

Remco E. Breuker

The practice of sending large numbers of labourers abroad is a direct consequence of the situation the Democratic People's Republic of Korea (DPRK) faces domestically and is made possible by the international networks that DPRK institutions, businesses, and persons maintain. A number of structural characteristics that emerge from analysing the domestic North Korean labour market are readily recognisable in the way North Korean workers are selected to go abroad, the expectations the workers themselves have with regard to the work, the remuneration of the work, working conditions, and the socio-political context of it all.

It is difficult to analyse the domestic labour market in North Korea, because field work, the obvious research approach for such an analysis, is not a possibility in present-day North Korea. The most direct way of researching North Korean domestic labour practices is through North Koreans who left the country and are free to talk about their experiences, often on the condition of anonymity due to the potential negative effects family and friends remaining in North Korea could suffer, as a recent report written by the editors of this volume concludes:

The DPRK possesses a unique hybrid system of organizing work that includes capitalistic features such as individual initiative (undertaken primarily for survival) under a dilapidated and poorly functioning socialist structure that maintains many of the old socialist processes and rhetoric. As a result, while the state proclaims that it takes care of its people, in reality it is the people who are taking care of the state, through practices such as paying for 8/3 jobs, working without pay, and fending for themselves in a black-market economy, all the while facing risk of arbitrary arrest and sentence to a labour training camp for doing so.¹

1) Remco E. Breuker and Imke B.L.H. van Gardingen, 'Pervasive, Punitive, and Predetermined: Understanding Mod-

The Global Slavery Index 2018 further concluded that one in ten North Koreans is living in modern slavery, while the vast majority is forced to work by the state.² The pervasive lack of freedom found with North Korean labourers working overseas seems to be duplicated or perhaps derived from the situation prevalent in North Korea. Anyone familiar with the experiences of overseas DPRK labourers will recognise many, if not all, of the following factors from the conclusion of the report mentioned above:

[...]ne cannot avoid the conclusion that forced labour is widespread in North Korean society. Average workers are prevented by the state from choosing their own jobs, or from changing or quitting their jobs. Typically, they are not sufficiently remunerated, if they receive anything at all for their labour. In fact, they are kept in a unique DPRK-style of debt bondage in which the employee is obligated to pay the employer to avoid severe sanctions by the government. And all of this occurs in an environment controlled by a repressive and, in practice, unescapable [sic] ideological population management system managed by the state, which includes being requisitioned for largely unpaid communal work to prop up the regime.

The bottom line in all is that state-imposed forced labour practised by the DPRK is now systemic and far-reaching and touches the vast majority of the DPRK population. The experiences conveyed by the respondents in this study make it clear that the average North Korean citizen lives, works, and dies in a state of contemporary slavery.³

The fact that local labour conditions are mirrored with such relative precision in overseas labour not only puts pressure on the hopes expressed by many that overseas labour is a way to escape repression and poverty in North Korea. It also signals an urgent need to critically re-evaluate the practice on a global scale. The socio-ideological complex of obligatory practices called ‘Organised Party Life’, by way of which control is established and maintained over the DPRK citizens, is one of the characteristics thus exported from North Korea. In effect, this system, which according to the 2014 report by the United Nations Commission of Inquiry on Human Rights in the DPRK is instrumental in maintaining North Korea’s ‘unparalleled’ human rights abuses record, is exported to wherever North Korean labourers are sent to work.

So far, this system has not always attracted the attention it should have, except in the writings of North Korean exiles.⁴ The system is a sophisticated organisation of a number of politico-ideological tools also found in the socialist states of the ‘50s and ‘60s of the last century. It includes criticism sessions (self and mutual), ideological instruction, party lectures, and so forth. Kim Chŏngil’s (김정일, also commonly known as Kim Jong-il) innovation was to bundle such activities together and streamline the reporting of the proceedings of every meeting. In this version, the system is compulsory and coercive, but also scalable and - as

ern Slavery in North Korea’, *Global Slavery Index 2018* (Walk Free Foundation), forthcoming 2018, online.

2) Ibid.

3) Ibid.

4) See Jang Jin-sung, *Dear Leader : Poet, Spy, Escapee, a Look Inside North Korea*, trans. Shirley Lee (New York: First 37 Ink/Atria Books, 2014); Thae Yong-Ho (태영호), 태영호의 증언: 3층 서기실의 암호 (서울: 기파랑, 2018).

it turns out - portable. It works with 3 DPRK citizens, but also with 23 million. It works in Pyongyang, but also in Poland.

The adaptation of originally socialist elements into a new constellation that retains its socialist exterior, but has relinquished its original goals, is a process that has also been observable at large in North Korean society. It is undeniably so that the DPRK looks, at first sight, the part of a socialist state with the kind of strong personality cult that feels similar to the Soviet Union under Stalin or the People's Republic of China under Mao. Visually, little seems to point at a different reality underneath the social-realist veneer, but the days that state-ownership of the means of production harmonised with the state provision of basic human services (education, housing, healthcare et cetera) are long gone. To be precise, they disappeared with the collapse of the Public Distribution System, perhaps the most important asset in legitimising a socialist state. The Public Distribution System collapsed in the period running up to the great famine of the mid-90s, euphemistically known in North Korea as the 'March of Suffering'.⁵ Before, North Korea had been a society with a strict hierarchical structure, in which social merit had mainly been formed by (historic) revolutionary activities.⁶ The social contract, in which all adult male and unmarried adult female citizens contributed to society in whatever way the state saw fit in exchange for provision with everything that one needed through the Public Distribution System and other nationally managed structures, had perished. In its stead, a system formed through trial-and-error emerged, in which capitalist elements replaced the socialist backbone of the North Korean economy. This momentous shift had serious and lasting consequences for North Korean workers.⁷ Faced with a reality in which the state continued demanding but no longer provided, average North Koreans started to find work outside of the official system. They became sellers on the markets that overtook the role of the Public Distribution System; traders that supply these black markets by smuggling products from China; or one of the countless small producers who bring their home-grown vegetables to the market. All of these jobs were non-existent before and still should not exist according to the DPRK's state narrative. Nonetheless, they exist and without them people would starve. Also, without the bribes paid by the traders on the black markets, even officials of the North Korean state would have markedly more difficulties in making ends meet.⁸

5) See Sandra Fahy, *Marching through Suffering: Loss and Survival in North Korea* (New York: Columbia University Press, 2015); Stephen Haggard and Marcus Noland, *Famine in North Korea: Markets, Aid, and Reform* (New York: Columbia University Press, 2007).

6) See for example Kim Jae'ung (김재웅), '북한의 계급정책과 계급위계구조의 형성 (1945-1950)', *역사와현실* 85 (2012), 393-433; Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification System* (Washington: Committee for Human Rights in North Korea, 2012), <https://www.hrnk.org/uploads/pdfs/HRNKSongbunWeb.pdf>.

7) See for example the following studies: Pak Yŏngja (박영자), '2003년 <종합시장제> 이후 북한의 '주변노동'과 '노동시장' - 노동일상의 상황과 구조', *한국정치학회보* 43, no. 3 (2009), 149-171; Song Kangjik (송강직), '북한 사회주의노동법의 특징', *江原法學* 44 (2015), 251-280; Yun Chŏlgi (윤철기), '북한 시장화 이후 계급체계와 노동계급 마음체계의 변화: 노동계급의 정체성 위기와 계급의식의 변화를', *북한연구학회 춘계학술발표논문집* 19, no. 2 (2016), 117-137; Chŏng Ŭni (정은이), '북한 도시노동자의 식량조달메커니즘에 관한 연구 - 함경북도 무산지역의 소(燒)토지 경작사례를 중심으로', *동북아경제연구* 26, no. 1 (2014), 261-302.

8) For the capitalist turn, see for example Yoonok C. Chang, Stephan Haggard, and Marcus Noland, 'Exit polls: Refugee assessments of North Korea's transition', *Journal of Comparative Economics* 37, no. 1 (2009), 144-150; Andrei Lankov and Kim Seok-hyang, 'North Korean Market Vendors: The Rise of Grassroots Capitalists in a Post-Stalinist Society', *Pacific Affairs* 81, no. 1 (2008), 53-7.

The structure of society may have changed dramatically, if not always visibly, but the control mechanisms devised during Kim Chŏngil's rise to power, in the form of the so-called Organised Party Life, have not. As it was before, the notion of the monolithic leadership system still is the ultimate value in North Korean society. The entire society revolves around the Supreme Leader, the ruling Kim, and his by now almost transcendental nature: he is infallible, unassailable, and the object of absolute loyalty.⁹ The state has accompanied the monolithic leadership system by an equally loyalty-demanding ideology that stands out for its overtly racist elements.¹⁰

The combination of an extremely efficient repressive system and the destruction of the socialist nature of the DPRK resulted in the proliferation of unsanctioned jobs and activities, which were as illegal as necessary. It also means that as the majority of the DPRK population now has to make a living in jobs that the state tolerates but formally forbids and may crack down upon at any time, an increasingly large number of DPRK citizens find themselves trapped between the demands of the state and the necessity to stay alive and to take care of one's family. As a result, forced labour and modern slavery have become further institutionalised in the DPRK. While before the 1990s the performing of forced labour without compensation and without the possibility to say no or to leave was the fate of the inmates of political concentration camps, virtual enslavement has spread beyond the boundaries of the concentration camps into mainstream society.¹¹

The concrete consequences for DPRK citizens, in particular those outside of the capital region of Pyongyang, have been substantial. The collapse of the Public Distribution System did not come by itself. In its wake, many state-run farms, factories, stores, et cetera also disintegrated. While they often survived on paper, which meant that the obligations these entities had towards the state would not have disappeared, their production fell or even disappeared. And even when that did not happen, they often lacked the means to pay their employees living wages. This in its turn meant that workers found themselves in a position where they were obliged to have two jobs. One job with an official state-registered entity, and one job that would be unofficial or even illegal but that would provide enough money to subsist. In many cases, the official job can only be held if the employee pays its employer a monthly sum to be kept on the record as 'officially employed'. Any unemployed adult North Korean male or unmarried adult female runs the risk of being sentenced to a period (often between three to twelve months) in a labour training camp.¹²

The hybrid structure that came into being in the DPRK labour market after the great famine partially inverted the relationship between employer and employee: faced with a starkly different reality, official employers, representing the state, have resorted to having their employees pay for the privilege of being an officially registered worker. Employees

9) Sonya Ryang has masterfully shown how North Korean literature documented the transition from Kim Ilŏng as supremely gifted human being in the 1950s, to Kim Ilŏng as transcendental being in the 1980s. See Sonya Ryang, *Reading North Korea: An Ethnological Inquiry* (Cambridge, MA: Harvard University Asia Center, 2012).

10) For this, see Brian Myers, *The Cleanest Race: How North Koreans See Themselves and Why It Matters* (New York: Melville House, 2011).

11) Breuker and van Gardingen, 'Pervasive, Punitive, and Predetermined'.

12) Ibid.

also adapted to this new reality by no longer relying on their official job for anything else than the (crucial) benefit of an official registration, while earning their living in a different, often unsanctioned, way. This situation adversely impacted labour conditions in general. North Korean workers often complain about the lack of freedom, lack of power, and lack of payment in their official jobs. Working hours may be long, remuneration non-existent. Employment contracts which stipulate the duties and rights of employer and employee, as well as the compensation the worker can expect to receive, are non-existent in the DPRK. While this was a logical consequence of the socialist social contract before the great famine, the radically restructured North Korean economy would have likely benefited from having such contracts. Workers are also frequently mobilized to render corvée services for the state (most often the local authorities), sometimes for a few days, sometimes for as long as a few months. Again, this is uncompensated labour; even the food eaten during work needs to be supplied by the worker her- or himself.¹³

There are many structural similarities between domestic and overseas North Korean labour today. While there is a need for an exhaustive comparison and analysis of these two different phenomena and how they are related to one another. However, for now, suffice it to say the following: domestically, workers in the DPRK are faced with an inherent uncertainty in their working lives. Employment contracts do not exist; wages are often only partially paid or not paid at all; the demands of the state (channelled through its local representatives, which include state-run factories and the like) have precedence over anything else; employees, unless they possess sufficient financial resources, cannot say no and are not free to leave; working hours are long; uncompensated labour can be demanded at any time; and Organised Party Life keeps employees politically in check.

Seen from this point of view, overseas DPRK labour comes into focus as a variation (a very particular variation, but a variation nonetheless), of domestic DPRK labour. It strengthens the notion that in exporting DPRK labour overseas, the DPRK itself is partially exported and replicated, both necessitating and making inevitable, from the point of view of the state, the restriction of freedom associated with overseas North Korean labour and the exploitation of the workers.

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CHAPTER II

Accountability for DPRK Workers in the Value Chain: The Case of Partner Shipyard, a Polish Shipbuilder and its Dutch Partners

Imke B.L.H. van Gardingen

Introduction

The case of DPRK overseas workers is primarily seen as a problem to be dealt with by the international community, specifically by United Nations (UN) member states, since it generates undesirable income for North Korea. The legal position of DPRK workers, however, seldom if ever receives attention. In part, this is because DPRK workers are rarely regarded for what they are, i.e. migrant workers in transit and host countries, and, as such, in possession of independent rights. Rights such as effective access to justice and legal remedies, even if seeking redress and compensation involves procedures that can take years, perhaps continuing long after the malpractice itself has disappeared, *if* UN sanctions are effectively enforced. Moreover, the role of companies hiring and benefitting from cheap North Korean labour does not receive due attention. The case of DPRK overseas workers, however, is eminently suitable for a study of the liability of corporations with respect to human rights and labour rights infringements within their company, in the value chain, and by their subsidiaries.

This chapter introduces the legal position of migrant workers in general. In order to specify the particular situation of DPRK workers, it refers to findings in our previous report. Furthermore, it contains relevant information obtained after the previous report was

published; for example, details of the 16 inspections conducted in 2016 in Poland by the Polish Labour Inspectorate and an in-depth interview with a former worker at Crist Shipyard (the case study in our previous report). Finally, one specific case is used to illustrate how corporate liability could work in practice. It is not within the scope of this chapter to offer a study on all perspectives of corporate accountability for human rights and labour rights abuses. It merely aims to present one particular instance in the hope of raising relevant questions, findings, and remarks that hopefully will lead to further activities and research.

The legal position of overseas DPRK workers

Overseas DPRK workers are migrant workers. They are a special kind of migrant worker, however; they are workers who migrate, only with the consent of, on behalf of, and mainly for the benefit of the DPRK regime. Since 2013, DPRK leader Kim Chŏngŭn (김정은, often spelled as Kim Jong-un or Kim Jong Un) has prioritised the recruitment of labourers to work overseas to such an extent that, as a recently defected DPRK worker explains, middle school and high school students are needed to fill the resulting vacancies within the country.¹

As labour migrants, DPRK workers are protected by international standards, such as the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family.² This takes into account the relevant International Labour Organization (ILO) conventions such as the Migration for Employment Convention (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), and the Convention concerning Forced or Compulsory Labour (No. 29). These ILO conventions aim to protect the vulnerable position of migrant workers and their families while working abroad. Article 6 of the ILO Migration for Employment Convention requires a treatment for migrant workers that is ‘no less favourable than that which applies to their own nationals in respect to a number of matters, including conditions of employment, membership of trade unions, and collective bargaining and accommodation.’³ Article 1 of the Migrant Workers (Supplementary Provisions) Convention (No. 143) sets forth that, ‘Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.’⁴ And working on EU territory, migrant workers enjoy the protection of similar fundamental principles in the sphere of economic and social rights, as laid down in the European Social Charter and the European Convention on Human Rights. Additionally, as presented in our

1) Interview with Mr. K., 19 December 2017.

2) UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, A/RES/45/158 (18 December 1990), <http://www.ohchr.org/Documents/ProfessionalInter-est/cmw.pdf> (Accessed 22 March 2018).

3) International Labour Organization (ILO), C097 - Migration for Employment Convention (Revised), 1949 (No. 97), Convention concerning Migration for Employment (Revised 1949), Geneva (22 January 1952), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C097 (Accessed 22 March 2018).

4) International Labour Organization (ILO), C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, Geneva (9 December 1978), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C14 (Accessed 22 March 2018).

previous report, the EU directives related to Third Country Nationals, as implemented in national law, are applicable to DPRK workers, as well as the national legislation of the host country.⁵

The violation of DPRK workers' human rights in the EU

In our previous report, we outlined in detail how North Koreans in the European Union are subject to a wide range of human rights and labour rights violations. Based on labour inspection reports, direct observations, and testimonies, we can safely state that the labour rights and human rights of DPRK workers as Third Country National (TCN) migrant workers, working and living in the EU, continue to be structurally neglected. They are told where to live, often in cramped accommodation, and, while working and living on someone else's property (i.e. at the company they work for), they have no freedom or practical means to leave. Payments, if made at all, are made irregular and a fraction of the remuneration they should have received. In some cases, working conditions have proven to be dangerous, even fatal. Moreover, workers constantly face structural and excessive overtime work. In this regard, it is important to mention ILO Convention 29, which prohibits all forms of forced or compulsory labour, and to note that the ILO regulation does not require intent on the part of the perpetrator. In 2014, the ILO adopted a new, legally binding Protocol on Forced Labour, supported by a Recommendation (No. 203), aimed at advancing prevention, protection, and compensation measures, as well as to intensify efforts to eliminate all forms of forced labour, including people trafficking. Poland ratified this Protocol on 10 March 2017, and the Netherlands on 8 August 2017, making it binding in these states. Now that the Protocol has entered into force, all member states that have ratified it are requested to report on the application of its rules to the ILO. This process is expected to start soon. Mere inclusion of the Protocol's provisions into national law is not sufficient as the member state is obliged to report on its application in practice and on the steps it has taken or will take in order to remedy violations of Convention 29 and the Protocol.⁶

A question is often raised about whether the workers chose to work overseas voluntarily. Aside from the legal consideration that voluntary consent is neither appropriate, nor relevant when someone is the victim of forced labour or human trafficking, given the dire situation within North Korea, where opportunities to work and earn a living wage are scarce, and the fact that the brutal DPRK regime urges its citizens to work overseas, the question should rather be whether one can even speak of a voluntary choice in this matter for most DPRK citizens. The DPRK state is fully aware that it stands to make immense profits from having its citizens working overseas, while keeping their salaries for its own coffers. International hirers of cheap DPRK labour also profit greatly. These characteristics

5) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016), 65.

6) International Labour Organization (ILO), P029 - Protocol of 2014 to the Forced Labour Convention, 1930, Protocol of 2014 to the Forced Labour Convention, 1930, Geneva (9 November 2016), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029 (Accessed 22 March 2018).

explain the basic principle of the business model for overseas DPRK labour. They are also clear indicators of forced labour.

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) codify human rights applicable to North Korean labourers working overseas: they are entitled to the liberty of movement and freedom to choose their residence; they have the right not to be subjected to arbitrary and unlawful interference with their privacy, family, home, or correspondence; the right to freedom of thought, conscience, and religion; the right to hold opinions without interference and freedom of expression; the right of peaceful assembly; and the right of freedom of association.⁷ In chapter two of our previous report, we exhaustively substantiated the denial of these rights to DPRK workers.⁸ This is acknowledged in the US State Department's 2017 report on the 'Trafficking of Persons', which refers to the issue of DPRK migrant workers as follows:

Many North Korean labourers sent by the government to work abroad under bilateral contracts with foreign governments also face conditions of forced labour. [...] Credible reports show many North Korean working under these contracts are subject to conditions indicative of forced labour, such as working excessively long hours in hazardous temperatures with restricted pay, for up to three years at a time. North Korean government 'minders' restrict and monitor their movements and communications. North Koreans sent overseas do not have a choice in the work the government ultimately assigns to them and are not free to change jobs. These workers face threats of government reprisals against them or their relatives in the DPRK if they attempt to escape or complain to outside parties. Workers' salaries are appropriated and deposited into accounts controlled by the North Korean government, which justifies its retention of most of the money by claiming various 'voluntary' contributions to government endeavours. Workers receive only a fraction of the money and face punishment if they fail to meet production or work targets.⁹

The same US State department report on human trafficking points to the risks run by Third Country Nationals who fall victim to trafficking and exploitation in Poland, and refers specifically to DPRK workers:

Poland is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. Labour trafficking is increasing in Poland; victims originate from Europe, Asia, and Africa. There is an increasing vulnerability to labour trafficking among Poland's growing Ukrainian migrant population and North Korean migrant workers.¹⁰

7) Breuker and van Gardingen, *Slaves to the System*, 29.

8) *Ibid.*, 35.

9) United States Department of State, 2017 Trafficking in Persons Report - United States of America (27 June 2017): 235, <https://www.state.gov/documents/organization/271339.pdf> (Accessed 22 March 2018).

10) *Ibid.*, 329.

The violation of DPRK workers' labour rights in the EU

Similar conclusions were drawn in our previous report in respect of labour rights infringements. Chapters two, three, and four of the report revealed a structural absence of access to core labour standards, such as earning a living wage, the freedom of association and the right to organise, the right to equal remuneration, and the right to be protected from forced labour. Between 2013 and 2015, the Polish Labour Inspectorate carried out 13 inspections (four inspections in 2013, three inspections in 2014, and six inspections in 2015) in companies employing DPRK workers and reported specific cases of illegal employment and irregularities.¹¹ The findings of the conducted inspections are listed in a letter sent by the Chief Labour Inspectorate, dated 9 June 2017,

- 29 cases of illegal employment in Pomorskie Province and 10 in Malopolskie Province.
- Irregularities related to the legality of employment of foreigners and running employment agencies:
 - persuading foreigners to perform work illegally by misleading them;
 - entrusting foreigners with work in positions (or on terms) other than specified in the work permit or the permit for temporary stay and work;
 - excluding the terms of employment specified in the work permit from the contract concluded with the foreigner.
- Irregularities related to legal protection of labour due to breaches of requirements:
 - to ensure that foreigners being posted workers enjoy the terms of employment no less favourable than laid out in the Polish Labour Code provisions on the norms ad length of working time, periods of daily and weekly rest and the rule of an average five-day working week;
 - to pay salaries for work;
 - to calculate and pay leave benefits to the workers;
 - to draw up individual sheets of paid salaries for work and other work-related benefits;
 - to fill in working time records reflecting the actual working time of workers and granted leaves.
- Infringements of provisions on occupational safety and health, among others concerning:
 - securing workstations during performance of particularly hazardous work in confined spaces;
 - securing places of work at height;
 - performing particularly [hazardous] work tasks in line with the required procedures;
 - assigning and equipping workers with properly selected personal protective devices, clothes and footwear to which they are entitled in specific workstations;
 - allowing workers to perform work without valid medical certificates confirming the lack of contraindications to performing work tasks entrusted to them;
 - conducting OSH training for workers;
 - using personal protective equipment (fall-arresters) by workers.¹²

11) Written correspondence from the National Labour Inspectorate, GNL-575-0512-7-2/17, 09 June 2017.

12) Ibid.

In 2016, the Polish National Labour Inspectorate conducted 16 inspections. The inspections covered 457 citizens of North Korea. This was occasioned by the ‘recurring information on the performance of work in the territory of Poland by citizens of North Korea posted to Poland’. The inspectorate revealed similar ‘breaches of provisions included in the *Act on the promotion of employment and labour market institutions* and of the labour law provisions’, such as irregularities related to the duties of entities entrusting work to foreigners and duties connected with operating as employment agencies. There were also irregularities related to the legal protection of labour and infringements of provisions on occupational safety and health.¹³

The findings in the Labour Inspectorate’s reports range from illegal employment and the misleading of workers, to non-payment, violations of working time regulations and necessary safety measures. Although these observations are serious in themselves, they provide just a glimpse of the range of infringements DPRK workers face on a daily basis. The interviews that we relied on extensively in our previous report, new interviews that have been conducted since prove that the hidden reality is far worse than the on-paper version that the Labour Inspectorate can access and is authorised to investigate.

Testimony from a former DPRK worker at Crist Shipyard

In our previous report, we examined the case of DPRK workers at Crist Shipyard in Gdynia, Poland. The report’s findings were based on labour inspection reports following a fatal accident at the shipyard involving a DPRK worker, which, in turn, provoked a journalistic investigation and the documentary *Cash for Kim*. The report also included worker testimonies and data from the Polish immigration office and Chamber of Commerce. While we were able to conduct interviews with some employees from Crist Shipyard, security issues made it impossible to interview anyone extensively. Since the publication of this previous report, however, a former DPRK employee at Crist has been interviewed and provided valuable information on the actual working situation. The testimony reveals important details on the specific situation at the working sites he was dispatched to, but also gives a clear insight into the general procedures for DPRK workers in Poland.

The worker, who for security reasons is referred to with the pseudonym Mr. K., started working at Crist Shipyard in 2014. He worked – among other projects – on the repair of Dutch ships until April 2015. He testified that in June 2016 DPRK workers were ordered not to work on Dutch vessels anymore and that they were subsequently dispatched to work elsewhere in Poland.

Mr. K. was asked about all aspects of his experience working in Poland, from the recruitment process until his departure from Poland. A number of relevant quotes, which provide insight into the general practice of dispatching workers overseas, have been reproduced below, listed according to separate themes. Most of the information confirms what is already known and has been analysed in our previous report. However, Mr. K’s interviews

13) Written correspondence from the Chief Labour Inspectorate, 9 June 2017, 3.

also revealed some relatively new information, and, most importantly, they provide a snapshot of what was going on at this particular time.

Prior to departure from North Korea

Your passport, visa and everything you need for the dispatch abroad is taken care of by the Foreign Construction Supervisory Bureau. I had never even heard of an employment contract or of a working permit. (p.5)

Before I left Pyongyang, I was told I would be dispatched to Poland. But there was no official information on anything else. Informally, I heard rumours or stories from people who had been there. Everyone knows it is no use asking about the labour conditions when you are going to work overseas, so no one does. (p.13)

Arrival in Poland

I brought 12 letters from families in Pyongyang for their relatives working abroad. The first thing I did when I arrived at our accommodation at the Gdynia working site was hand these over to the Party Secretary, together with my passport. (p.6)

Knowledge about working conditions

I never got an official explanation. Even if you wanted to know about the employment conditions, there was no way to find out. It would only harm me if I tried to find out, so I didn't bother. (p.6)

Company of employment

Eleven of us had been placed to work as welders on a shipyard in Gdynia in Poland. Several ships from European countries were there to be repaired. I heard that in the summer of 2016, researchers from the European Union announced their concerns about human rights, following the death of Chŏn Kyŏngsu, and everyone was forced to leave the shipyard. From the day I arrived on the Crist Shipyard in Gdynia, 21 February 2014, I worked as a welder, repairing and maintaining Dutch ships. In June 2016, everyone received the instruction 'not to work on the Dutch ship anymore' (we were engaged in repairing and maintaining a Dutch cruise ship). Towards the end of July, everyone had to leave the shipyard. (p.8)

Working hours

We used to work 10–12 hours a day. A regular working day is eight hours, but the manager or the foreman would encourage extending the shifts. On a rare occasion it could happen, if we received special instructions, that I'd have to work 24 hours, then rest some 30 minutes, and then continue again the next day. That happened twice to me. Of course, you would do that, expecting to be able to earn more money, but you would never get paid the hours you actually worked. It was physically very hard, I couldn't do that anymore.

We were told that we could have a rest on Sundays, but that would depend on the foreman. If he said we had to work overtime, we'd have to do it. (p.11)

Holidays

After four years, you would be allowed to apply for a holiday to go back home. But for some special occasions it would be possible to have a holiday after three years. If you were allowed to have a holiday and go home, you could stay one month, but there were also a lot of people who didn't get to have holidays and did not return home for seven or eight years. (p. 12)

Salary and payment

They said every month on the 15th it would be payday, but I never received my salary on time. I didn't get my salary every month, it was mostly paid once every two or three months. (p. 14)

When I started my work as a welder, I received my first salary after five months. They didn't give me more than 1.5 dollars as a monthly wage for the first three months. When I was working as a welder, the lowest amount I got was 6 PLN (about 1.5 USD), and at the most 700 PLN (about 180 USD). Even if I worked 13 hours a day, and worked at night, that was all I got. (p. 14)

North Korean workers cannot use a bank account (p. 15)

The manager would list the names of all the workers on the salary list and, next to our names, we would have to write our signature, but it didn't record the actual salaries we received. The list was merely prepared for the inspector of the labour authority; that is why they kept the list that recorded all the salaries. (p. 16)

Once I protested that the document said I should receive 4500 PLN, I said, 'I've never received this amount, and you want me to confirm it?', and the manager said, 'What is the matter with you, you know exactly why.' Replying that I just asked for things that were obvious, I just gave up my protest. (p. 17)

Comparing my situation with the foreign workers, I really envy them, and at the same time, I felt pity for myself. In all aspects, it was such a contrast. [...] When they told me they received 6000 PLN a month, I was obliged to reply I got 2000 PLN. While actually, my official salary was 500 PLN. I have to say also my self-esteem didn't allow me to say so. (p. 12)

After three years and four months, I had earned 2,500 USD. But I had sent some money to my wife four or five times, so that didn't leave me with much to spend. Altogether, I'd say I sent only some 1,600 USD to my family, from the 2,500 USD I earned in total. So my monthly average expenses would have been 27 USD a month (including 200 USD borrowed from a colleague).¹⁴

Accommodation

The manager provides for the accommodation, and the costs are deducted from the salary.

Saying we had to save on electricity and water costs, we were not allowed to watch TV, and even when it was cold, the heater wasn't turned on.

14) Supplementary information related to this part of the interview was provided in a personal communication with DPRK worker Mr. K, 3 February 2018.

We lived in a very damp room, and there was mould in several corners of the room. I suffered from headaches because of the stench from the mould.

We also weren't allowed to use warm water in the housing facility, so we used to wash ourselves quickly at the work site and then return home. (p. 18–19)

Human/labour rights infringements as a business model

DPRK migrant workers abroad are caught in situations of structural labour exploitation. The denial of fundamental liberties, human rights, and labour rights is characteristic of the way DPRK workers are treated in hosting countries everywhere. Herein lies the basis of the revenue model: people work and live under constant surveillance; are not free to leave; have no knowledge of their rights and employment conditions; are structurally underpaid, and receive only a fraction of what they should earn (if they are paid at all); work in unsafe conditions; face excessive overtime work; live in designated accommodation, which is often cramped and shared with a large number of co-workers; generally do not have access to their own identity papers; have no access to healthcare; and have no union rights. These are the constituent elements of a structural pattern that, *mutatis mutandis*, one invariably encounters when researching overseas North Korean labour. The exploitation of DPRK workers is a lucrative business model for both the supplier and the user company of cheap DPRK labour. This is to the detriment of the workers, however, who are in no position to disengage themselves from the abusive situations, cannot protect themselves, and have no legal or other recourse.

Recent UN sanctions, banning the issuing of employment permits to DPRK workers, focus on the political undesirability of this profitable revenue model for the DPRK regime. The structural infringements with relation to core labour standards and fundamental human rights, however, probes the legitimacy of this revenue model for hirers of DPRK workers. This revenue model, which tramples on basic human and labour rights, raises questions about the legitimacy of hiring DPRK workers, about social responsibility, as well as the liability of companies hiring and/or profiting from cheap and underpaid DPRK labour.

The framework and essential guidelines on how the relation between companies and human rights should be perceived can be found in the UN Guiding Principles on Business and Human Rights. Furthermore, these OECD guidelines provide 'non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognized standards'.¹⁵ And the International Labour Organization (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is undergirded by international labour standards (ILO conventions and recommendations).¹⁶ According to the ILO 2016 Resolution concerning Decent Work in the Supply

15) Organisation for Economic Cooperation and Development (OECD), OECD Guidelines for Multinational Enterprises 2011 edition, (May 25, 2011), <http://www.oecd.org/daf/inv/mne/48004323.pdf> (Accessed March 22, 2018).

16) International Labour Organization (ILO), Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration) – 5th Edition (2017), Geneva (March 2017), http://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm (Accessed March 22, 2018).

Chain, all member states involved carry responsibility in battling fundamental human rights abuses in supply chains. Under the ILO supervisory machinery, the member state is required to allow the trade unions and employers' organisations to comment on these reports before they are sent to the International Labour Office. There, it will be scrutinised by the Committee of Experts on the application of standards and it can be discussed in the plenary meeting of the Committee on the application of standards at the annual International Labour Conference that is held in Geneva every June. The representatives of the member states involved are requested to publicly comment upon the presented case.

The guidelines of these international institutions are widely recognised as public codes of conduct. Encouraging socially responsible behaviour, they set standards for companies, their subsidiaries, and the contractual network. According to these standards, corporations have, at the very least, a moral obligation. The question then remains to what extent these guidelines and standards for 'desirable conduct' impose legal obligations on corporations, on their subsidiaries, and in their value chain. Further, in the case of DPRK workers, a series of questions arises: are companies legally accountable for the human rights violations and labour exploitation that DPRK workers face? Can a company be held accountable if it profits from human and labour rights infringements? Do user companies have a duty of care towards DPRK workers in the value chain? To what extent should companies actively ensure that there is no forced DPRK labour in the company's value chain? To what extent are they obliged to improve the situation if they do discover that this is the case? A fair question could be: did they benefit from the exploitation? And, if so, did they benefit intentionally? Moreover, it is not clear under which jurisdiction and before which court these questions should be addressed. These questions may best be elaborated upon using a concrete case.

The case of Partner Shipyard: A Polish shipbuilder and its Dutch partners

The case to be examined in detail is the case of Partner Shipyard in Szczecin, Poland, where investigative journalistic work was done for the documentary *Dollar Heroes*.¹⁷ Journalists went to Szczecin, where, allegedly, DPRK workers were hired. There, they found DPRK workers living and working on the terrain of Partner Shipyard. This part of the chapter – indeed, much of this report – is based on the documentary *Dollar Heroes* and the footage made available to the research team, which was shot by its makers but that was not used for the film. The footage came in a raw, unedited format, which makes it of particular interest and value to the researchers. We have based our analysis on what is to be seen and heard in the documentary and the raw footage.¹⁸ It is worth exploring the detailed information that was obtained in the case of Partner Shipyard with the above questions in mind. For the sake of clarity, the facts and circumstances have been numbered. For the sake of privacy,

17) *Dollar Heroes* is a feature-length documentary sponsored by The Why Foundation as part of a year-long international effort to raise awareness about contemporary slavery. The documentary focuses on the practice of sending North Korean workers abroad.

18) In the raw footage, company names are mentioned. We have used this information in our analysis. Such an adversarial approach is not part of the academic methodology; however, the research team is aware that journalists working on this particular topic have contacted the companies mentioned here for their reaction.

individuals who, to date, have not been identified in other publications, will be referred to by initials or by one initial and their job description (such as Mr. P. the chair; Mr. O the interpreter). Individuals who have previously been identified in other publications or in open source materials will be named.

Chamber of commerce registrations in Poland and the Netherlands

1. Partner Shipyard is a shipbuilding company based in Szczecin, in the northern part of Poland, ten kilometres from the German border. The earliest record of this company in the appendix of the Polish Chamber of Commerce Register is dated 19 August 2003.¹⁹ The company, however, seems to have been established some twenty years ago according to one of its employees.²⁰ At least five other companies are registered at the same address and have the same or overlapping (partial) ownership.²¹
2. There are (at least) three Chamber of Commerce registrations of companies with (partly) the same owners, but at a different address; namely, Partner Shipyard Spolka, Sail Szczecin, and Offshore Marine Construction.²²
3. Partner Shipyard is also registered with the Dutch Chamber of Commerce.²³ The company Partner Shipyard Spółka z ograniczona odpowiedzialnoscia was registered in the Netherlands on 1 May 2013 as an employment agency (SBI-code: 78201). The owners are partly the same as the Polish Partner Shipyard company (registration number 000015612), and partly the same as the owners of the other, aforementioned entities. The visiting address is the same as the address where the companies with the Chamber of Commerce numbers 0000393374, 0000551343, and 0000421704 are registered.
4. In the raw footage of *Dollar Heroes*, it is explained how the founders came up with the company name 'Partner Shipyard'.²⁴ The manager of the export division explains that when they first established the company, they did not have any idea for a company name. But their Dutch business relations kept talking about being partners and often used the word, and so the name Partner Shipyard came to mind. And that worked out well, the export manager explains. Furthermore, it is revealed that the company was founded by a small group of people with some know-how, contacts, and some money. Together with the Dutch partner they started their business.

Media attention for DPRK workers at Partner Shipyard

5. As early as 2011, the media reported that North Koreans were working for Partner Shipyard, building ships for Dutch companies. A simple Google search shows that on 3 March 2011, the Polish website www.24kurier.pl stated, 'North Korean workers work

19) Data rejestracji w Krajowym Rejestrze Sadowym 28.03.2003. Numer KRS: 0000156712.

20) The company background is explained in the raw footage for *Dollar Heroes* [170911_Stettin_Hidden 01:18:31].

21) Partner Stocznia (2008, Numer KRS: 0000311909); Partner Jacek Szlachcikowski Andrej Stanislaw Maczka Spolka Jawna (2003, Numer KRS: 0000160770); J.M.A. Spolka Z Ograniczona Odpowiedzialnoscia (2012, Numer KRS: 0000411407); 'Malservis' Spolka Z Ograniczona Odpowiedzialnoscia (2008, Numer KRS: 00003 00036).

22) Partner Shipyard Spółka Z Ograniczona Odpowiedzialnoscia Spolka Komandytowa (2012, numer KRS: 0000421704); 'Sail Szczecin' (2011, Numer KRS: 0000393374); Offshore Marine Construction (2015, krs: 0000551343).

23) Kamer van Koophandel, Hoofdvestiging, KvK 57981485.

24) Raw footage [170911_Stettin_hidden 01:18:50].

on shipbuilding for a Dutch shipper at a former paper mill in Skolwin. They work all week, regardless of weather conditions.’²⁵

6. On 28 August 2013, *Newsweek* reported that DPRK workers were building ships at Partner Shipyard, hiring workers from Redshield:²⁶ ‘Several dozen Koreans work for Partner Shipyard of Police. We have concluded a contract with Redshield of Szczecin, which performs welding work for us. Redshield employs North Korean citizens on the basis of the permits issued by the Provincial Labour Office’, says Andrezej Maczka from the Board of Partner Shipyard. ‘The Koreans [...] are living in a workers’ hostel, adapted from a postoperative clinic. Cramped: bed next to bed, with one toilet and one fridge on the floor.’²⁷
7. The documentary *Dollar Heroes* reveals that DPRK workers were still working for Partner Shipyard at the end of 2017. The footage shows the accommodation of the DPRK workers, on the terrain of Partner Shipyard, next to the main entrance and visible for anyone who enters the shipyard.²⁸ The documentary features recorded interviews with Polish managers from Partner Shipyard. They talk about the DPRK workers living in their accommodation on the compound of Partner Shipyard, as well as the work these men do at the shipyard and also elsewhere in Szczecin. *Dollar Heroes* also shows interviews with DPRK managers who employ and then deploy the North Korean workforce through the previously mentioned DPRK-owned company, Redshield. It also features the former paper mill that was referred to in the 2011 article on Redshield,²⁹ and that it is still being used by Partner Shipyard.³⁰

Sources of information on Partner Shipyard and on the employment of DPRK workers

8. The *Dollar Heroes* footage shows the surroundings of Partner Shipyard and the ships that were being built during the filming. The recorded interviews give an insight into the company’s history, its revenue model, partners, employees, and, important in our case, the DPRK workers and how they are employed. They also elaborate on the way rules and regulations are evaded. In one of the interviews, the Partner Shipyard export manager explains that about half of their 300 workers is Polish and the rest is from the Ukraine, Uzbekistan, Vietnam, and North Korea.³¹ The footage also shows Redshield, the DPRK company that supplies the labourers, and its representatives Mr. P. (chair) and translator-foreman, Mr. O., who talk about their part in business transactions.
9. Redshield, the North Korean company that employs the DPRK workers and then sends them to the Partner Shipyard, was inspected by the Polish Labour Inspectorate on

25) Mirosław Kwiatkowski, ‘Koreańczycy z Północy budują w Szczecinie’, *Salon24*, 3 March 2011, accessed 22 March 2018, <https://www.salon24.pl/u/koreapolnocna/283620,koreanczyzy-z-polnocy-buduja-w-szczecinie>.

26) Redshield Spółka Z Ograniczona Odpowiedzialnoscia, Numer KRS: 0000508779, ‘REDSHIELD’ SPÓŁKA Z OGRANICZONĄ Numer KRS: 0000417288, REDSHIELD SPÓŁKA Z OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ numer KRS: 0000417288.

27) ‘Dachshunds for the Dictator’, *Newsweek*, 28 August 2013.

28) Some of the footage, which was not used in the documentary has been made available to the research team.

29) Kwiatkowski, ‘Koreańczycy z Północy budują w Szczecinie’.

30) Raw footage [170911_Stettin_hidden 01:29:00].

31) Raw footage [170911_Stettin_hidden 01:14:35].

7, 14, 21, and 24 June 2016.³² The labour inspection report provides a glimpse of how labour relations are formalised on paper and, even though these records are far removed from the daily reality, the report contains valuable observations from the inspector. The labour inspection report records the employment of 28 foreign workers. At least nine of these workers have a valid long-term EU residency permit. The remainder hold a valid residency permit authorising a temporary stay.

10. The Partner Shipyard website www.partnerstocznia.pl contains crucial information on the company's business relationships, its certificates, products, and its clients. It lists the names and numbers of 43 ships built at the Partner Shipyard. These names and numbers mean the ships are easily traceable, which gives clear information about the companies commissioning orders from the shipyard as well as about the end-buyers. At least 36 of these ships were commissioned and/or bought by Dutch end-buyers.
11. The websites of the commissioning companies or end-buyers provide valuable information about how the supplier and buyer companies are intertwined and their involvement in the production process.

The Partner Shipyard and Redshield relationship

12. In the aforementioned *Newsweek* article, Andrezej Marcka, a member of the Board of Partner Shipyard stated: 'We have concluded a contract with Redshield of Szczecin, which performs welding work for us. Redshield employs North Korean citizens on the basis of the permits issued by the Provincial Labour Office.'³³
13. Redshield is a company owned by North Koreans. It has two Polish Chamber of Commerce registrations, one dated 6 April 2012 and the other dated 21 May 2014,³⁴ for contracting welders for the shipbuilding industry. These documents state that the company is registered at Stoleczyńska, 100D, 71–869 Szczecin. The *Dollar Heroes* footage, however, shows that, in fact, this address (100D) is the premises of a former school, and is now empty. Instead, the Redshield office is located at number 100, next to Partner Shipyard (registered at number 104). Importantly, the Redshield premises are located *on* the terrain of Partner Shipyard, in the same building where the DPRK workers are accommodated.³⁵
14. The DPRK workers are employed by the North Korean company Redshield, which provides labour to their main contractor, Partner Shipyard. *Dollar Heroes* features a revealing interview with the interpreter and the director of Redshield (both DPRK citizens) – Mr. O. and Mr. P. – who make a convincing sales pitch for their employees, noting how they work without taking a break, are always willing to work during weekends, rest only once a month, and, if they have a holiday at all, it is unpaid leave. In another interview with managers from the Partner Shipyard, the same message is repeated by the Polish export manager, who adds that the North Koreans earn just a few dollars, 'if they get any of the money at all'. This interview also reveals that the DPRK workers can, with the consent of the Partner Shipyard, work elsewhere, but not outside of Poland. The

32) Reg. No. 1402–53100–K045–Pt/16, Polish Labour Inspectorate. Szczecin, 24 June 2016.

33) 'Dachshunds for the Dictator', *Newsweek*, 28 August 2013.

34) Numer KRS: 0000508779 and Numer KRS: 0000417288, Mr. O. and Mr P.

35) Numer KRS: 0000417288; Numer KRS: 0000508779.

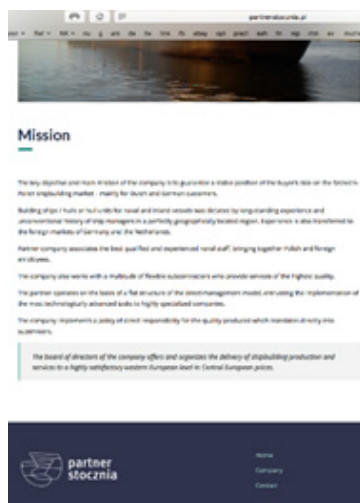


Image 1: Screenshot of website Partner Stocznia (Partner Shipyard).

Redshield chair, Mr P., explains in the documentary that Redshield mainly works for Partner Shipyard, and any company interested in hiring the Redshield DPRK workers should contact Partner Shipyard.³⁶

15. The number of DPRK workers that is mentioned varies. The concierge at the entrance to the Partner Shipyard talks about 80 DPRK workers living on the Partner Shipyard terrain, 40 of whom work for Partner Shipyard. The interpreter-foreman, Mr O., talks of about 50 DPRK welders. The inspection report lists 28 DPRK workers.

Partner Shipyard: close ties with the Netherlands

16. The Partner Shipyard company website www.partnerstocznia.pl states that their main customers are Dutch. The website (see image 1) boasts that the company works with the best qualified and experienced naval staff, bringing together Polish and foreign employees. It also prides itself on its Central European prices.
17. The Partner Shipyard's key customers are Dutch and, generally, the connection with the Netherlands is close on several levels. As previously mentioned, the name of the company derives from its close partnership with the Netherlands since its inception. The export manager and CEO of JMA, an export subsidiary of the Partner Shipyard, explains that the company builds some eight ships a year, most of which are destined for Dutch customers.³⁷ He adds that the Dutch know the shipbuilding industry very well. They know exactly what goes on, where you can buy steel for good prices, and understand how delivery dates work.³⁸ Later on in the footage, he reveals that the company obtains materials from the Dutch company CIG Centraal Staal.³⁹ The export manager

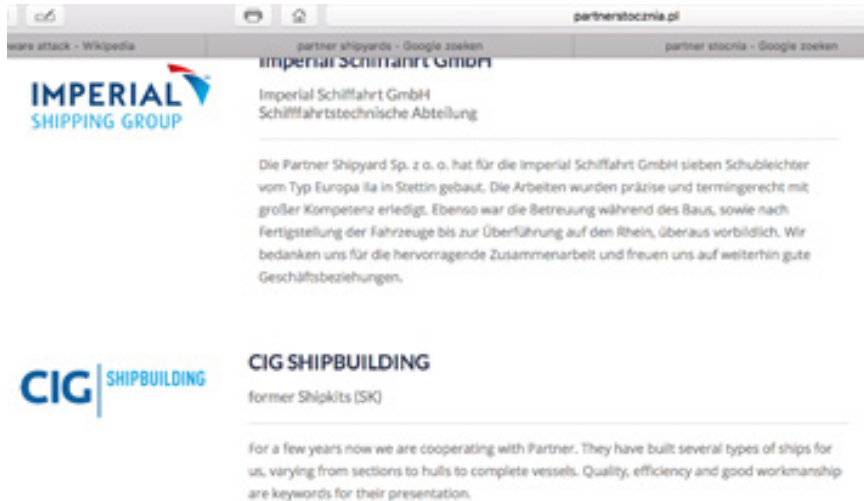
36) Raw footage [DH_171211_07_ENG.mov 00:38:54:18].

37) Raw footage [170911_Stettin_hidden 01:49:00].

38) Raw footage [170911_Stettin_hidden 02:20:02].

39) Raw footage [170911_Stettin_hidden 02:14:28].

Image 2: Screenshot of website Partner Stocznia (Partner Shipyard).



also mentions that the Dutch are very helpful with regard to the financial side of things. He explains how their work is done and financed: they get the orders and manufacture the ships, but the last part of the process is done in the Netherlands, in order to get their work financed by Dutch banks. He explains that in order to be financed by Dutch banks, a 'Made in the Netherlands' stamp is required, so Partner Shipyard ensures that a part of the process is executed in the Netherlands.⁴⁰ In another part of the interview he explains that, in fact, the ships for the Dutch customers are made turnkey ready and that just the last bolts are put in in the Netherlands in order meet the necessary requirements for financing by Dutch banks. With respect to EU funding, the export manager explains

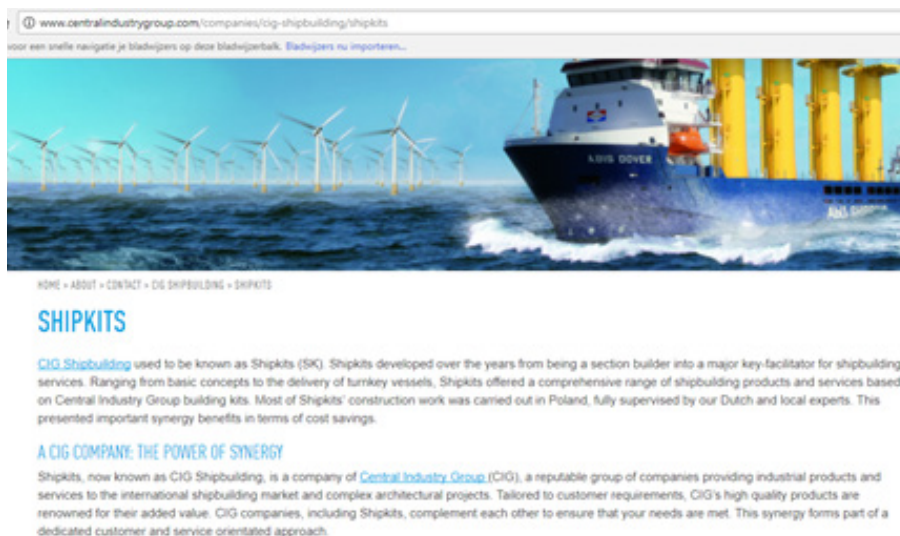


Image 3: Screenshot of website Central Industry Group.

40) Raw footage [170724 _Stettin_hidden 01:48:00].

that they planned to build a hall equipped with a press and a plasma production line. In order to qualify for EU funding of this project, they had to use Dutch technology. He then adds that they received it.⁴¹

18. Partner Shipyard's main customer is a Dutch shipbuilding company called Shipkits (now: Central Industry Group International B.V.). Their Dutch Chamber of Commerce registration lists a bankruptcy and a takeover, but they still operate under the name 'Shipkits International', as well as 'CIG Shipbuilding'.⁴² According to the Partner Shipyard website (see image 2), and the ships listed on it, Shipkits is an important export partner for them.⁴³
19. The Shipkits website states: 'Most of Shipkits' construction work was carried out in Poland, fully supervised by our Dutch and local experts. This presented important synergy benefits in terms of cost savings'. Like Partner Shipyard, Shipkits promotes the cost saving element of working with the them (see image 3).⁴⁴ In an article on the website www.binnenvaart.nl, the company refers in more detail to the close cooperation with 'their Polish shipyard'. Partner Shipyard is referred to as 'their own shipyard in Szczecin' and it is mentioned that their craftsmen visit the shipyard to instruct the workers in Szczecin.⁴⁵
20. The Partner Shipyard website provides a list of 43 ships that it has manufactured. At least 36 of these were built for Dutch shipyards and/or end users.⁴⁶ Twenty-two of the

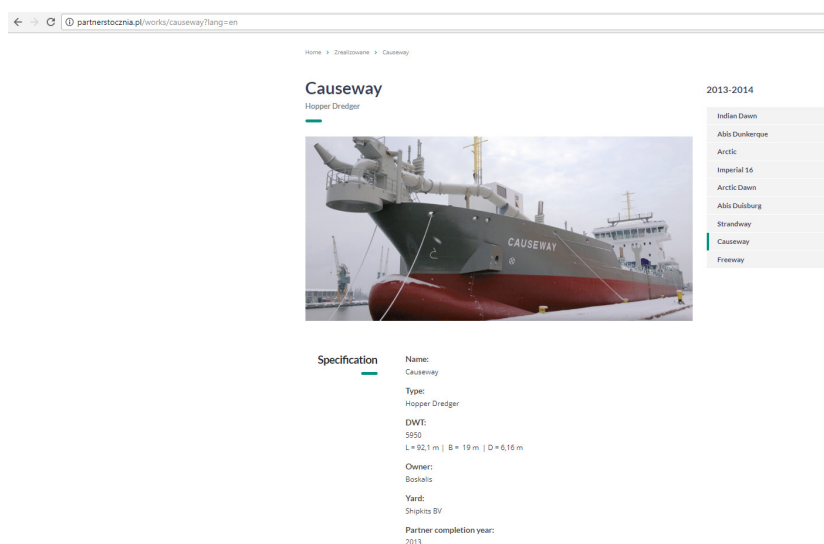


Image 4: Screenshot of website Partner Stocznia (Partner Shipyard).

41) Raw footage [DH_171211_07_ENG.mov 00:46:45:20].

42) Shipkits International B.V., KvK 01068039. Sole shareholder: Central Industry Group International B.V.

43) 'References', *Partner Stocznia*, accessed 22 March 2018, <http://partnerstocznia.pl/references?lang=en>.

44) 'Companies, CIG Shipbuilding, Shipkits', *Central Industry Group*, accessed 1 December 2017, <http://www.centralindustrygroup.com/companies/cig-shipbuilding/shipkits>.

45) Jan Johan ten Have, 'Shipkits levert eerste Multi Purpose Heavy Lift Atlantic Dawn op', *De Binnenvaartkrant*, 12 December 2013, accessed 22 May 2018, <http://www.binnenvaartkrant.nl/nieuws/vaart/shipkits-levert-eerste-multi-purpose-heavy-lift-atlantic-dawn-op/>.

46) 'Vessels, Completed', *Partner Stocznia*, accessed 22 March 2018, <http://partnerstocznia.pl/completed?lang=en>.

43 ships were commissioned by Shipkits. The details of these ships are presented in the following format (see image 4):

21. The names of the at least 36 ships that were built for Dutch shipbuilders and/or end users have been crosschecked.⁴⁷ Many of the recently built ships also appear on Dutch company websites, singing the praises of the building process and mentioning the shipyard in Szczecin as the shipbuilder.
22. Recently, Shipkits built four ships that are referenced on Dutch websites: one for Dutch Royal Van Oord and three for Royal Boskalis. The 'Acta Orion' (2015) was commissioned by Acta Marine, Van Oord. The Acta Marine website notes:

*The Acta Orion, a 108 mtr long and 16 mtr wide wind farm support vessel, will be delivered by CIG Shipbuilding in September 2015. [...] After delivery, the vessel will be deployed on behalf of Van Oord for work on the Gemini offshore wind farm, 85 km off the northern Dutch coast.*⁴⁸

On the Van Oord website, the Gemini offshore wind farm is presented as 'one of the largest offshore wind projects in the world', with a value of more than EUR 1.3 billion.⁴⁹

23. The other three ships that were recently built for Shipkits at the Partner Shipyard, and which have been referred to on Dutch websites, were commissioned by the Dutch multinational Royal Boskalis. The ships are three hopper dredgers: the Strandway, the Freeway, and the Causeway. In an article dated 28 June 2016, Boskalis explains that it supervised and managed the shipbuilding process itself. It explains that, usually, the shipyard would coordinate such a project, but that by managing the process itself, Boskalis not only saved costs, but was able to direct the manufacturing:

It concerns the 'Shoalway' (2010), 'Causeway' (2013), 'Freeway' (2014) and 'Strandway' (2014) [...]. There are roughly two options for the construction of dredgers: cheap building in China or ordering a quality product from IHC Merwede or Damen. [...] There is also a third possibility, however, and that is to arrange, develop and take responsibility for the construction of your new ships as much as possible. And that is what Boskalis has done with this new series of four. [...] 'In contrast to ordering at a yard, in this case the entire management was with us. Where normally the coordination at a yard is, we have done that ourselves in this case,' explains [mr. E.]. 'The risk of something going wrong lies with Boskalis itself in such a case', [mr. O.] adds. CIG subsidiary Shipkits took care of assembling the hull at a shipyard in Poland under its own supervision (emphasis added).⁵⁰

47) This is a selection of the ships. Screenshots of the details and a more extensive list of the shipbuilders and buyers is in the possession of the research team.

48) 'Ship management contract Acta Orion', *Acta Marine*, 5 March 2015, accessed 22 March 2018, <http://www.acta-marine.com/nieuws/3/Ship-management-contract-Acta-Orion>.

49) 'Project: Wind energy is the future', *Van Oord*, accessed 22 March 2018, <https://www.vanoord.com/activities/gemini-offshore-wind-park>.

50) 'Boskalis speelt voor scheepsbouwer', *Maritiem Nederland*, 28 June 2016, accessed 15 January 2018, www.maritiemnederland.com/techniek-innovatie/boskalis-speelt-voor-scheepsbouwer/item1971. 'Het gaat om de 'Shoalway' (2010), 'Causeway' (2013), 'Freeway' (2014) en 'Strandway' (2014). Grofweg bestaan er voor de bouw van baggerschepen twee opties: goedkoop laten bouwen in China of een kwaliteitsproduct bestellen bij IHC Merwede of Damen. Er is echter ook nog een derde mogelijkheid en dat is zoveel mogelijk in eigen huis regelen, ontwikkelen en zelf de verantwoordelijkheid nemen voor de bouw van je nieuwe schepen. En dat is wat Boskalis met deze nieuwe serie van vier heeft gedaan. 'In

- In the *Dollar Heroes* footage, the export manager confirms they built ships for Boskalis.⁵¹
24. Dutch company Royal Bodewes (Koninklijke Bodewes) had three of their ships built at the Partner Shipyard in 2016: two Cargo Ships (the Mirva VG and the Eera VG) for Meriara Ltd and one Cement Carrier (the Furuvik). The website www.binnenvaartkrant.nl states that: 'Royal Bodewes acquired the knowledge for building the Eeva VG and Mirva VG by working together closely with subcontractors'.⁵² One of the subcontractors in this project was Partner Shipyard. The www.maritiemnederland.nl website reported that the cascos (Eeva VG and Mirva VG) were built at Partner Shipyard in Szczecin, Poland. The Furuvik was commissioned by Eureka Shipping of Oslo, Norway and was developed and built by Royal Bodewes. *The World Maritime News* website compliments the shipbuilder on this ship, in particularly its design and the cost-saving aspects:

*Commissioned by Eureka Shipping of Oslo, Norway, Royal Bodewes has developed and built a 6,145 DWAT cement carrier named Furuvik. [...] The shipyard was awarded with the predicate 'Royal' in 2012. The Royal Bodewes philosophy is that the market dictates the configuration of ships, not vice versa. [...] Consequently, a changing market requires evolving designs to keep pace with the changes. Although based on a proven design, which is standardised in many cost-saving aspects, Furuvik is a good example of extensive customising to meet the customer's requirements.*⁵³

25. Other noteworthy ships built at Partner Shipyard are the Artic Dawn, Indian Dawn, and the Abis Esbjerg. An article on *De Binnenvaartkrant* website explains that most of the construction work on these ships was done at 'our own Partner Shipyard' in the Polish city of Szczecin. It also mentions that the local workers were supervised by Dutch shipbuilding experts: 'For example, the hulls of the three multi-purpose heavy-lift ships were built on the own Partner Shipyard. The local craftsmen are accompanied by Dutch shipbuilding experts'.⁵⁴ In Poland, the building of the ships is promoted in an article of 30 March 2015:

In Szczecin, the multi-purpose heavy-lift vessel is nearing completion in joint effort of Polish and foreign companies. The ship was contracted with Central Industry Group (CIG) by ABIS Shipping, both of the

tegenstelling tot het bestellen bij een werf lag in dit geval de hele regie bij onszelf. Waar normaal de coördinatie bij een werf ligt, hebben wij dat in dit geval zelf gedaan', legt [dhr. E.] uit. Het risico dat er iets misgaat, ligt in zo'n geval ook bij Boskalis zelf, vult [dhr. O.] aan. CIG-dochter Shipkits zorgde voor het op een werf in Polen onder eigen toezicht in elkaar gelaste casco'.

51) Raw footage [170911_Stettin_hidden 01:21:40].

52) Jitze Hooghiemstra, 'Trots op gezamenlijke prestatie: Eco coaster Mirva VG', *De Binnenvaartkrant*, 24 November 2016, accessed 22 March 2018, <http://www.binnenvaartkrant.nl/nieuws/vaart/trots-op-gezamenlijke-prestatie-eco-coaster-mirva-vg/>. 'De kennis voor de bouw van Eeva VG en Mirva VG haalde Royal Bodewes in huis door nauw samen te werken met toeleveranciers.'

53) Tom Oomkes, 'In Depth: Furuvik', *World Maritime News*, 9 Jul 2017, accessed 5 June 2018, <https://worldmaritimeneews.com/archives/224654/furuvik/>. 'Commissioned by Eureka Shipping of Oslo, Norway, Royal Bodewes has developed and built a 6,145 DWAT cement carrier named Furuvik.'

54) ten Have, 'Shipkits levert eerste Multi Purpose Heavy Lift Atlantic Dawn op'. 'Zo werden de casco's van de drie Multi Purpose Heavy lift schepen gebouwd op de eigen Partner Shipyard. De lokale vaklieden worden hierbij begeleid door Nederlandse scheepsbouwexperts.'

Netherlands. CIG, in turn, subcontracted the construction of a partially outfitted hull to Partner Shipyard (Partner Stocznia Sp. z o.o.).

Szczecin-based companies, mainly Partner Shipyard, have been co-operating with Central Industry Group and Shipkits B.V. for quite a while, supplying Dutch companies with partly outfitted ships or ship blocks and sections. ABIS Esbjerg, however, will be the first ship to be outfitted and delivered entirely turnkey ready in Poland.

The ship, newbuilding no. 123, is the fifth unit from the series represented by existing Arctic Dawn, Indian Dawn, ABIS Dusavik and ABIS Dunkerque, with partially outfitted hulls also coming from Poland. This is the 'E'-series in Owners' nomenclature or CIG HLV 4400 type in main contractor – Central Industry Group – designation.⁵⁵

26. The *Dollar Heroes* footage shows two ships that are currently being built for Dutch customers. One ship is featured in detail, showing the inside of the hull. The sales manager explains that the ship is being built there and also that the hydraulics, engines and other important parts are installed there. But, he makes clear that the last bolt has to be put in in the Netherlands.⁵⁶ According to what the export manager says on camera, the other ship is being built for the Dutch company Royal Niestern Sander.⁵⁷ Niestern Sander denies this and we have not been able to verify this and so cannot judge the truthfulness of this remark. In the documentary, standing in front of the ship, someone points to the labourers working on the ship, allegedly for Niestern Sander, and asks if the people that can be seen on the ship are 'the Asians'. The sales manager confirms, and, when asked if they are any good, the reply is, 'Yes very good, they are very diligent. If we ask the Polish to work on Saturday or Sunday, no chance. If we ask the Asian, it is never a problem, in daytime or at night it doesn't matter, always. So we really need them'.

Labour conditions

27. The conditions in which the DPRK workers find themselves at Partner Shipyard are the same as anywhere else; they have no freedom to choose their residence, receive just a fraction of their salary, if anything at all, and face excessive overtime work. They rest once a month and have no paid holiday leave. They have no right to unionise.

55) 'Fully equipped ship from Szczecin for CIG and ABIS Shipping nears completion', *Poland@Sea*, 30 March 2015, accessed 22 March 2018, <http://www.polandatsea.com/fully-equipped-ship-from-szczecin-for-cig-and-abis-shipping-nears-completion/>.

56) Raw footage [170911_Stettin_hidden 01:41:52].

57) Raw footage [170911_Stettin_hidden 02:24:54]. The export manager mentions that the ship is being built for Niestern Sander. Niestern Sander's response is that it has not issued any order for a ship to be built at the Partner Shipyard in the past 11 years. According to the Partner Shipyard's website, the last ship it built for Royal Niestern Sander was in 2005, 13 years ago. This does not explain why the export manager says that the ship they are looking at was being built for Royal Niestern Sander. The export manager is the only one who can explain that. As mentioned above, this report relies on the documentary footage, and we leave further conclusions to others. The project leader received an email from the managing director of Niestern Sander (on 5 February 2018), stating that Royal Niestern Sander has not had any ships built at Polish shipyards for the last eleven years; that the company appreciates and supports anti-slavery efforts; and that it is not involved in slavery-like practices as a consumer or a principal.

28. While the journalists at the beginning of the documentary are looking for the locations where the DPRK workers are stationed, they ask people in the vicinity if they have seen any DPRK workers. A person in the neighbourhood replies that the North Koreans have been there more than once. The group was accompanied by an officer, who gave commands. Now, he no longer sees them marching by, but he does see a car with darkened windows driving back and forth.⁵⁸ The fact that DPRK workers are guided by an official is confirmed by the former ambassador to the United Kingdom, T'ae Yongho. He explains that there are always people on the ground in Poland who are responsible for monitoring and managing DPRK workers, including security officers and administrative officers.⁵⁹
29. In June 2016, Redshield was inspected by the Polish Labour Inspectorate. The inspection was carried out in the presence of Mrs. C. – responsible for human resources and payroll; Mr. H. – responsible for occupational health and safety; and Mr. O. – interpreter-foreman. The inspection report lists 28 workers. Some of them have a long-term EU residency permit, others possess a residency permit that affords them access to the job market. At least nine workers are long-term residents. This is a status that can be given to a person who has lived legally in an EU state for an uninterrupted period of five years. Such a status, however, is dependent upon the person having a stable and regular source of income, health insurance, and, when required by the EU state, having complied with integration measures.⁶⁰
30. The inspection report is brief and appears to have been limited to checking paperwork. With regard to salary, the responsible labour inspector concludes that the salary for all workers is 2000 PLN a month, which amounts to the minimum wage. This claim, however, is contradicted by every person who was interviewed for the documentary. When the export manager is asked about the cost advantages and the wages, he replies, 'We don't have minimum wages.' Asked if there are any trade unions who would negotiate for the workers' salaries, the export manager replies firmly that there are no trade union members. He recalls one worker wanting to join a union, but he was fired straight away.⁶¹ Later, the same export manager talks about the UN sanctions on DPRK overseas labour. He argues:

*They say that the regime is supported. And people don't want that. We understand that. But on the other hand, if the simple workers get some of that, whether they get any is another question, but if they get some, then this is a basis. Because they get a glimpse of the world. And they get a few zloty or a few dollars. And that probably helps the entire family.*⁶²

58) Raw footage [DH_171211_07_ENG.mov 00:32:01:23].

59) Raw footage [DH_171211_07_ENG.mov 00:35:35:18].

60) European Union: Council of the European Union, Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals Who are Long-Term Residents, OJ L. 16-44; 23. 1. 2004, 2003/109/EC, January 23, 2004.

61) Raw footage [170724_Stettin_hidden 01:48:35:19].

62) Raw footage [DH_171211_07_ENG.mov 00:55:44:13].

This is confirmed by the concierge who explains that when it comes to salaries, the ‘guy’ takes everything and the workers only get a pittance. The family back home in North Korea is better off, he adds.⁶³

31. The North Korean interpreter-foreman Mr. O., who was present during the inspection, clarifies in the documentary that Redshield and their workers are very profitable for Partner Shipyard. He explains that they have some 50 welders, and continues to explain that they work together with Partner Shipyard. He says, ‘They know exactly how profitable we are for them. Our guys are here only to work. They only take unpaid holidays. When there are deadlines we work without breaks. Not like the Polish’.
32. The Polish National Labour Inspectorate observes that it is impossible to make an accurate calculation of the remuneration because there is no record of work hours:

*[W]ithout specifying the start and end times of work (work within individual man-days), it is not possible to determine whether employees are provided with daily and weekly rest or whether any work was performed at night. This way of keeping work time records prevents correct identification of the remuneration for work.*⁶⁴

The inspectorate documents record three shifts for Redshield workers:

- First shift from 6:00 am to 2 pm;
- Second shift from 1:00 pm to 9:00 pm;
- Third shift from 9:00 pm to 5:00am.

But, according to information obtained during the inspection, work was performed in one shift, and, since no registration was kept, there is no clarity about actual working hours. During the interviews for the documentary, however, it is made clear that the workers are available at any time: day or night, weekends and holidays.

33. With respect to communication with North Koreans, the Polish export manager explains that the DPRK workers have been here for a long time, but do not speak one word of Polish. That said, when they explain what is required in Polish, the workers carry out the instructions perfectly.⁶⁵ This is also the case for those workers with long-term residency.
34. In the documentary, the concierge at the entrance of Partner Shipyard is asked if there are labourers living on the shipyard. He refers to the North Koreans and explains it is a company. He says the company has workers at Partner Shipyard, but also at other companies in Szczecin. According to the concierge, the North Koreans have been living and working for Partner Shipyard for between eight and ten years, and all they can say is ‘Hello’, and ‘I want the key’.⁶⁶
35. The export manager shows the film crew the workers’ accommodation:⁶⁷ ‘This is our hotel for the guys. So they don’t have to walk too much. If they lived in the city, I’m

63) Raw footage [HIDDEN_CAM_04_25P_CONVERT #0051].

64) Inspection, registration number; Reg. No. 140213–53100–K045–Pt/16.

65) Raw footage [170911_Stettin_hidden 01:14:40].

66) Raw footage [DH_171211_07_ENG.mov 00:37:35:24].

67) Raw footage [DH_171211_07_ENG.mov 00:32:02:19].

not sure that they would find their way here after the weekend. But here, that's okay. Everything under control, somehow'.

36. When the journalist mentions that it is usual for unions to negotiate wages, the export manager replies, 'We have no unions. One person who tried to establish that got sacked. We don't need that, it just causes problems.'⁶⁸
37. The concierge explains that the North Korean workers start early because they have their accommodation at the shipyard. He says they are very disciplined, they do not screw up. He explains: 'To them, work is paramount, otherwise their families in Korea get their asses kicked'. He knows this, he says, because they have been working there for years.⁶⁹ Not all people working with DPRK workers are aware of this fact, but the Polish government is. At an International Labour Organization hearing in June 2017, a Polish government official stated:

*The speaker considered such a situation as challenging and sensitive, especially if actions taken by the host country could pose a threat to the worker or his or her family residing in the country of origin, and expressed interest in hearing the experience of other countries and social partners on how to cope with such challenges.*⁷⁰

38. The workers have no union rights. The export manager states that anyone who joins a union will be fired. He says that, at one point, there was someone who tried to set up a union, but they fired the worker, six or eight years ago because this causes a lot of problems.⁷¹
39. Certification of work and workers is crucial in shipbuilding. Neither the documents, nor the interviews we have seen give any insight into how the workers and the work are certified. In the documentary footage, they talk about the issue of certificates. Bureau Veritas is mentioned and it is stated that they have 'a lot of certificates' and, when they don't, they organise it.⁷² The footage shows the sales manager evading the issue, responding that it is an internal matter.⁷³
40. The interviews confirm the essential elements of the business model for hiring of DPRK workers. In this case, the North Korean intermediary Redshield not only supplies DPRK workers, but also deals with all the paperwork. Moreover, the actual situation and the testimonies of the managers confirm what happens in other shipyards in Poland and, arguably, elsewhere in the world: the DPRK workers are victims of labour exploitation and trafficking.

68) Raw footage [DH_171211_07_ENG.mov 00:55:13:13].

69) Raw footage [DH_171211_07_ENG.mov 00:34:30:13].

70) WCMS, ILC106-PR15-Part II-NORME-170615-3-EFS-docx, 41.

71) Raw footage [170724_Stettin_hidden 01:48:35:19].

72) Raw footage [170911_Stettin_hidden 01:17:28]. Bureau Veritas, <http://www.bureauveritas.nl/>:

'Bureau Veritas is a professional service organization worldwide. We offer tailor-made solutions to help organizations realize, maintain and demonstrate their obligations in the area of quality, safety, health, environment and corporate social responsibility (QHSE & SA – Quality, Health & Safety, Environment and Social Accountability).'

73) Raw footage [170724_Stettin_hidden 01:21:00].

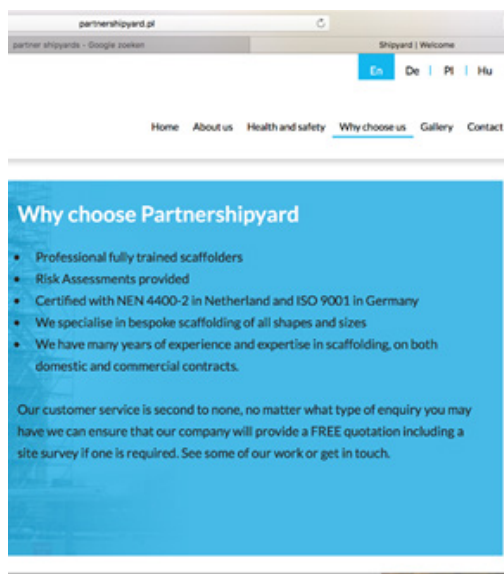


Image 5: Screenshot of website Partner Shipyard.



Image 6: Dutch 'SNA' certificate.

Certificate on labour standards

41. The Partner Shipyard website states that the company is certified in terms of labour standards (see image 5). The company is presented as trustworthy, 'being NEN 4400-2 certified in the Netherlands and working mainly for Dutch and German companies'. NEN 4400-2 is a standard for companies that have their

[...] registered office outside the Netherlands that provides workers for the purpose of working under the supervision or direction of a third party and for testing and assessing any contractor or subcontractor having its registered office outside the Netherlands in order to determine that they are organized in such a way that it may be safely assumed the obligations from employment are complied with.⁷⁴

The website shows the Dutch 'SNA' certificate (see image 6) on labour standards ('Stichting Normering Arbeid').

42. Additionally, the sales manager states that they work with the Bureau Veritas certification bureau. He explains, 'We have all kinds of certificates, and when we don't have a certification we need, we organize it from somewhere.'⁷⁵ He then explains how that is done.

74) 'Labour Standards Register', *Stichting Normering Arbeid*, accessed 22 March 2018, <https://www.normeringarbeid.nl/labour-standards-register>.

75) Raw footage [170911_Stettin_hidden 01:17:35].

Business and human rights: liability of Dutch partners in the Partner Shipyard case?

The introduction to this chapter refers to international guidelines as widely recognised public codes of conduct. Whether or not these codes of conduct impose legal obligations on corporations is another issue, which raises yet more questions. The crucial question is: can corporations, their business partners, or subsidiaries be held accountable for the human rights and labour rights violations experienced by DPRK workers and the profits that they make as a consequence of these violations? More specifically, since Partner Shipyard case is closely intertwined with the Netherlands, where the research group is also based, can Dutch companies be held accountable? Also in terms of remedies for the workers being exploited?

Although Cedric Reyngaert hints at certain legal implications and possible consequences for Dutch companies in his epilogue contained in this volume, it is beyond the scope of this research to present a comprehensive analysis and conclusive answer to these questions. The facts presented above, however, do urge us to make some initial remarks on possible corporate liability, or at least raise relevant follow-up questions to be examined at a later stage.

Human rights violations

First, it is necessary to make clear what human right violations have been committed. It goes without saying that the DPRK is notorious for human rights abuses. The UN Commission of Inquiry report labelled the DPRK's infringements of its citizens' human rights as being 'without parallel'.⁷⁶ Numerous reports and journalistic investigations have revealed the injustices done to DPRK overseas workers. But how do these findings relate to Partner Shipyard?

In this case, as in many others, we ascertained a huge discrepancy between the reality on the working sites and the official documentation. Ironically, the more research conducted, the more the gap widens and the misdeeds get more attention. This is not because anything changes on the working sites, but because better ways are found to deal with the paperwork. It is precisely this that international standards aim to protect workers against. A Dutch report on labour exploitation in the Netherlands and the EU, commissioned by the Ministry of Social Affairs and Employment and carried out by the DSP-group, in collaboration with the International Victimology Institute Tilburg (INTERVICT) of Tilburg University put it as follows:

*The approach is getting more and more professional. Regardless of the type of exploitation, the organizations behind the exploitation are school examples of learning organizations that always adapt to the loopholes of the law and the committed use of investigation and follow-up. The employers / exploiters always adapt their methods and organization in order not to be traced.*⁷⁷

76) United Nations Human Rights Council. Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea. A/HRC/25/63 (7 February 2014), <http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/CommissionInquiryonHRinDPRK.aspx> (Accessed 22 March 2018).

77) Manja Abraham, Paul van Soomeren, Jan van Dijk and Conny Rijken, 'Nieuwe fenomenen van arbeidsuitbuiting,

The main conclusion to the research summarises the problem effectively:

If one message emerges from the research, it is that the forms of labour exploitation continuously change. Every time a law is amended or the investigation and prosecution sharpen, the modus operandi is adjusted. Collected labour exploiters in Europe act as a learning organization. The new phenomena are like the regenerating heads of the Hydra of Lena, the monster from Greek mythology of which each head that was cut off grew back as two new heads.⁷⁸

In this case, the statements made in the interviews about the conditions DPRK workers find themselves in all point to abuse and exploitation: the workers must live within the boundaries of the shipyard and they reportedly earn just a few pennies, zloty or dollars, if they get anything at all. They are said to be obedient, hardworking, take no breaks, work night and day if necessary, work during weekends, only rest once a month, and they are not unionised. The accommodation at the shipyard compound is praised by the export manager for being close to work, so the workers do not have to walk too much. He adds that, in terms of the workers living on the compound, everything is ‘under control.’⁷⁹ The interviewees all praised the profitability of the workers – they are cheap and always available. No one mentioned anything that could be interpreted as recognition that the DPRK workers have core labour rights. This situation fits with what we have seen previously with regard to the practice of exploiting DPRK workers abroad, but it could not be more at odds with the June 2016 Polish Labour Inspection Report on Redshield. According to the report, workers earn the minimum wage of 2000 PLN and no infringement is indicated, apart from a lack of transparency regarding the recording of working schedules. As a research team, the only conclusion we can draw is that the practice of abusing DPRK workers has not changed since our previous report, but that the way it is covered up has been professionalised. The documentation relating to Redshield’s close alliance with Partner Shipyard suggests that the collaboration is legitimate; but every statement made by the persons involved contradicts the non-abusive nature of labour relations. As a former worker at Crist Shipyard stated, they just signed the pay slips and it was common knowledge that this was just done for the labour inspectorate and did not bear any relation to the actual paid salary.

Knowledge of violations

If a justified presumption of human rights and labour law violations can be ascertained, the next question is to what extent the profiting company knew or should have known. In terms of Partner Shipyard, the chances of the corporation not knowing what is happening on their working sites and accommodation can be ruled out, since it is literally going on in their backyard. As for the partner companies, since the media drew attention to this

een veelkoppig monster; Onderzoek naar nieuwe fenomenen van arbeidsuitbuiting en hoe Europese informatie hierover systematisch kan worden uitgewisseld’, *DSP-groep*, 8 July 2015, accessed 22 March 2018, https://www.dsp-groep.nl/wp-content/uploads/Nieuwe_fenomenen_van_arbeidsuitbuiting_DSP-groep_8juli15.pdf.

78) Ibid.

79) Raw footage [170911_Stettin_hidden 02:32:28:03].

issue in 2011, it is well-known that DPRK workers build Dutch ships, and the conditions under which they work. The publication of our previous report, which investigated the case of Crist Shipyard, received media attention worldwide and led to questions in the Dutch parliament and the European parliament. This should have raised awareness among Dutch shipbuilders and buyers having their ships built in Poland. Indeed, in the words of Partner Shipyard's export manager, in the world of shipbuilding everyone knows what is going on. He specifically mentions that the Dutch know everything that is going on in the shipbuilding industry.⁸⁰ If you make a mistake, the next day everyone will know. It is a part of due diligence to keep track of important developments that could have a negative impact on the value chain. The fact that DPRK workers are active in the shipbuilding industry has been all over the news for years now. One may argue that, from that moment, at the very least the companies involved should have been vigilant for similar situations and probably should have actively investigated whether this was also occurring in their own supply chain. In this case, not knowing may mean not wanting to know. On the other hand, not knowing about the presence of North Korean forced labour in one's production chain, especially if it is happening right under your nose, is equally troubling.

Moreover, the close and multi-faceted cooperation between Partner Shipyard and Dutch companies has become clear: this cooperation includes financing vessels, supplying parts, project management, technical know-how, securing and sharing EU funding, and even the shipyards' company name. This is also the case for the manufacturing process itself. The Shipkits website states, 'Most of Shipkits' construction work was carried out in Poland, 'fully supervised by our Dutch and local experts.'⁸¹ Partner Shipyard is referred to as 'our own shipyard in Szczecin' and it is mentioned that Shipkits craftsmen visit the shipyard to instruct the workers in Szczecin.⁸² As for Royal Boskalis, a Boskalis project manager explains that he supervised and managed the process of the shipbuilding himself. He explains that the coordination would normally lie in the hands of the shipyard, but that Boskalis chose to manage the whole process itself as it brings cost-saving advantages and allows Boskalis to have full control over the construction process. The website www.binnenvaart.nl mentions: 'Royal Bodewes acquired the knowledge for building the Eeva VG and Mirva VG through working together closely with subcontractors.'⁸³

It appears, then, that these companies knew or should have known that DPRK labour was used in their supply chain. Determining whether or not the companies profited from cheap labour is beyond the scope of this research. It can be established, however, by referring to the quotes – mentioned earlier in this chapter – from the companies' websites, which praise the collaboration with Partner Shipyard for, amongst other things, the cost-saving aspects. The CIG website specifically notes:

80) Raw footage [170911_Stettin_hidden 02:20:02].

81) 'Companies, CIG Shipbuilding, Shipkits', *Central Industry Group*, accessed 1 December 2017, <http://www.centralindustrygroup.com/companies/cig-shipbuilding/shipkits>.

82) See *De Binnenvaartkrant*, 12 December 2013, www.binnenvaartkrant.nl.

83) Hooghiemstra, 'Trots op gezamenlijke prestatie: Ecocoaster Mirva VG'.

*Most of Shipkits' construction work was carried out in Poland, "fully supervised by our Dutch and local experts. This presented important synergy benefits in terms of cost savings."*⁸⁴

The next question to be answered in terms of legal liability, is to what extent these companies were expected to take measures to safeguard the rights of DPRK employees and whether they actually took such measures.

Legal framework

Company law, tort law, and criminal law provide the relevant legal obligations for corporations in the Netherlands in this respect. The current legal framework, however, does not offer a clear-cut answer to the questions of liability raised above. The facts of the DPRK case are spread out over several jurisdictions (the DPRK, Poland, and the Netherlands) and most of the 'direct' human rights violations seem to have taken place in Poland. This leads to questions about the exercise of jurisdiction and the applicability of different national laws.

The 'soft law' instruments, such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, have already been mentioned. All governments adhering to the OECD Guidelines have to establish National Contact Points facilitating so-called 'specific instance procedures.' This procedure provides for the submission of a notification of alleged breaches of the OECD Guidelines. A recent example where a complaint about violations committed abroad by a Dutch company was successfully dealt with, is the case of 'Former employees of Bralima vs. Bralima and Heineken.'⁸⁵ In this case, 168 former workers employed by the Heineken Congolese subsidiary filed a complaint with the Dutch National Contact Point, which led to a confidential agreement including recommendations to Heineken and monetary compensation for the workers, reported to be 1.1 million EUR.⁸⁶

In addition, there is 'hard law', such as tort law on negligence and the EU directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, which has been implemented in clause 273f of the Dutch Penal Code. This clause could be relevant in this case since it criminalises deliberately benefiting from the exploitation of another person.⁸⁷ A recent study focuses on the criminal liability with regard to corporate involvement in human rights violations in transnational supply chains, and uses the Dutch criminal law system as a case study. Cedric Ryngaert examines state jurisdiction

84) 'Companies, CIG Shipbuilding, Shipkits', *Central Industry Group*, accessed 1 February 2017, <http://www.centralindustrygroup.com/companies/cig-shipbuilding/shipkits>.

85) National Contact Point OECD Guidelines of the Dutch Ministry of Foreign Affairs, Final statement former employees of Bralima vs. Bralima and Heineken (18 August 2017) <https://www.oecdguidelines.nl/notificaties/news/2017/08/18/final-statement-notification-former-employees-bralima-vs.-bralima-heineken>

86) 'Heineken & former workers in Democratic Republic of Congo reach agreement on labour rights dispute through OECD complaint mechanism', *Business & Human Rights Resource Centre*, accessed 21 February 2018, <https://business-humanrights.org/en/heineken-&-former-workers-in-Democratic-Republic-of-Congo-reach-agreement-on-labour-rights-dispute-through-oecd-complaint-mechanism>.

87) Wetboek van Strafrecht, 'Wet van 3 maart 1881', Artikel 273f, lid 1, sub 6, Ministerie van Veiligheid en Justitie,

and liability from a criminal law perspective in corporate parent-subsidary relationships, and raises the following question:

*Given the transnational character of complex corporate supply chains, these issues are of major importance: on what grounds can states establish domestic jurisdiction over a corporation linked to a human rights violation committed abroad, and on what grounds can such a violation be attributed to that corporation for criminal liability purposes?*⁸⁸

The question of whether the Dutch legal framework is sufficiently equipped to hold companies accountable for human right abuses of the kind that North Korean workers have had to face while working for Partner Shipyard is not easily answered. Moreover, even if it could be established that the Dutch legal system provides such a framework, the inexperience of law enforcers to actually act upon it and hold companies accountable for abusive situations in the supply chain could be an even bigger challenge. On the other hand, there has been an increasing body of literature in recent years, and examples from daily practice where multinationals are faced with criminal investigations and civil liability claims for human rights violations committed abroad (by them or their subsidiaries).⁸⁹ An interesting example in this perspective is the recent case where the Dutch Public Prosecution Service imposed fines and demanded prison sentences against six companies charged with dismantling ships in dangerous conditions on beaches in India and Turkey, in violation of the European Waste Shipment Regulations.⁹⁰

If corporations could be held accountable for human rights and labour rights abuses, a follow-up question that immediately arises is how the North Korean workers can seek redress and compensation for their rightful salaries and the personal harm they have endured. A procedure at the National Contact Point could possibly lead to compensation, but there is no legal international or European equivalent of the Dutch 'Act on Combating Artificial Arrangements' (Wet Aanpak Schijnconstructies) that introduces the chain liability for wages. With this Dutch Act the entire chain, up to the main contractor, is responsible for the correct wage payment. Lacking such a transnational legal tool for wage and compensation claims, the actual enforcement of human and labour rights in the supply chain would be problematic.

The Partner Shipyard case shares a number of features with the situations discussed in Ryngaert's article. The flagrant human rights violations in combination with the apparent

'degene die opzettelijk voordeel trekt uit de uitbuiting van een ander.'

88) Cedric Ryngaert, 'Accountability for corporate human rights abuses: Lessons from the possible exercise of Dutch National Criminal Jurisdiction over multinational Corporations', *Criminal Law Forum* 29, no. 1 (2018).

89) See, for example, the tort case against Royal Dutch Shell for oil spills in Nigeria: Akpan v. Royal Dutch Shell PLC, (2013) C/09/337050/HA ZA 09-1580 (ECLI:NL:RBDHA:2013:BY9854) (Arrondissementsrechtbank Den Haag [District Court of The Hague]); and the recent criminal complaint that was filed against Rabobank: Marjolein van de Water, 'Aanklacht: Rabobank medeplichtig aan moord en misdaden drugskartels', *de Volkskrant*, 2 February 2017, accessed 22 March 2018, <https://www.volkskrant.nl/binnenland/aanklacht-rabobank-medeplichtig-aan-moord-en-misdaden-drugskartels~a4456671/>.

90) 'Gevangenisstraffen geeïst tegen leidinggevenden rederij voor 'beachen van schepen'', *Openbaar Ministerie*, 8 February 2018, accessed 22 March 2018, <https://www.om.nl/actueel/nieuwsberichten/@102074/gevangenisstraffen/>.

knowledge (and, in some instances, even direct involvement) of Dutch companies could trigger the attention of Dutch law enforcers. The authors of this report wonder if the circumstances in this case are not reason enough to consider the necessity of commencing broad investigations regarding the role of Dutch companies in the economic exploitation of the DPRK workers abroad. Moreover, the companies could be vulnerable to a civil claim, in so far as they knew or should have known about forced DPRK labour in their supply chain and purposely or negligently failed to take adequate measures. Time will tell whether the Partner Shipyard case will set another ground-breaking precedent, holding Dutch corporations accountable for serious human rights violations committed abroad and for victims seeking redress.

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CHAPTER III

Surveillance and Long Hours: North Korean Workers in Russia

Britt C.H. Blom and Rosa Brandse

Introduction

Currently, the DPRK is one of the leading suppliers of foreign workers to Russia, a country dealing with pressing labour shortages. In contrast to Russia's support of the UN resolution forcing all member states to repatriate DPRK workers to their home country, the prospects of losing North Korean migrant workers seemed to misalign with local interests in the country. Andrei Tarasenko, governor of the Primorski Krai province which borders the DPRK, even petitioned in Moscow to make exceptions for the nearly ten thousand North Korean workers living in his area, but it was to no avail. However, Moscow did publicly announce that it would not rush the repatriations and declared that the DPRK migrants would have till the end of 2019 to leave Russia voluntarily, while leaving the enforcement procedure undisclosed.¹ Moreover, Moscow also stated that the sanctions would be a serious blow to the Russian economy, especially in the far eastern regions,² highlighting the contrast between Russian interests and the UN resolution.

Russia's reluctance to let the workers leave is noteworthy, as it brings attention to a problem that often stays hidden within the Siberian Mountains; the North Korean migrants and their working conditions. North Korean labour is cheap and efficient. This is, as shown in the previous chapter on the Polish case and the next chapter on the Czech case,

1) Anthony V. Rinna, 'On a two year deadline, some provinces have sought to protect longstanding economic interests', *NKnews*, 16 February 2018, accessed 31 May 2018, <https://www.nknews.org/2018/02/what-will-happen-to-north-korean-laborers-in-russia/>.

2) 'Russia Forced to Deport North Korean Migrant Workers After UN Sanctions', *The Moscow Times*, 7 February 2018, accessed 31 May 2018, <https://themoscowtimes.com/news/russia-forced-deport-north-korean-migrant-workers-after-un-sanctions-60414>.

a combination that is hard to resist for some employers, even if it comes at the expense of the workers' labour conditions. Nevertheless, as a member of the International Labour Organization, Russia ratified Convention No. 29, which condemns forced labour. When it comes to these migrants, however, evidence suggests the convention is not being upheld.

There has been some international journalistic interest on the subject as well. In late 2011, *CNN* published an online piece detailing the harsh working conditions DPRK labourers faced in Siberia, Russia, basing their conclusions on *Vice* video material released earlier that year.³ More recently, in November 2017, the *New York Times* also published an extensive article documenting the situation of North Korean workers in Russia, revealing its primary conclusion in its title: 'North Koreans in Russia Work "Basically in the Situation of Slaves"'.⁴ The article explores the fall in the value of the rouble and the consequent need for more foreign currency for the DPRK regime; a regime in desperate need of dollars.⁵ In a similar vein, the *Washington Post* published an article with the headline 'How North Korea takes a cut from its workers abroad', emphasising the financial dealings that impede North Korean workers from receiving the full extent of the salaries earned from their labour.⁶

These articles show the extent of journalistic interest on the subject. Despite media interest, however, an academic discussion of North Korean forced labour in Russia has remained mostly absent.⁷ This chapter will attempt to fill this gap by analysing the conditions of North Korean workers in Russia, and looking at the structural foundations of North Korean overseas forced labour by comparing the results of the analysis provided here to the Polish case explored in this volume, and in earlier work.⁸ First, a historical framework of the DPRK workers in Russia in the past decades will provide a background for the current situation. Second, the working conditions of North Korean migrants will be analysed through a case study of Blagoveshchensk and Vladivostok, two Russian cities that have traditionally employed many North Korean workers. Lastly, these findings will be discussed in relation to findings from previous research to highlight the patterned aspects of North Korean forced overseas labour.

This chapter will focus its principal analysis on information gleaned from raw video footage taken in Russia by a team of investigative journalists working on a documentary about North Korean forced labour: *Dollar Heroes*.⁹ The material included here is significant

3) Shane Smith, 'North Korean labor camps in Siberia', *CNN*, 15 December 2011, <https://edition.cnn.com/2011/12/15/world/asia/north-korean-labor-camps-in-siberia/index.html>.

4) Andrew Higgins, 'North Koreans in Russia Work "Basically in the Situation of Slaves"', *The New York Times*, 11 July 2017, accessed 22 May 2018, <https://www.nytimes.com/2017/07/11/world/europe/north-korea-russia-migrants.html>.

5) Ibid.

6) Jason Aldag, 'How North Korea takes a cut from its workers abroad', *The Washington Post*, 1 November 2017, accessed 31 May 2018, https://www.washingtonpost.com/world/asia_pacific/how-north-korea-takes-a-cut-from-its-workers-abroad/2017/10/31/98728d28-b98d-11e7-9e58-e6288544af98_story.html?noredirect=on&utm_term=.34c081d2c592.

7) The sole exception in English being Chan Hong Park, *Conditions of Labor and Human Rights: North Korean Overseas Laborers in Russia*, (Seoul: NKDB, 2016), which will be discussed later in this chapter.

8) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016).

9) The Why foundation, *Dollar Heroes*, documentary, directed by Sebastian Weis, Carl Gierstorfer, Jonghun Yu, Tristan Chytroschek and Wonjung Bae, produced by a&o buero filmproduktion (2018; Germany: ARTE).

as it was given to the research team in its raw, unedited form.¹⁰ The video material shows several North Koreans working in Russia, half of whom have defected while the other half is (for as far as we know) still living in Russia or North Korea. As most previous work on North Korean overseas labour has mostly been conducted through interviews with defectors, this chapter will enable a broader perspective on the working conditions DPRK workers face in Russia. The visual material was explored, after which the findings were placed in the context of the other source material and the Polish case. This will show that, despite the lack of generalisability with regard to all North Korean overseas labour practices, there are specific repetitive features congruent with other cases of North Korean labour export and exploitation that appear too frequently to be coincidental.

North Korean migrant workers in Russia

North Korean workers have been present in Russia for decades. According to a record of a meeting between Kim Il-sŏng and Stalin at the beginning of 1950, the DPRK asked the Soviet Union (SU) for permission to send a large group of workers to the districts of the Soviet Far East¹¹ and Siberia for practical work experience. This request was granted, and it was mentioned during the meeting that it was not the first batch of workers to migrate to the SU.¹² This is the start of what historian Larisa Zabrovskaya considers the first of three waves of North Korean workers in Russia.¹³ Although the original purpose was to educate the North Koreans, the SU needed the additional foreign labour for their fishing industry, making the deal lucrative for both sides.¹⁴ By the end of 1961, most of the 25,000 North Korean workers who travelled to their northern neighbour for employment and education had returned to their homeland again.¹⁵

The second wave started after Kim Il-sŏng met the new General Secretary of the Communist Party, Leonid Brezhnev, in 1966. Together they signed an agreement to allow more North Korean workers to assist in the timber industry.¹⁶ North Korean-Soviet relations started to deteriorate during this period due to the DPRK's refusal to pick a side in the split between the SU and China.¹⁷ In contrast, the relationship between the two bordering local provinces of North Hamgyŏng in North Korea and Primorski Krai in the SU actually

10) Although some of the conclusions of this chapter and those of the documentary *Dollar Heroes* align, there was no cooperation between the authors of this chapter and the team of investigative journalists beyond handing over the material.

11) Now called the 'Federal District of the Russian Far East'.

12) Wilson Centre Digital Archive (for 'Record of a Conversation of Cde. Stalin with Kim Il Sung and Pak Heon-yeong'; 114905; translated by Gary Goldberg; accessed 31 May 2018), <http://digitalarchive.wilsoncenter.org/document/114905>.

13) Larisa Zabrovskaya, 'The Korean Peninsula and the Security of Russia's Primorski Krai (Maritime Province)', in *The North Korean Nuclear Program: Security, Strategy, and New Perspectives from Russia*, eds. James Clay Moltz and Alexandre Y. Mansourov (New York: Routledge, 2011), 179.

14) *Ibid.*, 181.

15) *Ibid.*

16) *Ibid.*

17) Alexander Lukin, 'Russian Strategic Thinking Regarding North Korea', in *International Relations and Asia's Northern Tier: Sino-Russia Relations, North Korea, and Mongolia*, Gilbert Rozman, and Sergey Darchenko, eds. (Singapore: Palgrave Macmillan US, 2017), 268.

improved for an extended period of time. Local leaders often met and exchanged visits of workers' delegations.¹⁸ These warm relations continued until the Soviet Union fell, leading to mutual distrust among the former political allies.¹⁹

Relations even became hostile in the 1990s, after the Russian authorities caught several North Korean lumberjacks smuggling heroin on Russian trains.²⁰ The DPRK government was not pleased with their former communist ally as well, as Russia had recently started economic and diplomatic relations with North Korea's enemy South Korea.²¹ Adding to the spiralling hostility between the two countries was the socio-political tension that was arising in the Primorski Kray province between North and South Koreans vying over influence among the ethnic Korean population that was still living in Russia since before the Korean separation. This conflict led to increasing unrest and the eventual murder of a South Korean official. It was never proven that the assassination was orchestrated by North Korea. Nevertheless, it led to a growing distrust of DPRK workers among the local Russian leaders.²²

It would, however, not take long before Moscow realised economic ties with North Korea would be in its own best interest, rekindling the friendly relationship and starting the third wave of North Korean migrant workers to Russia. There were some differences to the previous arrangements, most of which were political in nature. As South Korea is a far more significant trade partner for Russia, Moscow was determined to take all the political support of North Korea out of the agreement and decided to focus instead on trade and peace on the peninsula. North Korea was not too keen on this turn of events, stalling the negotiations on a trade deal. Eventually the two countries signed a friendship treaty in 2000, and a more economic focused declaration of trust in 2001.²³

Although the focus of Russo-DPRK economic relations is on energy and infrastructure, the most lucrative aspects of the bilateral trade turned out to be North Korean labour.²⁴ Even trade between North and South Korea provides a turnover 15 times larger than that between the DPRK and Russia.²⁵ Labour, on the other hand, provides mutual benefits. As a consequence of international sanctions, North Korea is in need of the foreign currency overseas labour generates. Middle Eastern and South East Asian countries are reportedly refraining from taking on North Korean workers under pressure from the United States, and China is turning North Korean workers away after relations between the neighbouring

18) Zabrovskaya, 'The Korean Peninsula and the Security of Russia's Primorski Kray', 182.

19) Alexander Zhebin, 'Russia and North Korea: An Emerging, Uneasy Partnership', *Asian Survey* 35, no. 8 (1995), 732.

20) Seung-Ho Joo, 'The New Friendship Treaty between Moscow and Pyongyang', *Comparative Strategy* 20, no. 5 (2001), 479.

21) Liudmila Zakharova, 'Economic Cooperation between Russia and North Korea: New Goals and New Approaches', *Journal of Eurasian Studies* 7 (2016): 152.

22) Zabrovskaya, 'The Korean Peninsula and the Security of Russia's Primorski Kray', 192.

23) Seung-Ho Joo, 'The New Friendship Treaty between Moscow and Pyongyang', 467.

24) Zakharova, 'Economic Cooperation between Russia and North Korea', 156.

25) Ibid.

countries are at an all-time low.²⁶ However, Russia needs help with their labour shortages in Siberia and the Far East.

Companies in the country have been employing thousands of migrants, many of which are from Central Asia and often work there illegally.²⁷ As xenophobia in Russia has risen over the years, these migrants face extreme discrimination from both the public and officials and their presence has become a politically sensitive issue.²⁸ Russian media even quoted regional development experts who expressed their preference for North Korean workers as 'they are not Muslim and pose no terrorist threat.'²⁹ North Korean migrants are also considered disciplined, law-abiding and inexpensive by their Russian employers, making them ideal workers.³⁰

Statistics from Russia show the official number of North Korean workers up to 2016. This number does not include North Korean refugees living and working in Russia without an official permit.³¹ The Russian Ministry of Labour reported that 47,364 North Koreans were living in Russia on a working visa in 2015. This makes the DPRK one of the top three countries with the most workers in Russia, along with China (first place) and Turkey (second place).³² It is also third when it comes to new working visa provided by the Russian consular offices. As many as 12,466 were issued in 2015.³³

Contradicting these numbers, the Russian Ministry of Internal Affairs claims that there are only 30,400 DPRK citizens working in Russia on a working permit, a number that declined to 29,100 in 2016. In 2017 media reports estimated the total number of North Korean workers in Russia at around 40,000.³⁴ In these statistics, North Korea is second

26) Artyom Lukin and Liudmila Zakharova, 'Russia-North Korea economic ties: Is There More Than Meets the Eye?' (Philadelphia: Foreign Policy Research Institute, 2017), 251.

27) Elena Tyuryukanova, *Forced labour in the Russian federation today: irregular migration and trafficking in human beings* (Geneva: International Labour Office, 2006), 5.

28) John Round and Irina Kuznetsova, 'Necropolitics and the Migrant as a Political Subject of Disgust: The Precarious Everyday of Russia's Labour Migrants', *Critical Sociology* 42, no. 7-8 (2016), 1019.

29) 'Дальний Восток оставят без строителей: как санкции в отношении КНДР скажутся на регионе', *Prima-media*, 10 August 2017, accessed 31 May 2018, <https://primamedia.ru/news/612921/>.

30) Zakharova, 'Economic Cooperation between Russia and North Korea', 159.

31) Russia does not provide political asylum to North Koreans and only gives working permits through the DPRK government, making it impossible for a North Korean defector to legally work in Russia before he or she has obtained a different nationality.

32) These numbers exclude many Central Asian countries as Russia has special visa agreements with them. For the working visa numbers, see Anastasia Napalkova and Stepan Opalev (Анастасия Напалкова и Степан Опалев), 'И швея, и сварщик, и артист: Кем работают иностранцы в России', *RBC*, 22 April 2015, accessed 31 May 2018, <https://www.rbc.ru/newspaper/2015/04/22/56bce8729a7947299f72c0b7>.

33) Consular Department of the Russian Ministry of Foreign Affairs (Консульский департамент МИД России), *Статистические данные по визам, выданным российскими дипломатическими представительствами и консульскими учреждениями в 2016 году*, http://www.kdmid.ru/content/cnslfunk_doc/визы/Visa_2016.pdf (accessed 31 May 2018); Consular Department of the Russian Ministry of Foreign Affairs (Консульский департамент МИД России), *Статистические данные по визам, выданным российскими дипломатическими представительствами и консульскими учреждениями в 2015 году*, http://www.kdmid.ru/content/cnslfunk_doc/визы/Visa_2015.pdf (accessed 31 May 2018).

34) Elizabeth Shim, 'Russia, North Korea sign 'labor immigration' accord', *UPI*, 27 March 2017, accessed 31 May 2018, <https://www.upi.com/Russia-North-Korea-sign-labor-immigration-accord/4261490633465/>.

only to China in both years.³⁵ Although these numbers diverge, they show that the DPRK is currently one of the leading suppliers of foreign labour to the Russian Federation.

The legal position of North Korean migrant workers in Russia

The Russian Federation and the DPRK signed a labour agreement stipulating all rights and regulations for the workers living in each other's countries.³⁶ The agreement states that the workers are not allowed to work under less favourable conditions than those of the host country's workers and that the safety and health should be guaranteed by the host state. Medical costs resulting from hazardous work will be covered by the host state and in case of death, the host state will cover the transportation costs of the body. In determining the legal responsibility with regard to forced labour, the most important section of this agreement to consider is clause 13. This clause states that the workers are guaranteed the rights; freedoms; safety; and legal protection given by the legislation of the host state to all foreigners.³⁷ This means that North Korean workers ought to be protected by the international treaties signed by Russia and the domestic labour code.³⁸

Foreign workers in Russia are all protected by the International Labour Organization's (ILO) Convention No. 29. This convention condemns forced labour by requiring all member states to adopt domestic laws criminalising the practice. It should be noted that this is the only relevant ILO convention Russia has signed. The addition to Convention No. 29 that was made in 2014 stating that countries should emphasise education on the subject of forced labour and provide better inspection services, was not ratified by the Russian Federation. Neither were the conventions on improved rights for migrant workers (no. 97 and 143).³⁹ Still, as required by the forced labour convention, Russian domestic law does provide some legal protection. The first is the Russian constitution, which states that:

1. *Labour is free. Everyone shall have the right to freely use his labour capabilities, to choose the type of activity and profession.*
2. *Forced labour shall be banned.*

35) Federal State Statistics Service (Федеральная служба государственной статистики), *Российский статистический ежегодник 2017*, § 5.16. Численность иностранных граждан, имевших действующее разрешение на работу, http://www.gks.ru/bgd/regl/b17_13/IssWWW.exe/Stg/05-16.doc (accessed 31 May 2018).

36) Legal Department of the Russian Foreign Ministry (правовой департамент МИД России), 'Соглашение между правительством российской федерации и правительством корейской народно-демократической республики о временной трудовой деятельности граждан одного государства на территории другого государства', 31 August 2007, http://www.mid.ru/foreign_policy/international_contracts/2_contract/-/storage-viewer/bilateral/page-133/45690 (accessed 31 May 2018).

37) Ibid., clause 13.

38) The agreement does end with a clause stating that all disputes concerning the implementation and application of the agreement will be dealt with through consultation between the Russian federal migration service and ministry of health together with the North Korean ministry of foreign trade, making the legal application of the document complicated for other parties.

39) 'Ratifications for Russian Federation', ILO, accessed 31 May 2018, http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102884.

3. *Everyone shall have the right to labour conditions meeting the safety and hygienic requirements, for labour remuneration without any discrimination whatsoever and not lower than minimum wages and salaries established by the federal law, as well as the right to protection against unemployment.*
4. *Recognition shall be given to the right to individual and collective labour disputes with the use of methods of their adjustment fixed by the federal law, including the right to strike.*
5. *Everyone shall have the right to rest and license. Those working by labour contracts shall be guaranteed the fixed duration of the working time, days off and holidays, and the annual paid leave established by the federal law.*⁴⁰

Hypothetically, this gives every worker in Russia the right to free labour under safe conditions. The Russian labour code, which went into effect in 2001, goes further by describing, for instance, minimum wage and the fixed working time (40 hours a week, or 36 when working in dangerous conditions). It also allows all workers to refuse their work if it is in violation of their contract or if it puts their health in danger. These and other disputes can be solved through trade unions, individual court cases, or collective actions.⁴¹

However, the reality many workers face shows the ease with which these legal protections can be circumvented. The Russian labour code only considers a labour dispute valid if the problem arises between an employer and an employee directly, but if there is a third party involved, such as an employment agency, the law is no longer applicable.⁴² Companies that supply labour to other companies, therefore, provide a loophole in which the responsibility of the labour conditions falls on a party that cannot be held legally responsible. This loophole has often been used with migrant workers who were either exploited by Russian agencies, who did not provide the workers with contracts, or by agencies in the workers home country.⁴³ As will be described below, the latter situation is the only way North Korean workers are placed in Russia. However, after news concerning this method - called 'outstaffing' - became widespread, the Russian government amended the labour code, making the practice only legal in short-term cases (9 months) and only to those with official permission. Significantly, another clause was added stating that foreign organisations are allowed to use outstaffing, obviating possible restrictions to the practice.⁴⁴ Therefore, it is

40) Russian Const. Art. 37, <http://www.constitution.ru/en/10003000-03.htm>.

41) Translation of the Russian Labour Code: https://www.wto.org/english/thewto_e/acc_e/rus_e/wtACCrus58_LEg_363.pdf.

42) Ibid., Chapter 60.

43) Olga Bantsekina, 'Agency labor and secondment in Russia: present reality and perspectives', *Coleman Services*, 2011, accessed 31 May 2018, <https://www.coleman.ru/en/opinion/agency-labor-and-secondment-in-russia-present-re-al>.

44) Olga Antipkina, 'Regulation of Secondment (Outstaffing) in Russia', *De Berti Jacchia Franchini forlani Studio Legale*, 2016, accessed 31 May 2018, <https://s3.amazonaws.com/documents.lexology.com/098302c8-eedd-44ce-be11-c25ec98f1ef7.pdf>.

incredibly difficult for North Korean migrants to use Russian domestic laws to assert their rights in order to protect themselves from forced labour practices.

Working conditions of (North Korean) migrants in Russia

As stated above, Russian companies have been employing migrants for years, and with the rising political anti-migrant discourse, the working lives of the migrants has not been easy. Obtaining a visa in Russia is difficult, and as a result many migrants work illegally.⁴⁵ This has made them vulnerable to situations of forced labour; they work long and hard hours, with no paid leave and hardly any sick days.⁴⁶ Some Russian experts claim that the authorities are involved, as illegal migrants have been found working for officials, and corrupt police officers not infrequently receive kickbacks from the companies exploiting migrant workers.⁴⁷ North Korean migrants have also been reported to be working in slave-like conditions in Russia, but what is noticeably different in these situations is that the North Koreans work with valid working permits.⁴⁸ Although this difference exists, North Korean workers are still structurally placed into unsafe working environments. For example, on the working site of the upcoming World Cup Stadium in St Petersburg, North Korean labourers and other migrants worked together in dangerous conditions with live electricity and no safety harnesses leading to at least four deaths, one of whom was North Korean.⁴⁹

As one of the few scholars looking at the working conditions and dispatch methods of North Korean overseas labour in Russia, South Korean legal scholar Park Chan Hong interviewed 50 North Korean refugees who used to work in the Russian federation.⁵⁰ He catalogued their testimonies to give the first broad-scale overview of the working conditions of DPRK labourers in Russia. As is the case with the research in this chapter, Park's work cannot be generalised to describe the situation of all North Korean workers in Russia. It does however show the reoccurring aspects of North Korean overseas forced labour, as it highlights the conditions all interviewees were in despite their different dispatch time and location.⁵¹ For instance, all interviewed workers were employed by a North Korean company in Russia who sent them to Russian worksites. Although most workers applied voluntarily to be sent abroad, some were chosen by the company they worked for in North Korea. In

45) Tyuryukanova, *Forced labour in the Russian federation*, 60.

46) Ibid.

47) Ibid., 64.

48) Migrants from central Asian countries can get residency permits with permission to work but still do not work legally if they do not get an individual contract from their employer. North Koreans, however, 'sign' a contract with the North Korean company they work for which in turn deals with the Russian workplace, ensuring that, from a Russian perspective, the North Koreans work legally. The fact that they might not have signed those contracts themselves is a different issue.

49) Håvard Melnæs, 'The Slaves of St Petersburg', *Josimar*, 2017, accessed 31 May 2018, <http://www.josimar.no/artikler/the-slaves-of-st-petersburg/3851/>.

50) Chan Hong Park, *Conditions of Labor and Human Rights: North Korean Overseas Laborers in Russia* (Seoul: NKDB, 2016).

51) Park's research is particularly interesting because, as a researcher at the Seoul based Database Center for North Korean Human Rights, Park was able to cross-reference all testimonies, and use only those he deemed credible. It should be stated, however, that Park fails to provide an explanation of his methodological approach in detail with regard to the conditions in which the interviews were carried out.

addition, all of the workers interviewed by Park went to Russia to improve their individual financial situation and that of their families.⁵²

Not every North Korean citizen is eligible to work overseas. Selection requirements range from happy marriage, party membership, no criminals in the family, to having a reputation of being a hard worker. Besides this, there are physical requirements as well. Applicants have to be under the age of 45, at least 160 cm tall, and have no known illnesses.⁵³ It has to be stated that most interviewees mentioned that it is also possible to bribe the officials and be sent regardless of the requirements.⁵⁴ None of the interviewees saw or signed a contract, and most reported that their passports were taken, although this practice seems to have become less prevalent. The living facilities they were assigned to often lacked basic necessities, such as electricity or running water.⁵⁵ They worked 12 to 20 hours a day in exchange for minimum wage, and 30 per cent of their monthly wages were given to the North Korean government, after which living and food expenses were also deducted from their income. Workers who wanted to send money home had to take a job on the side, which was neither allowed by the North Korean government nor legal by Russian standards as they did not sign contracts for these jobs.⁵⁶ Many fell ill or died, the cost of which should have been paid for by Russia. However, all workers reported that they still paid their own medical costs and that DPRK officials took the Russian money.⁵⁷

According to Park's research, there was a rise in the number of North Korean labourers who defected from their Russian workplace around 1996 or 1997. His findings were based on defector testimonies. This development took place during a period of extreme famine in the DPRK, caused by severe economic problems and the collapse of the domestic food distribution system.⁵⁸ Workers who were abroad at this time started leaving their assigned workplaces in order to earn money elsewhere. Initially, this development did not seem to be a problem for the authorities in charge and they did not take action. This position has shifted in contemporary times.

A crackdown by North Korean officials took place after several companies started suffering from a large number of North Korean labourers leaving their regular work. Around 1997, the North Korean authorities and the Russian police started cooperating, and North Korean defectors started getting arrested. Any money they had earned on the side was confiscated, and the Russian authorities started sending the captured workers back to North Korea.⁵⁹ The number of escapees also decreased in the mid-2000s as a consequence of North Korea establishing inspection teams tasked with controlling the activities of the migrant workers after workhours.⁶⁰ This seems to have created a stricter surveillance system of all North Korean workers in Russia. The workers do, however, report less ideological

52) Ibid., 100.

53) Ibid., 102.

54) Ibid., 104.

55) Ibid., 144.

56) Ibid., 188.

57) Ibid., 184.

58) Ibid., 232.

59) Ibid.

60) Ibid., 233.

surveillance as the working hours are simply too demanding to still actively participate in political activities.⁶¹

In the United States Department of State *2017 Human Trafficking in Persons Report*, these allegations are repeated, and the North Korean leaders, as well as the Russian government, are requested to improve these conditions.

Russia so far has denied all accusations of this happening within their borders. The Russian ambassador to North Korea, Alexander Mantsegora, has called the US 2017 report on the 'slave-like conditions' of the North Korean workers 'utter nonsense'. He elaborated on this claim by stating that the workers make just as much as the average Russian worker and that even if the government commission of 40-50 per cent is deducted, it still 'feeds 13 family members back in North Korea'.⁶² Vassily Nebenzia, Russia's UN representative, also disputed the allegations, claiming that the North Koreans work in Russia on the basis of an intergovernmental agreement that ensures the worker's fundamental labour rights.⁶³

Case-study: the Footage of Blagoveshchensk and Vladivostok

The findings presented in this chapter rely on an exploration of visual material recorded in two locations in Russia; Blagoveshchensk, a developing city near the Sino-Russian border, and Vladivostok, a harbour city located close to North Korea and Japan.

Using a visual analysis approach, the researchers explore raw video material received from the team of investigative journalists involved in the making of the *Dollar Heroes* documentary.⁶⁴ The video material (raw footage) was recorded in 2017. The languages of the audio were mainly Korean, Russian, and English. Preliminary translations of the recorded material accompanied the data. The researchers updated and modified translations where this was deemed necessary for the clarity of the analysis. In total, the analysis includes 270 minutes (or 4 hours and 30 minutes) of raw video footage taken in Blagoveshchensk. In addition to this footage, the analysis includes 1431 minutes (or 23 hours and 51 minutes) of raw video footage taken in Vladivostok.

Regretfully, a large section of the footage recorded in Vladivostok was unintelligible due to static noise. These sections were not included in the analysis of the audio material, but were left intact for the video material analysis, and have been included in this chapter. The footage of Blagoveshchensk consisted primarily of interviews with North Korean workers and one defector. The footage taken in Vladivostok was mostly of North Korean buildings and included sightings of North Korean labourers working on construction sites. The film was shot by a team of (undercover) investigative journalists. The research team received

61) Ibid., 145.

62) 'Из России начали высылать северокаорейских рабочих', *RIA*, 7 February 2018, accessed 31 May 2018, <https://ria.ru/society/20180207/1514118572.html>.

63) Joel Gehrke, 'Russia rejects Rex Tillerson's charge that it uses North Korean slave laborers', *Washington Examiner*, 15 December 2017, accessed 31 May 2018, <https://www.washingtonexaminer.com/russia-rejects-rex-tillersons-charge-that-it-uses-north-korean-slave-laborers>.

64) This material was presented to us by the makers of the documentary, The Why Foundation. To our knowledge, they have not given the footage to any other party.



Image 1: Locations Blagoveshchensk and Vladivostok.

the footage in its original, unedited format. The data was stored on an offline drive and was processed using a separate device used solely for the purpose of analysis.

The material was coded on the basis of relevancy to the analytical categories constructed after initial sampling. Recurring themes were noted and placed in individual nodes. The researchers consequently joined similar nodes and constructed five analytical categories: decision-making, family, financial resources (money), surveillance, and the exportation of the North Korean ideological system abroad. Although there is a strong overlap between different nodes, for practical reasons the categories have been ordered by theme and are explored separately below.

All the workers interviewed are referred to as ‘witnesses’. All of the witnesses are men, and all of them are or have been construction workers during their tenure in overseas North Korean work sites in Russia. The following is a list of the witnesses covered in the analysis:

- Witness A is a former North Korean labourer who worked in Blagoveshchensk on construction sites. He defected around 2015.
- Witness B is a North Korean labourer working in Blagoveshchensk. During research in Blagoveshchensk, the *Dollar Heroes* team came across him while he was working.
- Witness C is a former North Korean labourer who defected. He worked in Vladivostok.
- Witness D is a North Korean labourer in Vladivostok currently working on construction sites.
- Witness E is a North Korea labourer in Vladivostok. It is not clear whether he has defected or not.
- Witness F is a North Korean labourer in Vladivostok who was working on the inside of an unfinished building when he was approached.

- Witness G is a former North Korean labourer who worked in Siberia (during the period of the Soviet Union) as a truck driver in a logging camp. He defected in 2005 to South Korea and brought his family with him. His family are no longer in North Korea and so, he feels, safe from harm. For this reason, he appears in the documentary uncensored.
- Witness H is a North Korean labourer in Vladivostok. He was hired by undercover journalists to renovate a building they rented.

For safety and consistency, the identities of the individuals have been anonymised. Their names are not given, and their locations have been generalised. Identifying characteristics such as age and surname have been purposefully left out of the analysis.

Going overseas: the decision-making process

There are several factors that influence the decision-making process of North Korean workers. The decision is not necessarily passive, and the incentives to work abroad are attractive, especially if those being sent are unaware of the reality of the situation. The decision-making process is complex and cannot be generalised without risking a certain degree of semantic abbreviation. Nevertheless, the following two witnesses offer a glimpse of the main motivators for applying for work abroad, and for transferring from one location to another when working conditions become so severe that workers run a high risk of losing their lives.

Witness A, abbreviated as 'A' in the following section, falls into the category of those wanting to leave North Korea in a bid to improve their situation. Emphasising that he believes survival is unlikely in his home country, 'A' states in his testimony that he left North Korea voluntarily. He explains that the dysfunctional food distribution system in North Korea was a motivating factor in his desire to work abroad:

*I couldn't survive in North Korea. During my vacation, my last time in North Korea, they gave each person seven kilograms of potatoes for a month to survive on. Seven kilograms of potatoes! I eat one meal a day, and the food is all gone!*⁶⁵

In order to facilitate his working abroad, 'A' asserts that he had to pay around 250 USD to be able to go and work in Russia.⁶⁶

Witness G (hereafter, 'G') stated that he wanted to work abroad because his family was impoverished. His application to work in Russia was motivated by a need to do something about his and his family's situation. After arriving in Russia and working there for a period, 'G' became disillusioned. His living facilities were seriously inadequate, and 'G' claims that the place where he slept was so cold that he cried because of his intense longing for a heater. His working conditions were no better, according to his report, and he stated that he had seen many people die at his workplace.⁶⁷

65) The Why Foundation, *Blagoveshchensk video 2*, 01:41:17:22 – 01:41:42:04.

66) Ibid., 01:41:49:10 – 01:42:42:06.

67) The Why Foundation, *Dollar Heroes*, 3:25 – 5:18.

The family as leverage

In our case study, the importance of family bonds is illustrated by Witness H ('H'), who stated that: 'If I didn't have a family, I would not return'. Working conditions, however harsh, are frequently better than those back home. Similarly, the pay in foreign countries is higher, and the promise of foreign currency is alluring. 'H' adds that his current conditions in Russia are of a qualitatively higher standard than those in North Korea.⁶⁸

Like 'H', witness 'A' repeatedly expressed his concern for his family during his testimony. His family still resides in North Korea. By contrast, 'A' has made the decision to leave his workplace in Russia and has chosen to defect. According to him, the only reason his family remains alive is that he is considered a missing person: 'But if they learn I'm living like this in Russia, my whole family would probably be killed'.⁶⁹ He hopes he can reunite with them one day in South Korea.

'A' is aware of the magnitude of his decision and also of its possible consequences for other workers. The reason, according to 'A', that so few of his fellow workers, sent to forestry and construction companies, have also defected is that they are 'simple country folk'. These 'folks' are mostly from South Pyongan Province and Hwanghae Province in North Korea.⁷⁰ The implication is that these workers are unlikely to make such a big decision or even imagine the possibility of defecting.⁷¹

Promises of money

The workers are sent abroad to earn money for the regime. Many workers are unaware of how much money they will be able to keep for themselves.

Upon his arrival in Russia, 'G' was initially optimistic about new opportunities. However, after a while, he discovered that the fruits of his work were being channelled elsewhere and that he was being exploited by the government. When he began working at his new workplace, he was not aware that there was such a thing as a minimum wage in Russia.⁷² 'G' calculates that he only received seven per cent of his total salary, the majority of which was sent back to the North Korean government. 'G' explains that this was a necessary arrangement, but that a few labourers asked their Russian employers if they could be paid directly. This did not go by unnoticed by the DPRK authorities, however, and the workers that requested direct payment were accused of treason and sent to labour camps back in North Korea.⁷³ According to witness 'A', the case presented by 'G' is not an isolated phenomenon.

'A' states that every labourer is mandated to earn, and is required to 'give' between 200,000 and 250,000 won (approximately 200 USD) to the North Korean government every week. Failure to do so is not tolerated, and if workers are unable to fulfil this task, they were usually sent back to North Korea. This is not a group effort, as each worker must earn 200

68) Ibid., 19:17 – 20:20.

69) The Why Foundation, *Blagoveshchensk video 2*, 00:35:26:06 – 00:35:41:08.

70) Ibid., 00:47:48:17 – 00:48:14:19.

71) Ibid., 00:48:25:11 – 00:48:39:10.

72) The Why Foundation, *Dollar Heroes*, 03:52 – 04:10.

73) Ibid., 04:13 – 14:20.

USD per week individually and give it to the North Korean authorities.⁷⁴ Indeed, 'A' says that earning money was the hardest part of his job. Sometimes, he would have to work from 6 am in the morning until 4 am the following morning to earn the requisite amount.

I would have to work until 4 am. Because I had to pay my contribution to the company, and the rest I kept. I'd have to work a lot to make any money. If I didn't work a lot, I could not save after paying contribution.⁷⁵ [...] Working from 6 am to 4 am just to pay contributions to the North and earn money. Working to death like that is hard.⁷⁶

Of course, extreme sleep deprivation was an inevitable consequence. It should be noted that some North Korean workers did not receive any money at all. In cases when workers failed to earn the minimum 200 USD a week, they are either sent back to North Korea,⁷⁷ or, sometimes, they were directed to work on a specific building without pay. This specific building was known as *Novaya*. However, work on *Novaya* was not limited to workers who were unable to meet their weekly quota; those workers who earned the minimum amount but achieved this by working outside 'regular' hours were also sent to work on this building, usually in the weekend, and also without getting paid.⁷⁸ 'A' reports that he was also required to work in this building for five hours each Saturday and each Sunday without getting paid.⁷⁹

Nevertheless, 'A' was able to take vacations and return to see his family in North Korea. To do so, however, 'A' had to hand over, in advance, the total contributions due for the months he would be on leave, as these vacations were classified as unpaid leave. In other



Image 2: Novaya taken from the raw footage in Blagoveshchensk.

74) The Why Foundation, *Blagoveshchensk video 2*, 00:29:32:13 – 00:29:48:07.

75) Ibid., 00:17:24:24 – 00:17:38:14.

76) Ibid., 00:54:37:23 – 00:54:48:05.

77) Ibid., 00:30:09:18 – 00:30:15:02.

78) Ibid., 00:56:12:20 – 00:58:01:12.

79) Ibid., 00:58:06:14 – 00:58:17:14.

words, workers like 'A' were able to take leave and visit North Korea but were not paid to do so. In fact, workers have to earn enough money and accumulate enough funds to meet the quotas of the working days they are missing to be able to pay for their absence.⁸⁰

Witness C (hereafter, 'C') stated that the money earned in Russia is kept by North Korean officers and that the workers only received food coupons for the fulfilment of their most basic needs.⁸¹ Witness D ('D') adds that some workers only earn 50 USD per month, some 100 USD per month, but that there are also workers who do not earn anything. A significant number of these workers return to North Korea in debt. The little they do earn goes directly to the regime, and if these workers cannot fulfil the minimum quota, they are routinely sent back to North Korea. The minimum quota is not a fixed amount and rises annually.⁸²

According to 'D', ten years ago workers that were sent to Russia were obliged to send 15,000 roubles a month back to North Korea (the equivalent to approximately 265 USD).⁸³ This quota has doubled over the past decade, and now 'D' has to send 30,000 roubles (approximately 530 USD)⁸⁴ back every month. 'D' predicts that the minimum quota will likely rise to 50,000 rouble (approximately 883 USD)⁸⁵ within the year. If this happens, workers will have to earn more than 70,000 roubles a month (approximately 1236 USD)⁸⁶ to have any hope of saving and sending some money back to their families back home, but making this amount of money is nearly impossible. According to 'D', it is almost twice as much as the average Russian worker earns per month.⁸⁷

Witness 'H' as well has stated that he has to earn at least 100,000 roubles (approximately 1,767 USD)⁸⁸ per month if he wants to allow himself some financial leeway and to be able to send some money back to his family in North Korea.⁸⁹ This is double the minimum that other North Korean workers posted to different locations in Russia have to earn. How these labourers earn additional money for personal purposes differs from their regular work. Witness E ('E') states that in the evening after they finish their 'regular' work, some workers would work on other construction sites for Russian employers. They did so to earn extra money for themselves. They would work there the whole night. According to 'E', this is considered personal income.⁹⁰

'A' states that North Korean labourers usually wake up at 6 am, start working at 7 am and end their regular shifts at 9 or 10 pm.

These regular shifts are, on average, 14 to 16 hours per day. When workers are unable to finish the task at hand, however, they are forced to work until midnight or even 1 am.

80) The Why Foundation, *Blagoveshchensk video 2*, 00:30:23:01 – 00:30:53:15.

81) The Why Foundation, *Dollar Heroes*, 15:45 – 16:55.

82) *Ibid.*, 7:07 – 18:09.

83) Approximately 213 EUR. 'XE Currency Converter', XE, accessed 3 February 2018, <http://www.xe.com/currency-converter/convert/>.

84) Approximately 425 EUR. *Ibid.*

85) Approximately 709 EUR. *Ibid.*

86) Approximately 992 EUR. *Ibid.*

87) The Why Foundation, *Dollar Heroes*, 7:07 – 18:09.

88) Approximately 1418 EUR. *Ibid.*

89) The Why Foundation, *Dollar Heroes*, 19:17 – 20:20.

90) *Ibid.*, 18:20 – 18:53.



Image 3: North Korean labourers working on a roof
(taken from raw footage in Vladivostok).



Image 4: North Korean labourer (taken from raw footage in Vladivostok).

Sometimes, shifts continued throughout the night. As mentioned, in addition to their regular shifts, workers took on hours at other locations in order to earn money for themselves. 'A' exemplifies this by adding that he sometimes worked until 4 am so that he could make some extra income. He states that he had to work a lot to save enough money for himself.⁹¹

Surveillance of the workers

During a visit to Blagoveshchensk, the team of investigative journalists located and approached a 'Korean looking man' (Witness B, or 'B') working on a construction site. When questioned about his background, he confirmed that he was indeed a North Korean worker.⁹² When asked what he was doing there, 'B' told the team that he had come to Russia three years ago to carry out construction work. He explained that he had come to Russia believing that he could earn some money, but that was not the case.⁹³ After talking to the journalists for only a few minutes, 'B' received a phone call. During the call, 'B' was apparently asked whom he was talking to. 'B' replied that he would tell them to go away. After the call ended, the interviewer asked him if they could continue their conversation another time. 'B' replied that they were being watched from somewhere, implying that he was not able to do so.⁹⁴ It is apparent from this footage that there is some form of surveillance present that keeps tabs on the workers, around the clock.

The next morning, at 7 am, three people knocked on the investigative journalists' door. It was a policeman and two civil servants from the immigration office. The team were told that the property owner had not notified the authorities of the presence of foreigners, and they were taken away to be registered. Their passports were taken away, and their memory cards and USB sticks were also confiscated. Once the team had been registered, a procedure that was apparently 'routine', they were given their passports back.⁹⁵

Following this experience, the investigative team took a different approach in Vladivostok, where they went undercover, posing as property investors. The footage shows them walking into a building and approaching Witness F ('F') to ask him several questions. However, echoing the events in Blagoveshchensk, a North Korean foreman arrives and asks the team what they are doing.⁹⁶ Replying that they are potential buyers viewing the location, the North Korean foreman aggressively states that they are in the wrong location and that buyers are supposed to be elsewhere.

Exporting the North Korean ideological system abroad

The team of investigative journalists visited the living quarters, or barracks, for North Korean workers in Vladivostok. They deliberately arrived after the North Korean labourers had left

91) The Why Foundation, *Blagoveshchensk video 2*, 00:29:30:00 – 00:48:40:00.

92) The Why Foundation, *Blagoveshchensk video 3*, 02:54:54:00 – 02:55:23:07.

93) Ibid., 03:00:00:10 – 03:00:13:06.

94) The authors of this chapter are aware that the footage of this conversation was shown in the documentary and that the images, in addition to the given context, might make witness 'B' identifiable. This analysis attempts to keep the identity of the subject as anonymous as possible, acknowledging differences in the methodological and ethical framework between the documentary and the analysis given in this chapter.

95) The Why Foundation, *Dollar Heroes*, 14:35 – 15:32.

96) Ibid.



Image 5: Inside the barrack (taken from raw footage in Vladivostok).



Image 6: Inside the barrack (taken from raw footage in Vladivostok).



Image 7: Inside the barrack (taken from raw footage in Vladivostok).

for work. The team discovered several points of interest, among them North Korean propaganda and North Korean newspapers. They encountered walls filled with slogans written in Han'gŭl,⁹⁷ such as 'Let's push for the victorious advance of socialism through the great power of our own strenuous efforts!' and 'Serving for the people!'

Not only were the living quarters designed to specifically emulate North Korean conditions, replete with news material and propaganda props, but a ritual was also used to duplicate the regulatory system and affirm behavioural conditioning. For example, in North Korea, so-called Saturday Weekly Criticism Sessions are a staple feature of socio-political life.⁹⁸ According to witness 'A', these sessions are also conducted systematically in Russia, and North Korean workers are expected to use these sessions to criticise both themselves and other workers. 'A' describes this as routine practice, and workers are trained in the critical assessment of what they perceive as 'mistakes'.⁹⁹

Although these sessions are also being conducted in the Russian context, there are differences between these sessions and those taking place in North Korea, according to 'A'. Most significantly, the issue of money is central to the sessions held in Russia. For example, sessions are characterised by self-criticism such as 'I must earn lots of money to contribute to the North, but I could not', and 'I'll be a devoted worker to my country!' These comments are repeated frequently throughout the sessions. From the perspective of effective govern-

97) Ibid., 20:40 – 21:33.

98) The Why Foundation, *Blagoveshchensk video 2*, 01:43:54:02 – 01:43:57:18.

99) Ibid., 00:50:16:00 – 00:51:13:12.

ance and surveillance, the function of these sessions mirrors the purpose of those held domestically within the North Korean context. Anyone missing a session abroad, however, would be classified as missing or as a defector.¹⁰⁰

Analysis and the apparent structural foundations of North Korean overseas labour

Even though the footage taken in Blagoveshchensk and Vladivostok shows a single case study of North Korean overseas forced labour, a comparison with previous research brings certain structural characteristics to light.

For instance, while most workers apply for work abroad to earn more money, in reality, they work around the clock and have to give a significant portion of their salary to the DPRK. The severity of workers' long hours is highlighted in testimonies. As workers are unable to earn a personal income from their regular work hours, they are forced to find additional hours at other locations, supplementing their meagre earnings by making extremely long hours. The witness testimonies reveal that it is increasingly difficult to earn money to send back to their family, or to save enough money to be able to afford a vacation back to North Korea. The working hours are exceedingly long, and it is not unusual for workers to work deep into the night to earn sufficient funds to subsist. The minimum amount of money that workers must hand over to the North Korean authorities varies, depending on the work site and the city the workers live in. In the Polish case, it was often over 50 per cent,¹⁰¹ while Park concluded that it was around 30 per cent in the construction industry.¹⁰² The footage used in this analysis puts the number at 30,000 roubles, which, according to the Russian federal statistics, is the average wage of a Russian construction worker.¹⁰³ This means that the North Korean workers have to work double hours in order to save something for themselves.

Another reoccurring factor is the use of the workers' family as a hostage. In both Park's work as in the Polish case, having a family back home is stated as an official criterion for being chosen to go abroad.¹⁰⁴ In the video analysed above it also becomes clear that having a family in North Korea is used as a form of leverage by the state to prevent the workers from leaving their workplace and defecting. Some, like 'A', decide to defect anyway, leaving their family behind in North Korea in the process. Despite this, he still worries about them and he hopes to be reunited with them in the future in South Korea.¹⁰⁵

Other criteria seem to be a good standing in North Korean society, most often characterised by residency in the capital. Notable, therefore, is that witness 'A' referred to

100) Ibid., 00:29:30:00 – 00:48:40:00.

101) Breuker and van Gardingen, *Slaves to the System*, 62.

102) Park, *Conditions of Labor and Human Rights*, 176.

103) Federal State Statistics Service (Федеральная служба государственной статистики), *Среднемесячная Номинальная Начисленная Заработная Плата Работников По Полному Кругу организаций По Видам Экономической Деятельности В Российской Федерации В 2013-2016гг*, http://www.gks.ru/wps/wcm/connect/ross-tat_main/rosstat/ru/statistics/wages/ (accessed 31 May 2018).

104) Breuker and van Gardingen, *Slaves to the System*, 57; Park, *Conditions of Labor and Human Rights*, 100.

105) The Why Foundation, *Blagoveshchensk video 2*, 00:48:25:11 – 00:48:39:10.

his co-workers collectively as ‘simple country folk’ coming from the provinces,¹⁰⁶ implying that he did not see many people for Pyongyang while he was at work.

It is apparent from the footage that there is some form of surveillance present that keeps tabs on the workers, around the clock. The surveillance described in Blagoveshchensk even reveals a cooperative framework between Russian and North Korean authorities, which is corroborated by Park’s research and also not considered unique in Russia where the police have been accused before of assisting companies who employ migrants with forced labour.¹⁰⁷ The extent to which this is structurally implemented and enacted requires further investigation, yet the confiscation of possible video and audio material strongly hints towards the exploitation of forced North Korean labour in Blagoveshchensk continuing to be facilitated by local officials. Similarly, in Vladivostok, a foreman takes on the role of a supervising authority, stepping in to prevent engagement.¹⁰⁸ Regardless of the position of the research team, whether posing as tourists or investors, the North Korean authorities do not want outsiders having contact with North Korean workers. This is reaffirmed by the inevitable presence of their representatives at the work sites and their assertive attitude towards practising surveillance and preventing possible contact.

In the workers’ living quarters, North Korean propaganda posters and newspapers decorate their surroundings, showing that the DPRK system follows them abroad. The testimonies taken in Blagoveshchensk also mention the obligatory weekly criticism sessions during which a worker is expected to self-reflect and show his dedication to the North Korean ideology. The study done in Poland touches upon these meetings as well, which often required written letters and were compulsory for all.¹⁰⁹ Park, however, found that in many cases these sessions did not happen as often as planned as the workers were simply too busy to spend time in these meetings.¹¹⁰

Taking all of this into consideration, it seems that the DPRK is capable of exporting its labour force abroad on its own conditions, making the labourers work in inhumane conditions with very limited freedom, while institutionalised operations make it impossible for them to improve their situation.

Conclusion

An exploration of North Korean forced labour practices in Russia is largely absent from academic literature and certainly remains underdeveloped. This means that any investigations must rely on the few sources available. This chapter attempts to add to this body of work by exploring visual and audio material gathered in Russia, to delve deeper into the issue. The analysis presented here covers the Russian cities of Vladivostok and Blagoveshchensk, both located in the eastern part of Russia.

106) Ibid., 00:47:48:17 – 00:48:14:19.

107) Park, *Conditions of Labor and Human Rights*, 184; Elena Tyuryukanova, *Forced labour in the Russian federation today*, 64.

108) The Why Foundation, *Dollar Heroes*, 14:35 – 15:32.

109) Breuker and van Gardingen, *Slaves to the System*, 86.

110) Park, *Conditions of Labor and Human Rights*, 228.

The findings presented in this chapter suggest that North Korean workers do not arrive in Russia involuntarily. Indeed, moving to Russia for work is frequently a response to intolerable conditions in their home country and an assertive attempt to improve their circumstances. Nevertheless, the system that governs the workers' time and labour at home is exported with them across the North Korean border. Leaving their families behind, the workers are unable to defect without making a tremendous personal sacrifice. Indeed, their families serve as leverage, ensuring obedience, and strict surveillance is practised to prevent these workers from coming into contact with undesirable elements.

Despite believing they may be able to make more money abroad, workers often make too little to save or send back to their families and are forced to work long regular shifts. Therefore, they have to supplement these already demanding shifts by working extreme hours at different locations in order to be able to save some money for themselves. Starting early in the morning and working deep into the night, sleep deprivation is inevitable. Moreover, workers are required by the North Korean authorities to earn a minimum amount, which is then handed over to the state. Although these quotas differ per location and workplace, they can rise to unrealistic heights making it incredibly difficult for workers to subsist. Taking a break from work is possible, but this also requires a worker to 'buy off' the time spent away.

The mandatory weekly self-criticism sessions, combined with a strictly regulated living environment means that these workers have few freedoms they can enjoy. The export of this system across the North Korean border is significant, as it shows that the state is capable of bringing its own systems of governance into a foreign country. As a comparison with other research and places shows, North Korean forced labour follows a regimented pattern which highlights the persistence of forced labour conditions across workplaces. We can also conclude that, unless this system is prevented from being exported, these harsh conditions can be replicated across the globe in any place willing to exploit the cheap labour offered by North Korea.

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CHAPTER IV

Uncovering North Korean Forced Labour in Africa: Towards a Research Framework

Tycho A. van der Hoog

Introduction

On the gently sloping shores of Dakar, where the red Senegalese earth and the blue Atlantic Ocean meet, stands the imposing African Renaissance Monument. Standing nearly fifty metres high, the bronze statue depicts a man, a woman, and a baby draped in simple cloth, emerging from a mountain top. Officially opened in 2010, the monument celebrates not only half a century of Senegalese independence from France, but a new era of African renaissance. At the same time, the monument is a compelling, yet controversial testimony to the fact that the Democratic People's Republic of Korea (DPRK) has been active in the continent for decades. The African Renaissance Monument was built by Mansudae Overseas Projects (MOP), a company owned by the North Korean regime, using forced labour. The project signals a wider development within the continent.

Indeed, the footprints of North Korean influence can be found all over Africa, most clearly in the form of monuments, museums, and government buildings constructed using forced labour. Such prominent projects, which are potent symbols of African nationalism, simultaneously adopt the socialist-realist visual style that is predominant in Pyongyang, the DPRK capital. It makes them highly recognisable markers. Less visible, however, is the forced labour that precedes the joyful opening of a new monument, museum, or government building. The research team's previous report highlighted the case of North Korean forced labour in Europe; now it is time to uncover similar practices in Africa.¹

1) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016).



Figure 1: The African Renaissance Monument, Wikimedia Commons.

Since the scrutiny of North Korean forced labour in Africa is at an early stage, the main purpose of this chapter is to sketch a framework for future research. First, it is vital to understand the historical context of North Korean activities in Africa. The seeds of the fruitful cooperation between the DPRK and African countries were sown during the liberation struggles that raged across the continent between the 1960s and 1990s. The subsequent section focuses on a single case study, namely Zimbabwe, to highlight this relationship. Finally, the foundations for a research framework are laid out in the third part, with special attention to methodology and sources. A number of preliminary findings serve as a conclusion.

North Korea in Africa

The roots of DPRK-Africa relations are worth exploring, because the historical context shapes these contemporary connections. In the aftermath of World War II, Africa decolonised rapidly and increasingly became the stage for the emerging Cold War. Meanwhile, the Korean War of 1950-1953 permanently divided South and North Korea, leaving both nations to venture into the world, competing in a quest for new alliances. The DPRK supported various African nationalist movements in their fight for autonomy through political support, military cooperation and establishing economic ties. In many cases, these movements now form the governments of today's independent nations.²

2) The transformation of (armed) liberation movements into political parties in Africa has significantly influenced contemporary political culture. In many African countries, the liberation movements of the pre-independence era continue to dominate the national government until today. Henning Melber wrote extensively on this issue regarding the case of southern Africa. See Henning Melber, 'Southern African Liberation Movements as Governments and the Limits to Liberation', *Review of African Political Economy* 36: 121 (2009): 451-459.

There are three possible reasons for DPRK support for African nationalist movements. First, it can be seen as an investment in the future. When these movements were able to achieve their goal of an independent state, it also meant a North Korean ally taking a seat at the international table of nation states. This also brought new export markets for weapons, technology, training services, and construction opportunities. Consequently, North Korea's international position was strengthened, especially from the viewpoint of inter-Korean competition. Secondly, these efforts were compatible with DPRK foreign policy. North Korea's ambitions for a reunified Korean peninsula, removal of US forces from the territory, state recognition, and economic goals 'were more likely to be achieved with the broadest possible international support', according to Andrea Berger.³ In addition, African independence movements and North Korea were united by their anti-imperialist struggle and shared socialist ideals.⁴ Clearly, there is an ideological dimension to these forms of aid.

Thirdly, the strengthening of bilateral relations bolsters the domestic propaganda of the North Korean regime. Official North Korean news reports regularly showcase the long-standing ties with the African continent. Clearly, these international links are important to the campaign that propagandises the Kim dynasty. Reports recount how Kim Ilŏng taught and inspired the African peoples to break the shackles of colonialism and white settler rule. State-owned media feature events in Algeria, Mozambique, Zimbabwe, Uganda, Namibia, Angola, Egypt, Togo, Tanzania, Guinea, Benin, Ethiopia, Rwanda, Zambia, Burkina Faso, the Seychelles, Nigeria, the Democratic Republic of Congo, Ghana, Equatorial Guinea, and Senegal. Recurring themes include the meetings between African leaders and Kim Ilŏng and the military assistance, inspiration, and guidance offered during the struggles for independence.⁵

Information on DPRK-African relations is readily available through an eclectic mix of United Nations reports, journal articles and books, news reports, (African) archival sources and working papers of think tanks, NGOs, etc. A comprehensive and continental overview (purely focusing on African affairs) is, however, not yet available. Therefore, efforts are being made to establish an open access database on bilateral relations between African countries and North Korea. The database will cover three categories: diplomatic ties, military cooperation, and construction work executed by North Korean forced labourers. The database is currently in development and hosted by the African Studies Centre Leiden. Below, a preamble is provided for each category. Details can be found on www.northkoreainfrica.com.⁶

3) Andrea Berger, *Target markets: North Korea's military customers in the sanctions era* (Oxford: Taylor & Francis, 2016), 13.

4) Ibid., 13-14.

5) 'Immortal contributions to the African countries' struggle for national liberation and society building', *Pyongyang Times*, 18 April 2017, accessed 18 April 2017, <https://kcnawatch.co/newstream/1492517111-357917519/immortal-contributions-to-the-african-countries%E2%80%99-struggle-for-national-liberation-and-society-building/>; and 'Kim Il Sung's Feats for Human Cause of Independence Praised by World Progressives', *KCNA*, 5 July 2017, accessed 5 July 2017, <https://kcnawatch.co/newstream/1499256165-675574310/kim-il-sung-s-feats-for-human-cause-of-independence-praised-by-world-progressives/>. The database 'KCNA Watch' contains hundreds of articles related to Africa.

6) I particularly want to thank Harro Westra for his invaluable contribution to the development of the database. The database is currently closed, but it will become open access in due time. If you have any suggestions, or if you are interested in accessing the database in its early stage, please send an e-mail to the contact address listed on www.northkoreainfrica.com.

Diplomatic ties

North Korea has friends all over Africa. Several of the most valuable bilateral ties were established during the various independence struggles in Africa of the second half of the twentieth century, when North Korea was in competition with South Korea for international recognition. Although many friendships are maintained to this day, it is crucial to recognise the contextual differences in time and space. During the second half of the twentieth century, the DPRK was a different state than the 'rogue, enemy state' of today. It is worth remembering that it was only in the 1990s that the DPRK system collapsed and a large-scale famine occurred. The first sanctions against the country were introduced in 2006, after the regime showcased its nuclear ambitions. The situation in the 1960s, when most relations with African nations began, was quite different.

Based on the available evidence, it can be assumed that around 25 African countries have maintained ties with the DPRK. Ordinarily, diplomatic relations were established shortly after independence of the respective African countries. However, the origins can often be found in the pre-independence foreign policies of the African nationalist movements fighting for autonomy. This chapter is therefore a plea for the introduction of African agency in the Cold War histories of the continent. Visits by African leaders to North Korea have played a significant role in fostering diplomatic ties. The DPRK developed an 'invitation diplomacy' whereby African leaders were regularly invited to Pyongyang.⁷ In many cases, these African leaders were not yet independent government officials and still acted as agents



Figure 2: Sam Nujoma receives a medal of Kim Il-sŏng, Pyongyang, 1986.

Photo courtesy of the National Archives of Namibia, number 13955.

northkoreainfrica.com.

7) Sang-Seek Park, 'Africa and two Koreas: a study of African non-alignment', *African Studies Review* 21, no. 1 (1978), 73-88.

of their respective liberation movements. Nonetheless, they received a warm welcome in Pyongyang as esteemed statesmen-in-waiting. Banquets, speeches, and tours around the capital were often part of the programme and must have left a lasting impression.

Several presidents of the first generation of independent African leaders were known to have visited Pyongyang prior to and after achieving national autonomy. A fitting example is Sam Nujoma, who visited Pyongyang several times in the 1980s in his capacity as president of the South West Africa's People's Organization (SWAPO), the most visible protagonist of Namibia's independence struggle. Nujoma was accompanied by several high-ranking SWAPO members, and on one particular occasion even received a prestigious medal from Kim Il-sŏng.⁸ A few years later, in 1990, Nujoma became the first president of an independent Namibia and awarded several large-scale construction projects to the North Korean company Mansudae Overseas Projects.

Seretse Khama, the first president of Botswana, is an example of a political figure who visited Pyongyang after his country became independent in 1966. Khama travelled to North Korea in 1976 (ten years after the establishment of diplomatic ties) and reportedly shocked his Asian counterparts with a provocative posture during a game of pool.⁹ In other cases, successive leaders of the same country have nurtured diplomatic ties with Pyongyang. Illustrative is the Democratic Republic of Congo. Mobutu Sese Seko (the then president of Zaire, as DR Congo was named) visited North Korea in 1974. Afterwards, his rhetoric became surprisingly similar to that of the DPRK.¹⁰ The subsequent leaders of DR Congo, even though they were rivals of Mobutu, also maintained warm diplomatic relations, expressed in the form of military cooperation and construction work involving DPRK forced labour. It shows that despite successive regime/leadership changes, the ties with North Korea remain close. The same can be observed in other countries.

As a result, North Korea has close connections to those in power in many African countries. Often, the first generation of independent African leaders held office for a long time, in some cases several decades. This has formed a solid basis for subsequent diplomatic initiatives, such as embassies, political support from international bodies such as the United Nations and aid projects. However, the two most important money-making instruments are military cooperation and the export of forced labour.

Military cooperation

Similarly, the origins of North Korea's military activity in Africa lie within the decolonisation of the continent. Berger argues that before 1990, military exports formed an important part of North Korea's foreign policy strategy. It was willing to gift or sell discounted weapons to state and non-state customers all over the world, including 'revolutionary groups across

8) Tycho A. van der Hoog, 'North Korean monuments in southern Africa: legitimizing party rule through the National Heroes' Acres of Zimbabwe and Namibia', (MA thesis, Leiden University, 2017).

9) Robert Rotberg, *Transformative political leadership: making a difference in the developing world* (Chicago: University of Chicago Press, 2012), 86.

10) Berger, *Target Markets*, 85.

Africa.¹¹ Indeed, many liberation movements in Africa benefited from North Korean-made weaponry. SWAPO in Namibia, the Zimbabwe African National Union – Patriotic Front (ZANU-PF), the National Front for the Liberation of Angola (FNLA), and other liberation movements received weaponry and training.¹² The decades of decolonisation were, in the words of Berger, the ‘golden era’ of North Korea’s arms trade.¹³ Assistance was often free of costs or sold at friendly rates.¹⁴

With the end of the Cold War, North Korea’s golden age for weapons export came to an end. However, a new market opportunity, namely selling its expertise with regard to repairing outdated weapon systems, brought new impetus. For instance, the Republic of Congo and Ethiopia bought spare parts for tanks made in the Soviet Union and Eastern Europe.¹⁵ Pyongyang has few competitors in the market for its aged, communist-bloc weaponry.¹⁶ In a similar vein, Pyongyang assists African countries, including Madagascar, Ethiopia, DRC, Namibia,¹⁷ and possibly Uganda,¹⁸ with establishing plants to produce small arms, light weapons, and artillery.

In Egypt, Syria, and Libya, factories for the production of short-range ballistic missiles were developed with North Korean assistance.¹⁹ Between 2008-2009, the Republic of Congo received repair services from Pyongyang for tanks, armoured vehicles, and rocket launchers. It is believed that the contacts were established through the regional offices of the Korea Mining and Development Trading Cooperation (KOMID, see the third part of this chapter for more information on this company). Similar practices occurred in Tanzania in 2013 and Eritrea in 2011.²⁰ In addition, Libya and Egypt aid North Korea in the sourcing of products that support its military projects. In 2003, the Wall Street Journal reported how two people brokered supplies for North Korea with a value of around 10 million USD, which was billed to a military factory in Egypt.²¹

Another interesting aspect of these multifaceted military collaborations is the training of African soldiers and policemen by North Korean instructors. Officers from the Korean People’s Army have trained forces in Syria, Egypt, Madagascar, Libya, Zimbabwe, Uganda, Benin, Nigeria, DRC, Mozambique, the Seychelles, and Namibia. This is public knowledge: (former) African presidents (such as Robert Mugabe from Zimbabwe and Yoweri Museveni from Uganda) have openly praised North Korea’s help. Training courses included combat operations, aircraft, small arms and tanks procedures, ‘leadership protection’ and ‘homeland security’, intelligence operations, reconnaissance, and unarmed combat.²²

11) Ibid., 4.

12) van der Hoog, ‘North Korean monuments’; and Berger, *Target Markets*, 85.

13) Berger, *Target Markets*, 33.

14) Ibid., 51.

15) Ibid., 44.

16) Ibid., 53.

17) van der Hoog, ‘North Korean monuments’.

18) Berger, *Target Markets*, 45.

19) Ibid., 45.

20) Ibid., 131-137.

21) Ibid., 50.

22) Ibid., 47-49; and van der Hoog, ‘North Korean monuments’.

It is clear that this kind of collaboration, which often started decades ago, retains its significance today. Since the 1970s, successive Ugandan leaders have sought North Korean help with training of military personnel; weapons sales and repair; the construction of an ammunition, firearms, and landmines factory; and the construction of housing. This is similar to the situation in the DRC, where successive regimes have maintained ties with North Korea. Despite heavy international pressure, most notably from the United States, Uganda also maintains warm diplomatic relations. As late as 2015, North Korea was training a new cadre of 400 Ugandan police officers.²³ North Korea deployed hundreds of military advisers to Ethiopia, who contributed training and supervision to troops fighting in the war against Somalia (1977-1978). Ethiopia also received battle tanks, artillery, and other weapons. In the 1980s, North Korea helped with the construction of two weapons factories. Indeed, it is suspected that North Korea has been active in Ethiopia until quite recently.²⁴

Berger points out that ‘the number of North Korean clients – regardless of the value of their custom – is therefore a significant metric of success for the sanctions regime as well.’²⁵ Despite the sanctions regime, ‘a host of countries continue to find North Korea an attractive partner.’²⁶ Military projects are a prime example of bilateral ties between African



Figure 3: The Statue of the Unknown Soldier of the National Heroes' Acre of Namibia, built by Mansudae Overseas Projects.

The statue closely resembles the Namibian leader Sam Nujoma. Photo by author.

23) Berger, *Target Markets*, 80-85.

24) *Ibid.*, 114-122.

25) *Ibid.*, 3.

26) *Ibid.*, 4.

countries and the DPRK. In some cases, military projects are coupled with construction projects and it becomes more difficult to make a distinction between the two, as the example below, about the construction of a new ammunitions factory, illustrates.

Construction work

Around 20 African governmental buildings have been attributed to Mansudae Overseas Projects, an international subdivision of the Mansudae Art Studio, which is an art institute in Pyongyang, founded in 1959, and controlled by the North Korean government. The sheer size and importance of Mansudae cannot be underestimated. Reportedly, the institute employs around 3,700 employees and is responsible for almost the entire memorial landscape of Pyongyang, including landmarks such as the Tower of the Juche Idea, the Arch of Triumph, and the Mansu Hill.²⁷

At least 15 African countries have awarded contracts to Mansudae. The resulting nationalist constructions have caught the local public's attention. Angola, for example, commissioned the Memorial Tower, the Peace Park, and the Praia Park statues. Benin ordered the Statue of Béhanzin, a former king. Botswana contracted Mansudae to construct the Three Dikgosi Monument for its capital Gaborone. The Republic of Congo commissioned the Monument of Independence and a Statue of the President, while the Democratic Republic of Congo ordered a Statue of Patrice Lumumba and a Statue of Laurent Kabila, two leaders of contemporary Congo. In Equatorial Guinea, Mansudae built a stadium and conference hall. In Ethiopia, the company constructed the Tiglachin Monument, a memorial to Ethiopian and Cuban soldiers involved in the Ogaden War. The company also made the Bronze of General Abdoulaye Soumaré that stands in the Malian capital, Bamako. Visitors to Mozambique can find the Samora Machel Statue, a tribute to the country's first president. Madagascar constructed various government buildings with the help of North Korea. In Namibia, Mansudae built the National Heroes' Acre, the State House, the Independence Memorial Museum and the Military Museum. And in Senegal, the company was commissioned for the African Renaissance Monument that is mentioned in the introduction to this chapter. Finally, in Zimbabwe one can find the National Heroes' Acre and the statue of Joshua Nkomo.²⁸

This is only the tip of the proverbial iceberg. The aforementioned projects are well-known and catch public attention, but research in Poland shows a myriad of North Korean businesses active in different economic sectors, most notably ship building and construction work, albeit operating largely below the radar. Given that governance in many African countries can be considered weaker than in the European Union, combined with

27) Meghan Kirkwood, 'Postindependence Architecture through North Korean Modes: Namibian Commissions of the Mansudae Overseas Project', in *A Companion to Modern African Art*, eds. Gitti Salami and Monica Visonà (Oxford: John Wiley & Sons, 2013), 550-551; and 'UNAM Archives, PA3/5/3/273', *Pyongyang Review* (Pyongyang: Foreign Languages Publishing House, 1988), 118.

28) UN Security Council, Report of the Panel of Experts established pursuant to resolution 1874 (2009), S/2017/150 (27 February 2017), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4F-F96FF9%7D/s_2017_150.pdf (accessed 22 May 2018), 44.

the historically intimate ties between Africa and the DPRK, it is highly likely that there is much more North Korean forced labour in Africa than we are currently aware of.

Case study: Zimbabwe

Zimbabwe is a landlocked country in southern Africa that became independent in 1980 after decades of British colonialism and white settler rule.²⁹ It has been selected as a case study due to its historical relationship with the DPRK, which, in many ways, reflects the dynamics that characterise the ties between North Korea and African countries. It is a case that illustrates the three main domains of collaboration, namely diplomatic ties, military cooperation, and construction work.

Diplomatic visits

Like so many other cases in Africa, the roots of the cooperation between the DPRK and Zimbabwe are to be found in the decolonisation struggle. In the 1970s, the DPRK supported Robert Mugabe's Zimbabwe African National Union (ZANU), exiled to bases in Tanzania and Mozambique.³⁰ The fact that a significant part of Africa's liberation struggles took place in exile emphasises the importance of taking a regional (or comparative) perspective while studying these issues, as opposed to the methodological nationalism approach that currently prevails in the humanities.³¹ North Korea provided the military wing of ZANU (the Zimbabwe African National Liberation Army, or ZANLA) with both firearms and military training. Indeed, one group of soldiers even received training in a camp near Pyongyang.³²

Robert Mugabe met Kim Il-sŏng for the first time in May 1978, when he travelled to Pyongyang. Although Zimbabwe was not yet an independent country, the DPRK acknowledged Mugabe as the official leader of the country.³³ Two years later, in 1980, Zimbabwe became an independent nation. Mugabe visited Pyongyang again on 10 October 1980, this time in his official role as the Prime Minister of Zimbabwe. He received a warm welcome

29) Sabelo J. Ndlovu-Gatsheni, 'Patriots, Puppets, Dissidents and the Politics of Inclusion and Exclusion in Contemporary Zimbabwe', *Eastern Africa Social Science Research Review* 24, no. 1 (2008), 85-95.

30) Zimbabwe's liberation struggle was quite a confusing constellation of different organisations. Mugabe and others formed the Zimbabwe African National Union (ZANU), its military force was named the Zimbabwe African National Liberation Army (ZANLA). Joshua Nkomo and others founded the Zimbabwe African People's Union (ZAPU), its military force was named the Zimbabwe People's Revolutionary Army (ZIPRA). ZANU (and ZANLA) and ZAPU (and ZIPRA) fought for Zimbabwean independence, but were also rival organisations. In order to form an alliance against white minority rule, the organisations formed the Patriotic Front (PF). During the first independent election campaign of 1980, the movements competed as political parties: ZANU-Patriotic Front (ZANU-PF) and Patriotic Front-ZAP (PF-ZAPU). Mugabe's ZANU-PF won the elections. After the Gukurahundi genocide (discussed later in this chapter), which effectively wiped out the Nkomo-led ZAPU-PF opposition), a Unity Accord was brokered in 1987, resulting in a merger. Effectively, ZAPU-PF was absorbed by ZANU-PF. ZANU-PF has ruled Zimbabwe since independence in 1980.

31) Lyong Choi and Jeong, Il-Young, 'North Korea and Zimbabwe, 1978-1982: From the Strategic Alliance to the Symbolic Comradeship between Kim Il Sung and Robert Mugabe', *Cold War History* 17, no. 4 (2017), 336; and Andreas Wimmer and Nina Glick Schiller, 'Methodological Nationalism and Beyond: Nation-State Building, Migration and the Social Sciences', *Global Networks* 2, no. 4 (2002), 301-334.

32) Choi and Il-Young, 'North Korea and Zimbabwe', 336.

33) *Ibid.*, 337.

from Kim Ilŏng, and, in return, ‘showed appreciation to North Korean leaders for their warm-hearted support’ for the liberation of Zimbabwe. During his visit, Mugabe not only joined celebrations for the 35th anniversary of the foundation of the Korean Worker’s Party, he also signed the Treaties of Friendship and Cooperation and asked Kim Ilŏng to maintain his military support for Zimbabwe.³⁴ The two parties reached an agreement on the form this military cooperation would take in June 1981, when the DPRK Premier Ri Chongok visited Harare.³⁵

Such visits, exemplary of the DPRK’s invitation-based diplomacy, have played an important role in nurturing the diplomatic relationship between the two countries. North Korea’s state-run newspapers joyfully reported these exchanges, which were excellent sources of domestic propaganda. They illustrated the perceived global dissemination of North Korean ideals and the might of the DPRK leadership. In January 1981, a further symbol of mutual appreciation was established with the setting up of the *Juche* Idea Study Centre at Zimbabwe University. This testified to the mutual respect between the two countries.³⁶ *Juche* is DPRK’s official ideology of ‘self-reliance’.³⁷ As a sign of appreciation, and perhaps mirroring China’s ‘panda diplomacy’, Mugabe gifted two rhinos to Kim Ilŏng in the 1980s, named Zimbo and Zimba. Unfortunately, both animals died shortly after their relocation to North Korea. In 2010, Zimbabwe sold a number of baby elephants, zebras, giraffes, and other animals to Pyongyang Zoo.³⁸

As a consequence of North Korea’s involvement in ZANU’s liberation struggle, when the party came to power after independence, sections of Zimbabwe’s national leadership has maintained close ties with the DPRK, not least Robert Mugabe, who personally benefited from DPRK support and visited Pyongyang on several occasions. Moreover even following Mugabe’s forced departure, as a result of an unexpected military-led coup in 2017, a number of powerful cabinet members have kept up their personal ties with the DPRK. Since 1 December 2017, Perence Shiri has served as the Minister of Lands, Agriculture and Rural Resettlement. Shiri, who notoriously called himself ‘Black Jesus’ as a result of his ability to determine whether someone lives or dies, was the commander of the Fifth Brigade (see the subsequent paragraph for details) and an important member of the ZANU-PF establishment. As the next paragraph shows, the Fifth Brigade was trained and armed by North Korean instructors. Similar to Mugabe, Piri has personal experiences with the North Korean regime.

Military Cooperation

Perhaps the foremost example of military cooperation between North Korea and Zimbabwe is the establishment of the above-mentioned Fifth Brigade, a notorious armed force that

34) Ibid., 329, 339.

35) Ibid., 340.

36) Ibid., 330.

37) Brian Reynolds Meyers, *North Korea’s Juche Myth* (Busan: Sthele Press, 2015), 2-3.

38) ‘Zimbabwe Restocks Pyongyang Zoo’, *North Korea Economy Watch*, 14 May 2010, accessed 31 January 2018, <http://www.nkeconwatch.com/2010/05/14/zimbabwe-restocks-pyongyang-zoo/>; and ‘Zimbabwe: Officials Defend Sale of Animals to North Korea’, *The New York Times*, 20 May 2010, accessed 31 January 2018, <http://www.nytimes.com/2010/05/20/world/africa/20briefs-Zimbabwe.html>.

was loyal to Mugabe.³⁹ About a hundred DPRK military advisers arrived in Zimbabwe in 1981 to train the brigade, which was destined to be a special wing of the Zimbabwe National Army. While the British military trained and oversaw other Zimbabwean brigades, Mugabe specifically requested the establishment of a separate military entity, which only answered to him and was trained and armed by the DPRK.⁴⁰

Mugabe's rival, Joshua Nkomo, warned that Mugabe 'would use the Fifth Brigade as a private army to create a one-party state – on the North Korean model.'⁴¹ Unfortunately, he was right. In 1983, the Fifth Brigade was deployed in a viciously violent campaign in Matabeleland, a region in the west of Zimbabwe that is home to the Ndebele ethnic group, many of whom were opposed to Mugabe. Approximately 20,000 people were massacred and there were widespread atrocities such as rape and theft. This campaign was called 'Gukurahundi' in the local Shona language, which roughly translates to 'the wind that sweeps away the chaff before the spring rains.' It wiped out virtually all opposition to Mugabe in Matabeleland, strengthening his position, which until then was mainly based in the Shona speaking regions of the country. Lyong Choi and Il-young Jeong write that 'North Korea cannot be free from criticism regarding its contribution to the genocide' arguing that ultimately 'the North Koreans simply provided the methods for Mugabe's quest.'⁴² By August 1983, most North Koreans had left Zimbabwe. Only a few military advisers remained to assist in firearm and tank operations.⁴³ It is unclear what happened to these advisors.

Construction work

Two years after Zimbabwean independence, in 1982, the National Heroes' Acre of Zimbabwe was completed. Designed and built by the North Korean institute, Mansudae Overseas Projects, the monument functions as a burial ground for Zimbabwe's heroes, mainly from the liberation struggle. The remembrance site is located a few kilometres outside of the capital, Harare, and closely resembles a similar monument in Pyongyang. The extensive site can accommodate around 5,000 people for ceremonies and national celebrations. The monument has around 170 graves and features emotive graphic murals that recount Zimbabwe's history, bronze statues of fierce soldiers, The Tomb of the Unknown Soldier, and a large, black obelisk. The shape of the site resembles two AK-47s, the gun that symbolised the country's liberation struggle.⁴⁴

A more recent example of Mansudae's involvement in Zimbabwe is the erection of the statue of Joshua Nkomo, a leading figure in the national liberation struggle and long-time rival of Robert Mugabe.⁴⁵ Originally built in 2010, it took years to find a suitable spot

39) van der Hoog, 'North Korean monuments'.

40) Choi and Il-Young, 'North Korea and Zimbabwe', 140.

41) Ibid., 67, citing Paul Moorcraft, *Mugabe's War Machine: Saving or Savaging Zimbabwe?* (South Yorkshire: Pen & Sword Books Ltd., 2011), 101.

42) Ibid., 343.

43) Ibid., 343–344.

44) For details, see van der Hoog, 'North Korean monuments', 22–23.

45) It is rumoured that Mansudae has already built two statues of Robert Mugabe, costing around 5 million USD. Since these claims are currently unproven, they should be treated cautiously. Juwŏn Chŏng (정주원), 'N. Korea Builds Statues of Zimbabwe's President: Report', *Korea Herald*, 25 March 2014, accessed 17 June 2017, <http://www.koreaher->



Figure 4: The National Heroes' Acre of Zimbabwe. Seen from above, the monument resembles the shape of two AK-47's. Photo by author.

because of opposition from Nkomo's followers. Finally, in the ultimate bitter irony, the statue has been placed in Bulawayo, in the heart of Matabeleland, where, as previously mentioned, three decades ago large sections of Nkomo's base were murdered.⁴⁶

In conclusion, the case of Zimbabwe embodies the three major facets of typical DPRK-African relations, i.e. a warm friendship, originating from the nationalist struggles for autonomy, and includes diplomatic exchanges; the training of military personnel; and the construction of monuments such as the National Heroes' Acre and the Statue of Joshua Nkomo. Even after the historical power transition of 2017, almost four decades after Zimbabwean independence, influential government figures with personal connections to the DPRK remain in power. Whether, and to what extent, forced labour is involved, is unclear and requires further research. The next section therefore explores ideas about how the phenomenon of forced DPRK labourers in Africa can be investigated.

Investigating forced labour in Africa

The primary task for scholars is to reveal the intricate business networks that facilitate North Korean forced labour in Africa. Two major companies emerge as key players in this regard.

ald.com/ view.php?ud=20140325000587&ACE_SEARCH=1; and 'Zimbabwe Signs \$5m Contracts with DPRK for Statue and Museum', *North Korean Economy Watch*, 25 March 2014, accessed 31 January 2018, <http://www.nkeconwatch.com/2014/03/12/zimbabwe-signs-5m-contracts-with-dprk-for-statue-and-museum/>.

46) Sabelo J. Ndlovu-Gatsheni and Wendy Williams, 'Reinvoking the Past in the Present: Changing Identities and Appropriations of Joshua Nkomo in Post-Colonial Zimbabwe', *African Identities* 8, no. 3 (2010), 181-208.

Firstly, Mansudae Overseas Projects, which, as we have seen, is relatively well-known for its monuments, museums, statues, government buildings, and other constructions throughout Africa. Secondly, the name of KOMID regularly appears in United Nations Panel of Expert reports. The panel believes that KOMID has offices in Uganda and Namibia and that Namibia is responsible for 'marketing North Korean arms and related services in southern Africa.'⁴⁷ KOMID is directed by the Second Economic Committee of the Workers' Party of Korea.⁴⁸

The biggest challenge, however, relates to identifying and analysing the myriad of smaller companies that operate on the African continent. According to Berger, contact with African governments and businesses are made using North Korean state-owned enterprises, who often conceal their dealings using a range of brass-plate companies.⁴⁹ This makes it very difficult to identify them. DPRK companies notoriously change names and have complex paper trails. Often, the companies are assisted by embassy staff.⁵⁰ In such cases, we see hybrid forms of government-assisted companies and it becomes impossible to make a clear distinction between the two.

In terms of methodology, DPRK forced labour in Africa offers a challenging new prospect. Research on relations between North Korea and Africa is in its infancy, with a small number of published papers in the last few years, while research on the issue of forced labour is virtually non-existent. Interestingly, most research focuses on national case studies. This chapter argues for taking a comparative and regional approach, especially in the case of Africa, given that large parts of the decolonisation wars were fought in exile and contemporary North Korean companies operate from different locations.

In addition, the context of events (diplomatic actions, military deals, and construction work) is vital. There have been enormous historical changes between the golden age of Africa's independence – the period from 1945 to the 1970s – and today.⁵¹ The independence of African countries, the end of the Cold War and the collapse of the North Korean state in the 1990s, and the start of the international sanctions against the DPRK in 2006 are major milestones. Especially in the initial years following the separation of North- and South Korea, North Korea was much more developed and prosperous than the South. Moreover, it had an appealing anti-imperialist, anti-racism ideology. At this time, there were no sanctions against the DPRK. From this point of view, it is not surprising that the DPRK fostered ties with African allies. It is however interesting that, in some cases, these relations are still nurtured, despite heavy international pressure and changing conditions.

It is often said that the availability of sources is the main problem when it comes to researching North Korea. While that may be true to some extent, it ignores the fact that there are a wide variety of sources available in relation to the DPRK's activities in other

47) Berger, *Target Markets*, 60.

48) Ibid., 3.

49) Ibid., 58–60.

50) Ibid., 60.

51) Stephen Ellis, 'Africa's Wars of Liberation: Some Historiographical Reflections', in *Trajectoires de liberation en Afrique contemporaine: Hommage à Robert Buijtenhuijs*, eds. Piet Konings, Wim van Binsbergen, and Gerti Hesseling (Paris: Khartala, 2000), 73.

countries. The key to accessing these sources, however, is engaging in fieldwork. Below, a number of possible sources are discussed:

- A country's National Archives form a natural starting point for any historical research. However, it is unlikely that the state archives contain valuable information on bilateral ties with North Korea, let alone on contemporary forced labour. African archives are under severe pressure and, unfortunately, often badly maintained. In addition, ties with the DPRK are becoming increasingly pressured by other countries and international organisations, making it less likely that this kind of information is publicly available. For example, the National Archives of Namibia only holds one file on North Korea, which is not yet accessible due to legal constraints (certain files are only disclosed after 25 years).⁵² It is likely, however, that some files will be released in future.⁵³
- Because, in many cases, the relations between African states and the DPRK stem from North Korea's support for independence movements, it can be assumed that party archives hold much more information than state archives. Regrettably, many party archives are not accessible to the public, in some cases not even their addresses are known.
- Personal archives are much more promising than their state or party owned counterparts. Many African members of the liberation movements visited Pyongyang and recorded their memories of those days. Mose Penaani Tjitendero, a member of the South West Africa People's Organization (SWAPO), Namibia's main liberation movement, is a good example. His personal collection of books, letters, and other documents are held by the University of Namibia Archives and contain several North Korean books, a map of Pyongyang, and other interesting materials.⁵⁴ This indicates that Tjitendero visited North Korea, perhaps more than once. Ironically, he is now buried in a cemetery built by the DPRK.
- Where written documents are scarce, oral history can provide new opportunities. Interviews with African freedom fighters or defected North Korean officials can shed light on forgotten history or contemporary practices.
- News reports, especially from African media, are frequently ignored, despite containing valuable information. The main obstacle is access to the extensive but fragmented African media landscape, but digital developments offer new possibilities. The digital availability of North Korean newspapers is also increasing.

52) National Archives of Namibia (for Bilateral relations with Korea democratic people's republic of Korea; MFA 031, PE/082; accessed 17 June 2017).

53) The archives of the Republic of Korea are also worth exploring. In addition, the Wilson Center has digitalised several documents from archives all over the world, through the project: 'The Two Koreas and the Third World'. See the website: <http://digitalarchive.wilsoncenter.org/collection/146/the-two-koreas-and-the-third-world>.

54) The Tjitendero Collection can be accessed at the University of Namibia Archives. An example of the archived material is: UNAM Archives, PA3/5/3/273, *Pyongyang Review* (Pyongyang: Foreign Languages Publishing House, 1988), 118.

- Naturally, the Chambers of Commerce in African countries will contain details on North Korean companies. Once the names of North Korean-African companies are known, the records of the local Chambers of Commerce can be consulted.
- In known cases of North Korean forced labour, the national labour inspection agencies might hold reports or other details on such practices. In the case of Poland, a labour inspection report revealed the terrible circumstances faced by North Korean forced labourers.⁵⁵
- Names of companies or individuals associated with forced labour can be run through the Offshore Leaks Database to see if any information comes up. The database comprises data from the Panama Papers, the Offshore Leaks, the Bahamas Leaks, and Paradise Papers and covers more than 680,000 offshore companies, foundations, and trusts. It is a wealth of information awaiting scrutiny.⁵⁶
- The public library of US diplomacy, more commonly known as the Wikileaks US Cables, amalgamate more than three million leaked diplomatic cables of the United States of America. Some cables mention DPRK activity and can lead to interesting names and trade deals.⁵⁷
- Sanctions, either multilateral, such as those imposed by the United Nations, or bilateral, such as those of the United States, contain names of sanctioned North Korean businesses and key figures. In addition, the reports of the United Nations Panel of Experts, who monitor sanctions against the DPRK, are of great interest to researchers of North Korea. Their frequently published reports deal with several African countries in terms of military cooperation and construction work.

Conclusion

The main objective of this chapter is to provoke ideas about a framework to study North Korean forced labour in Africa, and stimulate further work in this field. A number of preliminary observations can be made: Firstly, the work of forced DPRK labourers in Africa has a different character than elsewhere (for instance, in Poland), which was researched in the previous report by the Slaves to the System project team. The North Koreans design and construct prominent government buildings, including museums, cemeteries, and monuments. This indicates that the cooperation between African states and the DPRK is not only influenced by money, but also by ideology. In other words, it is not only the bricks that are important, but the ideas that these bricks represent.

Secondly, the historical relations of the DPRK with Africa differ considerably from other places, such as Europe. The historical context of the liberation struggle has a profound influence on contemporary relations and is essential to understanding why some African countries act as a loophole in the international sanctions regime. Thirdly, it becomes clear that the financial networks of the DPRK intertwine and merge with their diplomatic networks,

55) Breuker and van Gardingen, *Slaves to the System*.

56) See 'Offshore Leaks Database', *The International Consortium of Investigative Journalists*, accessed 31 January 2018, <https://offshoreleaks.icij.org/>.

57) See 'Plus D: Public Library of US Diplomacy', *WikiLeaks*, <https://search.wikileaks.org/plusd/>.

resulting in hybrid entities that are especially challenging to investigate. Fourthly, we are in dire need of evidence-based research to supplement the vague anecdotes, stereotypes, and assumptions that are prevalent in the current research field.

Fifthly, a wide array of under-utilised sources is available, a number of which are detailed in this chapter. Finally, it is highly likely that we only see the tip of the iceberg of North Korean activities in Africa is visible, in the form of the public monuments built by Mansudae Overseas Projects, such as the African Renaissance Monument in Senegal, the National Heroes' Acre in Zimbabwe, and the Statue of Joshua Nkomo. It is certainly possible that DPRK labourers are involved in a range of illegal activities that occur 'under the radar'. It is our hope that these practices will be uncovered in the near future.

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CHAPTER V

Employing North Korean Workers in the Czech Republic

Jan Blinka

Introduction

Between 1998 and 2008, several hundred North Koreans worked for roughly ten Czech companies. They were mostly young women employed in the shoemaking, textile, and food industries. Initially, their presence attracted little attention from the media or state authorities. However, as media coverage increased, so did interest in their working and living conditions. In particular, journalists inquired about salaries and the workers' freedom of movement and communication. The workers from North Korea were labelled as modern slaves and it was suspected that most of their earnings were handed over to the North Korean authorities, thus helping to fund Pyongyang's nuclear and ballistic programmes. Kim T'aesan (김 태 산), a former North Korean diplomat stationed in the Czech Republic at the time witnessed workers having to hand over more than fifty per cent of their salaries for the benefit of the North Korean regime. His observations contributed to the fact that, in mid-2006, the Czech government decided to stop issuing the necessary work visas. In February 2008, the last North Korean labourers left the Czech Republic and thus the country joined other nations that, for political and human rights reasons, have decided to end these practices.

The phenomenon of North Korean workers in Czech firms is currently not well researched in either the Czech or English languages. While aiming to fill the knowledge gap, this chapter describes and analyses, within the context of the Czech case study, the main characteristics of the system of acquiring a North Korean workforce. In addition, it describes the overall working and living conditions for North Koreans, as well as the situation in individual companies, and the attitudes of employers, state authorities, and international actors.

The main findings of the research are presented in the summary. This chapter argues that, although the North Korean workers enjoyed relatively better living and working conditions compared to those in other countries, they were subjected to extensive control by North Korean managers and minders, including restrictions on freedom of movement and communication. Furthermore, they were obliged to hand over a substantial part of their salaries to the North Korean authorities, who subsequently sent the money to North Korea via their business entities in China. In the years 1998-2004, when scrutiny from journalists and the Czech state authorities was not as extensive, the workers were left with such little money that they experienced hunger and malnutrition. The situation improved with the increase in media attention and inspections by both the Labour Office and the Foreign Police. Although it was primarily a political decision, international criticism catalysed by the foreign media, as well as the witness Kim T'aesan, finally pressured the Czech government into ending the practice of issuing working visas to North Korean applicants.

Methodology

Before this research, the topic of North Korean workers in the Czech Republic had not been extensively studied. Only short articles, mostly of journalistic provenance, are available in English. The reader can learn from them that North Koreans employed in several Czech companies faced exploitation and were obliged to hand over substantial portions of their salaries to the North Korean authorities. Often, however, the broader context is missing. The most comprehensive piece on this issue was published by Barbara Demick in the *Los Angeles Times*.¹ Some articles mention former diplomat Kim T'aesan, who was in charge of managing workers in Czech enterprises. One of his witness statements is included in the report 'The Conditions of the North Korean Overseas Labour' by the International Network for the Human Rights of North Korean Overseas Labour. This presents the 'Czech case' for employing North Koreans in an international context. The authors only briefly describe how the money earned by the workers is transferred to North Korea.

Moreover, sources in the Czech language are also scarce and are mostly limited to newspaper articles. They are more numerous than English-language articles, as some journalists – for example, Ondřej Kundra from the weekly *Respekt* – followed the case for several years. The only source of an, at least partially, academic nature is the work by sociologist Marie Jelínková.² She describes the working and living conditions of the North Korean workers in question, as well as the attitudes of employers and the Czech authorities. The crucial limitation of this research, however, is a complete lack of sources, names, and places. When asked about sources, Jelínková stated that she had conducted dozens of interviews for the study, as well as analysis of documents and personal observations. Despite this problematic aspect, her research is, to date, the most comprehensive paper published about the employment of North Koreans in Czech enterprises.

1) Barbara Demick, 'North Koreans Toil Abroad under Grim Conditions', *Los Angeles Times*, 27 December 2005, accessed 1 February 2018, <http://silabilm.blogspot.com/2006/12/north-korean-workers-in-middle-east.html>.

2) Marie Jelínková, 'Případová studie: Severokorejky v Česku' (conference proceedings of *Obchodování s lidmi, problematika nucené práce*, Brně, Czech Republic, 15 December 2006): 62.

This particular research tries to fill these gaps in knowledge. The author has compiled all available sources, and comprehensively analysed the case of employing North Korean labourers in Czech firms. The extensive qualitative research, consisting of two parts, was conducted during the first half of 2017. The first part concerned the gathering and analysing of existing sources in the English and Czech languages. Moreover, the Czech authorities, namely the Labour Office, Czech Statistical Bureau, Ministry of Foreign Affairs, Ministry of Labour and Social Affairs, and Foreign Police were contacted for additional data. The Czech Statistical Office in particular provided valuable information. Second, comprehensive interviews, each of approximately 1.5 hours, were conducted with two former employers and a manager from a brokerage agency. Furthermore, the raw data from interviews with the previously mentioned former North Korean diplomat Kim are used in this chapter. These interviews are particularly valuable sources of information as they provide details from the perspective of an employer, a broker, and a North Korean authority. The only group not represented by the interviews is the employees; they were, however, beyond the reach of this research.

It should be noted that the findings are not free from bias. Due to the time lapse – the last workers left the Czech Republic nearly ten years ago – the amount of available data is limited. Most of the raw data – such as the inspection reports – from the Labour Office and other authorities simply do not exist anymore, as they are not archived for such a long period. For the same reason, it was not possible to make any observations or collect data in the field. Also, the number of direct participants willing to be interviewed was limited, especially due to the controversies related to the employment of North Korean workers. Even when they agreed to an interview, the data obtained from this source was at risk of being deliberately distorted or manipulated by the interviewee without the possibility of verifying them retrospectively. This chapter, therefore, places emphasis on newspaper articles published at the time, as they usually involved extensive work and research done by journalists in order to validate the information.

North Korean workers: who were they and where did they work?

According to the Czech Statistical Office, in 1998 there were 27 North Korean workers in the Czech Republic, but the number began to rise from this year. By 2006, when the numbers peaked, the Labour Office registered nearly 400 North Koreans. Subsequently, there was a noticeable decline in the number of North Korean workers, relating to the Czech Ministry of the Interior's decision not to grant additional work visas. More than half of the North Koreans working in the country left the Czech Republic during 2007 and the remainder left in the first few months of 2008. By December 2008, the Labour Office did not register a single employee from North Korea.³ Even though it is difficult to quantify an exact number, several hundred North Koreans were employed by various companies in the Czech Republic from 1998 until 2008.

3) Czech Statistical Office (for Raw Data: Foreigners in the Czech Republic, Employment of the Foreigners based on their Citizenship and other Data), provided via email, April 2017.

Employing North Korean Workers in the Czech Republic

Number of workers from North Korea employed in the Czech Republic											
Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total	27	42	58	119	200	222	285	355	399	178	-
Female	22	38	57	116	195	219	272	339	383	?	-

(Table 1) Source: Czech Statistical Office.

North Koreans were employed in accordance with Czech law. The Employment Act stipulates that a foreigner can be recruited and employed only if he or she possesses a valid work permit and a residence permit. The work permit is requested from the Labour Office by the foreigner in question prior to arrival, or through an employer. This permit allows the foreigner to work in the Czech Republic with a particular employer and in a particular function for up to two years.⁴ After a foreigner obtains a work permit, they are covered by the same Labour Code as a Czech national. This means, among other requirements, that the employer has to pay for social and health insurance, and the employee is not allowed to work more than eight hours a day while receiving at least a minimum wage.⁵

As was common practice among businesses hiring North Koreans (or any other foreigners), the employer informed the Labour Office that they were unable to find a local workforce and requested that the Labour Office issue work permits for workers to be obtained from North Korea. The majority of North Koreans held temporary work permits, allowing them to be employed for a fixed period of time. According to Kateřina Soukupová, manager of M Plus brokerage agency, North Korean workers were initially allowed to stay for two years, which would correspond with the provisions of the Employment Act.⁶ However, the length of the work permits was often prolonged, so some of the workers stayed up to five years. Milan Medek, a former employer of North Korean seamstresses at the company Modela, explains:

They normally ended their stay here after three years. As soon as their placement period ended, I began to negotiate with the North Korean Embassy to find out if they would let them stay any longer, because I did not want to teach new workers. First, they told me that it was not possible, but then they agreed to leave them here for another year. I managed to persuade them to prolong [the workers' stays] one more time, but that was final. We were the only company that employed them for five years; others had to replace their workers from North Korea after three years.⁷

The fact that a five-year placement of North Korean workers abroad was something extraordinary is further supported by Kim, a former North Korean diplomat, who said that the normal length of workers' stay abroad was three years.⁸

4) Mzdovapraxe. Zákon o zaměstnanosti. 435/2004 Sb (13 May 2004), <http://www.mzdovapraxe.cz/archiv/dokument/doc-d1836v7568-zakon-c-435-2004-sb-o-zamestnanosti/?&docpage=1>.

5) 'V Žebráku a Železné pracují šičky z KLDŘ', Mladá fronta DNES, 8 April 2003, accessed 22 March 2018.

6) Kateřina Soukupová (manager of M Plus brokerage agency), interview with the author, 13 April 2017.

7) Milan Medek (employee Modela brokerage agency), interview with the author, 9 May 2017.

8) Kim T'aesan (former North Korean diplomat), interview by researcher of LeidenAsiaCentre, 22 March 2016.

Due to these work permit extensions, it is not possible to calculate the exact number of individual North Koreans who were working in Czech companies. The total, however, will have been at least several hundred workers. The majority of these employees were women between 20 and 39 years old. As data from 2005 shows, in the age groups 20–24 and 25–39, there were 250 and 106 people, while the other age groups were represented by just few individuals.⁹

In the Czech Republic, North Koreans worked in the manufacturing industry and occupied positions that did not require secondary education. According to the International Standard Classification of Occupations, most North Koreans were employed as ‘craft and related trades workers’ or as ‘plant and machine operators and assemblers’.¹⁰ More specifically, they were employed in the shoemaking, textile, and food manufacturing industries.

Employment of North Koreans in the Czech Republic by nationality and age group; 31 December 2005								
Year / Age Group	Total	-19	20-24	25-39	40-54	55-59	60-64	65+
2005	363	2	250	106	4	-	1	-
2006	407	3	259	138	5	1	-	1

(Table 2) Source: MLSA CR-ESA, MIT CR.

North Korean Workers in the Czech Republic by the ISCO, 2003–2007					
ISCO Major Groups*	2003	2004	2005	2006	2007
2		1	2	2	
3					1
4		1	1		
7	207 (203F)	268 (257F)	321 (309F)	372 (359F)	149 (149F)
8	16 (16F)	15 (15F)	26 (26F)	23 (22F)	27 (27F)
9			4 (4F)	2 (2F)	
Total	222 (219F)	285 (272F)	354 (339F)	399 (383F)	177 (176F)

F = Female. *See footnote.¹¹ (Table 3) Source: Czech Labour Office.

Due to a lack of data, it is not possible to identify all the companies that employed North Koreans. In December 2005, when the number of North Korean workers reached its peak, the Czech Ministry of Labour and Social Affairs stated that they worked in six localities in the country.¹² This information seems to be based on media reports, which informed the

9) Czech Statistical Office, *Raw Data*, accessed 2 April 2017.

10) Ibid.

11) ISCO Major groups: 1 - Managers; 2 - Professionals; 3 - Technicians and associate professionals; 4 - Clerical support workers; 5 - Service and sales workers; 6 - Skilled agricultural, forestry and fishery workers; 7 - Craft and related trades workers; 8 - Plant and machine operators, and assemblers; 9 - Elementary occupations; 0 - Armed forces occupations. Source: International Labour Organization, Resolution Concerning Updating the International Standard Classification of Occupations, Geneva (6 December 2007), <http://www.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf>. Groups without a verifiable count have been left out of the table.

12) Demick, ‘North Koreans Toil Abroad under Grim Conditions’.

public that North Korean workers were employed by Sněžka in Náchod, Kreama in Žebrák, Sam Trade in Skuteč, Modela in Heřmanův Městec, Jiří Balabán's company in Železná, and a bakery in Hořovice.¹³ However, Soukupová has stated that her brokerage agency M Plus supplied North Korean workers to another three companies: Elegia in Třebechovice pod Orebem, Litex in Litomyšl, and Hübler's company in Železný Brod.¹⁴ Thus, the number of places where North Koreans worked reached a total of nine. This number could be even higher, as some cases could easily have escaped the attention of the media.

Although the media reported that some of the companies were co-owned by North Koreans, this turned out to be untrue. In most cases, these companies had Czech owners. Only one company, Kreama, had an Italian owner.¹⁵

The employment of North Koreans in Czech enterprises was mediated by at least two brokerage agencies. These were M Plus, represented by Soukupová, and CLA managed by Ludmila Faltusová.¹⁶ It is not possible to verify whether there were other agencies mediating the employment of North Koreans, because the Ministry of Labour and Social Affairs, which registers those agencies, does not distinguish them on the basis of the workers' origin. To broker employment for North Korean citizens the agencies only require a general licence to import foreign workers, which many companies had at that time.¹⁷

Some Czech employers also secured a North Korean workforce without these agencies, through direct negotiations with North Korean managers and diplomats stationed in the Czech Republic. One example is Modela from Heřmanův Městec. Its manager Medek recalled:

Sometime in 2003, we were considering closing the business, but then one colleague from the shoe industry invited me to come and see how the North Koreans sewed shoes in his company. When I saw how they worked, I immediately agreed with people from the North Korean Embassy, who, coincidentally, were visiting this factory at the same time, that I would like to hire them too. I had to provide them with a job description, proof that I had secured production, and to provide comfortable accommodation. Then we agreed on the first ten workers. I organised their arrival directly with the Embassy; there was a person who was responsible for that. By dealing with the Embassy, I avoided a brokerage agency, so I did not pay anything.¹⁸

This statement, supported by the claims of Soukupová and other employers, clearly illustrates the involvement of the North Korean Embassy in the process of employing North Koreans. Diplomats were responsible for controlling the working and living conditions for their fellow citizens, and they were also given the task of searching for new companies.

13) For the full list of sources, please see the References in the end of this report.

14) Soukupová, interview.

15) Jelínková, 'Případová studie', 62.

16) Vladimír Křivka, 'Žít a šít ve jménu vůdce', *Týden.cz*, 29 January 2007, accessed 22 March 2018, http://www.tyden.cz/tema/sit-a-zit-ve-jmenu-vudce_2245.html.

17) Petr Holec, 'Kimova mlha', *Reflex.cz*, 24 May 2007, accessed 22 March 2018, <http://www.reflex.cz/clanek/stary-reflex-tema-reflexu/26192/kimova-mlha.html>.

18) Medek, interview.

In sum, during the period 1998–2008, several hundred North Korean workers were employed in at least nine Czech companies from the shoemaking, textile, and food processing industries. Most of those workers were young women from 20 to 24 years old. They worked in labour-intensive positions and stayed in the Czech Republic in accordance with Czech law. Their work permits and residence permits were often prolonged, some of them staying for up to five years. Their presence in Czech enterprises was managed by direct contact with North Korean authorities operating in the Czech Republic, or through brokerage agencies. Due to the inexistence of relevant data, it is not possible to verify whether there were other, similar agencies also involved in the process of employing North Korean citizens. The number of employed North Koreans peaked in 2006, when it reached almost 400, but then it declined due to the decision of Ministry of the Interior not to prolong work visas or issue new ones to North Korean applicants. In December 2008, the statistics recorded do not show any North Korean being employed in a Czech company.

Brokerage agencies and their *modus operandi*: the case of M Plus

Thanks to an interview with Soukupová, exclusive information about brokerage agencies and their *modus operandi* was obtained. Soukupová explained how her company became involved in the business of providing a North Korean workforce for Czech companies, and how the process of acquiring new workers was practiced. Moreover, she provided detailed information on the involvement of North Korean state actors, i.e. the Embassy in Prague, the Ministry of Light Industry in Pyongyang, and a few state-run enterprises. Her statement supports the claims that North Korean workers have been provided to foreign companies in cooperation with North Korean regime.

North Koreans had been hired by Czech employers since 1998; however, the media did not cover the cases before 2004 and other relevant data no longer exists. As such, M Plus is the first known case of an agency importing a North Korean workforce to the Czech Republic.

Soukupová claimed that M Plus started its business around 2000–2001 and, until 2006, provided about 120 employees to five companies; namely to Sněžka in Náchod, Hübler's company in Železný Brod, Elegia in Třebachovice pod Orebem, Litex in Litomyšl, and Sam Trade in Skuteč. For those companies, M Plus mediated communications with North Korean entities and managed the arrival of the workers, who became regular employees of the above-mentioned companies. In other words, M Plus operated as a brokerage agency only.¹⁹

Without the possibly to verify her statements, Soukupová explained how her company became involved in this business. Sometime around 1998, a delegation from North Korea visited Brno Shoe Fair to find partners and they met a Czech businessman, with whom they agreed to deliver 30 seamstresses to his shoemaking company. After discussion with her business partner, Soukupová decided to use this opportunity and apply for a licence to broker foreign workers from the Czech Ministry of Labour and Social Affairs. Subsequently,

19) Soukupová, interview.

Soukupová followed the instructions given by the members of the delegation and wrote to the North Korean Ministry of Light Industry, specifying the requirements for the workers. She stated:

We wrote to them saying that we would like to cooperate and that we would need about 100 workers each year. We said that we could guarantee them the same level of salaries as Czech workers, accommodation, transport, and healthcare. [The] North Koreans responded that they were able to send the first batch of 30 people and we started to arrange work permits for them.²⁰

Soukupová's comment indicates that one of North Korea's ministries was directly involved in providing North Korean workers. Indeed, the brokerage agencies' partner in this endeavour was the North Korean Ministry of Light Industry. The Ministry hired the workers as its human resources department was responsible for the selection process in North Korea.²¹ Finally, the workers were selected and approved by the ruling party. A North Korean diplomat stationed in the Czech Republic explained:

In order to receive the approval of the Foreign Ministry, the Security Department, etc., these people needed to have a clean class-foundation, because, if they did not, they could spread the word about what they saw outside of the country. They also had to come from Pyongyang and to have passed a physical examination.²²

Initially, Soukupová communicated directly with the Ministry of Light Industry, but later she negotiated the arrival of other workers through several North Korean entities, specifically through the Korea Light Industry Trading Corporation, the Korean Munsu Trade Company, and the Korea Taisheng Trading Corporation.²³ Two of these companies are on a list of North Korean enterprises published on the official website of North Korea's trade office in Switzerland, confirming further the involvement of Pyongyang's regime.²⁴

According to the International Network for the Human Rights of North Korean Overseas Labour, North Korean trading firms are not private companies but are state-owned, falling under different government departments. The system of generating profit through various North Korean ministries has been in place since the early 1990s. The ministries open businesses that then conclude contracts with foreign companies to send labour abroad.²⁵ A number of different companies have dispatched labour forces, some of them run by the Eunha Guidance Bureau of the Ministry of Light Industry.²⁶ The connection between those North Korean enterprises and Eunha Guidance Bureau cannot be verified; however, Souku-

20) Soukupová, interview.

21) Kim, interview.

22) International Network for the Human Rights of North Korean Overseas Labour, *The Conditions of the North Korean Overseas Labour* (December 2012): 40.

23) Soukupová, interview.

24) Ibid.

25) International Network for the Human Rights of North Korean Overseas Labour, *The Conditions of the North Korean Overseas Labour*, 45.

26) Ibid., 16.

pová as well as Medek from Modela company confirm the involvement of North Korea's Ministry of Light Industry. Medek explains:

On the North Korean side, the Ministry of Light Industry was entrusted with managing the provision of workers and choosing the workers according to the requirements I sent them. They even invited me to come there and choose the workers myself.²⁷

The North Korean Embassy in Prague was also involved in the process. Soukupová says:

It was all done through the Embassy. It was not possible to go around it. At the Embassy, there was one person sent here to oversee the employment of his fellow citizens. Before they placed their workers in a company, he would come to the company to see where they were going. He also checked their accommodation as well.²⁸

As soon as the Labour Office and Foreign Police issue a work permit and a residence permit, a foreigner can start working in a Czech company legally. This process was followed in the case of North Koreans as well.

While M Plus provided approximately 120 workers to five companies, the CLA agency managed by Ludmila Faltusová mediated for at least 65 North Koreans for two firms: Kreata in Žebrák and Jiří Balabán's company in Železná.²⁹

Ludmila Faltusová refused to be interviewed for this report and her comments for the media were brief. She only stated that CLA copied the business model put in place by M Plus and Sam Trade:

In 2001, I came up with the idea of importing a workforce from North Korea thanks to media reports about the good experiences a shoe company called Sam Trade had had with Korean workers. So I visited this company and asked them about a contact.³⁰

The last comment, as well as witness statements from other actors, indicates the crucial position of M Plus in the process of employing North Koreans in Czech business entities – it was the first brokerage agency to import a workforce from North Korea, establishing a business model that was subsequently copied by another agency.

Soukupová helped to put in place a valuable piece of the puzzle, namely the link between the Czech companies and specific North Korean entities – the Korea Light Industry Trading Corporation, the Korean Munsu Trade Company, and the Korea Taisheng Trading Corporation, two of which are on a list of North Korean enterprises officially published by Pyongyang. Soukupová also explains in detail how her company, M Plus, established

27) Medek, interview.

28) Soukupová, interview.

29) Ondřej Kundra, 'Otrokyně tu zůstanou', *Respekt.cz*, September 2004, accessed 22 March 2018, <http://www.cs-magazin.com/index.php?a=a2004081047>.

30) Ondřej Kundra, 'Svobodovi už otrokyně nevadí', *Respekt.cz*, 11 April 2004, accessed 22 March 2018, <https://www.respekt.cz/tydenik/2004/16/svobodovi-uz-otrokyne-nevadi>.

cooperation with the Ministry of Light Industry, which was her initial partner on the North Korean side. Different ministries operate various business entities with the aim of generating profit by dispatching a workforce abroad. It is evident that the North Korean regime has been profiting from this.

The Chosun-Czech Shoe Technology Collaborative and Kim T'aesan

Kim T'aesan is a former North Korean diplomat stationed in the Czech Republic, where he was responsible for overseeing North Korean workers between 2000 and 2002. He was then known as An Yŏnggil (안영길) and, after spending some time at the Embassy in Prague, he moved to the city of Pardubice, from where he managed the Chosun-Czech Shoe Technology Collaborative.³¹ In 2002, he escaped with his family to South Korea and has been the only known defector with experience of direct involvement in the employment of North Korean workers in the Czech Republic.

According to Kim, the North Korean government established the Chosun-Czech Shoe Technology Collaborative under its Ministry of Light Industry. Kim, quoting numbers similar to those provided by the Czech Statistical Office, explains:

The [company's] proclaimed aim was to adapt expertise from the Czech Republic in producing shoes, but its real intention was to send female workers abroad. It was called Chosŏn sinbal hapchak hoesa, a joint venture, because we called it like that in North Korea, but I do not know what it really was. I was the supervisor from 2000 to 2002 and my predecessor worked there from 1998 to 2000. In 1998, the company started with 25 female workers and at the end of my stint the company employed up to 200 workers.³²

Although the company was called a shoe company, it never produced anything. It was more like an agency that ensured the workers' arrival, and then controlled their work performance and living conditions. It also offered a North Korean labour force to new partners.

Moreover, Kim said it was his job to collect the salaries and distribute any remaining money to the workers. He said 55 per cent was taken from their salaries as a 'voluntary' contribution to 'the socialist revolution'. Additional sums were deducted for accommodation, transport, and such extras as flowers for the birthday of Kim Ilŏng and Kim Chŏngil. By the time all these deductions were made, each worker received between 20 and 30 USD a month.³³ The money that Kim collected was eventually sent to North Korea from an account at Komerční Banka, a bank belonging to the Société Générale group.³⁴

A statement by one of the former employers illustrates the relations between the North Korean managers, represented by Kim, and ordinary North Korean workers:

31) The name is translated alternatively as the Chosun-Czech Collaborated Shoes Company or the Chosun-Czech Shoe Making Cooperation. See International Network for the Human Rights of North Korean Overseas Labour, *The Conditions of the North Korean Overseas Labour*. The Czech version of its name is Společnost česko-korejské technické spolupráce.

32) Kim, interview.

33) Demick, 'North Koreans Toil Abroad under Grim Conditions'.

34) Kim, interview.

*Mr. Kim was probably the head or the boss. If I can talk about my own company, we forbade him from accessing the factory because he behaved extremely roughly with the workers. Once, he even wanted to beat one of them because her work performance was not as he imagined.*³⁵

In 2002, Kim escaped with his family from the Czech Republic using his diplomatic passport. Recently, he gave testimony about his work in the Czech Republic at various international forums, including the European Parliament. Kim's testimony proves not only the involvement of North Korean diplomats in the process of providing and managing a North Korean workforce to various companies, but also the suspicion that the workers had to hand over some of their salaries for the benefit of Pyongyang's ruling regime. Consequently, Kim's activities helped to increase the international attention given to the topic of North Korean overseas workers, which, in mid-2006, pressured the Czech government to stop issuing work visas for citizens of North Korea.

Developments in the situation of North Korean workers in the Czech Republic

Some of the workers, mostly young women in their twenties and thirties, spent several years in the Czech Republic. However, some only stayed for several months. The length of their stay, combined with the change in attention for the issue from the media and the Czech state authorities, influenced the actual living and working conditions over time and across companies. It should be noted that the media reported mostly about known and problematic cases; others – like the case of Modela company – were never mentioned by journalists, leaving several cases undocumented.

The sociologist Jelínková has produced a short study evaluating the situation of North Korean workers in the Czech Republic. Even though the author did not provide any specification of the names or places, it is the most comprehensive research carried out on the topic to date. In her report, Jelínková indicates that North Koreans' living and working conditions were worst around 1998 and gradually improved over subsequent years until 2006, when her report was published. Without giving any specific details, she refers to the testimony of the owners of a hostel, claiming that, around 1998, North Korean workers were being forced to pay such high dues from their salaries to their North Korean managers that they suffered from hunger and malnutrition.³⁶

According to Kim, between 2000 and 2002, the workers were left with about 30 USD a month to buy food and other necessities. This equated to approximately one fifth of the then minimum wage. 'They're trying to save money by not eating,' Kim said to the media, adding that his wife was concerned that the female workers' menstruation had stopped, their breasts shrivelled, and many experienced acute constipation. 'We were always trying

35) Petr Martinec (employee of Chosun-Czech Shoe Technology Collaborative), interview with the author, 10 May 2017.

36) Jelínková, 'Případová studie', 62.

to get them to spend more on food, but they were desperate to bring money home to their families', Kim added.³⁷

Harsh conditions for the workers did not go unnoticed by the management of some companies. Sam Trade's finance manager, Václav Košner, observed the employees' poor conditions: 'They often did not have enough [money] for food. They were sometimes truly hungry', adding that the management provided soup for them to eat. 'We assume that their salaries have been taken and sent to Korea, but we don't know it for sure, we don't have that documented', explained Košner, who revealed that they did not consider terminating the workers' employment as they would not find replacements.³⁸ Even though the employers knew about the exploitative nature of the business, they did nothing to stop the practice.

Jelínková also describes the strict daily routine to which North Koreans were subjugated:

*Early in the morning, the ladies went on a compulsory run. Then they worked hard for eight hours. Then they had to study the history of North Korea and watch propaganda films about Kim Chǒngil, behind the closed doors of their hostels.*³⁹

Even after work, the North Korean workers did not have the freedom to manage their time. Kim explains :

*It was obligatory that all the workers took part in the evaluation meeting once a week outside their working hours. Plus, once a week there was a compulsory lecture with lecture materials provided through the channels of the North Korean Embassy.*⁴⁰

Such restrictions were also placed on the movements of the workers:

*If someone wanted to go outside of the accommodation, they could do so only with permission and in a group of at least three to four. Moreover, it was not possible to go everywhere, only to predetermined places that had been approved in Pyongyang. After returning, [workers] had to report on what they were doing, where they were, and so on.*⁴¹

The exceptional cases were when the food stock and daily necessities were running out and somebody had to shop. In that case, a group of workers went to the grocery shop together with the permission of their supervisor. It was not possible to go out individually.⁴²

Not only freedom of movement, but also communication with the outside world was controlled. According to Kim:

37) Demick, 'North Koreans Toil Abroad under Grim Conditions'.

38) 'Údajné otrokyně napadly reportéra', *Ihned.cz*, 2 April 2004, accessed 22 March 2018, <http://archiv.ihned.cz/c1-14180880-udajne-otrokyne-napadly-reportera>.

39) Jelínková, 'Případová studie', 63.

40) Kim, interview.

41) Robert Mikoláš, 'Do Česka prý jezdily otročit korejské dělnice', *Rozhlas.cz*, 17 July 2009, accessed 22 March 2018, http://www.rozhlas.cz/radiozurnal/podkuzi/_zprava/do-ceska-pry-jezdily-otrocit-korejske-delnice--607313.

42) Kim, interview.

*None of the workers, no matter whether they were seamstresses from Žebrák or managers from Pardubice could talk to anyone else. Furthermore, we were forbidden from reading newspapers and magazines and to watch television. If we had a meeting, it had to be in the group. Even I, as the director, could not be alone. Everyone watched everyone.*⁴³

Even in the face of such strict control, Kim judged the conditions for the North Koreans working in Czech companies to be ‘pretty decent’ compared to the conditions in other places where North Koreans are sent to work:

*The Czech Republic was then about to join the European Union and it had strict labour regulations regarding foreign workers. For example, all foreign workers were required to have health insurance. As for the living conditions, there was a rule that workers were not allowed to live in a group of more than five people. So the workers stayed in a budget hotel, no more than three in the same room.*⁴⁴

According to Jelínková’s findings, the situation changed after the media covered the topic in 2004. The change was due to both the interest of Czech and foreign media as well as the increased number of inspections by the Labour Office and the Foreign Police. As a result, the workers were left with a larger amount of money to buy food, and they no longer suffered from malnutrition. Also, the control of workers in their free time decreased, so they could sometimes go to the local supermarket or on a short hike as a group.⁴⁵

However, when asked about the living and working conditions for their North Korean employees, some former employers gave a very different picture. Medek explains:

*When media started to report about [the North Korean workers] again in 2006, we were inspected by the Labour Office or Foreign Police every second or third week, but they did not find anything wrong. The Labour Office wanted to know how we paid our North Korean employees, how much money they had, and whether we were holding them locked somewhere. However, that was not true. The Koreans went shopping with us to Pardubice or Chrudim. We took them for trips to Prague several times. Whenever they wanted to leave the accommodation, they could. We rented a two-storey house for them, where they had bedrooms, two kitchens, three toilets with showers and two large common rooms. The Labour Office and the Foreign Police were positively surprised with the conditions they lived in.*⁴⁶

In sum, the conditions in which North Korean workers lived and worked evolved over time and differed according to place. At work, they enjoyed the same rights as any other workers being protected by Czech Labour Law. Nominally, they worked eight hours per day with overtime and weekends being paid extra. They were also covered by health insurance. According to Kim, North Koreans lived and worked in the Czech Republic in better conditions than in many other places around the world. However, even in the Czech Republic,

43) Míkoláš, ‘Do Česka prý jezdily otročit korejské dělnice.’

44) Kim, interview.

45) Jelínková, ‘Případová studie: Severokorejky v Česku,’ 63.

46) Medek, interview.

North Koreans experienced harsh treatment and strict control. During the years 1998–2004, workers were left with so little money that they suffered from hunger and malnutrition. Their movement and communications were strictly controlled by North Korean minders and managers. In their free time, workers were restricted from walking freely outside their accommodation. The situation improved with increased attention from the media and the Czech state authorities. As a result, workers were left with larger amounts of money, and control over their movements was reduced. However, in 2006, the international pressure resulting from media coverage pushed the Czech government to decide not to issue new working visas to North Koreans. The doubts about the exploitative nature of the business had persisted.

What was the situation with the workers' wages?

How much were the workers paid and who actually profited? Those were two crucial questions that arose in connection with the employment of North Koreans in the Czech Republic. Based on the indicators within the companies, the media, the state authorities, as well as the international community suspected that workers had to hand over a substantial part of their salaries to the North Korean regime. As a result, workers were left with only a small amount of money, sending the remainder via third parties to North Korea.

According to Czech law, North Korean workers were entitled to the same wage conditions as local employees and employees from other countries. They were entitled to receive at least the country's minimum wage, which was 2,650 koruna (approximately 82 USD) in 1998 and 8,000 koruna (approximately 470 USD) in 2008.⁴⁷ According to Kim, between 2000 and 2002 a worker's salary was around 150 USD per month, which was a sum slightly higher than the minimum wage at that time.⁴⁸

The actual salary of the workers depended not only on the minimum wage limit, but also on the company, the year, and whether the employees were paid according to a fixed tariff or on a piecemeal basis, whereby workers are paid a fixed rate for each unit produced. In Kreateda for example, North Korean workers received a fixed salary of 6,000 Czech koruna (approximately 240 USD) per month in 2004,⁴⁹ compared to 8,000 Czech koruna (approximately 400 USD) per month in 2007.⁵⁰

If they were paid on a piecemeal basis, according to the statements of their former employers and payrolls shown to journalists, their monthly pay could be several times higher than the minimum wage. For example, at Modela, which employed them in the period 2004–2008, North Koreans earned 16,000–24,000 koruna per month (approximately 760–1140 USD), thanks to their work performance.⁵¹

47) Czech Ministry of Labour and Social Affairs, Přehled o vývoji částek minimální mzdy (13 October 2017), <https://www.mpsv.cz/cs/871>.

48) Kim, interview.

49) 'Ženy musí odevzdávat plat do Koreje', *idnes.cz*, 28 March 2004, accessed 22 March 2018, http://zpravy.idnes.cz/zeny-musi-odevzdat-plat-do-koreje-dli/domaci.aspx?c=A040328_185242_zahranicni_mhk.

50) Holec, 'Kimova mlha'.

51) Medek, interview.

Kim admitted that in some companies it was possible for North Koreans to get a higher salary. This, however, did not change the fact that most of the money they earned was sent to North Korea.⁵² Therefore, a bigger problem than the workers' salary level was what happened with the money after payment.

Soukupová stated that at the beginning of the cooperation, around 2001, the North Korean managers demanded salaries be sent directly to their Embassy, instead of paying workers individually. This was explained as the repayment of a debt to the state. Soukupová, adding that the person who asked them to pay money directly to the Embassy was Kim, says:

North Korean managers argued that the state had some initial expenses with the workers' placement in the Czech Republic, and now the workers had to repay this money. We insisted that employees would receive their money directly from us and what they did with it afterwards was their own decision. We did not know how much they were giving to the Embassy, but there was information that the man responsible for supervising North Korean workers was collecting some money from them.⁵³

The managers of Czech companies said that they did not comply with these requests from North Korean managers and paid money directly to their employees. Petr Martinec from Sam Trade says:

We told them to forget this idea and that everybody would get their money in cash directly. After that, we did not care what the workers were doing with the money even though we knew that they had to hand over something.⁵⁴

The statements by Soukupová and Martinec are interesting for two reasons: first, they indicate that North Korean managers were pushing the employers not to pay the workers individually, and second, they support the notion that the employers knew about the practice of some money being taken from the workers. As those demands were controversial, the North Korean managers changed the practice. This can be inferred from the witness statement by Medek, who employed North Korean seamstresses in his shoemaking factory Modela from 2004:

I was not pressured to pay all money to one specific person. On the contrary, the North Korean managers wanted me to pay the salaries directly to my employees and I never saw them giving the money to anyone. However, I could believe they were handing over something because I know they had borrowed some money in order to come to the Czech Republic. If they borrowed, they had to return something.⁵⁵

In 2000-2002, when Kim was responsible for the management of his fellow citizens in Czech companies, 55 per cent of the women's salaries were taken as a 'voluntary' contribution to

52) Míkoláš, 'Do Česka prý jezdily otročit korejské dělnice.'

53) Soukupová, interview.

54) Martinec, interview.

55) Medek, interview.

‘the cause of the socialist revolution’, with additional sums being deducted for accommodation, transport, flowers for the leaders’ birthdays, and even for the propaganda films they watched. By the time all these deductions were made, each received between 20 and 30 USD a month.⁵⁶

As the wages increased over the years, the amount the workers had to hand over was increased as well. In 2006, unofficial information gathered by Czech police indicated that North Korean employers deposited nearly 80 per cent of their salaries into a collective bank account, according to Lenka Šimáčková of the Interior Ministry’s strategy and analysis unit.⁵⁷

Kim reveals the process of transferring money to North Korea:

The workers were paid in local currency, the Czech koruna. Then we exchanged it to US dollars and transferred it to North Korea. The practice was that the manager or interpreter received all the wages in lieu of the workers. I collected the entire sum of money and distributed it to the workers according to their payroll. For instance, if one worker received a monthly wage of about 150 USD, then 80 USD would be deducted and sent to North Korea, with the worker getting 70 USD. I wired the money from the bank. I had my personal bank account from which I transferred money to North Korea. I think it was Czech Commercial Bank [Komerční Banka] or something. I had no difficulty transferring the money. I could just keep money in my account and could make a direct transaction to North Korea.⁵⁸

This corresponds with information from the media, in which it was reported that the seamstresses from Kreata sent their entire earnings to a collective account at the Komerční Banka, a member of Société Générale international finance group.⁵⁹

Additional information about the process of transferring the money to North Korea can be found in the report by International Network for the Human Rights of the Overseas North Korean Labour:

The money that is raised usually goes to a light industry [sic] account in China. Then the Korea Development Bank takes the money from that account. [...] Each company has their own account, but then they are all connected to Kim Chŏngŭn’s accounts. Even though it looks like the money is going to different accounts and departments, it is all re-collected by the Kim Chŏngŭn regime.⁶⁰

Some employers admit that they knew, or at least suspected, that their North Korean employees were handing over part of their salaries to authorities. Based on his own experience

56) Demick, ‘North Koreans Toil Abroad under Grim Conditions’.

57) ‘Peníze Korejek pracujících v ČR jdou pryč na účet státu KLDR’, *Novinky.cz*, 17 November 2006, accessed 22 March 2018, <https://www.novinky.cz/ekonomika/100925-penize-korejek-pracujicich-v-cr-jdou-pry-na-ucty-stat-klldr.html>.

58) Kim, interview.

59) Václav Zeman, ‘Připomeňme si’, *Respekt.cz*, 8 May 2004, accessed 22 March 2018, <https://www.respekt.cz/tydenik/2004/20/pripomenme-si>.

60) International Network for the Human Rights of North Korean Overseas Labour, *The Conditions of the North Korean Overseas Labour*, 40.

of the communist regime in Czechoslovakia, Martinec of Sam Trade saw this practice as something normal:

During the socialist regime, I worked abroad and the state agency that employed me automatically took 25 per cent of my salary, so it was no wonder the North Koreans did something like that as well.⁶¹

Medek took this practice to be repayment for flights and other administrative costs:

My opinion is that they had to repay a debt. I know that they borrowed some money to come here, so apparently, they had to repay it. But they certainly did not give everything because I saw their wallets full of money when we went shopping with them to the supermarkets every week.⁶²

To summarise, two types of questions arose in connection with salaries North Korean workers received. First, how much they earned, or, in other words, whether or not they were paid fairly for the work performed. As Czech law stipulates, all workers no matter their country of origin are entitled to minimum wage. However, the exact amount of money workers earned depended on the year, company, and type of contract – some workers were paid with a fixed salary, which tended to be slightly higher than the country's minimum wage; others were paid on a piecemeal basis, receiving a fixed rate for each unit produced. In this scenario, North Korean workers were able to earn much more thanks to their high productivity.

The second, and more important, question asks who profited from the money North Koreans had earned. Kim explicitly stated that the workers had to hand over a substantial portion of their monthly salary to North Korean managers. Initially, the Czech employers were asked to send all the salaries to one single account on behalf of all North Korean employees. While some employers followed that demand – for example, the company Kreatera – others refused. Regardless, North Korean workers were forced to hand over parts of their salaries to the North Korean authorities, as was confirmed by several former employers. After the salaries were collected from the employees, one of the North Korean managers sent them via his bank account to the Ministry of Light Industry's account in China and then to North Korea. During 2000–2002, the workers were left with between 20 and 30 USD a month, a sum so small that some of the workers suffered from malnutrition.

When asked about the practice of handing over parts of the salaries, some of the employers understood it to be a repayment of transportation and other administrative costs, or justified it as something normal, done also by the socialist regime in Czechoslovakia.

The employment of North Koreans from the perspective of Czech employers

For Czech employers, the workers from North Korea came at a critical time, when several industries experienced problems with finding skilled but cheap labour. Companies were

61) Martinec, interview.

62) Medek, interview.

hungry for workers who were willing to work in labour-intensive industries. Several former employers valued North Koreans for their professional skills and productivity. One executive from Sněžka Náchod recalled:

*From an employer's perspective, they were ideal workers. Unlike Czech or Ukrainian workers, the North Koreans never wasted time drinking coffee and chatting. They were very good with their hands too. They were extremely accurate in their sewing, as if machines had done it.*⁶³

Soukupová also recalled::

*[Our] experience with them in terms of work approach and behaviour were more than excellent. The North Koreans were incredibly smart and hard working – which was the most important thing for those businesses.*⁶⁴

Soukupová's comment indicates the employers' perspective of the employment of North Koreans: an economic view stripped of any humanitarian or moral concerns. The former employers did not find anything controversial about employing labour from North Korea. As one of them said:

*I never thought of it as problematic. We did everything correctly, we complied with the Labour Code, we paid them the money we were supposed to pay, we provided them with accommodation, and we cared about the things that we should have cared about. Probably you are right that the money went to the North Korean regime, but I did not care. I did not want to support North Korea. I wanted to support myself, and I needed workers.*⁶⁵

It is evident that employers were most likely aware that the regime in Pyongyang profited from workers' salaries. Nevertheless, the economic benefits outweighed any political or human rights issues. If employers did look at the topic of employing labour from North Korea from a political point of view, they perceived their actions as offering a form of enlightenment and re-education. Soukupová says:

*The workers stayed here two, three, or four years, and during that period they become a kind of fifth column because they saw that life can be different. By that, we planted a seed of discontent within the [North Korean] regime. Nobody wanted to even hear that [the workers] were not being exploited here: that those ladies who left were very different from those who arrived. They were dressed differently and behaved differently. They knew how to laugh.*⁶⁶

63) 'Czech Factory Regrets Departure of N. Koreans', *The Chosun Ilbo*, 28 October 2009, accessed 22 March 2018, http://english.chosun.com/site/data/html_dir/2009/10/28/2009102800620.html.

64) Soukupová, interview.

65) Martinec, interview.

66) Soukupová, interview.

One former employer offered a similar view combined with a more insightful perception of the situation, indicating that some sensed that the situation could bear negative consequences for the workers, especially after their return to North Korea:

I felt that North Koreans came to live here for some time and they saw how the life elsewhere was. On the other hand, I was also terrified that when they came home, they would be cursed or confined somewhere because they had seen something they were not allowed to see. In the Czech Republic, North Korean workers did not experience a cruel world, but met people who treated them kindly, baked cakes for them, and invited them for dinner.⁶⁷

Several employers said that they were invited to visit North Korea, but none of them took this opportunity. One of them was Jiří Balabán, who, although he never visited North Korea or spoke with his employees about life there, was uncritical of the North Korean regime:

In my opinion, the North Korean regime is not as cruel as it has been said to be. There is a famine? If so, how is it that these girls do not come here emaciated? They are not even isolated; they rotate about once a year and keep exchanging letters with those who have returned home.⁶⁸

Balabán's statement serves as an example of the lack of concern and disinterest in putting the employment of North Koreans into a broader political and human rights context. The position of Czech employers is well summarised in Jelínková's study, postulating that the employers' perceptions about the diligence and obedience of the North Korean workers overshadowed any other point of view than a purely economic one.⁶⁹

Case studies of individual companies

While previous parts described the overall working and living conditions for North Koreans employed in the Czech Republic, as well as the attitude of employers, this chapter assesses the situation within individual companies. Generally, North Korean workers experienced the harshest conditions in the initial years of their placement. Around 2004, with the increase of attention paid by both the media and the Czech state authorities, workers were left with larger amounts of money and the control over their movements relaxed.

Sam Trade in Skuteč

Sam Trade was a shoemaking factory based initially in Sezemice and subsequently moved to Skuteč under the management of Martinec. North Korean workers began to work at Sam Trade following the company's cooperation with the agency M Plus. According to Soukupová, M Plus delivered the first 30 seamstresses to Sam Trade, around 2001.⁷⁰

67) Martinec, interview.

68) Kateřina Mahdalová, 'Hádanka pokračuje', *Respekt.cz*, 3 December 2006, accessed 22 March 2018, <https://www.respekt.cz/tydenik/2006/49/hadanka-pokracuje>.

69) Jelínková, 'Případová studie', 64.

70) Soukupová, interview.

In 2004, the financial manager of the company Košner told journalists that employees from North Korea earned a gross wage of between 7,000 and 12,000 koruna per month.⁷¹ In following years, the salaries grew, reaching 20,000 Czech koruna per month (approximately 950 USD), as evidenced by the payrolls.⁷²

When asked about the system of payments, Martinec said that the salary went directly into the hands of the workers:

From the beginning, the North Korean managers wanted us to send them all payments to a joint account. We told them to forget about it, and that employees would receive their money in cash. Then we did not care what they did with the money, even if we suspected that they had to hand over something.⁷³

As this statement indicates, the management was aware of the practice of handing over some parts of their salaries. This is further supported by the company's financial manager Košner: 'They often did not have enough [money] even for food. They were sometimes truly hungry'.⁷⁴

In addition to 30 North Korean seamstresses, the company also employed two men – one as a translator, and one as an educator:

[The] translator, Mr. Lee, spoke Czech. Apparently, he studied in Zlín, and he was like a friendly cop. He always told me that he had to write reports about me and asked me if I want to read them. I told him that he could write whatever he wanted. Then there was the educator, a shoddy old man. He constantly ensured that the girls worked a lot. He forced them to work as efficiently as possible.⁷⁵

Sam Trade was visited every week by Kim, who used the name An at that time:

He was the head of the company which the North Koreans had founded here. Mr. An, as he was called, was a very unpleasant man who mainly wanted the women to work a lot. Every week he came here and apparently collected the money from them, because we paid each worker personally. Mr. An was the only one with a diplomatic passport and so he managed to escape from the Czech Republic through Ruzyně airport.⁷⁶

In March 2004, there was an incident at Sam Trade, which helped to increase media attention and subsequently brought the case of the North Korean workers to the Office of the Czech President. Whilst Czech Television was reporting on the conditions of North Korean workers at Sam Trade, some of the workers attacked the crew and destroyed a camera and took out the tape. Even though no one was hurt, the police arrested three of the North

71) 'Dělají otročinu pro korejský režim také ženy ve Skutči?' *Noviny Chrudimska*, 1 April 2004.

72) Mikoláš, 'Do Česka prý jezdily otročit korejské dělnice'.

73) Martinec, interview.

74) Demick, 'North Koreans Toil Abroad under Grim Conditions'.

75) Martinec, interview.

76) Ibid.

Koreans and investigated them on suspicion of robbery.⁷⁷ Their prosecution was halted in September 2004 at the behest of President Václav Klaus.⁷⁸

Kreata in Žebrák

Another often-reported employer of North Korean workers was Kreata in Žebrák. This company had an Italian owner and had been manufacturing underwear in the Czech Republic since 1998. But soon after initial production, the company experienced a problem with the workforce. 'We could not find a labour force among Czechs, so we approached a brokerage agency, which offered us North Koreans,' said Věra Čermáková, the director of Kreata. In 2001, the company hired 35 North Korean workers, and then another 15.⁷⁹ Forty-eight young North Korean women and two men came to the Czech Republic by train.⁸⁰ The workers were brokered by CLA agency, managed by Faltusová.⁸¹

As in the other cases, this employment of North Korean workers was authorised by the Labour Office. According to the company co-owner Lucio Baraldi, the employees worked eight hours a day and had a mandatory break every two hours, as required by law. Baraldi, implying that what happened outside of working hours was not his business, says:

When the shifts ended, we closed the factory and we went home. The North Koreans went to the hostel and what happened outside of working hours, that was their business. I did not watch my Czech or Korean employees.⁸²

In 2004, the wages of North Korean seamstresses in Kreata were around 6,000 Czech koruna per month, which were paid directly to the workers. Company's director Věra Čermáková says:

What they did with them, and if there was anybody watching them, I did not know and I did not care. For us it was important that these women had high productivity and good work discipline. The men who were with them, they just cared about their health.⁸³

Even though Čermáková denied she knew about any money being handed over by Kreata's employees to the North Korean authorities, a director of the Labour Office Lenka Šmídová testified that the management knew about these practices:

77) Ondřej Tolar, 'Štáb ČT se střetl s korejskými dělnicemi', *idnes.cz*, 1 April 2004, accessed 22 March 2018, http://zpravy.idnes.cz/stab-ct-se-stretl-s-korejskymi-delnicemi-fd8-/krimi.aspx?c=A040401_082127_krimi_ton.

78) Erik Tabery, 'Cit na Hradě', *Respekt.cz*, 12 September 2004, accessed 22 March 2018, <https://www.respekt.cz/tydenik/2004/38/cit-na-hrade>.

79) Ondřej Kundra, 'Severokorejské otrokyně v Žebráku', *Respekt.cz*, 27 March 2004, accessed 22 March 2018, <https://www.respekt.cz/tydenik/2004/14/severokorejske-otrokyne-v-zebraku>.

80) 'V Žebráku a Železně pracují šičky z KLDR', *Mladá fronta DNES*.

81) Kundra, 'Otrokyně tu zůstanou'.

82) Tomáš Pavlíček, 'Italská firma se nařčení z otrokářství brání', *BBC*, 4 April 2004, accessed 22 March 2018, http://www.bbc.co.uk/czech/domesticnews/story/2004/04/printable/040402_cz_korea_slaves_pckg.shtml.

83) Kundra, 'Severokorejské otrokyně v Žebráku'.

From Kreata's director, I learned that the women apparently hand over most of the money to the North Korean Embassy. In other words, it is a kind of modern slavery. Now we cannot probably do anything. The women would probably say that they were doing everything voluntarily – and then what to do?⁸⁴

Not only the employers, but the Czech Labour Office also knew about the workers' obligation to hand over parts of their salaries; however, they did not react as they did not have proof of this practice.

In 2004, the police investigated whether North Korean women were working without freedom of movement.⁸⁵ The police failed, however, to prove that these women's personal freedoms were restricted. In addition, the Labour Office inspections did not find any violations, apart from low wages (below the minimum wage) being paid to these employees. The management then increased these employees' salaries from 6,000 to 7,000 Czech koruna (from 240 to 280 USD).⁸⁶

Although company management claimed earlier that they paid the money to each employee separately, the Labour Office told the media in 2007 that the company sent the salaries of all North Korean employees to a joint account. The director of the Labour Office, Šmídová, stated that:

We were there a few times to check and each had personally signed documents allowing her salary to be sent to this account. For us it was in accordance with the law.⁸⁷

It is evident that Kreata found a legal loophole in order to be able to fulfil the demands of the North Korean managers: the employees' signing of the document allowing salaries to be sent to a single account.

A description of North Korean life outside of working hours was provided by Miroslav Kočárek, the owner of the dormitory where the North Koreans from Kreata previously resided:

It was a closed community. No one can get to them. Each room [of their dormitory] hung a portrait of the dictator and minders kept them in order. The girls were not allowed to go anywhere alone and were not allowed to watch TV. But every Sunday they watched some North Korean movies, over and over the same couple of video cassettes. When they did not watch films, they memorized something by heart and then the minders tested them afterwards. When they went somewhere, for example to collect raspberries or apples, they could do so only under supervision and in pairs. The food was arranged by a minder, he brought always some bags of rice and some other supplies to last for several days.⁸⁸

Journalists, who had the opportunity to visit the hostel, described it as follows:

84) Ibid.

85) 'Případ 'otrokyn' z Koreje zkoumá policie', *idnes.cz*, 31 March 2004, accessed 22 March 2018, http://zpravy.idnes.cz/pripad-otrokyn-z-koreje-zkouma-policie-d93-/domaci.aspx?c=A040329_222023_domaci_pol.

86) Zeman, 'Připomeňme si'.

87) Holec, 'Kimova mlha'.

88) Kundra, 'Severokorejské otrokyně v Žebráku'.

The hostel had a feeling of military order. Each room was decorated with the portraits of Kim Ilſŏng and Kim Chŏngil, and the beds were made properly. Everything was clean, as in an operating room.⁸⁹

On the issue of freedom of movement, the Mayor of Žebrák, Daniel Havlík says:

Not once did I see them walking alone into the city to buy things, or just to walk. Immediately after leaving work, they all went to their hostel, which was 50 meters away from the factory.⁹⁰

And according to a local shopkeeper:

They never walked down the streets. It was like in jail, they were locked in that building and at nine o'clock they had to go to sleep.⁹¹

The situation possibly evolved over time. In 2007, a journalist from the weekly *Reflex* wrote:

They came to town in their free time, usually to buy something. Their movement was not organised, nobody supervised them. They walked in pairs and did not talk much with anyone, as has been described by other journalists, due mainly to the fact that the majority did not speak Czech.⁹²

The Kreata case is interesting for several reasons: first, the company did not pay workers individually, but sent all the salaries to a single account. To carry out this practice, the employees gave their written consent, thus making it lawful. Second, the Labour Office knew about this practice but could not act, as no laws were being broken. Third, the Police did not find any evidence of a violation of freedom of movement. Fourth, the level of control as well as freedom of movement improved over time. This case shows the limits of the state authorities, whose powers were restricted in situations where no laws were broken. A solution needed to be found on a political level. Exactly this happened when, in June 2006, the Ministry of the Interior instructed the Foreign Police not to issue new working visas to the applicants from North Korea.

Jiří Balabán's company in Železná

Jiří Balabán's company employed 15 North Korean seamstresses to make work clothes and uniforms. Their employment in the small village of Železná was brokered by the agency CLA, managed by Faltusová.

In 2005, renowned journalist Demick wrote about the North Koreans in Železná. One of them told her that she was from Pyongyang. 'I am not so happy here. There is nobody who speaks my language. I am so far from home,' said the young woman, who lived with her colleagues in a supervised hostel, which had portraits of Kim Ilſŏng and Kim Chŏngil

89) Pavlíček, 'Italská firma se nařčení z otrokářství brání.'

90) Kundra, 'Severokorejské otrokyně v Žebráku.'

91) Pavlíček, 'Italská firma se nařčení z otrokářství brání.'

92) Holec, 'Kimova mlha.'

on the walls. As Demick reported, almost all of the women's monthly salaries, about 260 USD or the Czech minimum wage, were deposited directly into an account controlled by the North Korean government.⁹³ As with other employers, Balabán turned a blind eye to such accusations, commenting:

*What they did in their free time, how they handled the money they had earned, and if they had to hand this over to someone, was their thing. I cared that company prospered and not about where these women were from and why they were here.*⁹⁴

Sněžka in Náchod

Sněžka was a textile factory based in Náchod producing headrests and armrests for BMWs, Mercedes, Renaults, and other cars. The workers from North Korea were brokered by the M Plus agency and, in 2006, 82 North Koreans, mostly women aged between 20 and 28, were working there.⁹⁵

According to the general manager at Sněžka, Miloslav Čermák, the employees were paid on a piecemeal basis. The top workers stitched as many as 350 headrests a day and earned monthly salaries of up to 25,556 Czech koruna (1,165 USD), well above the country's minimum wage of 7,955 Czech koruna at that time. The lowest-paid North Korean worker earned 8,200 koruna, a common salary for new employees.⁹⁶ Like other employers, Čermák evaluated the North Korean labour force very positively. He stated in 2007:

*They are good employees, working accurately, fairly and reliably. The best of our seamstresses earn 20,000 koruna a month. Half of them are North Koreans.*⁹⁷

Both the management of Sněžka and the agency M Plus indicated that they had experienced pressure from the North Korean Embassy to send the seamstresses' salaries to a joint account. However, the company's management rejected that demand:

*We are not slavers. All employees receive the money in their own accounts, and the Koreans as well. But what they do with the money afterwards, we cannot control.*⁹⁸

Similar to other employees, the workers worked eight hours a day, five days a week, in two shifts – 6 am to 2 pm, and 2 pm until 10 pm. If they worked in the weekends, this earned them an extra 75 per cent of their daily income, a standard uniformly applied to both North Korean and other workers.⁹⁹

93) Demick, 'North Koreans Toil Abroad under Grim Conditions'.

94) Kundra, 'Svobodovi už otrokyně nevadí'.

95) Bricker, 'North Koreans in Czech jobs: Slave labour?'

96) Ibid.

97) Křivka, 'Žít a šít ve jménu vůdce'.

98) Ibid.

99) 'Czech Factory Regrets Departure of N. Koreans', *The Chosun Ilbo*.

At the factory, the North Korean workers socialised with their foreign co-workers. They spoke Czech and talked about work, colleagues said, but they never socialised after work hours. They were watched over by an interpreter who usually answered for them.¹⁰⁰

In 2007, the weekly *Týden* published an exceptionally comprehensive report describing the living and working conditions for the North Koreans in Sněžka. The journalists' interviews and their visit were agreed to by interpreter Ri Chölyöng (리청영) in order to refute the suspicion that the North Korean state was abusing its citizens in the Czech Republic. The journalists reported that the North Koreans were living in an ordinary house in Náchod. In the basement was a kitchen, while Ri lived with his wife on the first floor. The other floors were occupied by the young women. These cramped rooms housed three women each, with a total of 20 people living in the house. The only room with a TV was the interpreter's room. The neighbours maintained good relations with them. They helped each other, sharing their traditions and giving small gifts. The North Koreans even celebrated International Women's Day together with local members of the Czech communist party.¹⁰¹

After the media described these seamstresses as modern slaves, a foreign buyer of the company's products contacted the director, Čermák, and threatened to end cooperation with the company if employment of North Koreans continued. As a result, Čermák offered to move the North Korean workers to another company. His former employees ended up in the towns of Heřmanův Městec, and Jaroměř, and somewhere near Prague.¹⁰²

Modela in Heřmanův Městec

The media did not cover the employment of North Korean workers at Modela, so the information comes from a single source: manager Medek. This company, which operated in the shoe industry, employed a total of 27 North Koreans during the period 2004-2008.¹⁰³

The North Korean workers came in three groups: ten in 2004, ten in 2005, and the remaining seven were transferred to Modela from Sněžka in 2007. Due to the international as well as national media attention for the issue, Medek's company was under continuous inspections by the authorities. When asked about the issue of salaries and the system of payment, Medek stated that North Korean workers earned 16,000-24,000 koruna per month (approximately 760-1140 USD).¹⁰⁴

As with other employers, Medek's statements indicate that he was aware of the practice of handing over some parts of the workers' salaries, even though he did not see it personally. He even offered the explanation for this practice being in place – the women had to repay a sum they had borrowed.¹⁰⁵

Concerning control of the workers, Medek stated that his employees did not have a North Korean supervisor who would watch over them.¹⁰⁶ Thus, Modela is an example of a

100) Bricker, 'North Koreans in Czech jobs: Slave labour?'

101) Křivka, 'Žít a šít ve jménu vůdce'.

102) Ibid.

103) Medek, interview.

104) Ibid.

105) Ibid.

106) Ibid.

company where the North Koreans worked and lived without minders. It indicates that the level of control exercised by the North Korean authorities over their fellow citizens differed per company.

Modela is an exceptional case also for another reason – it was the only company where some North Koreans stayed a total of five years:

Those ten who arrived first worked with us for five years, the next ten North Koreans worked one year less, and the seven who came last of all worked here for only six months.¹⁰⁷

From June 2006, the Foreign Police stopped extending workers' visas, and workers had to leave after they expired. Two North Koreans employed by Modela challenged the decision made by the Foreign Police in court, arguing that 'the working stay was terminated without concrete evidence of a violation of the laws of the Czech Republic, only on the basis of a political order'. The court ruled in favour of the North Koreans stating that the reasons for a Foreign Police decision had been vague, incomprehensible, and non-reviewable, and returned the case to the administrative authority for a new verdict. After reviewing the case, the Foreign Police decided to extend the women's working permits. By the time the new decision was made, however, the North Koreans had already left the Czech Republic.¹⁰⁸ This case shows how problematic it was to back the Foreign Police's decision not to issue working visas to applicants from North Korea when no specific and reviewable justification was given, since the order came from the Ministry of the Interior.

The reactions of Czech politicians and authorities

After 2004, the Czech government, and later on also the Foreign Police and Labour Office, started to monitor the situation of North Korean workers. Prior to that, the employment of North Koreans had not been scrutinised by the Czech authorities. In 2004, ministers, as well as representatives of the Labour Office and the Police started to face repeated media inquiries. Initially, statements from ministers were mostly uncritical and moderate, but they hardened as international pressure on Czech politicians to stop this practice increased.

In 2004, the police investigated suspicions that North Korean employees in Czech companies were restricted in their personal freedom and had to hand over their salaries to the North Korean Embassy. However, the police did not find proof of any crime, and the investigation was therefore terminated.¹⁰⁹ Furthermore, the Minister of Foreign Affairs, Cyril Svoboda, noted that:

If these women hand over their wages to North Korea, it is regrettable, but it is not against our laws. Personally, I think that the women here can learn democratic principles, which they will apply after

107) Ibid.

108) 'Severokorejské dělnice vyhrály soud s cizineckou policií', *DeníkReferendum.cz*, 29 March 2010, accessed 22 March 2018, <http://denikreferendum.cz/clanek/2611-severokorejske-delnice-vyhraly-soud-s-cizineckou-polici>.

109) Zeman, 'Připomeňme si'.

*their return to North Korea. So I see no reason why they should not continue to work here if they are not breaching any of our standards.*¹¹⁰

A similar comment was made by the Minister of Labour and Social Affairs, Zdeněk Škromach: 'If they like their regime so much, let them contribute to it. I see no reason to stop them doing that.'¹¹¹ Both politicians spoke uncritically about the situation, not taking into account any human rights dimension of the issue.

One of the critics of the situation, in which North Koreans supposedly worked for the benefit of its regime, was former President Václav Havel. He said the Czech Republic should not have allowed North Koreans to work on its territory until all the circumstances of their deployment were clarified:

*Such a situation should no longer be repeated and it should henceforth be ensured that other North Koreans would not earn money this way in favour of the regime in their country.*¹¹²

Although there were no crimes committed or other serious infringements made, in June 2006, the Czech government decided that the issuing or renewal of work visas to North Korean migrants was contrary to the security and foreign policy interests of the Czech Republic.¹¹³ The Ministry of Foreign Affairs stated that a change in attitudes toward North Korean employment was prompted by, among other things, pressure from abroad. Foreign Ministry spokeswoman Zuzana Opletalová stated that:

*Internationally, we have faced criticism that we tolerate slave labour. This was damaging our name abroad. Our attitude can be changed only when the Korean authorities will ensure that their citizens are remunerated in accordance with the normal standards.*¹¹⁴

The decision to end the employment of North Koreans in the Czech Republic was made on a political level as the government did not want to face continued international criticism. When the controversy connected to the North Korean workers was internal, the politicians reacted mildly, as shown by ministers' statements from 2004; but when the pressure became international, it brought about a change in governmental policy. A decision was made to end the employment of North Koreans in the Czech Republic even though no gross violations of Czech laws were made.

110) Kundra, 'Svobodovi už otrokyně nevadí'.

111) Ibid.

112) Ibid.

113) Czech Ministry of Interior, Národní strategie boje proti obchodování s lidmi (pro období let 2008 – 2011) (August 2008).

114) Vladimír Křivka, 'Korejkám končí povolení, nahradí je Indové', *Týden.cz*, 27 February 2008, accessed 22 March 2018, http://www.tyden.cz/rubriky/domaci/korejkam-konci-povoleni-nahradi-je-indove_46089.html.

International reaction

The international attention that the Czech Republic received followed one of Kim's testimonies. After his defection, he spoke about this topic at many international forums, including the plenary session of the European Parliament in March 2006.¹¹⁵ His witness statements not only shed light on the exploitative nature of the practice, but also helped pressure the Czech government into stopping the issuance of working visas to North Koreans.

Since 2004, the case of North Korean workers in Czech firms has been mentioned in five editions of the United States State Department's annual report on human rights around the world. In the 2005 edition, under the paragraph 'Prohibition of Forced or Compulsory Labour', the report noted that in the Czech Republic North Korean women,

*[...] were kept in tightly controlled environments, and their earnings were deposited into an account controlled by the North Korean Embassy. The Ministry of Labour and Social Affairs, in coordination with other government agencies and relevant NGOs, investigated the situation numerous times and concluded that working conditions at the factories and work contracts were within the confines of the law. They found that although the situation was 'troubling' in several aspects, the women were working voluntarily and no labour laws had been broken.*¹¹⁶

In 2006 and 2007, the case was also mentioned in the United States State Department's *Trafficking in Persons Reports*. The 2006 report declared that the Czech Republic was a destination for men and women trafficked from North Korea for the purposes of labour exploitation.¹¹⁷ In 2007, the report's authors pointed out that,

*[...] the Czech Republic had made several positive efforts over the reporting period, including the elimination of a program of exploitative North Korean labour contract for private industry in the Czech Republic.*¹¹⁸

Being mentioned in the United States State Department's reports in the context of forced labour and human trafficking is an example of the international criticism to which the Czech Republic was subjected.

Termination of visa issuance

In 2006, following international pressure, the Department of Asylum and Migration Policy of the Czech Ministry of the Interior recommended that the Foreign Police stop issuing work visas to citizens of North Korea, referring to the UN Security Council Resolution No. 1718. This decision was explained by the Department's director Tomáš Haišman as follows:

115) 'How's the Kimchi? Secret Lives of North Korean Workers Abroad', *Radio Free Asia*, 17 January 2007, accessed 22 March 2018, http://www.rfa.org/english/news/korea_migrants-20070117.html.

116) United States Department of State, 2005 Country Reports on Human Rights Practices: Czech Republic (8 March 2006), <https://www.state.gov/j/drl/rls/hrrpt/2005/61644.htm>, (accessed 22 March 2018).

117) United States Department of State, Trafficking in Persons Report (5 June 2006), <https://www.state.gov/documents/organization/66086.pdf>, (accessed 22 March 2018).

118) United States Department of State, Trafficking in Persons Report (June 2007), <https://www.state.gov/documents/organization/82902.pdf>.

‘No one convinced us that this [the forced hand over of the earnings] did not happen.’¹¹⁹ According to Haišman, it was not possible to imagine that the North Korean regime did not exploit its citizens working abroad:

*I just do not admit the possibility that these women could work here in the same way as other foreigners. We based our conclusions on the fact that there was a suspicion. We had information from several sources, including the media, especially American media. Put simply, the North Korean workers were a category of people whose stay in our country was not desirable.*¹²⁰

In a similar vein, the Deputy Interior Minister Jaroslav Salivar argued:

*Several investigations carried out by the state authorities showed that part of the wages of North Korean workers from the Czech Republic was in fact diverted to bank accounts owned by parent institutions in North Korea or by its Embassy in Prague. Workers did so ‘voluntarily’. However, there was reason to suspect that this conduct was not voluntary and if rules in the community were not respected, there would be a threat by the North Korean regime to families and other people. Since the financial resources obtained from the export of labour had subsequently benefited the ruling regime, the further employment of North Korean workers was not in accordance with the security and political interests of the Czech Republic.*¹²¹

It is evident from both statements that the decision not to issue working visas to North Koreans was done on the basis of a suspicion of exploitation, as hard evidence was not gathered and the police did not find any crimes committed. The decision was further supported by security and political interests of the country, underscoring the political nature of the verdict.

The workers’ stays were mostly terminated in 2007.¹²² The rest of the visas expired during the first months of 2008.¹²³ From December 2008 onwards, there have not been any North Korean citizens recorded as being employed in the Czech Republic.¹²⁴

Conclusion

In February 2008, the employment of North Korean workers by Czech companies was terminated for good. During that month, the last North Koreans left the Czech Republic, leaving behind unanswered questions about the exploitative nature of their stay as well as unsatisfied companies, which had lost their most productive employees.

From 1998 till 2008, several hundred North Korean workers were employed in at least nine Czech business entities from the shoemaking, textile, and food processing industries:

119) Křivka, ‘Žít a šít ve jménu vůdce’.

120) Holec, ‘Kimova mlha’.

121) Czech Ministry of Interior, Letter of Deputy Minister Jaroslav Salivar to Milan Medek (14 January 2008).

122) ‘Korejské pracovnice opouštějí Berounsko’, *Týden.cz*, 7 June 2007, accessed 22 March 2018, http://www.tyden.cz/rubriky/domaci/korejske-pracovnice-opoustej-brounsko_13058.html.

123) Vladimír Křivka, ‘Korejské otrokyně zmizí zřejmě až v únoru’, *Týden.cz*, 21 January 2008, accessed 22 March 2018, http://www.tyden.cz/rubriky/domaci/korejske-otrokyne-zmizi-zrejme-az-v-unoru_40151.html.

124) Czech Statistical Office (for Raw Data: Foreigners in the Czech Republic, Employment of the Foreigners based on their Citizenship and other Data), provided via email, April 2017.

namely Sněžka in Náchod, Kreateda in Žebrák, Sam Trade in Skuteč, Modela in Heřmanův Městec, Jiří Balabán's company in Železná, a bakery in Hořovice, Elegia in Třebachovice pod Orebem, Litex in Litomyšl, and Hübler's company in Železný Brod. Most of those workers were young women aged between 20 and 24 years old. They worked in labour-intensive positions that did not require secondary education, and stayed in the Czech Republic in accordance with Czech law. Their work permits and residence permits were often prolonged, some of them staying up to five years. Their presence in Czech companies was facilitated by direct contacts with the North Korean authorities operating in the Czech Republic or through brokerage agencies. The number of North Koreans in Czech enterprises peaked in 2006, when it reached almost 400, declining after the decision by the Ministry of the Interior not to prolong work visas or issue new work visas to citizens of North Korea. By December 2008, according to statistics, no North Koreans were being employed on the Czech territory.

The two known brokerage agencies explored here are M Plus, managed by Kateřina Soukupová, and CLA, managed by Ludmila Faltusová. The position of M Plus in the process of employing North Koreans in Czech companies was crucial – it was the first brokerage agency to import a workforce from North Korea, establishing a business model for employing North Korean workers.

Interviews with involved actors uncovered direct links from the companies employing North Koreans in the Czech Republic, through the brokerage agencies, to different North Korean business entities, and finally to the North Korean government. The entities involved with links to Pyongyang were the Korea Light Industry Trading Corporation, the Korean Munsu Trade Company and the Korea Taisheng Trading Corporation. In North Korea, the process of selecting and managing labourers was carried out by the Ministry of Light Industry. As is reported by the International Network for the Human Rights of North Korean Overseas Labour, different ministries operate various business entities with the aim of generating profit for the Kim regime by dispatching a workforce abroad.

The link between the North Korean authorities, Czech employers, and brokerage agencies was created through the North Korean Embassy in Prague by designated staff. One of them was Kim T'aesan, a diplomat responsible for overseeing North Korean workers between 2000 and 2002, after which he defected with his family to South Korea. According to Kim, the North Korean government established the Chosun-Czech Shoes Technology Collaborative under its Ministry of Light Industry in order to procure and manage a workforce for Czech firms. Moreover, Kim said it was his job to collect salaries and distribute the remaining money to the workers. He stated that, during his stint, 55 per cent was taken off their salaries excluding sums deducted for accommodation, transport, and extras such as flowers for the birthday of Kim Il-sŏng and Kim Chŏngil. By the time all these deductions were made, each worker received between 20 and 30 USD a month. The money that Kim collected was eventually sent from an account in Komerční Banka, a bank belonging to the Société Générale group, to North Korea via a Korea Development Bank account in China.

Concerning the salaries, two questions arose: first, how much did the North Koreans earn, or in other words, were they paid fairly for the work performed, or not? Czech law stipulates that all workers, no matter their country of origin, are entitled to receive at least

the minimum wage. This right was assured also in the case of North Koreans. However, the exact amount of money they earned depended on the year, the company, and the type of contract – some workers were paid a fixed salary, which tended to be slightly higher than the country's minimum wage, or on a piecemeal basis, whereby a worker was paid a fixed rate for each unit produced. In this scenario, North Korean workers were able to earn much more thanks to their high productivity.

The second question concerns earned profits: who profited from this scheme? Kim explicitly stated that the workers had to hand over to North Korean managers a substantial portion of their monthly salary. Initially, Czech employers were asked to send all salaries to one single account on behalf of all the North Korean employees. While some employers followed that demand, others refused saying they would pay each worker individually. Even with this practice in place, North Koreans were forced to hand over parts of their salaries to North Korean authorities as was implicitly confirmed by several former employers.

The workers faced the worst situation around the years 1998–2004, when they were left with between 20 and 30 USD a month, a sum so small that some North Koreans experienced hunger and even malnutrition. In addition, their movements and communication with others were strictly controlled by North Korean minders and managers. The situation improved as attention paid to the issue by the media and Czech state authorities intensified. As a result, the workers were left with larger amounts of money, and control over their movements lessened. They were also covered by health insurance and, overall, enjoyed better living and working conditions than those in many places around the world where other labourers from North Korea were sent. It has to be pointed out that the conditions in which North Koreans worked and lived varied by company.

The Czech government, and later on also the Foreign Police and the Labour Office, started to monitor the situation of North Korean workers in Czech companies after it became a subject of media coverage. The employment of North Koreans had not been scrutinised by the Czech authorities before 2004. Initially, statements from ministers were mostly uncritical and moderate, but they hardened as international pressure increased. In June 2006, the Czech Ministry of the Interior recommended that the Foreign Police stop issuing work visas to citizens of North Korea, referring to the UN Security Council Resolution No. 1718. As the Deputy Minister of the Interior explained, further employment of North Korean workers was not in accordance with the security and political interests of the Czech Republic.

The decision to end the employment of North Koreans in the Czech Republic was made on a political level, as the government did not want to face continued international criticism. It must be pointed out that police investigations did not find any gross crimes committed in connection with the employment of North Korean workers, and contemporary hiring and payment practices were pursued within the confines of Czech law.

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INTRODUCTION TO CHAPTERS VI-VIII

The Networks that Shape Overseas DPRK Labour

Remco E. Breuker

The financial networks are the most international elements that enable North Korean overseas labour. Ironically, these networks may also be seen as a typically North Korean expression of their home-grown isolationist ideology: *hyŏnjihwa* (현지화) or ‘localisation’. Localisation is a strategy thought up by Kim Chŏngil. Originally, it referred to the policy of adopting South Korean ways of thought in order to influence South Korea. Relying on some of North Korea’s most gifted writers, it was a strategy that imitated and impersonated South Korean writers to feed the South Korean public a North Korean message purportedly brought by South Korean messengers. It was only contra-espionage agencies that were allowed to execute this strategy, and only a select few within those agencies: it required becoming fluent – as at home as the enemy – in the enemy’s thoughts, language, culture, and ideology. The danger, of course, is that the agents responsible for the localisation ‘go native’ and become truly and fully localised themselves.

North Korean businessmen and businesswomen can be found all over the globe, in many cases unrecognisable at first sight as a citizen of the DPRK. What makes North Korean overseas labour so important for North Korea, so resilient, and so (seemingly) impossible to control is its reliance on local networks. North Korean companies and managers ‘localise’ successfully, making a North Korea presence in the form of a company or joint venture a necessary part of the local environment. While our research has clearly shown that overseas DPRK labour possesses the same core characteristics anywhere, we have as of yet paid significantly less attention to its local inflections. In Poland, the sheer resourcefulness with which North Korean managers and their local partners adapt to local situations and to local laws is impressive: forming joint ventures with local business people, setting up shell companies, and creating difficult to detect networks that employ DPRK workers in the ways most suitable to local circumstances: as freelancers, independent subcontractors, and

full employees. The realities created in layers and layers of paper and digital files, however, does little to change the reality on the ground, where the core characteristics of overseas DPRK labour structure reality.

In this section, we have also taken a look at one of North Korea's more elusive business partners: Taiwan. The case of Taiwan is illustrative for the difficulties it presents in finding relevant information. The information that was obtained, however, hints strongly at the need to find further research. Then, of course, there is the Polish case, and, in particular, that of Redshield and the Partner Shipyard. We have plenty of materials to work with in the Polish case, but rather than being antithetical to the Taiwanese case, it is a picture that has simply been coloured in to a larger extent. And we have made a start at tracing where the money may have gone – as far as it has not been transported out of the country in cash, carried in a diplomatic bag – by carrying out an analysis of DPRK presence in the Panama Papers (and suchlike). This way, it is possible to get a notion of what DPRK financial networks look like, who administers them, what they are for, and so forth.

This section calls for further future research, both into the core characteristics of DPRK overseas labour and into its local inflections, the local adaptations that make the phenomenon work. For now, we have begun mapping the networks that are the lifeblood of DPRK overseas labour.

CHAPTER VI

DPRK Overseas Financial Networks

Shannon R. Stewart

In response to nuclear testing, which began in 2006, economic and financial sanctions have been imposed on the Democratic People's Republic of Korea (North Korea) and its rulers and representatives, which have severely constrained its ability to do business overseas. The United Nations began with a resolution that prohibited selling some military and luxury goods to North Korea. Later, the Security Council encouraged all member states to inspect and destroy matériel that could be used to further North Korea's nascent nuclear weapons programme. This extends to dual-use technology and matériel.

In 2013, the UN Security Council resolved to prohibit money transfers to North Korea, beginning its constructive exile from the international financial and trade system.¹ Subsequent resolutions have specifically prohibited trade in certain goods with North Korea, mostly extractive materials like metal and coal.² Specific individuals and businesses are prohibited from conducting their financial business abroad (e.g. maintaining accounts and investments).³ Additionally, sanctions have been imposed against aircraft and ships that prohibit them from using air and sea ports, further inhibiting North Korea's ability to conduct international trade.

Meanwhile, the EU, United States, China, South Korea, Japan, and Australia have all imposed sanctions independently, a step that brings violations under their local jurisdictions and allows them to pursue any infractions in local courts.⁴ Indeed, many successful asset

1) United Nations Security Council (UNSC), Resolution 2094, S/RES/2094(2013) (7 March 2013), http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2094%282013%29 (accessed 31 January 2018).

2) UNSC, Resolution 2270, S/RES/2270 (2 March 2016), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2270%282016%29 (accessed 31 January 2018); and Resolution 2321, S/RES/2321(2016) (30 November 2016), [https://undocs.org/S/RES/2321\(2016\)](https://undocs.org/S/RES/2321(2016)) (accessed 31 January 2018).

3) The List established and maintained pursuant to UNSC, Security Council Resolution 1718, Res. 1718 (2006) (26 January 2018), <https://scsanctions.un.org/fop/fop?xml=htdocs/resources/xml/en/consolidated.xml&xslt=htdocs/resources/xsl/en/dprk.xsl> (accessed 31 January 2018).

4) Anna Fifield, 'Punishing North Korea: A Rundown on Current Sanctions', *The Washington Post*, 22 February 2016,

seizures have been conducted by the United States Treasury.⁵ Owing to some of these local sanctions, North Korea's banks have also lost access to the infrastructure of international banking, specifically the SWIFT messaging system, which sends payment orders between banks.⁶ As a result of the sanctions and its dislocation from the global financial system, North Korea has turned to offshore financial networks to conduct its overseas business.⁷ Revenue it creates through arms sales, forced labour, and other activities must be stored outside that system or risk seizure, and it can generally only be repatriated as either hard currency or some other vehicle of value outside the banking system (e.g. commodities, cryptocurrency). Alternatively, money must be laundered to obscure its source and destination in order to settle North Korea's accounts.

One tool that helps North Korea conduct overseas business is the creation of offshore shell corporations. A shell corporation is simply a business that has no clear business operations or assets; it is not inherently suspicious or illegal. For example, it may be the final state of a business that has wound down its activities but not formally dissolved. Sometimes, shell corporations are created in certain jurisdictions to take advantage of low taxes, minimal regulation, legal indemnity, or greater privacy/lack of disclosure. In other cases, shell corporations are used as a part of a complex tax-lowering strategy to legally separate a business's (or person's) profits and losses, transferring the former offshore to lower tax jurisdictions. In this case, shell corporations are created to obscure the ownership or ultimate beneficiaries of a business.

To achieve even greater privacy, systems or networks of shell corporations are incorporated in jurisdictions that do not require a natural person to be listed as an officer of the corporation and across multiple jurisdictions.⁸ They can also be incorporated by an intermediary who holds the name of the directors unless compelled to release them by subpoena. Typically, having other businesses act as officers results in a difficult-to-trace multi-layered structure, making it difficult to discern who ultimately benefits from the network's business activity.

In the case of North Korea, shell corporations are a way of doing business internationally without triggering the detection of a sanctions violation by avoiding repatriating money, as transfers to North Korean banks are prohibited. An offshore shell corporation, or a network of shell corporations, can also be used to obscure the nationalities of the ultimate beneficiaries, allowing North Korean companies and individuals who are under sanction to conduct business overseas.

accessed 31 January 2018, https://www.washingtonpost.com/news/worldviews/wp/2016/02/22/punishing-north-korea-a-run-down-on-current-sanctions/?utm_term=.9a42cac2a06e.

5) 'The Forex Effect', *C4ADS*, 12 December 2017, accessed 31 January 2018, <https://static1.squarespace.com/static/566ef8b4d8af107232d5358a/t/5a3292079140b73f73f92efd/1513263687907/The+Forex+Effect.pdf>.

6) Tom Bergin, 'SWIFT Messaging System Cuts Off Remaining North Korean Banks', *Reuters*, 16 March 2017, accessed 31 January 2018, <https://www.reuters.com/article/us-northkorea-banks/swift-messaging-system-cuts-off-remaining-north-korean-banks-idUSKBN16N2SZ>.

7) UNSC, Res. 1718 (2006).

8) A natural person is an individual human being, as distinguished here from a legal person, which may be a corporation.

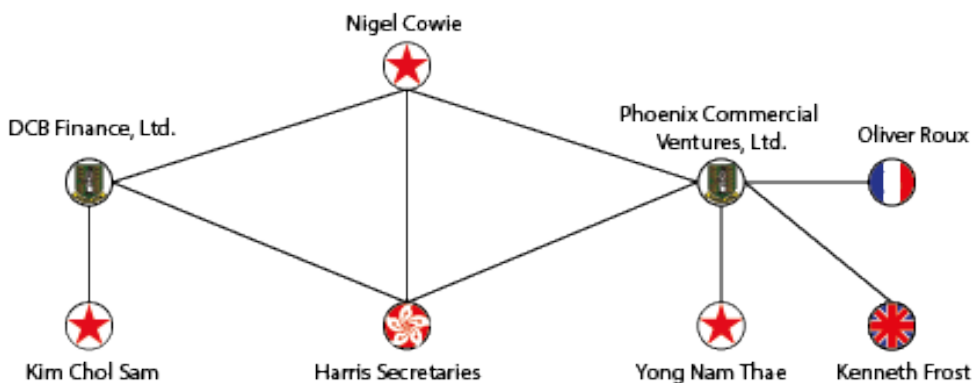


Figure 1: Offshore networks of North Koreans and their business partners established to facilitate the development of their nuclear weapons programme.

Four major leaks of data about offshore shell corporations have been redacted and consolidated into a single searchable database by the International Consortium of Investigative Journalists (ICIJ). The leaks derive from law firms that specialise in the creation of secret offshore financial structures, as well as business registries from countries that serve as favourable jurisdictions for this type of activity.

Several North Korean business enterprises appear in the ICIJ database, and their activities have been previously reported in the press. One such business network is shown in Figure 1. A British banker, Nigel Cowie, who once headed North Korea's first foreign bank, created at least two front companies, DCB Finance Limited and Phoenix Commercial Ventures Limited.⁹ Harris Secretaries, registered in Hong Kong, which requires only one natural person to act as an officer, was further used to obscure the front companies' North Korean connections.¹⁰ North Koreans Kim Chölsam (김철삼, also written as Kim Chol Sam) and T'ae Yöngnam (태영남, also written as Yong Nam Thae) likewise appear as officers of DCB and Phoenix, respectively.¹¹ Kim Chölsam has been individually sanctioned by the United Nations because, '[a]s an overseas-based representative of DCB, it is suspected that Kim Chölsam has facilitated transactions worth hundreds of thousands of dollars and likely managed millions of dollars in DPRK related accounts with potential links to nuclear/missile programs.'¹² Phoenix Commercial Ventures maintains a public-facing website where it describes its business as having offered business and investment opportunities in North Korea, and it lists its other board members, Kenneth Frost and Olivier Roux, along with their history of business experience in the DPRK and in the electronics business.¹³ It does

9) J. Garside and L. Harding, 'British Banker Set Up Firm 'Used by North Korea to Sell Weapons'', *The Guardian*, 4 April 2016, accessed 31 January 2018, <https://www.theguardian.com/news/2016/apr/04/panama-papers-briton-set-up-firm-allegedly-used-by-north-korea-weapons-sales>.

10) See footnote 8.

11) See 'Offshore Leaks Database', *The International Consortium of Investigative Journalists*, <https://offshoreleaks.icij.org/pages/database>.

12) UNSC, S/RES/2270.

13) Phoenix Commercial Ventures, Ltd., 11 June 2011, accessed 31 January 2018, <http://www.phoenixcommercial-ventures.eu/>.

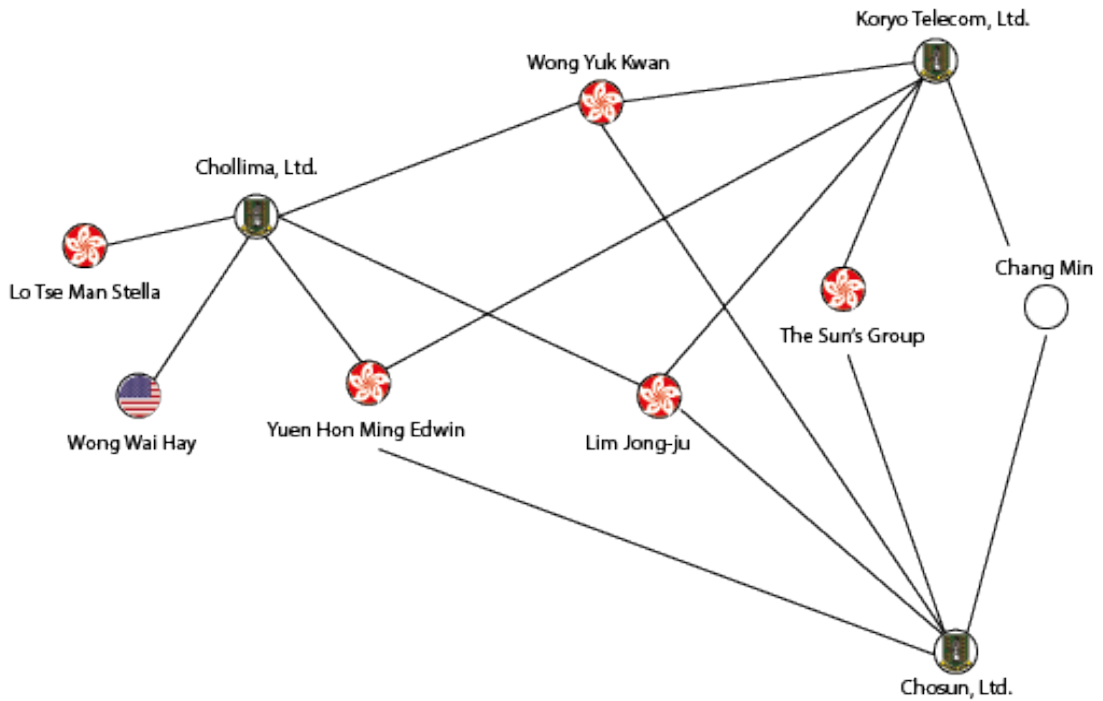


Figure 2: Network of offshore telecom companies doing business in North Korea.

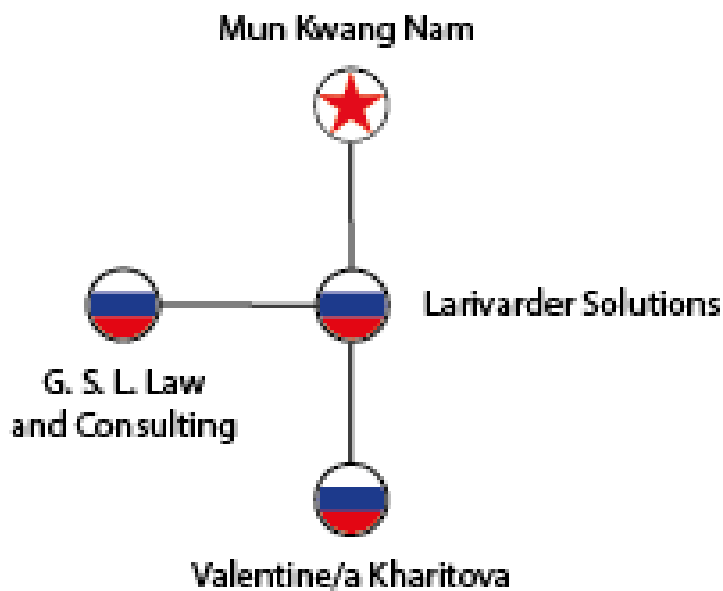


Figure 3: Offshore shell company managed by a director with a North Korean address suspected to manage the Kim family's personal wealth.

not publicly list its North Korean partner. It additionally lists its bankers as the sanctioned Daedong Credit Bank.¹⁴ Cowie has denied wrongdoing, but the firm that managed the incorporation of the two front companies, Mossack Fonseca, said internally that the North Korean addresses ‘should have been a red flag’.¹⁵

A second, more complex group of overseas entities is formed by a group of North Korean companies and Hong Kong-based bankers.¹⁶ Their businesses include Koryo Telecom Limited, Chollima, Chosun Limited, Lancelot Holdings, and others.¹⁷ The businesses have names indicating they are from North Korea and a record of projects in the country.¹⁸ Many of the businesspeople and bankers in the network act as officers for several of the businesses, resulting in a tightly connected network, shown in Figure 2. One of the businesspeople, Rim Chŏngchu (림 정주, also written as Lim Jong-ju) is the founder of Lancelot Holdings, which sold business rights to mobile telecommunication in North Korea to Pearl Oriental Oil, where he has also served as a telecom executive.¹⁹ The CEO of Pearl Oriental Oil, a well-known Hong Kong businessman named Wong Yuk Kwan (黃毓民), is also listed as an officer of Koryo Telecom, Chollima, and Chosun Limited. He was arrested in an unrelated fraud and money laundering scandal in 2013,²⁰ and while living in Taiwan awaiting trial, he was kidnapped by gangsters and held for *nearly* 40 days for 70 million HKD worth of bitcoin.²¹

Finally, an officer of the company Larivarder Solutions, Mun Kwangnam (문광남, also written as Mun Kwang Nam), gives his address in Pyongyang.²² 330 Registration papers for the company list a Valentine or Valentina Khartiova as an officer, and it shares an address with an intermediary, GSL, shown in Figure 3. Observers suspect, but cannot confirm that this company, situated in the Russian Federation, managed the Kim family’s personal fortune.²³ According to the ICIJ, the intermediary that facilitated this company, GSL, mainly serves Russian criminal organisations.²⁴

14) UNSC, Resolution 2270; Garside and Harding, ‘British Banker Set Up Firm ‘Used by North Korea to Sell Weapons’.

15) Bergin, ‘SWIFT messaging system cuts off remaining North Korean banks’.

16) See footnote 8.

17) See footnote 8; Song Kyung-hwa, ‘북, 정세격변기 2000년대초 유령회사 세워’, *hani.co.kr*, 6 June 2013, accessed 31 January 2018, http://www.hani.co.kr/arti/economy/economy_general/590836.html.

18) Choi He-suk, ‘Tax Haven Funds seen Linked to N.K.’, *Korea Herald*, 6 June 2013, accessed 31 January 2018, <http://www.koreaherald.com/view.php?ud=20130606000235>.

19) Song Kyung-hwa, ‘Evidence Found of North Korean Paper Companies’, *The Hankyoreh*, 7 June 2013, accessed 31 January 2018, http://www.hani.co.kr/arti/english_edition/e_northkorea/590896.html.

20) ‘Four Charged in Hong Kong Watchdog’s Probe of Pearl Oriental Oil’, *Reuters*, 7 October 2013, accessed 31 January 2018, <https://www.reuters.com/article/pearloriental-probe/four-charged-in-hong-kong-watchdogs-probe-of-pearl-oriental-oil-idUSL4N0HX24920131007>.

21) Tracy You, ‘‘I Didn’t Expect to Make It Out Alive’: Moment Terrified Hong Kong Oil Tycoon is Rescued after Being Abducted and Held for £6 Million Ransom for 38 Days’, *MailOnline*, 29 October 2015, accessed 31 January 2018, <http://www.dailymail.co.uk/news/peoplesdaily/article-3295463/Hong-Kong-oil-tycoon-rescued-abducted-held-6-million-ransom-38-days.html>.

22) See footnote 8.

23) Phoenix Commercial Ventures, Ltd.

24) Song Kyung-hwa, ‘북, 정세격변기 2000년대초 유령회사 세워’.

Note

Since Phoenix Commercial Ventures has ceased its business operations, there is a possibility the website will become unavailable in the near future. For reference, please visit the archived version of the website here: <https://web.archive.org/web/20180109223852/http://www.phoenixcommercialventures.eu/>.

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CHAPTER VII

Polish Companies and their Structures

Marieke P. Meurs

Introduction

Detailing the approach to the processing of data acquired in the research process, this chapter seeks to make comprehensible the methodological steps that have been taken in unitising, analysing, and ordering the eventual selection of information that has been used in the research.

Data was collected from open access databases, paid access databases, and were collected via anonymous sources that cannot be identified for safety reasons.

Methodology

Following the receipt from an anonymous source of a data set that consisted of photographs of documents compiled by a company named Redshield, the research team proceeded to verify the information by cross-referencing with existing literature and data. The data consisted mostly of notarial acts, financial reports, and forms requesting changes to the company's Chamber of Commerce (KRS) entry. The research team supplemented these documents with open access Polish Chamber of Commerce documents on Redshield, as well as various other companies based in Poland. The additional companies were selected based on connections with, or in reference to existing literature, including previous research presented in the first edition of the *Slaves to the System* findings.¹

All of these documents were retrieved from an open access Court Registration System database, accessible through the national government's website. A total of 28 different companies were selected, based on the suspicion that these companies are connected to North Korean labour.

1) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016).

The photographs were separated into single page files, and each page of the photographed documents, as well as the Chamber of Commerce documents, were consequently numbered with unique codes for easy retrieval. These numbers have been used for reference in this chapter. The information contained in each page was then processed and entered into a database file under the relevant number. This information was categorised. These categories were ordered by importance, with the most relevant data obtained consisting names of persons, names of companies, and addresses. The categories were coded on the basis of recurrence within the data set. In addition, the researcher chose to include important information with a single or relatively few occurrences if these were deemed relevant to the research.

The information was selected to enable close analysis and inclusion of the identities of the persons involved. This information is contained in categories including names, signatures, personal titles, addresses, Polish national identification number, passport number, residence or identity card number, and date of birth.

The categories containing information regarding the companies include Chamber of Commerce registration number (KRS), other types of Polish company registration numbers (NIP and REGON), relevant dates such as date of registration, address, geographical location, codes referring to company activities (PKD), account numbers, and currency amounts. Sorting all the relevant information into these various categories allowed for a clearer overview of the documents' content and for optimal accessibility of specific information by searching for keywords in the database file.

The documents in their original, unprocessed form are much more challenging to use for quick and effective reference.

The database file was manually compiled by the researcher using data processing software. Once this database file was compiled, its content was reviewed and summarised by several researchers in the operational team in order to identify connections between individuals and between companies. A basic table containing all the encountered companies along with their registration numbers, addresses, and all their shareholders produced a first summary that brought to light some peculiarities.

Examples of such peculiarities are overlaps of shareholders between multiple companies or multiple companies sharing one address. Apparent connections between companies or shareholders were further explored by exploring the database file using specific keywords, such as a shareholder's name or a Chamber of Commerce registration number. This was done to check for further evidence of connections and to confirm new findings. Additionally, this information was cross-referenced with existing data from earlier research and literature, further fortifying the validity of the information being processed.

Although the significance of these findings remained unclear in certain cases, the findings do point towards the existence of an intricate network of different companies suspected to be involved in North Korean forced labour.

In the case of Redshield, which was more extensively covered as a result of the research team's efforts, it was possible to gather relevant information with regard to the identity of the individuals involved as well the internal functioning and chronological evolution of the

company. The specific findings on Redshield are summarised separately below, followed by a summary of the findings based on KRS documents of various related Polish entities.

Findings

As described above, the set of Redshield documents mostly consisted of notarial acts, financial reports, and forms submitted to the Polish District court requesting some update or change to the company's Chamber of Commerce entry. Other than these main types of documents, the data also contained several confirmations of receipt (package or other mail) and a number of transaction receipts.

The most recent date encountered in the data was 04/04/2017² and the latest update to Redshield's Chamber of Commerce entry is 25/07/2017, meaning the company was still active very recently.³ The oldest date encountered in the photographed documents was 04/01/2012, contained in a financial report.⁴ According to the Chamber of Commerce documents, the company was first registered that same year on 06/04/2012 under registration number KRS 0000417288.⁵ The company is based in Szczecin, Poland.⁶ It is noteworthy that Redshield appears to be registered twice, under two different Chamber of Commerce registration numbers. The second registration is dated 21/05/2014, under KRS 0000508779.⁷ The documents on this second Redshield registration also mention the older Redshield as its partner.⁸ Four different Chamber of Commerce documents concerning Redshield were used in this research, meaning two different updates of each of the two different registrations under the company name 'Redshield.' The older registration (KRS 0000417288) will be referred to as Redshield (1) from this point onwards, while the newer registration (KRS 0000508779) will be referred to as Redshield (2).

Redshield's company board is comprised entirely of North Korean individuals.⁹ The only Polish names mentioned in the company's notarial acts are translators.¹⁰ The data often refers to CHR as the chairman, but this changed in May 2016 when Mr P. is appointed as the new chairman.¹¹ From this point onwards, the management of the company is comprised of Mr P. and MR CCJ.¹² However, this is only the case for the Redshield (1), as Mr P. is only mentioned as current chairman in Redshield (1)'s most recent Chamber of Commerce up-

2) 17A0028.

3) 17A0338.

4) 17A0007.

5) 17A0338, 17A0386.

6) 17A0338, 17A0386, 17A0344, 17A0380.

7) 17A0344, 17A0380.

8) 17A0345, 17A0381.

9) 17A0339, 17A0340, 17A0345, 17A0346, 17A0347, 17A0381, 17A0382, 17A0387, 17A0388, 17A0393, 17A0394, 17A0395.

10) 17A0011, 17A0106, 17A0153.

11) 17A0273, 17A0274.

12) 17A0275, 17A0339.

date.¹³ Both entries regarding Redshield (2) still contain CHR.¹⁴ Redshield (2)'s older entry lists PMH as a shareholder, while the newer entry lists Mr O and CCS.¹⁵

According to the most recent update of Redshield (1), CCS owns shares worth 500 PLN while Mr P. owns shares worth 4,500 PLN, the total capital amounting to 5,000 PLN¹⁶ (roughly 1,200 EUR).¹⁷ Mr P's shares were previously owned by CHR.¹⁸ In the most recent document of Redshield (2), Mr O. is listed as owning 1,000 PLN worth of shares, while CCS owns the same amount,¹⁹ meaning 2,000 PLN in total (roughly 480 EUR).²⁰ Previously, these same shares were owned by CHR and PMH.²¹ As for bank transactions involving Redshield, the data contains small money transfers from the company, which are found in the form of receipts of fee payments from Redshield to the district court.²² Redshield used at least two Polish banks, Alior and Pekao, to carry out these transactions.²³

The data contains copies of yearly financial reports. Some of these copies also contain information on employment by the company, although none of the documents included specific information on the identity of the individuals employed, apart from the board members and shareholders. According to the 2013 financial report, Redshield employed 47 workers referred to as 'physical' (manual workers), three workers referred to as 'mind' (administrative workers), and one owner. The amount spent on employee compensation, not including the board, is indicated as 1,247,178.66 PLN²⁴ (roughly 299,100 EUR).²⁵ How, and if, Redshield carried out these salary payments is not contained in these reports. According to the 2014 financial report, the company employed 43 manual workers, four administrative workers and had one owner. The employee compensation excluding the board amounted to 1,150,899.98 PLN²⁶ (roughly 276,000 EUR).²⁷ According to the 2015 financial report, the company employed 17 workers described as being 'in workstations' (manual workers), four administrative workers, and one employee 'on leave/free time'.²⁸ There is a visible decrease in the number of workers under contract in the company. This is in line with the development

13) 17A0340.

14) 17A0347, 17A0382, 17A0383, 17A0387.

15) 17A0345, 17A0346, 17A0381.

16) 17A0339, 17A0275.

17) 'PLN to EUR', *XE Currency Converter*, accessed 3 February 2018, <http://www.xe.com/currencyconverter/convert/?Amount=5000&From=PLN&To=EUR>.

18) 17A0017, 17A0387.

19) 17A0345, 17A0346.

20) 'PLN to EUR', *XE Currency Converter*, accessed 3 February 2018, <http://www.xe.com/currencyconverter/convert/?Amount=2000&From=PLN&To=EUR>.

21) 17A0381, 17A0382.

22) 17A0005, 17A0058, 17A0099, 17A0103, 17A0104, 17A0174, 17A0192, 17A0310.

23) 17A0005, 17A0058, 17A0099, 17A0174.

24) 17A0046.

25) 'PLN to EUR', *XE Currency Converter*, accessed 4 February 2018, <http://xe.com/currencyconverter/convert/?Amount=1247178.66&From=PLN&To=EUR>.

26) 17A0095.

27) 'PLN to EUR', *XE Currency Converter*, accessed 4 February 2018, <http://xe.com/currencyconverter/convert/?Amount=1150899.98&From=PLN&To=EUR>.

28) 17A0325.

described in the previous report showing that most North Korean workers were increasingly 'self-employed'.

Apart from these findings on the company's history and management, the examined documents on Redshield also contains specific information concerning the individuals involved in the company. Two of the shareholders, CHR and PMH, appear to be married,²⁹ yet they are registered at different addresses in Szczecin, Poland.³⁰ A number of other shareholders share the same address: CCS and Mr O. are registered at the same address,³¹ while CHR and Mr P. are both registered at the address of the company itself in Szczecin.³² Also, the data contains two individuals' passport numbers,³³ and most shareholders are registered under a Polish identification number (PESEL), which is assigned to all individuals living in Poland,³⁴ apart from Mr P.³⁵ Lastly, the data contained the names of two individuals, COC and YYN. These individuals were listed without context, making it unclear how they are related to Redshield.³⁶

The following findings are based on the set of Chamber of Commerce (KRS) documents including various different companies based in Poland. The possible involvement of these companies in the facilitation of North Korean forced labour requires a thorough reading and understanding of the findings included in this volume. Therefore, the findings below are only to be read in this particular context. The research team refrains from framing responsibility of the exploitation of North Korean workers outside the context of this volume, and the findings as listed below are disconnected from this aspect, thus only connected methodologically in the processing of documents included in the research. The majority of all these companies' KRS documents exclusively list Polish individuals. Few include North Koreans in their management. The only companies with a management composed entirely or partially of North Koreans are Chopol, Wonye, and Redshield.³⁷

Some of the companies included in the data list a number of different Polish shareholders or board members, and some of these names appear several times in different companies, suggesting connections between these companies. Examples of commonly reappearing names are: Cecylia Kowalska, who appears in the documents on Wonye, Elan, Alson, and Aramex.³⁸ A person with the initials JS appears under many different companies: Partner Stocznia, Partner Shipyard, Partner, Odroujście, Malserwis, and J.M.A.³⁹ Another person, ASM, appears in the companies Sail Szczecin, Partner Stocznia, Partner, Offshore

29) 17A0126.

30) 17A0002, 17A0011, 17A0105, 17A0106, 17A0153.

31) 17A0159, 17A0160, 17A0162, 17A0163.

32) 17A0002, 17A0011, 17A0031, 17A0105, 17A0106, 17A0153, 17A0293, 17A0294, 17A0295.

33) 17A0011, 17A0106.

34) 'Personal ID Number (PESEL)', *Consulate General of the Republic of Poland in New York*, accessed 3 February 2018, http://newyork.mfa.gov.pl/en/consular_information/passports/pesel/pesel.

35) 17A0297.

36) 17A0340, 17A0129.

37) 17A0339, 17A0340, 17A0345, 17A0346, 17A0347, 17A0373, 17A0377, 17A0381, 17A0382, 17A0383, 17A0387, 17A0388, 17A0393, 17A0394, 17A0395, 17A0450, 17A0451, 17A0456, 17A0457, 17A0458.

38) 17A0450, 17A0452, 17A0499, 17A0500, 17A0523, 17A0526, 17A0529.

39) 17A0564, 17A0566, 17A0573, 17A0579, 17A0580, 17A0581, 17A0593, 17A0598, 17A0610, 17A0630.

Marine Construction, Odroujskie, Malserwis, BFK, and J.M.A.⁴⁰ MBN is involved with Partner Stocznia, Partner Shipyard, Partner, Malserwis, and J.M.A.⁴¹ Wojciech Kowalski is linked to Eltech, Alson, and Aramex, and PA appears under Sail Szczecin, Offshore Maritime Construction, and BFK.⁴²

Several of these companies seem to be run by several members of the same family. One of these companies is Gospodarstwo Ogrodnicze T. Mularski, which lists five members of the Mularski family as shareholders.⁴³ The companies JTM Grupa and Vital exclusively list members of the Kociszewski family as their shareholders and board members.⁴⁴ However, it appears that these two companies are in fact one and the same. JTM Grupa and Vital share the same registration date, registration number, an incomplete address, and shareholders. The document under the name Vital is the more recent update, so the company originally named JTM Grupa most likely changed its name to Vital.⁴⁵ This is not the only company to have changed its name. Aramex and Eltech Solutions are located at different addresses in Gdansk and the listed shareholders are not entirely the same; nevertheless, they share the same registration number and date. It is likely that Aramex changed its name to Eltech Solutions since the document under this name is more recent.⁴⁶ Lastly, Alson and Elan also share a number of characteristics indicating that they are, in fact, the same company. Both companies list the same shareholders, registration date and registration number, although their address differs. The company Alson appears to have changed its name to Elan, as indicated by the most recent Chamber of Commerce update.⁴⁷

Similar to Redshield, which is registered twice under two different KRS numbers, the company Partner Shipyard also shows two different registration numbers, with one being a partner of the other.⁴⁸ Additionally, this company is also registered with the Dutch Chamber of Commerce. The company JW Steel is another company with two separate KRS registrations.⁴⁹ Apart from these companies with double registrations, there is also an instance of several companies being combined into one Chamber of Commerce entry. According to the KRS documents on the company Atal, several different companies have been joined under one main Atal company. These acquired companies were previously called SPV Atal-Invest, Atal, Atal-Wysoka, and Atal-Wykonawstwo. These were previously each accorded their own registration number.⁵⁰

Lastly, several companies share an address. The companies Sail Szczecin, Partner Shipyard, and Offshore Maritime Construction all list the same address in Szczecin.⁵¹ The

40) 17A0579, 17A0580, 17A0581, 17A0592, 17A0598, 17A0604, 17A0606, 17A0611, 17A0630, 17A0645, 17A0657, 17A0558, 17A0564, 17A0565, 17A0574, 17A0575.

41) 17A0566, 17A0572, 17A0581, 17A0597, 17A0611, 17A0630, 17A0564.

42) 17A0399, 17A0400, 17A0499, 17A0529, 17A0530, 17A0559, 17A0586, 17A0587, 17A0604, 17A060.

43) 17A0434, 17A0435, 17A0436.

44) 17A0536, 17A0543.

45) 17A0534, 17A0535, 17A0536, 17A0541, 17A0542, 17A0543.

46) 17A0528, 17A0398.

47) 17A0498, 17A0522.

48) 17A0571, 17A0572, 17A0575, 17A0609, 17A0645, 17A0646, 17A0657.

49) 17A0617, 17A0623.

50) 17A0470, 17A0482, 17A0483.

51) 17A0557, 17A0571, 17A0585.

shareholders listed for each of these companies are not all the same persons, but there is overlap: ASM is involved with both Sail Szczecin and Partner Shipyard, while PA's name appears under both Sail Szczecin and Offshore Maritime Construction. Similarly, the companies Partner Stocznia, Partner Shipyard, Partner, Malserwis, and J.M.A. all share one address in Police, Poland.⁵² Again, these companies' lists of shareholders show similarities. JS, ASM, and MBN are involved with all these companies. The companies Alson and Aramex also both share the same address in Gdansk.⁵³ Both companies include Cecylia Kowalska, WK, and AM among their shareholders. One last detail to note on the topic of company addresses, is that Chopol is the only company to also list an address in Pyongyang apart from their Polish address.⁵⁴ Chopol is one of the companies to list North Korean individuals among their board members: RYJ⁵⁵ and KMC.

Note

Information contained in the database can be requested via LeidenAsiaCentre using the document number/database reference number located in the footnotes.

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'PLN to EUR'. XE Currency Converter. <http://www.xe.com/>.

52) 17A0563, 17A0609, 17A0579, 17A0596, 17A0629.

53) 17A0498, 17A0528.

54) 17A0372, 17A0373.

55) This name is not indicated in Han'gŭl, therefore it is unclear what its correct romanised form should be.

CHAPTER VIII

North Korean Networks and Their Secrets: The Case of Taiwan

Marte C.H. Boonen

Introduction

In terms of North Korean financial networks, it is important to not just look at North Korean workers abroad and how their earnings are flowing back into the regime, it is necessary to understand the trade and political relations of companies and host countries with North Korea. In this chapter, Taiwan is a concrete case in terms of discerning how North Korean influence penetrates a country. This case study not only shows parts of North Korean networks and companies, their actions and their links, but also exposes exactly how difficult it is to gain access to verified information on this subject, revealing how important additional in-depth research is.

For this project, China and Taiwan are seen as separate entities, even if the United Nations (UN) and the International Labour Organization (ILO) do not. Taiwan is a different entity from mainland China in that it has its own ministries and bureau of statistics, as well as its own trade relations and other agreements with third countries. This means that Taiwan can differ from mainland China on policy regarding North Korea, not least because of its position as a 'legal black hole'.¹ Since Taiwan is not a member of international organisations, it does not need to follow the rules and measures implemented in and against certain nation states, North Korea included. While the Taiwanese government has always expressed its desire to belong to these organisations, and thus adhere to the rules and norms set up by, for instance, the ILO and UN, it does mean that it is more difficult to track any

1) Lien Chan, 'The Republic of China on Taiwan belongs in the United Nations', *Orbis* 37 no. 4 (1993): 637.

infringements of these rules by individuals or companies.² As will be shown in this segment, however, many activities that originate in Taiwan, do have links with China.

In the specific case of Taiwan and North Korea, information on the history of their relations is incredibly hard to find. According to both journalists and academics, Taiwan–North Korea relations have not been written about because it is almost impossible to gather the information necessary. Taiwanese official websites seem to deliberately omit information on North Korea, judging by the fact that trade agreements and relation-sheets with other countries are present and open to the public.³ Searching the media, some mentions prove that relations between North Korea and Taiwan exist, such as general information on, for instance, the fact that Taiwan gave aid to North Korea during the famine.⁴ More evidence that relations between North Korea and Taiwan exist comes from the fact that, in 1997, Taiwan made a deal with North Korea to store nuclear waste that Taiwan possessed at a North Korean site. At the time, the deal was uncontroversial, because the waste did not contain any uranium or plutonium, and thus was of no use to the North Korean government. This deal eventually fell through, however, and the North Korean company sued Taiwan for breach of contract.⁵ Additionally, in 2012, the North Korean deputy secretary of Tourism made a visit to Taiwan.⁶ While this was not an official state visit (the Taiwanese government only found out afterwards since the North Korean official travelled on a tourist visa), it does indicate that there are ongoing business relations. Moreover, it assumes backdoor dealings with Taiwanese organisations and companies, especially since one academic website hinted that the North Korean official returned home with cash.⁷

Official documents: (trade) relations North Korea-Taiwan

While, generally, there is little information on Taiwan, there is substantial data in *Wikileaks* documents. *Wikileaks* contains declassified correspondence between the American Institute Taiwan (AIT) in Taipei (the de facto embassy) and the Secretary of State in Washington DC over the course of 2007 to 2009.

From these correspondences, it is clear that there has been much more activity surrounding North Korea in Taiwan than other source materials, as described above, have

2) Eric Ting-Lun Huang, 'Taiwan's Status in a Changing World: United Nations Representation and Membership for Taiwan', *Annual Survey of International and Comparative Law* 9, no. 3 (2003); According to the ILO, Taiwan is a province of the Republic of China.

3) While other governmental websites state that Taiwan trades with the DPRK, such as TAITRA, the Ministry of Trade only lists Japan and South Korea as its trading partners within North East Asia.

4) Lin Chih Hao (임지호), '한중 수교 이후 북한-대만 관계 연구: 전략적 삼각관계를 중심으로', in 세계북한학 학술대회 자료집 3권0호, November 2016, Seoul: 북한연구학회.

5) Lin-Yun Huang and Y.F. Low, 'Nuclear Waste Disposal Contract with North Korea Invalid: Taipower', *Focus Taiwan*, 25 September 2017, accessed 14 February 2018, <http://focustaiwan.tw/news/aeco/201709250035.aspx>; Sheryl Wudunn, 'North Korea Agrees to take Taiwan Atom Waste For Cash', *The New York Times*, 7 February 1997, accessed 14 February 2018, <http://www.nytimes.com/1997/02/07/world/north-korea-agrees-to-take-taiwan-atom-waste-for-cash.html>.

6) Qing Xiao, '朝官员秘密访台引岛内震动 被批“国安”漏洞', *Huanqiu*, 18 October 2012, accessed 14 February 2018, <http://mil.huanqiu.com/paper/2012-10/3198620.html>.

7) Mycal Ford, 'North Korea's Taiwan Option: Exploring Two Deals', *SinoNK*, 18 March 2013, accessed 14 February 2018, <https://sinonk.com/2013/03/18/north-koreas-taiwan-option-exploring-two-deals/>.

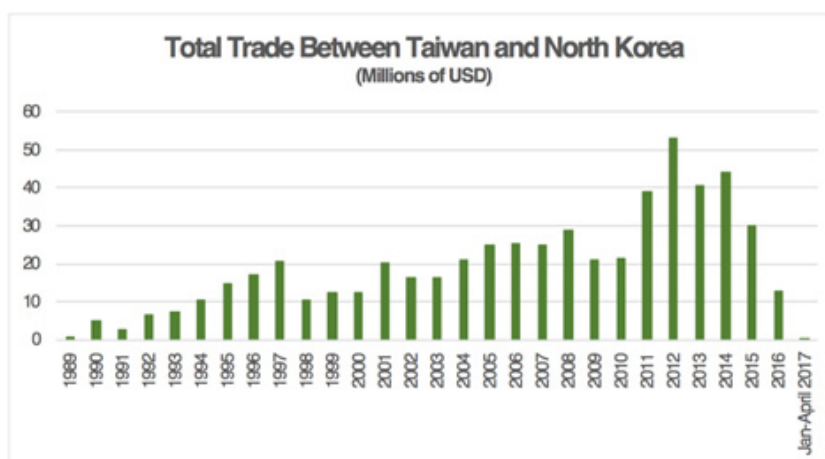


Figure 1: Total trade between Taiwan and North Korea.

Source: Taiwan Ministry of Trade.

revealed. For instance, the leaks report that, despite contradictory news that there were no official trade relations or co-organised events with North Korea, in 2008 the Taiwan External Trade Development Council (TAITRA) met with North Korean officials to discuss the promotion of trade.⁸ The relationship between TAITRA and North Korea had already been established by then. As early as 2000, Taiwan and North Korea established the ‘North Korea–Taiwan Committee for Promotion of Private Sector Economy and Technology’, which is headed by TAITRA. While, in the correspondence, TAITRA claims that this committee exists only in name and is not used to facilitate trade, AIT notices that since the formation of that committee, North Korean government officials have visited Taiwanese companies in Taiwan several times every year. In 2008, TAITRA organised a trade mission in February, as well as a trip to the Pyongyang International Trade Fair in May of the same year. This shows that TAITRA at the very least used to be involved in setting up trade with North Korea.⁹

In recent years, this trade has dwindled (perhaps due to Taiwan adhering to UN sanctions), but there is a link between North Korea and Taiwan. In Figure 1, we can see that while trade with North Korea decreased exponentially in 2017, from 2011 to 2015 the highest total trade in decades was recorded.

In 2014–2015, the largest import product from North Korea to Taiwan was coal, with magnesium carbonite and magnesium oxide the second largest. Other products such as plants, clothes, and metals are also imported.¹⁰ Under current UN Security Council sanctions, purchasing coal from North Korea is forbidden.¹¹ The Ministry of Trade statistics and products for 2017 are, at the time of writing, not yet public, so there is no knowing whether

8) American Institute in Taiwan, ‘Taiwan Monthly Reporting Cable August 2008’, *Wikileaks*, 5 August 2008, accessed 14 February 2018, https://wikileaks.org/plusd/cables/08AITTAIPEI1325_a.html.

9) *Ibid.*

10) ‘2014–2015 Trade Statistics: Import North Korea’, *Taitra Global Trade Source*, accessed 14 February 2018, <http://taitrasource.com/total01.asp>; <http://www.taitraesource.com>.

11) United Nations Security Council (UNSC), Committee established pursuant to resolution 1718 (2006), *Resolution 2371, S/RES/2371* (2017) (5 August 2017), <https://www.un.org/sc/suborg/en/s/res/2371-%282017%29> (accessed 14 February 2018).

Taiwan has upheld those sanctions officially. Conversely, the largest export products during those years were medication and food products, but also electrical machines, transformers, parts for electrical circuits (such as relays, fuses and suppressors), pressure reducing valves, thermostatically controlled valves, and gas or smoke analysis apparatuses.¹²

This is in line with what AIT discussed back in 2008, namely that ‘Taiwan is looking at the following industries for trade promotion: mineral; machinery and manufacturing equipment; electrical products and electronics; base metal.’¹³ This shows that regardless of TAITRA’s role in the Taiwan–North Korea trade, these industries are the ones most involved.

Regarding trade between Taiwan and North Korea, the numbers for 2014 to 2016 indicate that the main import products from North Korea to Taiwan are coal, magnesium, and clothing. The fact that much Taiwanese clothing is manufactured in North Korea, is a reason for further investigation. In the last couple of years, there have been a few reports on how clothing that reads ‘made in China’ was actually manufactured in North Korea.¹⁴

The main items that are exported from Taiwan to North Korea, and a cause of concern for the US government, are computer related items (such as laptops, hard drives, DVD burners, and laser printers), while others are explicitly used for manufacturing (and could, according to US documents, be used for the development of nuclear plants) such as aluminium, machining centres, 3-axis machines, and y-strainers.¹⁵

The documents also mention that North Korea has been trying to establish joint ventures and other investments with Taiwanese companies. One of these other investments included companies selling equipment to North Korea, who would supply them with finished products instead of paying in currency. For instance, if a Taiwanese company were to sell a sewing machine, North Korea would pay in clothes made on that sewing machine instead of Taiwanese dollars.¹⁶ If such ventures are successful, the companies are not easy to track. The official Chamber of Commerce of Taiwan does not show any joint venture companies with North Korea.

Another issue that the AIT correspondence focuses on is companies that have been caught trading illegal products with countries such as Iran and North Korea. In the case of North Korea, there are several companies involved, some of which are also mentioned in UN sanction reports, and these will be discussed in another section of this chapter.

Interestingly, none of the documents talk about a workforce, or allowing North Koreans to work in Taiwan. Rather, they focus on companies conducting business with North Korean entities, which will be discussed in more depth later in this section. According to an email from the Taiwanese Ministry of Labour, there have not been any North Korean workers in Taiwan; however, while attached to this email was a statistical overview of workers employed in the care and social sectors, there were no figures for the agricultural, construc-

12) ‘2014–2015 Trade Statistics’, *Taitra Global Trade Source*.

13) American Institute in Taiwan, ‘Taiwan Monthly Reporting Cable August 2008’.

14) Sue-Lin Wong and Philip Wen, ‘North Korea Factories humming with Made in China Clothes Traders Say’, *Reuters*, 13 August 2017, accessed 14 February 2018, <https://www.reuters.com/article/us-northkorea-labour-china-insight/north-korea-factories-humming-with-made-in-china-clothes-traders-say-idUSKBN1AT00Q>.

15) American Institute in Taiwan, ‘Taiwan Monthly Reporting Cable January 2008’, *Wikileaks*, 5 August 2008, accessed 14 February 2018, <http://wikileaks.zilog.es/cable/2008/02/08AITTAIPEI158.html>.

16) *Ibid*.

tion, and fishery sectors. Thus, there is no way of knowing via official channels whether there are, or have been, North Korean workers in those sectors in Taiwan. When we look at the Taiwanese media and NGOs, however, we see a very different picture emerging.

North Korean labourers in Taiwan

According to NKDB, an NGO that collects information on North Korea and North Koreans, there was at least one employment agency for North Koreans in Taiwan in 2015. Most North Koreans apparently working in Taiwan are employed in the fishery sector. NKDB's 2015 report names three companies that hire or have hired North Korean workers. Two of these companies are fisheries.¹⁷ In 2016, it also named three companies – two fisheries and one construction company.¹⁸ Research was done on these companies through the Taiwanese Chamber of Commerce, but since it only records the capital, address, and management team of a company, it is impossible to deduce whether there are still North Koreans at these companies.

The media also reported that Taiwanese fisheries had bought the right to fish in North Korean waters, on the condition that North Koreans were allowed to work on the Taiwanese fishing boats for 500 USD per month.¹⁹ Having previously sold rights to Chinese fisheries in 2010, North Korea charges 1.6 million won (150,400 USD) per vessel, per day. This construction earns the North Korean government 72.2 million USD per year.²⁰ The Taiwanese government refuted these claims, but admitted that, if fisheries wanted to purchase fishing rights, it was not illegal to do so, and that this could have happened without the government's knowledge, namely through brokers. Moreover, it claimed that Taiwan did not have any North Korean workers on its territory. One fishery took issue with this statement, stating that Taiwanese fisheries did indeed employ North Korean workers.²¹ The data of the Taiwanese Ministry of Labour's Workforce Development Agency (WDA) shows that there are no workers with North Korean nationality in the Productive Industries and Social Welfare sector.²² However, these statistics do not show the workers within the Fishery, Agriculture, and Construction sectors; the sectors where North Korean labour is most prevalent. A follow-up request for information has not yielded any statistics (as was the case for the previous request), but an email was received stating that there are no North Korean workers in Taiwan. Because the (open-access) evidence has not been submitted to the research team, it is impossible to verify WDA's claim.

17) 'List of Companies that Hired North Korean Overseas Workers Per Country', *Database Center for North Korean Human Rights*, 23 December 2015, accessed 14 February 2018, <http://www.nkdb.org/>.

18) Ibid.

19) Fengjing Hui, '不能說的祕密...北韓統治資金 有部分來自台灣漁民?!' *United Daily News*, 15 October 2016, accessed 14 February 2018, <http://a.udn.com/focus/2016/10/15/25177/index.html>.

20) Kim Soo-yeon, 'N.K. Sells Fishing Rights to Taiwan to Secure Leader's Governing Funds: Source', *Yonhap News*, 14 October 2016, accessed 14 February 2018, <http://english.yonhapnews.co.kr/northkorea/2016/10/14/69/0401000000AEN20161014001300315F.html>.

<http://english.yonhapnews.co.kr/northkorea/2016/10/14/0401000000AEN20161014001351315.html>.

21) Ibid.

22) Workforce Development Agency, email correspondence with the author, 2017.

What is verifiable, however, is that there are North Koreans in Taiwan. Not only through the testimony of the fishery mentioned above, but also through two other incidents. In 2017, a North Korean worker was killed in a drunken brawl with another foreign worker. This was not reported outside the Taiwanese media. The North Korean was a fisherman who worked in Pingtung. After the brawl, he was taken to the hospital, where he died from his wounds.²³

In a similar vein to the aforementioned fishery, Hong Lianghui, chairman of the Taiwan Tuna Longline Association, stated that he did, in fact, employ North Korean labourers. In an interview with Voice of America Cantonese he explained:

*[the costs of hiring foreign labourers] are all about the same, but [North Korean fishermen] are easier to manage. They are similar to the military, they are easier to manage. The middlemen also said to us that they want to earn a bit of profit, so each person takes about four to five hundred [USD], but a portion of this must be handed over to North Korea, we don't know how much this is either.*²⁴

Both his and another fishery (which remains anonymous), argue that North Korean labourers are much harder working and more obedient. Additionally, the anonymous fishery stated that North Koreans are always hired in groups of five, with one of them being the manager.²⁵ While the government has now prohibited the renewal of workers' visas, it is unknown how many North Koreans remain in Taiwan.²⁶ The kind of structures of North Korean employment mentioned coincide with what we have previously seen in other countries; North Koreans are not allowed to work alone, or without North Korean supervision.

This section has shown that trying to determine whether there are North Korean workers in a specific country has become incredibly tough. It appears that the WDA did not want to cooperate with our research; indeed, they sent the service sector statistics on short notice, with little effort required from our side, but then flatly refused to do the same with statistics for fisheries and the construction sector. Judging from the rest of the information uncovered in this section, we can say for sure that, even though we do not know how many and where exactly they are, there are North Korean labourers in Taiwan.

Companies, shell corporations, and front organisations

According to the UN and NKDB, there are a number of companies that either have ties to and/or deal with North Korea, or that directly hire North Korean workers. Figure 2 is a chart of companies directly involved with North Korea.

Information on companies is scarce in Taiwan, and its Chamber of Commerce only registers the bare minimum, nonetheless a pattern emerges that not only connects certain

23) Xinzhong Pan, '屏東東港漁工酒後互毆 1北韓漁工被活活打死', *United Daily News*, 27 April 2017, accessed 14 February 2018, <https://udn.com/news/story/7315/2428838>.

24) Bao Li, '台灣漁船僱北韓漁工 政府稱已禁止新、續聘', *Voice Of America Cantonese News*, 20 September 2017, accessed 18 January 2018, <https://www.voacantonese.com/a/taaiwan-north-korea-fishermen20170920/4036787.html>.

25) Fengjing Hui, '不能說的祕密'.

26) Bao Li, '台灣漁船僱北韓漁工 政府稱已禁止新'.

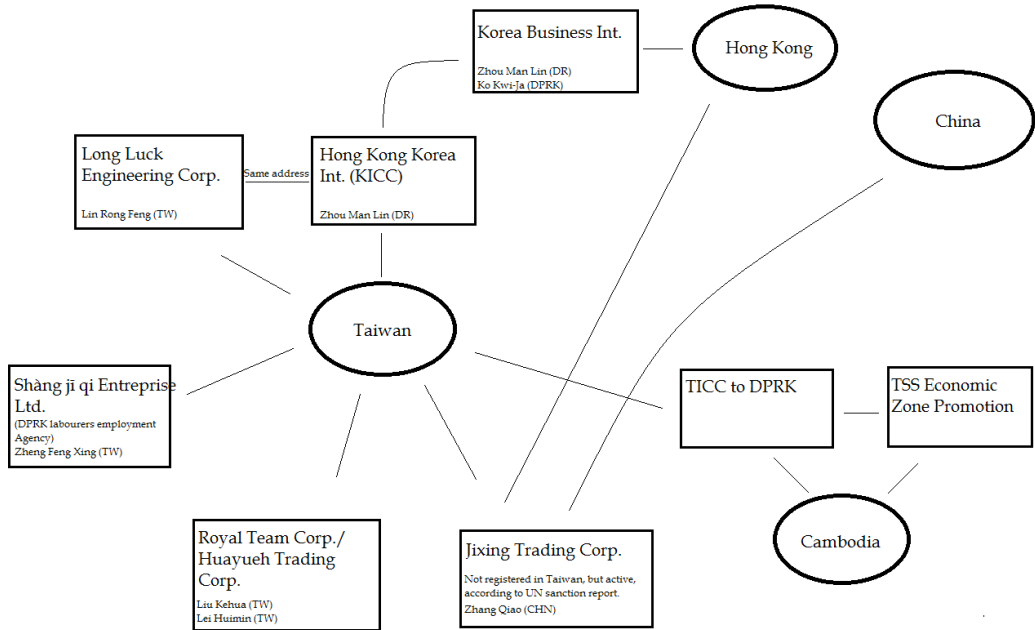


Figure 2: Taiwanese companies (or companies in Taiwan) related to North Korea and their links to each other and other nations and companies.

companies, but also certain nations to each other. Figure 2 shows how several companies and countries are connected, but we can assume there are many more connections to be made. As will be discussed below, as recently as November 2017 a Taiwanese man was arrested for chartering a Hong Kong vessel with oil to North Korea.²⁷

Figure 2 shows the companies that deal with North Korea or hire North Koreans (such as KICC and TICC and Shang Ji Qi Enterprise),²⁸ as well as companies that have been accused of illegal trade with North Korea by the United Nations (Royal Team Corporation, Jixing Trading Corporation).²⁹

The most interesting company discovered in this research is the Korean International Chamber of Commerce (in Figure 2 abbreviated to KICC). This company focuses

27) 'Taiwanese Man Sanctioned for Oil Sales from Hong Kong-Registered Tanker to North Korea', *South China Morning Post*, 13 January 2018, accessed 18 January 2018, <http://www.scmp.com/news/china/diplomacy-defence/article/2128077/taiwanese-man-put-sanctions-list-oil-sales-n-korea>.

28) 'List of Companies that Hired North Korean Overseas Workers per Country', *Database center for North Korean Human Rights*.

29) UNSC, *Report of the Panel of Experts Established Pursuant to Resolution 1874*, S/RES/1874 (2009), 17 February 2017, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4F-F96FF9%7D/s_2017_150.pdf (accessed 18 January 2018).

on '[promoting] world peace by means of friendly cooperation and assistance between DPRK and international organizations [...] [and] which would allow the world to see the market potential in DPRK'.³⁰ Not only does it put an emphasis on business, it also works together with other international organisations for the benefit of the DPRK. According to its website, it cooperated with the UN World Food Programme to help children in North Korea.³¹ Other than this statement, it remains relatively vague what exactly the KICC does. There are no mentions of other projects, or of what kind of businesses the KICC assists in dealing with North Korea. Repeated efforts to make contact with the KICC via email have so far been unsuccessful. Much of the focus is on the Board of Directors. (Kerri) Man Lin Zhou, the director of the KICC, is seen on many pictures together with senior DPRK officials, such as Yang Hyŏng-sŏp (양형섭) during her trip to North Korea, together with her senior advisor Eric Edward Hotung. Other members include Antonio Solomon Cheng as the vice-president, and Prof. Lin Chiu Shan as the Taiwan–DPRK advisor. Little is known about Cheng and Shan (who is not traceable as an (emeritus) professor at any university). According to his own website, Hotung has been involved in many DPRK related matters.

Interestingly, the Taiwan Company Registry lists the KICC as 'Hong Kong Korea International Business Organisation Ltd' (KIBO). Its purpose is stated as being a representative of the Republic of China, in matters such as 'bargaining, bidding, procurement and other legal acts'. This description suggests that the KICC is an intermediary company, rather than anything else.

Another interesting lead is the fact that the company officially has 'Hong Kong' in its name, signalling that the KICC is a subsidiary of a company in Hong Kong, also named 'Korea International Business Organisation Ltd'.³² While the KICC has only existed since 2010, KIBO was founded in 2009, closed down in 2013 and then restarted as another company with the same name immediately after. Both KIBO and the KICC have the same director, Zhou, who the Hong Kong Chamber of Commerce (HKCoC) tell us has a passport from the Dominican Republic, but is originally from Singapore. The residence address Zhou has presented to the HKCoC is the business address of the KICC in Taiwan. KIBO is also the first direct link to a North Korean citizen. While the KICC is registered solely in Zhou's name, KIBO is registered both to Zhou and one Ko Kwi-Ja (고귀자), a North Korean with a residential address in Beijing (see Figure 3).

As can be seen in Figure 4, like Zhou, Ko did not give a residential address. Rather, the address she provided is that of a gas station on barren land.

What KIBO does remains unclear. The company does not have a webpage or contact info. The only thing that is clear is that it exists, and that it is still operational. Annual financial records show that it does not trade or sell products, as their overall balance remains the same. It does not spend money, nor does it earn any. These characteristics are reminiscent of those of a front or shell company, but since there is no way of getting in touch with the CEO or employers, we do not know how this company is used.

30) 'Introduction', *Korea International Chamber of Commerce*, accessed 18 January 2018, <http://www.kicc-dprk.org/1289903467-2.html>.

31) Ibid.

32) Hong Kong Registry Documents obtained by the project group.

中文姓名 Name in Chinese		
英文姓名 Name in English	姓氏 Surname	KO
	名字 Other Names	Kwi Ja
前用姓名 Previous Names	中文 Chinese	N/A
	英文 English	N/A
別名 Alias	中文 Chinese	N/A
	英文 English	N/A
19 住址 Residential Address	Room 539, Bao Ding Centre, No.7 Dong Da Mo Chang Street, Chong Wen District, Beijing City.	
	國家／地區 Country / Region	P.R.C.
20 電郵地址 Email Address	N/A	
21 身分證明 Identification		
(a) 香港身分證號碼 Hong Kong Identity Card Number	N/A ()	
(b) 護照 Passport	簽發國家 Issuing Country	Democratic People's Republic of Korea
	號碼 Number	555430228

Figure 3: Company details of Ko Kwi-Ja, Hong Kong Company Registry.



Figure 4: Map of given address by Ko Kwi-Ja.

Source: Google Maps.

Another interesting aspect of the KICC is that it shares an office with another company: Long Luck Engineering Corp. According to the Taiwanese registry, this company's director is Lin Rong Feng. While I can find no evidence of it, according to Wendell Minnick, senior Asia Correspondent for multiple news agencies, both Lin and Zhou are also vice-director of each other's companies.³³ This could mean that both KICC and Long Luck are involved in business regarding North Korea. Currently, however, there is not enough evidence to substantiate this.

Similarly, while not much is known about the Taiwanese Chamber of Commerce to North Korea (TICC), it does show us the interesting and continuing trend of organisations and companies that deal with Taiwan–North Korea being located elsewhere. The office of the TICC, as well as the office of the 'Promotion of the TSS Economic Zone' are both located in Cambodia. Cambodia is one of the countries that still has favourable ties with North Korea, which may explain why these organisations are located there. It is possible that these organisations are front companies. As will be discussed a bit more in-depth below, countries like Cambodia, Singapore, China, and Hong Kong are often used as a decoy for illegal trading with North Korea. This was also revealed when researching the companies on the UN sanction list. For instance, Jixing Trading Corp. was active in Taiwan, while registered in the People's Republic of China (PRC).³⁴

According to the AIT, one of the major problems the Americans had with Taiwan was that the Taiwanese government and border control did not prioritise monitoring exports from Taiwan. One of its reports even states that,

*Director Chang [of the Office of Homeland Security] stated that export controls are not Taiwan's top priority. Additionally, few high-level officials truly understand what export controls is and how the management of it affects Taiwan's international standing. [...] The main concern for Taiwan is controlling commodities exported to China. For good shipped to other countries [...] export controls is less of a concern for Taiwan.*³⁵

While this report was sent in 2009, it seems that export is still not a priority for Taiwan (or, as suggested in the AIT report, it still does not have the manpower for export controls).³⁶ As mentioned above, at the end of 2017, a Taiwanese man was arrested for chartering a Hong Kong-registered oil tanker to North Korea. The tanker was chartered by a Taiwanese company called Billions Bunker Group, which has the same address as the accused, Chen Shih-hsien, who also owns two fisheries.³⁷ According to Taiwanese prosecutors, 'Chen was under investigation for making a false declaration that a ship he chartered was bound for

33) Wendell Minnick, 'Prickly Questions Loom for Taipei over Ties with North Korea', *Asia Times*, 3 May 2017, accessed 18 January 2018, <http://www.atimes.com/article/prickly-questions-loom-taipei-ties-north-korea/>.

34) UNSC, S/RES/1874 (2009).

35) American Institute in Taiwan, 'Taiwan Monthly Reporting Cable August 2009', *Wikileaks*, 13 August 2009, accessed 14 February 2018, <http://wl.enneu.net/cable/2009/08/09AITTAIPEI975.html>.

36) Ibid.

37) Lawrence Chung, 'Taiwanese Man Bailed over Oil Transfer to North Korean Ship', *South China Morning Post*, 4 January 2018, accessed 14 February 2018, <http://www.scmp.com/news/china/diplomacy-defence/article/2126773/man-bailed-hong-kong-tanker-oil-sanctions-breach-probe>.

Hong Kong when it actually sailed to international waters to sell oil'.³⁸ While the Taiwanese government reacted swiftly, freezing all of Chen's bank accounts, it was the South Korean government, not the Taiwanese authorities who discovered the oil tanker.

Similarly, in 2017, another Hong Kong-registered vessel, the Hao Fan 6, was seen making stops at three ports in Taiwan, having being banned from entering all ports by UN sanctions.³⁹ According to *CNN*, the Hao Fan 6 was likely transporting coal out of North Korea, something that is also illegal under the current UN sanctions.⁴⁰

Again, we see that there is a problem with Taiwanese companies being involved in North Korea trade, either directly in Taiwan, or through other ventures, in this case, in Hong Kong, China, and Cambodia.

To conclude, this section has tried to show that information concerning North Korean workers and North Korean networks is incredibly scarce and difficult to link together. From the bits and pieces we do have, however, we can paint a picture of North Korean networks and what activities are happening simultaneously. There are many opportunities for the North Korean regime to send currency back to North Korea. In the case of Taiwan, these opportunities are facilitated by the country's vague legal status, and the apparent way the Taiwanese government is dealing with illegal activities regarding North Korea. In sum, this section has only shown the tip of the iceberg, and much more research is needed to uncover the entire North Korean network running through Taiwan.

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38) Chung, 'Taiwanese Man Sanctioned for Oil Sales from Hong Kong-Registered Tanker to North Korea'.

39) Matthew Strong, 'Mysterious North Korean ship visited Taiwan: CNN', *Taiwan News*, 8 December 2017, accessed 14 February 2018, <https://www.taiwannews.com.tw/en/news/3316011>.

40) Joshua Berlinger, 'North Korea's mystery ship: The curious case of the Hao Fan 6', *CNN*, 8 December 2017, accessed 14 February 2018, <http://edition.cnn.com/2017/12/07/asia/north-korea-ship-hao-fan-6-intl/index.html>.

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CHAPTER IV

‘Slaves to the System’ and Awareness of North Korean Forced Labour

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Almost two years have passed since the first report on North Korean forced labour in the European Union was released to the public. The effects have been felt in the chambers of the International Labour Organization, the European Parliament, national diets across the world, and most visibly in the international media. Documenting the still underdeveloped field of North Korean labour export, the report raised awareness concerning a substantial blind spot in the exploration of these practices.

For two years, Poland has been the central case study. This is because, unlike many other countries, Polish local institutions have been cooperative in laying bare the intricacies of overseas North Korean labour, despite the swift and flexible bending around legal loopholes by local human resource managers and North Korean managers. However, despite having had the opportunity – following the release of the report – to progressively position itself as a country willing to limit and regulate forced labour of this kind, the national government in Poland chose instead to continue the issuance of working permits to North Korean labourers, even after repeated promises to the contrary.¹ Although these work permits are not the central issue, the government has steadfastly refused to utilise its deep and broad resources to handle the issue, and has been found to have severely underperformed in documenting the working conditions of the North Korean workers within its own borders.

To more positive effect, the findings presented in the report have found their way to news outlets across the world. Directly after the publication of the first edition, it was extensively covered by the Korean language edition of Radio Free Asia.² *The Diplomat* jux-

1) This ‘promise’ was extensively covered; for a short overview see: Anna Bisikalo, ‘Poland Halts Intake of North Korean Workers’, *Transitions Online*, 8 June 2016.

2) Yang-hee Jung, ‘북, 네덜란드대 북 노동자 연구 중단 압박’, *RFA*, 2 May 2016, accessed 21 March 2018, <https://>

taposed the early efforts of the researchers with that of Marzuki Darusman’s comments on North Korean workers abroad, reinforcing the importance of the issue within the United Nations.³ In order to locate the responsibility for the allowance and continuation of these practices, the article elaborates on structural difficulties of addressing forced labour. This is especially true in the European Union, where the report has had something of a ‘wow effect’, simply because of its geographical focus.

In the Netherlands, the surprise among journalists was visible in the spin the story was given in national newspapers. Focusing on the extent of the practice, *de Volkskrant* combined the findings of the report with the data released by the Global Slavery Index, published by the Walk Free Foundation. The article’s headline emphasised the global leadership of the North Korean regime in the facilitation of ‘global slavery’: ‘45.8 Million Slaves Globally, North Korea Takes the Cake.’⁴ The working conditions of these labourers are highlighted as especially harsh. Detailing the long working hours, days, and sporadic salary payments, the nationally distributed free newspaper *Metro* also delivers the findings of the report with euphemistic sarcasm, commenting that ‘life as a North Korean is certainly not a lot of fun.’⁵ In the run up to the publication and conference scheduled in July 2016, opinion pieces by the authors also found their way into national and international news outlets, generating a large response in the form of phone calls, radio and television requests, and demanding emails.⁶

The intricacy of forced labour schemes and the complicated legal implications can be hard to unravel, and various news sources automatically connected the (plausible) dots between the much-debated North Korean missile programme and earnings from the forced labour practices covered in the report. *The Telegraph*, quoting UN sources, assertively claimed that funds gained from overseas forced labour ‘fund the [North Korean] regime’s nuclear weapons and missile programmes.’⁷ This connection is implied strongly by the article’s segue into a summary of the report’s findings. This is concluded on a strong note by capturing one

www.rfa.org/korean/in_focus/human_rights_defector/ne-yh-02052016153222.html?searchterm=utf8:ustring=.

3) John Power, ‘New Group Seeks to End North Korea’s Forced Labour Abroad’, *The Diplomat*, 3 November 2015, accessed 21 March 2018, <https://thediplomat.com/2015/11/new-group-seeks-to-end-north-koreas-forced-labour-abroad/>.

4) ‘45,8 miljoen slaven wereldwijd, Noord-Korea spant de kroon’, *de Volkskrant*, 31 May 2016, accessed 21 March 2018, <https://www.volkskrant.nl/buitenland/-45-8-miljoen-slaven-wereldwijd-noord-korea-spant-de-kroon~a4310966/>.

5) Rens Oving, ‘Noord-Koreaanse dwangarbeiders werken ook in Europa’, *Metro*, 30 May 2016, accessed 21 March 2018, <https://www.metronieuws.nl/nieuws/buitenland/2016/05/noord-koreaanse-dwangarbeiders-werken-ook-in-europa>.

6) See for example: Christine Chung and Remco Breuker, ‘Commentary: North Korea Farming out Forced Labour to the European Union’, *Reuters*, 26 April 2016, accessed 21 March 2018, <https://www.reuters.com/article/us-north-korea-eu-commentary/commentary-north-korea-farming-out-forced-labour-to-the-european-union-idUSKCN0X-N2PA>; Christine Chung and Remco Breuker, ‘NK Farming out Forced Labour to the European Union’, *Daily Times*, 1 May 2016, accessed 21 March 2018, <https://dailytimes.com.pk/84946/nk-farming-out-forced-labour-to-the-european-union/>; Remco Breuker, ‘Drijf wig tussen systeem en volk Noord-Korea’, *Reformatisch Dagblad*, 13 February 2016, accessed 21 March 2018, <https://www.rd.nl/ opinie/drijf-wig-tussen-systeem-en-volk-noord-korea-1.527142>.

7) Julian Ryall, ‘Polish Firms Employing North Korean ‘Slave Labourers’ Benefit from EU Aid’, *The Telegraph*, 31 May 2016, accessed 21 March 2018, <http://www.telegraph.co.uk/news/2016/05/31/polish-firms-employing-north-korean-slave-labourers-benefit-from/>.

of the most covered elements of the report, the European Union's own funding of companies involved in the facilitation of these forced labour practices.

This particular perspective has gained significant traction in the United Kingdom. It has been repeated by the more conservative leaning media outlets in the country, almost to the point of saturation. *The Sun's* framing of this element of the report is especially poor. Without bothering to generalise the entire European population's role in the issue, it simply focuses on the unfortunate predicament British taxpayers find themselves in by being part of the EU, foreshadowing Brexit by a few months. The article is titled: 'Fears British Taxpayers' Cash is Being Funnelled into North Korea's Nuclear Weapons Programme Through the EU', and is a prime example of making the wrong conclusions based on the right information.⁸ Nevertheless, the article does manage to put pressure on one of the sore spots of European negligence on the issue by addressing the opaque constructions through which EU funds are being handed out, and subsequently the complete dismissal of responsibility on the issue.

Elaborating on the European response to the report, the Dutch newspaper *de Volkskrant* interviewed Dutch politician and MEP Agnes Jongerius on the handling of the issue in Brussels. The original 'Slaves to the System' report included a preface from Jongerius, and her personal opinion on the issue is stated clearly: 'This should not be possible'.⁹ The availability of North Korean forced labour has been pointed out in Russia and China, yet the geographical proximity of these workers has not sent the same shock waves through the European Parliament as they have through international media. The report has been discussed on several occasions. Failing to address the issue up until very recently, however, the findings were archived and stored for later discussion. According to *de Volkskrant*, this impediment is not because of a general political unwillingness, but rather the result of Polish denial of any issue whatsoever.

Of course, this perspective is not limited to the European media. The *Korea Herald* headlined their coverage on the new findings with 'EU Funds Allegedly Help Bankroll N.K. Regime: Study', making the same connection, albeit cautiously.¹⁰ The content of the article relies much more on the actual findings, detailing the employment structures and payment methods utilised in Poland. Juxtaposing the report with the recent findings published by the North Korean Database for Human Rights Research Center, located in Seoul, the article is more reserved about generalising the issue into some form of victimhood for localised taxpayers, focusing more on the egregious exploitation of North Korean workers. EU funds are attractive for any developing sector, yet some of these funds end up in companies that employ North Korean forced labour. Nevertheless, dehumanising the North Korean victims and shifting victimhood for domestic political gain is not a structural solution for this

8) Craig Woodhouse, 'Fears British Taxpayers' cash is being Funnelled into North Korea's Nuclear Weapons Programme', *The Sun*, 25 May 2016, accessed 21 March 2018, <https://www.thesun.co.uk/archives/politics/1215534/fears-british-taxpayers-cash-is-being-funnelled-into-north-koreas-nuclear-weapons-programme-through-the-eu/>.

9) Sacha Kester, 'Noord-Korea verdient dik aan dwangarbeiders in EU, Brussel onderneemt niets', *de Volkskrant*, 29 May 2017, accessed 21 March 2018, <https://www.volkskrant.nl/buitenland/noord-korea-verdient-dik-aan-dwangarbeiders-in-eu-brussel-onderneemt-niets~a4497563/>.

10) Shin Hyon-hee, 'EU funds allegedly help bankroll N.K. regime: study', *Korea Herald*, 30 May 2016, accessed 21 March 2018, <http://www.koreaherald.com/view.php?ud=20160530000804&mod=sbk>.

problem. Framing North Korean forced labour in the way *The Sun* does, distracts from the importance of finding a way to end these practices in the EU, and in general.

The Vice documentary ‘Cash for Kim’ details the subject of North Korean forced labour visually and with journalistic vigour. It supplements the documentation of forced labour practices in Poland with interviews, placing in context the broader structural formation of North Korean forced labour by adding the human decision-making process of both North Korean and local human resource managers.¹¹ Following this example, Danish documentary makers closely followed both the format and information of the Vice version, adding their domestic concerns in the shape of Danish warships being built with the same North Korean hands.¹² There was a large domestic spin-off in Denmark, resulting in extensive coverage of the issue. The dissatisfaction of local media outlets with the practice was presented with astonishing clarity, with articles using headlines such as: ‘Danish Warship Built with the Help of North Korean Slave Workers’,¹³ and ‘North Korean Forced Labourers Hired to Build Armed Forces’ New Warship’.¹⁴ The anxiety of North Korean labour on domestic production is suddenly tangible when it fits into a pattern of ideological securitisation. The result of this process is visible in the national coverage governmental production lines suddenly received.¹⁵ The follow-up extended into international coverage, with *Newsweek*’s exploration of Danish firm Karstensens Skibsværft’s outsourcing of the production of the warship named ‘Lauge Koch’.¹⁶ This was done at Crist Shipyard, one of the Polish exploiters of North Korean forced labour. The connection back to the findings of the first report solidifies the article’s main argument.

The central pillar in this connection between security and North Korean labour is the conclusion that the shipyards employ North Korean labourers. Following an incident in which one North Korean worker died in a welding accident – he was wearing flammable clothing and was working in a room without any safety precautions – the Polish Labour Inspectorate determined that it was time to verify allegations of misconduct. The companies under investigation were not only recipients of EU funds, but included Nauta, a NATO certified company that has already concluded projects on NATO military vessels. However, beyond the Scandinavian media this particular aspect has remained peripheral.

11) Sebastian Weis, ‘Cash for Kim: North Korean Forced Labourers in Poland’, *Vice*, 27 February 2017, accessed 21 March 2018, https://www.vice.com/en_id/article/ypea8j/cash-for-kim-north-korean-forced-labourers-in-poland.

12) The documentary was shown on the DR2 channel, a public network in Denmark.

13) ‘DR: Dansk krigsskib er bygget ved hjælp af nordkoreanske slavearbejdere’, *B*, 26 September 2017, accessed 21 March 2018, <https://www.b.dk/globalt/dansk-krigsskib-er-maaske-bygget-ved-hjaelp-af-nordkoreanske-slavearbejdere>.

14) ‘Nordkoreanske tvangsarbejdere blev hyret til at bygge Forsvarets nye krigsskib’, *Information*, 25 September 2017, accessed 21 March 2018, <https://www.information.dk/indland/2017/09/nordkoreanske-tvangsarbejdere-hyret-bygge-forsvarets-nye-krigsskib>.

15) For example, see also: ‘Dansk krigsskib bygget med hjælp fra nordkoreanske tvangsarbejdere’, *DR*, 24 September 2017, accessed 21 March 2018, <http://www.dr.dk/nyheder/indland/dansk-krigsskib-bygget-med-hjaelp-fra-nordkoreanske-tvangsarbejdere>; ‘Nordkoreanske tvangsarbejdere havde kontrakt på at bygge dansk inspektionsskib’, *ING*, 25 September 2017, accessed 21 March 2018, <https://ing.dk/artikel/nordkoreanske-tvangsarbejdere-havde-kontrakt-paa-at-bygge-dansk-inspektionsskib-205633>.

16) Sofia Lotto Persio, ‘North Korean Forced Labourers Helped Building a Danish Warship: Report’, *Newsweek*, 26 September 2017, accessed 21 March 2018, <http://www.newsweek.com/north-korean-forced-labourers-helped-building-danish-warship-report-671573>.

This is not the case on the other side of the Atlantic. In a *New York Times* article that combines several sources on North Korean forced labour, and includes the newspaper's own investigations as well, the centrality of Poland as 'a NATO ally [of the United States] at the heart of the European Union' emphasises the implied danger to strategic military interests, at least from a US perspective.¹⁷ The same awareness remains unimaginable in a European and Korean context because of the centrality of human rights, and the issue of indirect financing of missile programmes, in the discussion (or, in the UK case, reification of anti-EU sentiments). One conspicuous example is found in a column published by *Het Financieele Dagblad*, a Dutch newspaper focused on economic issues.¹⁸ This column, based on the findings of the first report, describes the incredible nature of these obvious human rights violations as they are taking place within EU borders, and addresses the willingness to exploit these workers from both the European and the North Korean side. The author formulates his position quite explicitly, convinced that 'these North Korean forced labourers are on a waiting list in their own country to be allowed to work in foreign countries – anything is better than the horrible oppression in North Korea itself'. Whether this is a well-developed contribution to the discourse remains to be seen. However, the fact that this column, focused on the human rights aspect of the issue, was written by the incumbent Dutch Minister of Justice and Safety, Ferdinand Grapperhaus, is noteworthy.

Nevertheless, *the New York Times*' investigation is also elaborate and a genuine attempt to map the problematic situation as it has developed, and continues to develop. Naturally, as the context of these North Korean forced labour practices becomes more intricately detailed in research, the article has managed to offer a preliminary glimpse into the findings presented here.

The *New York Times* article is an example of how it is possible to construct a larger framework of North Korean overseas dealings, and address the issue of forced labour building on the findings of the first report released by the 'Slaves to the System' research team. The example of North Korean workers in the Czech Republic offers a historical glimpse into the development of the practice. This now historical case study is extensively explored in this issue. Although North Korean workers found a relatively manageable environment in the Czech case, this has not proven true in other cases. More importantly, even if working environments are improved significantly, such developments still do not negate the restriction of liberty, a liberty that is essential to the protection of individual human rights. One of the case's most important conclusions is that continued coverage is paramount to either finding a structural solution or moving the debate forward, and increasing awareness among the public is key to forcing international pressure on those who still facilitate the forcible exploitation of North Korean workers.

Continued coverage is important, and even now international media outlets are picking up on the issue. The Singapore-based newspaper *The Straits Times* recently pub-

17) Peter S. Goodman, Choe Sang-Hun, and Joanna Berendt, 'Even in Poland, Workers' Wages Flow to North Korea', *The New York Times*, 31 December 2017, accessed 21 March 2018, <https://www.nytimes.com/2017/12/31/world/europe/north-korea-poland-workers.html>.

18) Ferdinand Grapperhaus, 'Moderne slavernij', *Het Financieele Dagblad*, 26 July 2016, Opinie & Dialoog Section.

lished an update on North Korea workers in Poland.¹⁹ According to this article, despite pressure from Washington, not only are there still workers left in Poland, but they remain largely unchecked and unregulated. This information is based on the concerns of MEPs, who fear Poland’s further estrangement within the EU bloc following the tense Brexit vote and negotiations. It is impossible to gauge comprehensively the extent of forced labour exploitation, and responsibility is even harder to determine without utilising domestic and supranational legal frameworks. Reluctance and untimeliness are the largest impediments in cooperative frameworks to dispelling the practice, but media attention has clearly influenced the debate, often expanding on existing research and creating new opportunities for both pressure and dialogue. As the chapter on the Czech Republic in this volume shows, international pressure and political will are determined by the feasibility of reform, and the willingness of the media to echo public outcry.

In terms of the previous report’s impact on international organisations, the timeline and impact differs from that of international media. Initially, any EU response, both domestically and internationally, was glaring in its absence. While the media covered the story in detail and abundance, as shown above, governments remained silent on the issue of North Korean forced labour.

Genuine interest within the Dutch government was sparked when two politicians, both from opposition party *Socialistische Partij* (SP), asked questions in parliament, on 23 January 2017, about North Korean forced labour in the EU on the basis of the ‘Slaves to the System’ report. Initially, these questions were deflected, with the Minister of Social Affairs and Employment filibustering and stating that ‘no evidence has been found of employing North Koreans in conditions that are characterised by forced labour (translated from Dutch by authors)’.²⁰ Because this directly contradicted the findings of the first report, the *Slaves to the System* team wrote a letter to the Minister explaining the research, and its willingness to provide additional documents, evidence, and explanation should it be needed.

On 31 May 2017, questions were raised in parliament again, this time not only by a member of the opposition, but by a member of one of the ruling parties as well.²¹ Following up on the previous lack of response, this time the Minister leaned towards admitting that there was North Korean forced labour in the European Union, albeit rather vaguely.²² Nevertheless, for more than half a year (the second set of questions was only answered on 22 August 2017), the issue received unprecedented attention in the Dutch parliament.

This issue became a parliamentary matter in other countries as well. In Denmark, the team’s report and the *Vice* documentary ‘Cash for Kim’ sparked another investigation

19) ‘Defying Washington, North Koreans Continue to Earn Wages’, *The Straits Times*, 3 January 2018, accessed 21 March 2018, <http://www.straitstimes.com/world/europe/defying-washington-north-koreans-continue-to-earn-wages-in-poland>.

20) Lodewijk Asscher, Dutch Minister of Social Affairs and Employment, 2017-0000040838, ‘Beantwoording van de vragen van de leden Karabulut en Van Bommel’, *Response to parliamentary questions 2017Z00871*, 27 March 2017, Q. 3, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017D08423> (accessed 21 March 2018).

21) Lodewijk Asscher, Dutch Minister of Social Affairs and Employment, 2017-0000095270, ‘Kamervragen van de leden Ter Broeke (VVD) en Karabulut (SP)’, *Response to parliamentary questions 2017Z07198*, 22 August 2017, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017D22856> (accessed 21 March 2018).

22) Ibid.

into North Korean forced labour in Poland, because of the alleged building of Danish war vessels by North Koreans.²³ This issue was picked up in the Danish parliament as well, with questions being asked by politicians, sparking heated debates on the security of the war vessels, and whether or not North Korean labourers had access to sensitive information regarding the construction or technology used in these ships.²⁴

Even before these national debates, but after the preliminary report was released, the issue was briefly discussed at the EU parliament on 17 May 2016, which prompted an European Migration Network investigation committee to research how many North Korean workers were employed in each European country. While the publication of these results was done on a voluntary basis, it did reveal some interesting results, such as Germany admitting to having almost a thousand North Korean labourers.²⁵ This statement was retracted that same year: statistics released in June 2016 stated that while there seemed to be 1,161 North Korean nationals employed in the country, they were recounting.²⁶ To this day, Germany has not published revised figures. In fact, when one now looks up the latest numbers (June 2017) for North Korea, it states ‘The number of persons subject to social security contributions and having a nationality of the Democratic People’s Republic of Korea (North Korea) **is implausible and is therefore not presented**. There is currently no information available [...] (translated from German, emphasis added).’²⁷ While the report was a starting point for this EU ad hoc inquiry, we can still see that countries try hard to avoid admitting they have North Koreans in their workforce. Even if the German number was not as high as first counted, stating that people having DPRK nationality is ‘implausible’ seems like a gross overstatement.

One of the major events surrounding the report was the fact that the case of North Korean forced labourers in Poland was put on the ILO agenda. In August 2016, the Polish Trade Union submitted a report on the periodic review of the Forced Labour Convention (Convention 029) reporting on the situation of Third Country Nationals resembling forced labour. Special reference was made to DPRK workers in the report. The International Labour Organization subsequently dealt with the issue in the 2017 June International Labour Conference in the Commission on the Application of Standards (CAS). The CAS is led by a panel of experts who wrote the following:

23) Sebastian Abrahamsen and Lasse Skou Andersen, ‘Politikere: Nordkoreansk tvangsarbejde er ‘vanvittigt’’, *Information*, 25 September 2017, accessed 21 March 2018, <https://www.information.dk/indland/2017/09/politikere-nordkoreansk-tvangsarbejde-vanvittigt>.

24) Sebastian Abrahamsen and Lasse Skou Andersen, ‘Oppositionen kræver byggeriet af flere danske krigsskibe undersøgt’, *Information*, 27 September 2017, accessed 21 March 2018, <https://www.information.dk/indland/2017/09/oppositionen-kræver-byggeriet-flere-danske-krigsskibe-undersoeget>.

25) European Migration Network, ‘EMN Ad Hoc Query on Ad Hoc Query on North Korean migrant workers’, 17 May 2016, accessed 21 March 2018, http://www.emnitalyncp.it/wp-content/uploads/2018/02/088_-_ad-hoc_query_on_north_korean_migrant_workers_wider_diss.pdf.

26) Bundesagentur für Arbeit Statistik, Beschäftigte nach Staatsangehörigkeiten in Deutschland 30.06.2016, Germany, 30 June 2016 (accessed 21 March 2018).

27) Bundesagentur für Arbeit Statistik, Beschäftigte nach Staatsangehörigkeiten (Quartalszahlen) Deutschland, Länder und Kreise, Germany, 30 June 2017 (accessed 21 March 2018).

The Committee notes the observations of Solidarnosc, stating that Poland is a country of destination of people who become victims of forced labour, the majority of whom are migrants. Solidarnosc also states that there has been exploitation of citizens of the Democratic People’s Republic of Korea (DPRK) for forced labour in Poland. The Committee notes Solidarnosc’s indication that there were 239 DPRK workers brought legally to Poland in 2011 and 509 workers brought legally in 2012. According to Solidarnosc’s indication, DPRK workers have notes Solidarnosc’s concern regarding the working conditions of those workers, which might be assimilated to forced labour.²⁸

The ILO discussion reads ‘In cooperation with the LeidenAsiaCentre of Leiden University, clear examples had been found of serious abuse of DPRK workers employed in Poland, which allowed the conclusion that there was reason for concern about forced labour’.²⁹ The conclusion of the ILO discussion was that the ILO committee urged the Polish authorities to act upon these claims, and provides three key actions to ensure that the victims of forced labour would have access to aid.³⁰ To this end, what the Trade Unions set out to achieve – i.e. ‘*The Government of Poland should take measures to improve the situation. The discussion in the Conference on labour migration should address those issues and should ensure that each worker was recognised as a person entitled to rights, not just as labour*’³¹ – was not completely achieved. It had more than the recommended three key action points. It was, however, a considerable victory in terms of raising awareness about the issue, as well initiating assistance for the victims and fighting the practice.

After the information was increasingly discussed in parliaments, both nationally, in the European Union, and at the ILO, the notion that North Korean forced labour abroad is problematic gained momentum. And while the United Nations Human Rights Commissioner for North Korea had previously mentioned that there are North Korean workers abroad, it took until September 2017 for it to decide to expand the sanctions on North Korea to include ‘a ban on Member States from providing work authorisations for DPRK nationals, other than those for which written contracts have been finalised prior to the adoption of this resolution.’³²

The same was true for the United States. Even though North Korean labour does not occur in America, a decision was taken in Congress on 4 May 2017 to impose individual sanctions on any person who ‘engaged in or was responsible for the exportation of workers from North Korea in a manner intended to generate significant revenue’.³³ This shows that

28) International Labour Organization (Commission on the Application of Standards), C.App./D.4/Add.1, List of Member States Invited to Appear before the Committee and Texts of the individual Cases, 106th session, Geneva, 6 June 2017, 87, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_556661.pdf.

29) International Labour Organization, Individual Case (CAS) – Discussion: 2017, Publication 106th ILC session (2017), *comments on C029*, Geneva, 16 June 2017, http://www.ilo.org/dyn/normlex/en/?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3330959 (accessed 21 March 2018).

30) Ibid., 9.

31) Ibid., 8.

32) United Nations Security Council, Committee established pursuant to resolution 1718 (2006), *Resolution 2375, S/RES/2375(2017)* (11 September 2017), <https://www.un.org/sc/suborg/en/s/res/2375-%282017%29> (accessed 21 March 2018).

33) United States Congress, *H.R.1644 – Korean Interdiction and Modernization of Sanctions Act*, 115th Cong., 4 May

it was not only an issue for countries with (a potential for) North Korean labourers, but also for other states who wanted to ensure that these practices are halted.

Even after almost two years, the first 'Slaves to the System' report is still having an impact. On 16 January 2018, the Norges Bank (the Norwegian Central Bank), which manages one of the largest sovereign wealth funds in the world, the Norwegian Government Pension Fund Global (GPF), decided to exclude a company from investment, namely Atal SA in Poland. This was because Atal SA contributed to 'serious human rights violations, including forced labour, through employing a subcontractor which has used North Korean workers at Atal's construction sites'.³⁴ An independent Council of Ethics (CE), which works with the GPF, made the recommendation to exclude Atal SA from investment on 25 August 2017, on the basis on the first 'Slaves to the System' report.³⁵

The CE advises on whether the GPF's investments are in line with its ethical guidelines. The GPF invests in over 9,000 companies, all of which have to adhere to certain principles. For instance, a company that causes severe environmental damage, or produces or sells weaponry cannot be invested in by the GPF.³⁶ Similarly, companies where there is 'an unacceptable risk that the company contributes to or is responsible for [...] systematic or serious human rights violations such as [...] deprivation of liberty and forced labour'³⁷ will also be excluded from investment. It is the CE's task to advise the GPF, and make recommendations on the observation and exclusion of companies in the GPF's portfolio.³⁸

In its recommendation, the CE clearly explains that 'the most important sources stem from the ILO and UN, and the report North Korean Forced Labour in the EU, the Polish Case from the University of Leiden'.³⁹ On the basis of the 'Slaves to the System' report, the CE contacted Atal SA and asked whether it employed North Korean labourers. Atal SA stated that it does not directly hire North Koreans, but that it does work with subcontractors that do.⁴⁰ The CE finds that Atal SA does have a responsibility for all workers at its sites, even if they are hired through subcontractors. It also believes that 'there is an unacceptable risk that Atal will once again contribute to serious human rights violations because the use of North Korean labour appears to be an accepted practice'.⁴¹

The CE decision concretely shows that the first 'Slaves to the System' report has had a considerable impact not only on companies, but on the awareness of the international financial community as well. Throughout this section, we can see that, even after the report,

2017, <https://www.congress.gov/bill/115th-congress/house-bill/1644> (accessed 21 March 2018).

34) Council on Ethics For the Norwegian Government Pension Fund Global, Atal SA, 16 January 2018. <http://etikkradet.no/en/atal-sa-2/> (accessed 21 March 2018).

35) Ibid.

36) Council on Ethics For the Norwegian Government Pension Fund Global, Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global, 10 February 2017, 2, http://etikkradet.no/files/2017/04/Etikkradet_Guidelines-_eng_2017_web.pdf (accessed 21 March 2018).

37) Ibid.

38) Ibid.

39) Council on Ethics For the Norwegian Government Pension Fund Global, Recommendation to Exclude Atal SA from the Government Pension Fund Global, 25 August 2017, 2, <https://nettsteder.regjeringen.no/etikkradet-2017/files/2018/01/Recommendation-Atal-SA-20473.pdf> (accessed 21 March 2018).

40) Ibid., 4.

41) Ibid., 5.

at a national level, state leaders needed convincing that there is a current problem with hiring North Koreans. However, since then, the issue has gained momentum, and larger organisations have started to comment on it and even try and resolve the issue.

While the issue of North Korean forced labour abroad was already known at the United Nations, the ‘Slaves to the System’ report contributed to awareness within the ILO and the EU, and even in the financial world, with organisations such as the Norges Bank taking precautions. It is this collective awareness that, ultimately, prompted the United Nations, the EU, and the United States to install additional sanctions focusing specifically on North Korean forced labour. Even though there is still a long way to go in combating forced labour, the first ‘Slaves to the System’ report has helped pave the way for raising awareness about North Korean slavery abroad.

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CHAPTER X

Non-Enforcement: The Conscious Choice Not to Enforce

Remco E. Breuker

When we published our first report *Slaves to the System, North Korean Forced Labour in the European Union: the Polish Case*,¹ expectations were high that, first, the European Union would put a stop to the human trafficking of North Korean workers and their exploitation on EU territory; and, second, that we would not write about Poland again. We were wrong on both counts. The EU never did enforce EU law in Poland, and Poland never put a stop to the exploitation of North Korean in its shipyards, building sites, tomato farms, and the like.

To a certain extent, it is to be expected that the desire for financial profit overrides other considerations. Or, that the well-being of overseas DPRK workers is sacrificed to notions of international North Korean emancipation.² Also, to an important extent, North

1) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016).

2) Dressed up as economic agency, perhaps, but it is hard not to see through the emperor's new clothes. Foremost public NK expert Andrei Lankov compared North Korean overseas workers to Wall Street bankers in an interview, because both groups work extremely long hours and pay a high tax rate (see raw footage of the documentary *Dollar Heroes*). Lankov and colleagues also wrote a series of articles in which he vehemently attacked looking at the overseas dispatch of DPRK workers from a human rights perspective as among other things 'disingenuous'. See for example Andrei Lankov, 'North Korean Workers Abroad Aren't Slaves', *NKnews*, 27 November 2014, accessed 1 march 2018, <https://www.nknews.org/2014/11/north-korean-workers-abroad-arent-slaves/>; Robert Potter, 'North Korea's Slaves: It's About Agency, Not Pay', *NKnews*, 16 May 2016, accessed 1 march 2018, <https://www.nknews.org/2016/05/north-koreas-slave/>; Andrei Lankov, 'As New Sanctions Bite, They'll Hurt North Korea's Few Entrepreneurs', *NKnews*, 22 November 2017, accessed 1 march 2018, <https://www.nknews.org/2017/11/as-new-sanctions-bite-theyll-hurt-north-koreas-few-entrepreneurs/>; Andrei Lankov, 'How North Koreans Get Rich on Overseas Labour Jobs', *NKnews*, 16 January 2018, accessed 1 march 2018, <https://www.nknews.org/2018/01/how-north-koreans-get-rich-on-overseas-labour-jobs/>.

Korean networks and companies are not always recognisable as such. This being the case, the continuation of this practice can be understood if not condoned.

Yet, during what amounted to be some sort of media storm, the North Korean workers in Poland were talked, written, and argued about.³ No attempt seems to have been made to actually talk to them, to investigate seriously what their situation was like, or to ask their point of view.⁴ A North Korean worker who was in Poland at that moment, but has since defected, stated that:

Due to the activities of an international human rights body, the work at our Polish site disappeared, which pissed us off. And worst of all, it wasn't as if our working conditions had actually improved because of this. I think that human rights activism should really benefit the workers. You should be active in order to improve the human rights of the worker. I have the feeling that nobody really understands what is going on. They're just making a lot of noise, without offering solutions and without seeing further than what's visible on the outside.⁵

Instead of the authorities (domestic or EU) taking charge and then sorting things out, the North Korean workers at the centre of the affair (those working at shipyards Crist and Nauta) were relocated immediately to different job sites.

Eleven of us had been placed to work as welders on a shipyard in Gdynia in Poland. Several ships from European countries were there to be repaired. But when in the summer of 2016 researchers from the European Union announced their concerns with regard to human rights following the death of Chŏn Kyŏngsu, we were forced to leave the shipyard. From the day, I arrived at Crist Shipyard in Gdynia on February 21, 2014, I worked as a welder, repairing and maintaining Dutch ships. But in June 2016 we received the instruction 'not to work on the Dutch ship anymore' (we were engaged in repairing and maintaining a Dutch cruise ship). Towards the end of July, we had to leave the shipyard.⁶

Although moved out of the immediate sight of the press and researchers, no North Korean workers were sent home. The Polish government, which stated that it had stopped issuing visas and working permits to North Korean workers in February 2016, kept issuing visas and working permits to North Korean workers at approximately the same rate as before.⁷ In

3) The media coverage has been intense, long-lasting, and in different languages (see chapter 6). Please also refer to www.hongik-ingan.com for a selection of the media coverage.

4) Serious in the sense that not only the human rights and other abuses the workers had to endure would be stopped, but also that a practically workable solution for the workers would be found, once their jobs would stop.

5) Mr K. (former North Korean overseas worker), interview with the author, Seoul, South Korea, 19 December 2017.

6) Ibid.

7) Two facts speak against Poland keeping its promise to no longer issue working permits and visas to DPRK workers: the continued presence of North Korean workers in Poland in what seems to be hardly a decreased number (while it is now two years ago that Poland announced it would end issuing visas and working permits). And two, Polish statistics which indicate that working permits and visas were in fact issued the last two years. See Polish Ministry of Family, Labour and Social policy, Statistics on Working Permits for Foreigners, MRPiPS-04, <http://www.mpips.gov.pl/analizy-i-raporty/cudzoziemcy-pracujacy-w-polsce-statystyki/> (accessed 1 March 2018).

sum, except for the media coverage and straining my relations with the Polish government and, in particular, the North Korean state, nothing much changed.⁸

Political dimensions

The political dimensions of this thorny issue are complicated, ambiguous, and constantly changing, which certainly does not help. The confrontation between North Korea and the US is often lazily seen as just that, or as a Northeast Asian problem with the added complication of considerable US interests. While it is, of course, undeniably the case that the increasing tensions between North Korea and South Korea, the US, and Japan mainly take place in the Northeast Asian arena, both in terms of potential fall-out and political interests, a significant part of the globe is involved in this issue.

The political sensitivity surrounding North Korea reflects the global dimension as well as the fundamental division between the different schools of thought on how to contain the North Korean threat (and indeed on the issue of whether there is a North Korean threat to begin with). In this sense, the US frequently finds itself opposed to China and Russia, while at the same time angling for Chinese cooperation.

The ways in which legal and other implications of DPRK overseas labour were dealt with in the EU, and in particular the Netherlands; both in parliament and by the executive branches of the respective governments, show how complicated the issue is and how it implicates international partners.

The Dutch parliament asked questions several times about North Korean workers in Poland and the EU.⁹ The Ministry of Social Affairs and that of Foreign Affairs prepared the government's answer, with Social Affairs taking the lead. While the Ministry of Foreign Affairs had been aware of our research and both ministries had representatives present at the launch of the report, the formal answer submitted to Parliament did not suggest this. Quite the opposite, in fact. The answer followed the line of the Polish government, denying that forced labour had taken or was taking place, and denying anything untoward had happened.¹⁰ While the Dutch ministry was only following protocol by accepting the explanation of their fellow member state,¹¹ it had nonetheless accepted a version of the truth that was

8) According to the North Korean embassy in Poland, I am working for the CIA and the South Korean NIS: 'Please contact the professor of Korean Studies and ask how much money he gets from the US and south intelligence in return for the lie. Please put into consideration that 99.9% of people around the world who bluster about the Korean issue have neither visited the Korean peninsula nor had any contact with Koreans. I reckon that if you get the answers to these three questions based on the fact, it would be a great contribution to promotion of social justice and truth'. The communication dates from 13 December 2017 and was sent to the bureau Filmproduktione GmbH, which produced *Dollar Heroes*. I must admit, I do agree with the statement in the middle sentence of this paragraph.

9) Sadet Karabulut and H. van Bommel (Dutch House of Representative members, Socialistische Partij), 2017D01819, 'Schriftelijke vraag over Noord-Koreaanse dwangarbeiders', *Parliamentary Question*, 23 January 2017, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017Z00871&did=2017D01819> (accessed 1 March 2018).

10) Lodewijk, Asscher, Dutch Minister of Social Affairs and Employment, 2017-0000040838, 'Beantwoording van de vragen van de leden Karabulut en Van Bommel', *Response to parliamentary questions 2017Z00871*, 27 March 2017, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017D08423> (accessed 1 March 2018).

11) According at least to one civil servant who said so on the condition of anonymity.

evidently untrue. Further correspondence between LeidenAsiaCentre and the ministries failed to clear up the misunderstanding, when the intervention of two Members of Parliament, through new parliamentary questions, forced both ministries involved to compose their own answers.¹² No longer relying on the Polish government, the answers given by the ministries were now more in line with the available evidence.¹³

Ironically, the only state to take seriously human rights breaches of overseas workers was North Korea.¹⁴ Until 2013, North Korea was only interested in overseas labour as a way to earn hard currency. After the UN COI report on human rights in the DPRK, Pyongyang realised that the only way the international community could effectively block overseas labour was through an appeal to human rights. Although the actual practice of sending workers overseas is not centrally managed, some parts of the process (such as visa applications and travel) are. Pyongyang does have a voice in the generalities of the operations, even if it is not fully involved or indeed aware of all operations.¹⁵ Kim Chŏngŭn, who apparently took a serious interest in the matter, issued three directives. First, the enemy should not be given any pretext to intervene: managers must take appropriate measures to make sure all affairs were in order and refrain from causing any kind of problem that might bring unwanted attention.¹⁶ Second, the working and living conditions needed to be regulated. The most pressing problem was the role corrupt managers played, who squeezed the last bit of money from workers for their own private gain, endangering the entire enterprise. So, third, a security officer was appointed (*anjŏn taep'yo* 안전대표).¹⁷ A local DPRK diplomat was appointed as 'security officer' to combat corruption in his area by talking to the workers under his supervision at least once a month and keeping tabs on the situation. Interestingly, this approach did manage to push back corruption under the middle-level managers, but it did nothing to reduce the larger source of exploitation, that by the state.¹⁸ Generally though,

12) Han ten Broeke and Sadet Karabulut, (Dutch House of Representative members, VVD and Socialistische Partij), 2017Z07198, 'Schriftelijke vraag over Noord-Koreaanse dwangarbeiders in Europa', *Parliamentary question*, 31 May 2017, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017Z07198&did=2017D15302> (accessed 1 March 2018). Then Minister of Foreign Affairs Bert Koenders sent an explanatory letter to the project team on 31 May 2017, responding to our letter dated 12 April, 2017. The letter stressed the efforts of the ministry to combat DPRK forced labour in Poland and elsewhere.

13) Lodewijk Asscher, Dutch Minister of Social Affairs and Employment, 2017D22856, 'Beantwoording van de vragen van de leden Ten Broeke en Karabulut over Noord-Koreaanse dwangarbeiders in Europa', *Response to parliamentary questions 2017Z07198*, 23 August 2017, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017D22856> (accessed 1 March 2018).

14) T'ae Yongho (former DPRK vice-ambassador to the UK), interview with the author, 8 August 2017.

15) T'ae stated that due to the decentralised nature of these operations, even in Pyongyang there is no concrete grasp of the number of workers sent abroad.

16) Such as workers defecting: 'I hadn't been paid my salary since April. I assumed, with all the back pay, that I would receive at least 1000 Zloty. But I received no more than 420 Zloty (or about 100 USD)'. Mr K., interview.

17) Mr K. confirmed T'ae's explanation of the role of the security officer.

18) Interviews with ex-workers corroborate how much the managers would keep for themselves and how this led to dissatisfaction and even defection. In addition to Pyongyang wanting to put a stop to unauthorised extortion and embezzlement by mid-level managers and not draw attention to human rights abuses, is a genuine fear that workers will feel forced to defect. Indeed, on discovering the difference between what he earned according to his Polish principals and what he actually received, Mr K. was driven to defection. He further stated that 'Just like in North Korea, where each week your employer will tell you to give him what he wants and where the People's Unit will tell you to bring it what it wants, whether in cash or in kind, Poland was no different'. He continued explaining that he once lodged a

DPRK managers and diplomats tried to follow local rules and regulations to not stand out too much in the EU. In countries like Qatar and Kuwait, this was less of a problem due to the absence of similar regulations.

And this leads us to what we have seen to be perhaps the biggest change in the phenomenon of overseas DPRK labour, in particular with regard to the countries with more elaborate regulatory practices: while the practice, as evinced by interviews and the undercover footage of *Dollar Heroes* remains unchanged (it is still human trafficking and labour exploitation that put the North Korean workers in vulnerable and exploitable positions), the on-paper reality reflecting it has. Former DPRK vice-ambassador to the UK, T'ae Yongho's statement that North Korean managers and companies try to abide by local rules and regulations also applies to their local partners, who were much more cavalier about exploiting North Korean workers two years ago (as suggested by the workers not having individual bank accounts or employment contracts, not possessing safety clothing, not being paid, forged pay slips, etc.). In that sense, it would be instructive to see whether the North Korean workers at Partner Shipyard possess individual bank accounts now, into which their salaries are deposited or individual employment contracts.¹⁹ From interviews with (former) workers, it is clearly still the case that the workers are not told what work they are going to do, how much they will be paid, for how long they will be engaged doing this, and what, in general, their rights are.²⁰ If that indeed is the case, the cleaning-up of the externally visible part of overseas DPRK labour is merely window dressing and does not suggest any kind of fundamental change in the practice, for better or for worse.²¹ It would, then, merely be a tribute to institutional and political gullibility.

While the DPRK was aware of the risks human rights infringements – or rather, their observation in situ – were bound to have on its ability to keep sending out workers to bring in hard currencies, the EU was generally less observant. The European Parliament has been aware of the problematic sides of DPRK workers in the EU since the early 2000s. It showed an interest in what had happened in the Czech Republic and several hearings featuring exiles from North Korea have been held.²² In 2016, on a number of different occasions, MEPs

protest with his manager when he was severely underpaid, but that this did not make a difference. It just damaged his reputation. Mr K. and his colleagues were told to confirm to the Polish inspectors that they had received their proper wages, even though it was kept from them how much they were supposed to receive in the first place. Mr K., interview.

19) Given the fact that those North Korean workers we interviewed all said that they did not have a bank account and were not supposed to have one either, this does not seem very likely.

20) 'There was no agreed upon salary. [...] There was a certain amount that I was hoping to get, but what I received was incomparably smaller. About ten times smaller'. Mr K., interview.

21) Our previous report (Breuker and van Gardingen, *Slaves to the System*) noted how pays slips had been forged. This seems to have been noticed by the Polish Labour Inspectorate. Mr K. explained that the workers had to sign their pay slips, but also that they bore no relationship to the salaries they received. Mr K. is very explicit about this being a precaution against rather frequent inspections by the Polish Labour Inspectorate. Mr K., interview.

22) See the chapter in this report on the Czech Republic.

asked questions concerning the DPRK workers in Poland.²³ The EU Commission dodged the question by answering as follows:

The Commission is aware of reports on alleged violations of the human rights of citizens of the Democratic People's Republic of Korea (DPRK) working abroad.

The Commission condemns forced labour and recalls the EU Charter of Fundamental Rights, which prohibits slavery, forced labour and trafficking in human beings for all forms of exploitation. The Charter also sets out the right of workers to working conditions which respect their health, safety and dignity.

The EU has developed an ambitious legal and policy framework against trafficking in human beings for all forms of exploitation²⁴ (1) for which the level of compliance will be assessed in 2016.

In the EU and irrespectively of the status of EU or third-country national, the rules on working conditions, health and safety at work as well as legislation against trafficking in human beings apply. It is the responsibility of the national authorities to ensure that the rules are enforced. The Commission may launch infringement procedures in case of breach of Union law.

The use of ERDF²⁵ and ESF²⁶ funds must be consistent with the activities, policies and priorities of the Union, including the Charter. The Commission is in contact with the Member States to check possible irregularities. In the event of infringement of EC law by an economic operator, the Commission can make financial corrections by cancelling all or parts of the financial contribution to the programme.

Finally, all EU Member States have ratified and are accountable for the implementation of the 8 fundamental Conventions of the International Labour Organization (ILO) including Conventions 29 and 105 on the prohibition of forced labour. The Commission supports the ILO's work with its Member States to raise awareness on and eliminate forced labour.

The EU Commission fundamentally avoided the issue, pointing out the responsibility of the individual Member States and, if necessary, mentioning the ILO as the logical arbiter. The answer to follow-up questions was, in a way, blunter, carrying the same message of non-intervention–non-enforcement; in other words, the delegation of enforcement.

23) Kati Piri and Agnes Jongerius (Members EU parliament, S&D), P-004172-16, 'North Korean workers in the EU', *Question for written answer to the Commission*, 25 May 2016, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2016-004172+0+DOC+XML+V0//EN> (accessed 1 March 2018); Kati Piri and Agnes Jongerius (Members EU parliament, S&D), P-006692-16, 'North Korean workers in the EU', *Question for written answer to the Commission*, 5 September 2016, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2016-006692+0+DOC+XML+V0//EN> (accessed 1 March 2018).

24) European Parliament and European Council, Directive 2011/36/EU OJ L 101, 'On preventing and combating trafficking in human beings and protecting its victims', 15 April 2011, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF> (accessed 1 March 2018).

25) European Regional Development Fund.

26) European Social Fund.

On the alleged situation of forced labour concerning citizens of the Democratic People's Republic of Korea (DPRK) working abroad, the Commission refers the Honourable Members to its answer to written questions P-004172/2016(1) and E-013290/2015(2).

1. As to the alleged breaches in Poland, the Commission has contacted the Polish authorities which are fully aware of the claims presented in the media. It is the responsibility of the national authorities, including the labour inspectorates, police and judicial authorities, to ensure that the prohibition of forced labour and the rules on working conditions are enforced. The Commission monitors this application and if breaches of Union law by Poland or other Member States are identified, the Commission will launch infringement procedures.

2. The Commission holds no records of companies hiring DPRK workers and does not have the power to establish such a record system.

3. The Commission has no power to check individual work contracts offered to DPRK workers and will not establish a systematic review mechanism.

With regard to sanctions, the EU's additional restrictive measures complement those measures adopted by the UN Security Council (SC) and also implemented in the EU through a Council Decision and Council Regulation. These include restrictive measures provided by the latest UN SC Resolution 2270 of March 2016, aiming at the DPRK's illegal nuclear, Weapons of Mass Destruction and ballistic missile programmes.

Under the current EU, restrictive regime transactions relating to personal remittances or transactions in connection with legitimate trade contracts are subject to prior authorisation by the national competent authorities.²⁷

Although this led to a cautious and voluntary self-assessment by member states to find out whether there were North Korean workers in their own country and, if so, how many, the European Commission maintained its silence on this issue.

In addition to the export of weapons and weapon systems, the export of its labourers is perhaps the DPRK's most well-known way of earning money abroad that is not, from its inception, explicitly illegal. It would have been judicious for overseas labour to have been sanctioned as soon as sanctions against the DPRK were put into place in 2006 by the EU and the UN.²⁸ The export of labour is not mentioned, however, not even when the human rights abuses that inevitably accompany this phenomenon become glaringly obvious. Every long-distance missile launch and every nuclear test from the DPRK brought about more and increasingly detailed sanctions, prohibiting technologies and parts feasibly usable in

27) M. Thyssen (on behalf of the European Commission), P-006692/2016, 'Response to parliamentary Questions P-004172/2016 and E-013290/2015', 18 November 2016, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2016-006692&language=EN> (accessed 1 March 2018).

28) I will skip the sanctions put into place by South Korea, because – obviously – forced labour has nothing to do with those sanctions.

weapons production programmes and outlawing the export to the DPRK of luxury items such as ski lifts and pianos.²⁹

Overseas labour, perhaps the most important source of income from abroad, was consistently left out of the sanctions. It is in fact understandable why this would be the case with regard to the UN Panel of Experts, which composes, implements, and monitors the sanctions vis-à-vis the DPRK given that the two largest users of cheap but motivated and qualified DPRK labour are both permanent members of the Security Council: China and Russia. Since any sanctions must pass through the Security Council, any strong sanction measure against overseas DPRK labour is doomed from the start. Thus, navigating the incredibly complicated force field that is the UN Security Council involves two thirds of any meaningful sanction proposal aimed at the DPRK inevitably being scuppered. Finally, in 2017, the sanctions came to include overseas labour and joint ventures with North Korean companies,³⁰ but the wording was inevitably ambiguous (apparently a condition for China and Russia not vetoing that round of sanctions), and the grace period involved for not hiring more DPRK workers (it is not clear whether this would mean not more than before or no more) is so long that the sanctions are almost entirely symbolic.³¹ More importantly, imple-

29) European Parliament and European Council, 'Regulations and decisions concerning restrictive measures against the Democratic People's Republic of Korea', *Official Journal of the European Union*, L 265 I 60, 16 October 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2017:265I:TOC> (accessed 1 March 2018); United Nations Security Council, Committee established pursuant to resolution 1718 (2006), *Resolution 2371*, S/RES/2371 (2017) (5 August 2017), <https://www.un.org/sc/suborg/en/s/res/2371-%282017%29> (accessed 1 March 2018); United Nations Security Council, Committee established pursuant to resolution 1718 (2006), *Resolution 2375*, S/RES/2375 (2017) (11 September 2017), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2375.pdf (accessed 1 March 2018); United Nations Security Council, *Resolution 2397* (2017), *Resolution 2397*, S/RES/2397 (2017) (22 December 2017), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2397.pdf (accessed 1 March 2018).

30) '18. Decides that States shall prohibit, by their nationals or in their territories, the opening, maintenance, and operation of all joint ventures or cooperative entities, new and existing, with DPRK entities or individuals, whether or not acting for or on behalf of the government of the DPRK, unless such joint ventures or cooperative entities, in particular those that are non-commercial, public utility infrastructure projects not generating profit, have been approved by the Committee in advance on a case-by-case basis, further decides that States shall close any such existing joint venture or cooperative entity within 120 days of the adoption of this resolution if such joint venture or cooperative entity has not been approved by the Committee on a case-by-case basis, and States shall close any such existing joint venture or cooperative entity within 120 days after the Committee has denied a request for approval, and decides that this provision shall not apply with respect to existing China-DPRK hydroelectric power infrastructure projects and the Russia-DPRK Rajin-Khasan port and rail project solely to export Russia-origin coal as permitted by paragraph 8 of resolution 2371 (2017)'; United Nations Security Council, S/RES/2375 (2017).

31) There is a grace period of two years, which, in my estimation, should be enough to carry the workers over into a sufficiently different political situation. This paragraph '[e]xpresses concern that DPRK nationals continue to work in other States for the purpose of generating foreign export earnings that the DPRK uses to support its prohibited nuclear and ballistic missile programs despite the adoption of paragraph 17 of resolution 2375 (2017), decides that Member States shall repatriate to the DPRK all DPRK nationals earning income in that Member State's jurisdiction and all DPRK government safety over sight attachés monitoring DPRK workers abroad immediately but no later than 24 months from the date of adoption of this resolution unless the Member State determines that a DPRK national is a national of that Member State or a DPRK national whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, and the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations, and further decides that all Member States shall provide a midterm report by 15 months from the date of adoption of this resolution of all DPRK nationals earning income in that Member State's jurisdiction that were repatriated over the 12 month period starting from the date of adoption of this resolution, including an explanation of why less than half of such

menting sanctions at the UN level is one thing, but the sanctions only become meaningful when, or if, they are enforced.³²

The EU, on the other hand, is not captive to the same force field the UN Security Council is. Neither Russia, nor China have veto power in Brussels. In theory, and certainly in practice, the decisions taken in Brussels with regard to sanctioning the DPRK are more binding than those taken in New York by the UN. At the same time, it should also not pass unnoticed that with regard to sanctioning the DPRK, the EU implements all UN Security Council sanctions.³³ It adds to the UN sanctions specific sub-sanctions corresponding to the peculiar EU environment. The sheer number of sanctions now in force against the DPRK mean that, even when combined with relatively unenthusiastic enforcement, a rather strict sanction regime comes into being. However, implementation in Brussels is not the same as enforcement in the 27 EU Member States and it is undeniable that the EU sanctions have been rendered less effective because of a clear lack of enforcement. As the large and diverse organisation it inevitably is, the EU is almost bound to have diverse views on the issue. The lack of action of its political arm is not reciprocated in the departments responsible for the implementation of the sanctions against the DPRK or in the departments responsible for initiating and supporting UN resolutions against human rights infractions in North Korea. Generally, the EU keeps pace with the UN sanctions and, in some cases, even anticipates them. Of course, due to the very different organisational structure, in this regard, unlike the UN, the EU does not have to contend with the veto power of internal parties like China and Russia, who are dead set against real and effective sanctioning of the DPRK. Having said that, it is clear that even within the European Commission, sanctions against the DPRK are implemented rather than enforced. The example of overseas DPRK labour in EU Member States may again suffice to make the picture clear: despite the fact that Poland has not stopped giving room to the exploitation of DPRK workers within its national borders, there has been no discernible action from the EU headquarters, merely the tired old mantra that this is a matter within the jurisdiction of the Member State.³⁴ The fact that this issue is about structural and widespread contemporary slavery and human trafficking, that the practice breaks the EU sanctions against the DPRK (and did so even before forced labour was a part of the sanctions), and that EU subsidies seem to be abused by the same companies keeping the North Koreans in a condition of slavery say differently.³⁵ Non-enforcement now becomes something hard to imagine and even harder to understand from the point of view of the infringements, abuses, and crimes committed. In the context of the different

DPRK nationals were repatriated by the end of that 12 month period if applicable, and all Member States shall provide final reports by 27 months from the date of adoption of this resolution'. Ibid.

32) The most up-to-date and insightful treatment of the DPRK sanctions is: Andrea Berger, 'A House Without Foundations: The North Korea Sanctions Regime and its Implementation', *Whitehall Reports*, 9 June 2017, <https://rusi.org/publication/whitehall-reports/house-without-foundations-north-korea-sanctions-regime-and-its>. (accessed 1 March 2018).

33) See 'EU restrictive measures', European council, accessed 1 March 2018, <http://www.consilium.europa.eu/en/policies/sanctions/different-types/>.

34) Thyssen, P-006692/2016.

35) Breuker and van Gardingen, *Slaves to the system*

discourses – the academic, the political, the administrative, and the financial – it is quite different; it is then not only imaginable, but understandable.

The financial side

Our previous report noted how North Korean overseas labour fit the globalised capitalist world market snug as a glove. The mobility, willingness to always work, low prices, quality work, lack of unionised organisation, and obedience are perhaps not unmatched, but certainly rare and sought after.³⁶ In a significant way, it is the financial attraction of using North Korean labourers that is the prime motivating factor keeping the entire structure alive.³⁷ As such, users and end-users of the products built by North Koreans – possibly unwittingly – play a key role in the continuation of North Korean overseas forced labour. This means that it is the entire production chain that should come under scrutiny and not merely the initial phase of it, in which the DPRK workers figure. As such, it is certainly disconcerting to have to admit that reputable Dutch multinational shipbuilding companies have been involved, possibly unwittingly, in the production chains involving North Korean slave labour.³⁸ It is altogether possible – and certainly what one would hope for – that these companies were and/or are in the dark about the presence of North Korean forced labour in their production chains. But the question is whether this would actually be more reassuring, because that would mean that North Korean forced labour manages to remain well-hidden in the supply chain. As has become clear from Chapter 1, the companies stand to profit from the cheap, but high-quality labour the North Korean workers deliver, but the profits in the production chain equally go to the DPRK–Polish joint ventures in-between (such as Wonye), the DPRK-owned companies (Redshield, Rungrado), and the shipyards where the actual work takes place. It is only the North Korean workers themselves who consistently miss out on the financial profits generated by this practice. If, as was the case in earlier days, workers would earn and keep their salaries, they were supposed to earn about 200 Euro per month in the EU. Even when living costs were deducted, this would still amount to one overseas worker earning enough to comfortably maintain ten persons in North Korea.³⁹ It is not hard to imagine how financially attractive overseas labour must have seemed.⁴⁰ Especially if one realises that North Korean workers in Poland live on almost nothing: Mr K., whom we interviewed for this report, stated that during the 40 months he had worked in Poland, he had spent, on average, the equivalent of 27 USD per month. This was the absolute max-

36) Ibid.

37) Although it is imperative not to reduce these networks and their reasons for being to simple economic motives. As, for example, the chapter in this report on Africa shows, DPRK trade relations involve more than money, but also a complex mix of ideological allegiance, personal friendships, and political opportunity.

38) See the chapter on Poland in this report. Also see Peter S. Goodman, Choe Sang-Hun, and Joanna Berendt, 'Even in Poland, Workers' Wages Flow to North Korea', *The New York Times*, 31 December 2017, accessed 21 March 2018, <https://www.nytimes.com/2017/12/31/world/europe/north-korea-poland-workers.html>.

39) According to T'ae Yongho, interview with the author, 8 August 2017.

40) Although recently, the popularity of overseas labour in North Korea seems to have decreased on account of the number of people dying abroad and the persistent rumour that workers do not get paid their wages. See 'North Korea', *Global Slavery Index*, accessed 1 March 2018, <https://www.globallslaveryindex.org/country/north-korea/>.

imum he could spend if he wanted to send anything home (he earned about 2,500 USD in total, sent 1,600 USD home, and borrowed another 200 USD).⁴¹

The academic dimension

The contentious nature of the export of DPRK labourers abroad is, at its roots, political. During the conservative presidencies of Yi Myōngbak and Pak Kūnhye, the South Korean government actively tried to persuade academics to tackle the issue in a manner that would be critical of the DPRK government, i.e. by the securitisation of human rights.⁴² While government research institutions like the Korean Institute for National Unification had little choice in following this line of research, it has become abundantly clear that hardly any academic was or is willing to risk her/his reputation and tackle this issue.⁴³ As a result, within Korean Studies, one of the most important contemporary topics with regard to North Korea is, effectively, a non-issue. Overseas DPRK labour combines issues pertaining to human rights, foreign relations, labour issues, armaments, international sanctions implementation and evasion, and the North Korean economy, and, as such, there are solid academic arguments for investigating the phenomenon. While this may be a simple matter of academic priorities, the numbers of studies delving into the human rights situation of North Korean workers in the Kaesong Industrial Complex suggests that this is also a research trend that should be seen in the light of the political discourse on North Korea within academia. Against the background of the implied or subtly suggested political imperative that the KIC should continue to function as a symbol of North–South rapprochement,⁴⁴ the majority of the studies on the KIC come to the seemingly rather political conclusion that the human rights and

41) Mr K., interview.

42) A strong drive emanating from ROK embassies to disseminate propaganda accompanied by proper research on DPRK overseas labour (the association unfortunately tainted the few, often policy-related, studies out there on this topic) was complemented by enthusiastic acceptance of research critical of DPRK overseas labour and encouragement to apply for ROK government funding to undertake such research. This has been my personal experience as well, although it should be clearly stated here that the funding for this project has come solely from LeidenAsiaCentre.

43) At least in terms of subject and research direction. As far as I have seen over the years, individual researchers at institutes such as KINU (which falls under the responsibility of the Prime Minister's office) have always striven to produce responsible academic output and not to churn out propaganda that would satisfy the politicians in charge. Nonetheless, the pressure from the South Korean government with regard to this issue contaminated the discourse, to the extent that even academics who were interested shied away from the topic out of a – reasonable – fear of being seen as politically motivated. In my case, this was also a reason to stay away from the topic for a number of years. Once the pressure from the South Korean embassy in the Netherlands with regard to this stopped, I decided to pursue the topic on my own – i.e. academic – terms. This has of course not prevented the issue and our research from becoming embroiled in all kinds of political discourses. Crucially, however, the research does not come from such a discourse.

44) Although, of course, it was shut down by Pak Kūnhye in 2016. The government of Mun Chae'in has suggested reopening the complex, but, as yet, no solution seems to have been found with regard to the very serious sanctions infractions that restarting the KIC would constitute. As Marcus Noland noted, reopening KIC would constitute a breach of UNSCR 2321: para 31 & 32 (see Marcus Noland, 'The Kaesong Industrial Complex, the Moon Administration, and UNSCR 2321', *Peterson Institute for International Economics*, 26 May 2017, accessed 1 March 2018, <https://piie.com/blogs/north-korea-witness-transformation/kaesong-industrial-complex-moon-administration-and-unscr>). Apart from that, labour conditions at KIC already breached international treaties. See for example Marcus Noland, 'See No Evil: South Korean Labour Practices in North Korea', *AsiaPacific* 113 (2014), 1-8; Pak Chōnjo (박천조), '임금대장을 통해 본 개성공단 임금제도의 변화 연구', *산업관계 연구* 25, no. 4 (2015): 59-91; Yang Unchōl and Ha Sangsōp (양운철, 하상섭), 'UN의 대북한 경제제재의 한계', *통일정책연구* 21, no. 2 (2012), 143-175.

labour rights of the North Korean workers were not infringed upon by what the politically unburdened observer would see as exploitation.⁴⁵ In fact, the way in which North Korean workers were ‘exported’ and subsequently leased to South Korean companies in Kaesong is reminiscent of the mechanisms used to place North Korean workers all over the world, even if the KIC clearly presented a simplified version of the process.

Apart from the few empirical academic studies available, the burden of recording the phenomenon of overseas DPRK research has mainly fallen on NGOs. NGOs such as NKDB have devoted many resources to the mapping of overseas labour, focusing on interviewing refugees (which is one of the strong points of NKDB) and on field research in countries where DPRK companies and workers are active (such as Poland, Mongolia, and Russia).⁴⁶

North Korean workers abroad appears to be a highly contentious issue.⁴⁷ Although the intricate complex of problematic human rights infringements associated with North Koreans working abroad for their government has been known for some time, the 2014 UN COI report on DPRK human rights infringements did not include DPRK workers abroad.⁴⁸ In itself, a rather convincing argument could be made that the COI was overstretched and that adding the contentious (and research-intensive) issue of DPRK workers abroad would be an additional burden.⁴⁹ At the same time, the transnational nature of the issue and the complications that the implicit or even explicit involvement of third countries and/or parties would invite, should also have played an important role in shelving the issue of overseas DPRK workers. As the COI correctly assumed, their report on DPRK human rights abuses was going to be a difficult proposition to begin with due to the intricate political force field surrounding it.⁵⁰ Against the background of the extremely difficult process leading to the establishment of the COI itself, the decision not to include DPRK workers overseas is understandable, albeit a missed opportunity. If anything, the export of DPRK labourers abroad has turned out to more or less equate the export of the DPRK system and its human rights abuses.⁵¹

45) See e.g. Mun Mugi (문무기), ‘한미 FTA와 개성공단 노동법제의 운용실태’, 노동정책연구 7, no. 2 (2007), 73-101; Pak Chŏngwŏn (박정원), ‘북한의 「전력법」 분석과 남북한 전력법제 통합방향’, 법학논총 28, no. 3 (2016), 221-261; Mun Mugi (문무기), ‘개성공업지구의 노동규율과 사회권’, 동아법학 67 (2015), 27-62.

46) See e.g. Yoon Yeo-san and Lee Seung Ju, ‘The North Korea outside The North Korean State’, *Database Center for North Korean Human Rights*, 2016; Park Chan-hong, ‘Conditions of Labour and Human Rights: North Korean Overseas Labourers in Russia’, *Database Center for North Korean Human Rights*, 2016.

47) That, at least, is my impression after having researched this issue for the past three years or so.

48) To be downloaded here in its full form or in abstracted form: OHCHR, Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea, <http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx>.

49) This is what COI chair Michael Kirby has in fact publicly stated at a 2016 conference in London, celebrating the second anniversary of the publication of the UN COI’s report on human rights in the DPRK.

50) China refused to cooperate, Japan proved to be meddlesome because of the inevitable references to the colonial past on the Korean peninsula, South Korea had too much invested to take a step back, North Korea was angry at the perceived insults to the supreme dignity of the supreme leader, and so forth and so on.

51) See Breuker and van Gardingen, *Slaves to the System*; Remco E. Breuker and Imke B.L.H. van Gardingen, ‘‘Louer des vies?’’ Le travail forcé des Nord-Coréens’, *Korea Analysis* 9, no. 4 (2015), 45-49; Remco E. Breuker and Imke B.L.H. van Gardingen, ‘A New Lease of Life? DPRK Forced Overseas Labour in the EU’, *LeidenAsiaCentre working paper*, 2016, <https://slavestothsystem.files.wordpress.com/2016/02/a-new-lease-on-life-def.pdf>.

A mitigating factor for the exclusion of overseas labour in the COI report is the fact that, in 2014, hardly any academic research on the topic had been done (not even in Korean) and that, in 2018, this situation has not significantly improved.⁵² Given the fact that the COI did not include or employ a North Korean Studies specialist, this would indeed have formed a formidable practical obstacle.

The situation described above has resulted in an atmosphere in which NGOs are left holding the bag, forced to allocate resources to a topic that otherwise would be well researched in academia; in which partisan and unsubtle, in-your-face government-sponsored research predisposes both experts and the public alike to stay away from the discussion; and in which anecdotes are freely stacked up against the few empirically researched studies available (anecdotal reasoning being the bane of North Korean Studies anyway). In an instance of irony, probably best appreciated from the sidelines, the upbeat and optimistic approach, euphemistically obscuring all negative sides, to the phenomenon of DPRK overseas labour in these mainstream publications is eerily similar in tone and reasoning to those found in the extreme leftist Words (*Mal* 말), which, in 2008, noted approvingly how North Korean labourers in Kuwait sweated ‘to feed their Fatherland as well as their families.’⁵³

The dearth of academic studies on overseas DPRK labour is compounded by the fact that it is not merely in (North) Korean Studies that hardly any research time is spent understanding this complicated and multi-faceted practice (other than blithely either condoning or condemning it without proper empirical scrutiny), but also outside of the Area Studies to which (North) Korean Studies belongs. As far as I have been able to determine, there are no proper legal analyses, nor are there studies that try to understand overseas DPRK labour from a disciplinary point of view.

I would like to suggest to different perspectives from which to better understand North Korean overseas labour, perspectives that will seem completely contradictory from an ideological or political angle, but which lay bare the mechanisms behind the practice, as well as the motivations of the labourers themselves and the people who sent them.

The first perspective is that of migrant labour as a means for a developing economy to earn the money it needs to progress. Although this is a perspective often adopted by those who condone overseas labour politically, it is only done so superficially and, inevitably, in comparison with South Korean practices from the 1960s to the 1980s, when thousands of nurses and miners were sent to what was then West Germany.⁵⁴ While this comparison is

52) It is astounding to see that so little work has been done on North Korean overseas (or indeed domestic) forced labour. NGOs such as NKDB and HRNK worked on this issue extensively, as did the Asan Institute, albeit to a much lesser extent. Researchers at universities, however, have so far shied away from a topic that is sufficiently toxic to damage careers due to its extremely politicised nature. Yoon Yeo-sang and Lee Seung-ju, *Human Rights and North Korea's Overseas Labourers: Dilemmas and Policy Challenges* (Seoul: NKDB, 2015); United States Congress (Tom Lantos Human Rights Commission), Testimony of John Sifton (Asia Advocacy Director Human Rights Watch), ‘North Korea's Forced Labor Enterprise: A State-Sponsored Marketplace in Human Trafficking’, 29 April 2015, <https://www.hrw.org/news/2015/04/29/north-koreas-forced-labor-enterprise-state-sponsored-marketplace-human-trafficking> (accessed 1 March 2018); NKDB, 북한 해외 노동자 국가별 고용 기업 리스트 (Seoul: NKDB, 2015).

53) Cho Chŏnhyŏn (조천현), ‘해외에서 땀 흘리는 북한 노동자1’, 월간말 259 (2008), 90-97.

54) This is a topic that is politicised to such an extreme extent in Korea and Korean Studies that it is all but impossible to study it without seeming to make clear political statements. See Yun Yongsŏn (윤용선), ‘1960-70년대 파독 인력송출과 차관: 원조인가 거래인가?’, 독일연구 26 (2013), 377-409; Pak Chaeyŏng (박재영), ‘파독 간호사 · 광 부

debatable, there is certainly merit in also understanding DPRK overseas labour from the point of view of a developing state in dire need of investments, exporting one of its few forms of capital: people.⁵⁵ Such an approach would involve tracking how the funds earned by overseas labour are used in the (re-)construction of the North Korean economy.

The second perspective seems diametrically opposed to understanding this phenomenon from the point of view of developing the economy of the state: the perspective of DPRK overseas labour as an instance of human trafficking. Politically, these two perspectives are indeed diametrically opposed. Empirically, however, they are complementary and partially overlapping. Just as it is hard to deny that there are indeed structural similarities related to the limited capacities and urgent needs of developing economies in the way Seoul sent miners and nurses to West Germany and Pyongyang sends workers all across the globe, it should be recognised that the mechanisms used to select, send, control, and exploit (I am using this term here in its neutral register) the workers sent abroad were qualitatively different. In the case of North Korea, these mechanisms are a complete match with the typology developed for human trafficking.⁵⁶ Polarisation around political identifications have, so far, hampered both of these approaches. A particular problem associated with delving into the issue at hand in more depth, is its breadth: proper research into DPRK overseas labour would include a significant amount of travelling and an require the command of an intimidating array of languages to fully investigate how DPRK companies, managers, and workers operate abroad. This is not impossible, just time- and resource consuming. And that is exactly the problem: to obtain politically neutral funding for research into a topic as complex and in need of in-depth investigation as DPRK overseas labour, has proven to be nigh on impossible. Our two research efforts into DPRK overseas labour have been fully funded by a university-allied foundation, guaranteeing that, from the funder's side, no political intervention would ever be made.⁵⁷ Over the course of the past three years, we have found it virtually impossible to locate and obtain politically neutral funding for research in DPRK overseas labour.⁵⁸

In this manner, a virtual vicious circle is created in which too few academic studies, undergirded by empirical rigour and clear methodologies, are produced to break through

의 독일정착과 삼각이민 연구; 다문화콘텐츠연구 15 (2013), 335-364.

55) On the uses of workers' remittances for emerging economies, see for example Adolfo Barajas, Ralph Chami, Collen Fullenkamp, Michael Gapen, and Peter Montiel, 'Do Workers' Remittances Promote Economic Growth?' *IMF* working paper 09/153, July 2009.

56) I am working on a paper on precisely this topic together with Dr Masja van Meeteren (Leiden University). The typology of human trafficking, in particular human trafficking for labour, can be found here: Monika Smit, 'Trafficking in Human Beings for Labour Exploitation. The Case of the Netherlands,' *Trends in Organized Crime* 14, no. 2-3 (2011), 184-197.

57) The LeidenAsiaCentre funded our research. For more information visit www.leidenasiacentre.nl.

58) Politicisation is one problem, but the curious position the DPRK occupies in the international world does not help. EU research grants, for example, would be a logical possibility for our research, but practice has taught us that the DPRK often is not included in the geographical regions considered eligible for funding. The DPRK's refusal to sign international treaties and the impossibility of working with independent partners in the country make it difficult to include the DPRK in grant application calls. While this could be easily remedied by acknowledging the DPRK's peculiar position, it has not been remedied and funding remains elusive. We have applied for five EU grants without ever getting the grant application evaluated on its merits: the focus on the DPRK was enough to declare it ineligible.

the stalemate between adversaries and advocates of DPRK overseas labour, essentially maintaining the political and politicised nature of the discourse.

Conclusion

The above has shown how, despite media attention (and even outrage), academic research, political measures, and legal obstacles, the issue of DPRK overseas labour is still fundamentally neglected, despite the well-known exploitation that accompanies it and despite its profits flowing unchecked into the coffers of the DPRK state – a clear breach of the sanctions. Non-enforcement, then, is a conscious choice. As it turns out, the case for non-enforcement is not difficult to make. Non-enforcement is politically embedded and it is economically profitable – in other words, it is structural and intentional. It is not likely that this will change anytime soon, in the absence of positive and pro-active across-the-board support for enforcement in different countries and industries, and in the absence of in-depth academic research to lay bare the intricate networks – both North Korean and other – that make possible large-scale human trafficking and exploitation by the DPRK and its partners, resulting in forced labour and contemporary slavery.⁵⁹ Overseas labour by DPRK workers is beneficial to everyone except the workers themselves, making it something that is actively, if often furtively or unknowingly, supported by different social and economic groups. The arguments may vary: the workers are not slaves, but comparable to Wall Street bankers, who also work too hard and pay too much in taxes; the quality they deliver at such a low price point is impossible to resist in a capitalist market place; the workers are exposed to the world outside of North Korea and this will enlighten them, and so forth, and so on. What these arguments point to – and it is, in particular, their vacuous nature that drives the message home – is that putting a stop to the practice is widely seen as undesirable. Or not seen at all: if the presence of DPRK overseas labour in the production chain indeed goes unnoticed. In itself, this may be the scariest notion.

Continuation, of course, means – apart from the ethical and humane considerations that demand putting a stop to exploitation, human trafficking, and slavery per se – that the companies directly or indirectly, knowingly or unknowingly, involved in this practice more or less directly fund the North Korean regime, its crimes against humanity, its nuclear and chemical weapons development programmes, and its long-distance missiles. The economic stability derived from the exploitation of DPRK workers, then, translates rather neatly and symmetrically into an instability in international security.

59) Although at the time of writing this, the Wall Street Journal reported that the Polish parliament has now finally decided to ban DPRK labour in Poland. In the article, the accommodation by Polish politicians of DPRK supply and the demand for this kind of labour by Polish companies is explicitly noted. As long as there is a notion that working with the DPRK is profitable, even if it is illegal, it is hard to imagine DPRK labour in the EU will cease. See Drew Hinshaw and Natalia Ojewski, 'How Workers in Europe Earned Money for North Korea—Until Now', *Wall Street Journal*, 26 January 2018, accessed 1 March 2018, <https://www.wsj.com/articles/poland-closes-door-to-cheap-and-now-banned-north-korean-laborers-1516962600>.

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CHAPTER XI

Compliance and Enforcement

Imke B.L.H. van Gardingen and Remco E. Breuker

We concluded our previous report with nine recommendations. These recommendations consisted of preventive measures, short-term measures, and long-term measures. This wide range of measures recommended prioritising the position of the labourers. We argued the following:

The Member State and the companies involved should take the responsibility to inform the workers on their legal position and their rights. It could make a substantial difference in the awareness of the workers. Being used to their complete dependence on the DPRK state mechanisms, their situation abroad is not very different from their position within the DPRK. Raising awareness of their rights and legal position is important from a labour law perspective, but maybe even more so from the perspective of human rights. Workers may arrive at the realisation that outside of the DPRK they enjoy individual legal rights that can be enforced. Other recommendations consist of ways to enforce regulations, on the use of relevant legal instruments, and on further research.¹

Following the publication of our report in June 2016, much has happened in terms of international politics and sanctions, but the ambition to start working on improving the situation of the DPRK workers abroad turned out to be virtually non-existent. The dire situation of the DPRK workers was discussed on TV, on the radio, the internet, and in newspapers, but mostly in order to reflect upon the wrongdoings of the DPRK, and to force states to fulfil their responsibility and stop supporting North Korea by welcoming DPRK workers. Little, if any attention was given to the position of workers abroad and how they should have access to justice, legal remedies, and to political asylum. Also, little attention was paid to

1) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016), 88.

the companies hiring them and their part in the business deals that were made employing DPRK workers.

This chapter will recapitulate the recommendations and evaluate whether there has been any follow-up to these recommendations. Inevitably, there will be some overlap with the chapters on non-enforcement and awareness. However, for the sake of follow-up activities and further research, it might be useful to evaluate the recommendations one by one.

Recommendation 1 *Workers should be informed by EU Member States and by their respective employers about their rights and their legal position. Member States are responsible for the information. National migration offices that issue the working permits, trade unions and hirers play a crucial role in informing the workers.*²

In our ongoing research, we have yet to encounter a situation where DPRK workers were informed about their rights and legal position. Even though official documents may give that impression, we have not interviewed any worker who actually received an employment contract or was correctly informed on labour conditions and labour rights. This might not be surprising to DPRK workers who, in their own country, never receive an employment contract, and where the majority of workers do not receive a regular salary at all, but are often paid in food rations, but this is an offence under EU law. The written Statement Directive (dating from 1991 – 91/533/EEC – and presently under revision) obliges employers to notify employees about their working conditions, working hours, remuneration and periodic payments, amount of paid leave, and such in the form of a written contract of employment and/or a letter of engagement and/or a written document that contains this information, at least within two months of the commencement of the employment (article 3).

As far as we have been able to determine, the DPRK workers in Poland have also not been told of their labour and legal rights, their right to have effective access to justice and redress, either by their employers, or by the Polish state.

We must therefore conclude that this recommendation has been almost completely ignored, despite the fact that following this recommendation would have entailed nothing but the enforcement of existing law.

Recommendation 2 *Intermediate companies, (sub)contractors and hirers should be informed about their place in the chain of responsibility, and, if needed, should be sanctioned according to the notion of chain liability.*³

The chain of responsibility has been set in motion, although not in terms of improving the situation of DPRK workers. In our previous report, the case study involved the Polish shipbuilding company Crist in Gdynia, building and repairing ships for countries from all

2) Ibid.

3) Ibid.

over Europe, including coast guard vessels for Norway, marine vessels for the NATO and many international shipbuilders, including Dutch company Royal Damen.

Royal Damen has been working with Crist since the early nineties. The Polish branch of Damen is located in the vicinity of Crist (a six-minute walk away). Only recently have they stopped working together. The Damen spokesperson stated to a Dutch journalist that this was the case, but claimed that this had nothing to do with the hiring of DPRK workers by Crist.⁴ A former DPRK worker at Crist explained that he was a welder, repairing Dutch ships. It is not clear what the name of the company was, but it was clear that he and his colleagues worked on Dutch ships. After 2016, he was told to not work on these ships anymore,

Eleven of us had been placed to work as welders on a shipyard in Gdynia in Poland. Several ships from European countries were there to be repaired. But when in the summer of 2016 researchers from the European Union announced their concerns with regard to human rights following the death of Chŏn Kyŏngsu, we were forced to leave the shipyard. I arrived at Crist Shipyard in Gdynia on 21 February 2014, where I worked as a welder, repairing and maintaining Dutch ships. But in June 2016 we received the instruction “not to work on the Dutch ship anymore” (we were engaged in repairing and maintaining a Dutch cruise ship). Towards the end of July, we had to leave the shipyard.⁵

The effect of revealing the dire working conditions of DPRK workers seems, so far, to have led to two different actions; either to stop hiring the workers altogether or improve the way the uncomfortable reality is covered up on paper. Neither is desirable or acceptable.

After the publication of our previous report, questions have been asked twice in the Dutch Parliament on the involvement of Dutch corporations. The Minister of Social Affairs responded as follows:

Work on Dutch ships also took place at the site. Officially, contact has been made with the relevant Dutch company. In response to reports of alleged forced labour by North Korean workers, the company asked the Crist yard for an explanation. The yard has declared that it fully complies with Polish legislation and regulations. This has been confirmed by the employment office that has mediated in the employment of North Korean workers.⁶

4) *De Correspondent*, the Dutch media outlet covering the story on of Dutch involvement in North Korean overseas slave labour discussed in this report, contacted several companies which had their ships built on shipyards that used DPRK workers. The official statement Damen gave was that they had been working with Crist since the early nineties, but stopped doing so recently. Casper van der Veen, ‘Noord-Koreaanse dwangarbeiders bouwden mee aan Nederlandse schepen (en hun loon ging naar Kim Jong-un)’, *De Correspondent*, 6 February 2018, accessed 20 February 2018, <https://decorrespondent.nl/7907/noord-koreaanse-dwangarbeiders-bouwden-mee-aan-nederlandse-schepen-en-hun-loon-ging-naar-kim-jong-un/208655039736-14cb8c23>.

5) Lodewijk Asscher, Dutch Minister of Social Affairs and Employment, 2017D22856, ‘Beantwoording van de vragen van de leden Ten Broeke en Karabulut over Noord-Koreaanse dwangarbeiders in Europa’, *Response to parliamentary questions 2017Z07198*, 23 Augustus 2017, <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2017D22856> (accessed 1 March 2018), translation by author.

6) *Ibid.*

To take such an explanation for granted shows a reproachable lack of enthusiasm for identifying risks in the supply chain. As was made clear in our report, the company had been investigated for a fatal accident at its shipyard. The labour inspectorate concluded in its investigation into this fatal accident that none of the necessary safety measures had been taken; there was no supervision, no security, no air circulation, no permit to perform this kind of hazardous work, no fire blankets, and no extinguishers. The report shows signatures on the pay slips are forged. The company twice faced a court case concerning the illegal employment of DPRK workers. In one case, the court had imposed a fine for illegal employment. The other case was pending at that time.⁷

Regrettably, we have to conclude that the second recommendation was not followed. No government or company has yet taken responsibility for having directly or indirectly contributed to the unlawful situation North Korean workers find themselves in abroad.

Recommendation 3 *Infringements of labour law and violations of human rights related to working conditions of DPRK workers in the EU should be part of the public debate and should be subjected to judicial remedy by the relevant authorities as well as by (representatives of) the workers themselves.*⁸

The issue of DPRK overseas labour remains widely debated in the media. Spectacular investigative journalism in, for example, Russia (where North Koreans were forced to build World Cup Football stadiums in St Petersburg) contributed to this. The tense political situation and the UN sanctions on North Korea also played a role. Recently, *The New York Times* published a lengthy article that was partially based on the previous ‘Slaves to the System’ report.⁹ The newspaper also did some research and stated that, in 2016, 253 more work permits for DPRK workers had been issued in Poland. A further 124 were issued in 2017. This is also clear in the statistics from the Polish government.

The Polish Labour inspectorate increased the number of inspections. A letter from the Chief Labour Inspectorate (Legality of Employment Department) mentions the number of inspections focused on the legality of employment and performance of work by foreigners – citizens of the DPRK conducted in the period from 2013–2016 and separately in 2016.¹⁰ In the period 2013–2015, the National Labour Inspectorate’s inspectors carried out 13 inspections, covering 285 citizens of North Korea. In 2016, 16 inspections were conducted, covering 547 citizens of North Korea. The letter sums up the number of illegal employments and infringements. The inspectorate discovered a number of breaches of provisions included in the Act on the Promotion of Employment and Labour Market Institutions and of labour law provisions. A number of irregularities is listed from, amongst other things, irregularities related to operating as an employment agency without the required permits for conducting

7) Breuker and van Gardingen, *Slaves to the System*, 50-51.

8) *Ibid.*, 88.

9) Peter S. Goodman, Choe Sang-Hun, and Joanna Berendt, ‘Even in Poland, Workers’ Wages Flow to North Korea’, *The New York Times*, 31 December 2017, accessed 21 March 2018, <https://www.nytimes.com/2017/12/31/world/europe/north-korea-poland-workers.html>.

10) Polish Chief Labour Inspectorate (Legality of Employment Department), GNL-575-0512-7-2/17, Warsaw, *written correspondence*, 9 June 2017.

such business, to the lack of written information for workers on the terms of their employment, the non-payment of salary for overtime work and/or bonus for overtime work, and missing or insufficient protection during the performance of particularly hazardous work. The inspector concludes his letter by stating that these findings, however, are not grounds to suspect crimes of forced labour or human trafficking,

According to the information provided by District Labour Inspectorates, the labour inspectors did not reveal cases suggesting that the involved employers or entrepreneurs engaged citizens of North Korea in conditions which may give grounds to suspect that crimes of forced labour or human trafficking were committed (art. 189a of the Penal Code in connection with art. 115, paragraph 22 of the Penal Code).¹¹

By contrast, the US State department report on Human Trafficking points specifically to the risks of falling victim to trafficking and exploitation that Third Country Nationals are exposed to in Poland and refers, in that context, to DPRK workers:

Poland is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. Labour trafficking is increasing in Poland; victims originate from Europe, Asia, and Africa. There is an increasing vulnerability to labour trafficking among Poland's growing Ukrainian migrant population and North Korean migrant workers.¹²

It must be concluded that there have been persistent efforts by some relevant authorities to deal with the problem of DPRK overseas labour in the EU. The limited authority of the Polish Labour Inspectorate, however, to investigate and to sanction, remains problematic. More problematic is the lack of action on the part of other authorities (such as e.g. the EU authorities with more investigative freedom and the EU Commission or relevant EU departments), despite the broad public discussions that have kept this issue in the news.

Recommendation 4 *Available instruments of reporting by the ILO and national labour inspection bodies should be deployed. Representatives who are able to act independently and without risk for the victims/aggrieved parties should organise themselves.¹³*

The ILO has acted effectively on the matter of DPRK workers. In August 2016, the Polish Trade Union submitted a report on the periodic review of the Forced Labour Convention reporting on the situation of Third Country Nationals resembling forced labour. In the report, special reference was made to DPRK workers. The International Labour Organization subsequently dealt with the issue in the 2017 June International Labour Conference in the Commission on the Application of Standards (CAS). The CAS is led by a panel of experts who wrote the following:

11) Ibid.

12) United States Department of State, Trafficking in Persons Report (June 2007), <https://www.state.gov/documents/organization/82902.pdf>.

13) Breuker and van Gardingen, *Slaves to the System*, 89.

The Committee notes the observations of Solidarnosc, stating that Poland is a country of destination of people who become victims of forced labour, the majority of whom are migrants. Solidarnosc also states that there has been exploitation of citizens of the Democratic People's Republic of Korea (DPRK) for forced labour in Poland. The Committee notes Solidarnosc's indication that there were 239 DPRK workers brought legally to Poland in 2011 and 509 workers brought legally in 2012. According to Solidarnosc's indication, DPRK workers have to send back to the regime a large part of their legitimate earnings. The Committee notes Solidarnosc's concern regarding the working conditions of those workers, which might be assimilated to forced labour.¹⁴

In response, the Polish Government stated the following:

The Committee notes the Government's statement, in its communication dated 7 October 2016, that in 2016 comprehensive controls of the legality of employment of foreigners in selected entities known to employ DPRK citizens were carried out throughout the country. During those controls, no cases of illegal employment were detected but a number of infringements of the provisions of the Act on Employment Promotion and provisions of the Labour Law were found.¹⁵

The government statement refers to inspections in October 2016 that that allegedly detected no illegal employment. In previous years, however, illegal employment was found, which is not mentioned. The government's statement is clearly contradictory to the findings of the Polish Labour Inspectorate, which it confirmed in at least two official letters. The first letter (March 2016) refers to inspections performed from 2010 until 2016. In the inspected entities, a total of 377 DPRK workers were found to perform work and it was established that there were 77 DPRK workers whose employment was illegal.

In the course of the above-mentioned inspections, it was established that there are 77 foreigners from DPRK whose employment and performance of work was illegal, and that they performed work for 5 inspected entities. Most cases of illegal employment of citizens of DPRK were detected in the following voivodships: Świętokrzyskie (37), Pomorskie (29), and Małopolskie (10).¹⁶

A similar picture emerges from an official letter from the Polish Inspectorate in June 2017. This letter refers to 13 inspections in the period 2013–2015, during which the Polish National Inspectorate verified the legality of employment of DPRK citizens. The inspections covered 285 citizens of North Korea, 39 of whom were illegally employed.

14) International Labour Organization (Commission on the Application of Standards), C.App./D.4/Add.1, List of Member States Invited to Appear before the Committee and Texts of the individual Cases, 106th session, Geneva, 6 June 2017, 87, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_556661.pdf; International Labour Organization (Commission on the Application of Standards), ILC106-PR15-Part II-NORME-170615-3-EFS-docx, Provisional Record, Third Item on the agenda: Information and reports on the application of Conventions and Recommendations, 106th session, Geneva, June 2017, 41.

15) Ibid.

16) Polish Chief Labour Inspectorate, GNL-31-03-2016, written correspondence, 31 March 2016.

In the course of the above-mentioned inspections, the NLI identified cases of illegal employment and performance of work by 39 foreigners from North Korea, who had worked in 2 entities, one with the seat in Pomorskie Province (29 cases of illegal employment) and the other in Malopolskie Province (10 such cases).¹⁷

Also important to note, is the fact that the Polish government representative stated that,

Employment of DPRK citizens took place only as an activity of individual entities and their numbers in recent years had amounted to a dozen to several dozens per year.¹⁸

However, as the first report outlined, the number of workers exceeded ‘several dozens’ per year (see figure 1).

The government representative furthermore stated:

Given the signals revealed in 2016, controls conducted by the National Labour Inspection and the border guard covered in practice all entities employing DPRK citizens in Poland. The verifications had not confirmed infringements against DPRK employees related to forced labour and there had been no violations concerning non-payment of wages for DPRK citizens, whether non-payment or payment of wages lower than indicated in work permits.¹⁹

The speaker considered such a situation as challenging and sensitive, especially if actions taken by the host country could pose a threat to the worker or his or her family residing in the country of origin, and expressed interest in hearing the experience of other countries and social partners on how to cope with such challenges.¹⁹

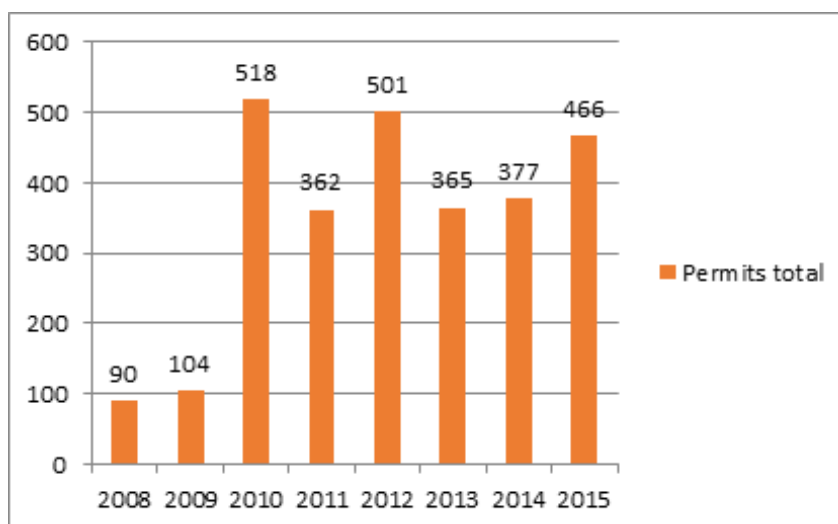


Figure 1: Work permits given to North Koreans per year in Poland

17) Polish Chief Labour Inspectorate, GNL-575-0512-7-2/17.

18) International Labour, C.App./D.4/Add.1; ILC106-PR15-Part II-NORME-170615-3-EFS-docx, 106th session.

19) Ibid.

By acknowledging the possibility that workers or their families might be harmed by actions taken in the host countries, the government acknowledges the fundamentally problematic nature of the situation the DPRK workers faced.

In conclusion, the speaker emphasized that in 2016 and 2017, the Embassy of the Republic of Poland in Pyongyang had not issued any visa for DPRK citizens to seek employment and the only persons currently working in Poland would be those who had been in the country earlier.²⁰

This was actually not the case. Work permits had been issued throughout 2016 and at least part of 2017, although it is altogether possible that it was not the Embassy of the Republic of Poland that issued the visa.²¹

In conclusion, it must be noted that the ILO functioned properly and undertook prompt action to follow the fourth recommendation. The Polish Labour Inspectorate, as noted above, showed significant efforts in identifying the problematic nature of DPRK workers in Poland until 2015, but was hampered by limits inherent in its authority. After 2015, the reports by the Polish Labour Inspectorate show increasing discrepancies with both the Polish government statistics on issued work permits to DPRK citizens and with interviews conducted with former North Korean workers in Poland.

There has been no follow-up on the recommendations five to eight as listed below:

Recommendation 5 *Define where civil or administrative litigation procedures can be initiated and/or criminal proceedings are in order. Seek redress and compensation for the workers.*

Recommendation 6 *Secure protection for workers who intent to lodge complaints, secure a safe haven for possible defectors.*

Recommendation 7 *Undertake further research regarding how the secondment of DPRK workers to the EU may be in violation of EU and/or UN sanctions.*

Recommendation 8 *Undertake in-depth research regarding the state liability of the DPRK for severe human rights violations and labour right violations abroad.²²*

The chapter on non-enforcement explains the background to the lack of action undertaken with regard to both the human rights abuses suffered by overseas DPRK workers and the problematic financial contribution this phenomenon makes to DPRK weapon developments programmes.

Recommendation 9 *Undertake further research regarding the practice of allocating DPRK workers to the all ILO member states where DPRK are now known or thought to be employed.²³*

20) Ibid.

21) Polish Ministry of Family, Labour and Social policy, Statistics on Working Permits for Foreigners, MRPIPS-04, <http://www.mpips.gov.pl/analizy-i-raporty/cudzoziemcy-pracujacy-w-polsce-statystyki/> (accessed 1 March 2018).

22) Breuker and van Gardingen, *Slaves to the System*, 89.

23) Ibid.

It is a matter of debate whether Recommendation 9 has been followed. In the last chapter of our previous report we urged the ILO not to remain silent,

*considering the fact that there is much supporting evidence of violations of labour rights, and considering the fact that DPRK workers are in no position to protect themselves and have no access to legal remedies, and combined with the fact that this practice moreover supports a state that violates human rights without parallel.*²⁴

This was not a haphazard appeal. The ILO considers itself to be best placed to lead global action for decent work in the global supply chain. It aims to:

*strengthen its capacity as the global centre of excellence to facilitate, having regard to all relevant available evidence, the development and implementation of well-informed coherent policies and strategies and build the capacity of constituents. And the DPRK labour export case provides a case to match this ambition. At least 19 ILO Member States are said to employ DPRK workers. The UN special rapporteur on human rights in North Korea stated that they include China and Russia, and reportedly include Algeria, Angola, Cambodia, Equatorial Guinea, Ethiopia, Kuwait, Libya, Malaysia, Mongolia, Myanmar, Nigeria, Oman, Poland, Qatar and the United Arab Emirates.*²⁵

The International Trade Union Confederation (ITUC) has addressed host countries of DPRK labourers and called on affiliates and friendly organisations to take action in this matter. Specifically, they urged their affiliates to act upon the matter, while, ‘the international trade union movement cannot stay silent on the issue that has evolved from a serious human and labour rights violation to a critical issue of international security’. The ITUC urges its affiliates to,

- Write to their governments to investigate these issues and demand full transparency with regard to:
 - the number of (working) visas issued to DPRK workers (per year, sector, region and company);
 - joint-ventures with DPRK entities or individuals.
- Request their governments to provide information on measures taken to:
 - stop issuing, renewing or extending work visas to DPRK migrant workers;
 - end joint-ventures with DPRK entities or individuals;
 - provide DPRK workers present in the country with humanitarian protection;
 - ensure equal treatment of DPRK workers present on the territory;
 - ensure access to justice for DPRK workers e.g. to claim unpaid wages
 - sanction perpetrators ;

24) Ibid., 55-97.

25) International Labour, C.App./D.4/Add.1, 106th session.

- *call on companies to investigate and address the issue of forced labour of DPRK workers in throughout their activities.*²⁶

Outside of the scope of recommendations

The UN Security Council, guided by the UN Panel of Experts in charge of the DPRK sanctions, has taken a number of measures that, in their ostensible rejection of overseas DPRK labour, were perhaps unexpected. These sanctions do not fall within the scope of our recommendations, but should perhaps be regarded in a similar vein.

On 5 August 2017, the UNSC issued a resolution that included a freeze on work authorisations for DPRK nationals.

*11. Expresses concern that DPRK nationals frequently work in other States for the purpose of generating foreign export earnings that the DPRK uses to support its prohibited nuclear and ballistic missile programs, decides that all Member States shall not exceed on any date after the date of adoption of this resolution the total number of work authorizations for DPRK nationals provided in their jurisdictions at the time of the adoption of this resolution unless the Committee approves on a case-by-case basis in advance that employment of additional DPRK nationals beyond the number of work authorizations provided in a member state's jurisdiction at the time of the adoption of this resolution is required for the delivery of humanitarian assistance, denuclearization or any other purpose consistent with the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), or this resolution; (S/RES/2371, 5 August 2017).*²⁷

In the same resolution, doing business with DPRK companies or nationals became significantly more difficult, although, as the chapter on networks shows, DPRK entities are not always recognisable as such.

*12. Decides that States shall prohibit, by their nationals or in their territories, the opening of new joint ventures or cooperative entities with DPRK entities or individuals, or the expansion of existing joint ventures through additional investments, whether or not acting for or on behalf of the government of the DPRK, unless such joint ventures or cooperative entities have been approved by the Committee in advance on a case-by-case basis.*²⁸

On 11 September, 2017 Resolution S/RES/2375 (2017) was adopted by the Security Council. This resolution now forbade the provision of work authorisations for DPRK nationals.

26) Letter from the General Secretary of the International Trade Union Confederation (ITUC) to its affiliates, addressing 35 targeted countries where ITUC has reason to believe North Korean migrant workers may be active (October/November 2017).

27) United Nations Security Council (UNSC), Committee established pursuant to resolution 1718 (2006), *Resolution 2371, S/RES/2371 (2017) (5 August 2017)*, <https://www.un.org/sc/suborg/en/s/res/2371-%282017%29> (accessed 14 February 2018).

28) Ibid.

*17. Decides that all Member States shall not provide work authorizations for DPRK nationals in their jurisdictions in connection with admission to their territories unless the Committee determines on a case-by-case basis in advance that employment of DPRK nationals in a member state's jurisdiction is required for the delivery of humanitarian assistance, denuclearization or any other purpose consistent with the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), or this resolution, and decides that this provision shall not apply with respect to work authorizations for which written contracts have been finalized prior to the adoption of this resolution.*²⁹

The same resolution also effectively abolished all joint ventures and cooperative entities with the DPRK, albeit with a grace period of 120 days:

*18. Decides that States shall prohibit, by their nationals or in their territories, the opening, maintenance, and operation of all joint ventures or cooperative entities, new and existing, with DPRK entities or individuals, whether or not acting for or on behalf of the government of the DPRK, unless such joint ventures or cooperative entities, in particular those that are non-commercial, public utility infrastructure projects not generating profit, have been approved by the Committee in advance on a case-by-case basis, further decides that States shall close any such existing joint venture or cooperative entity within 120 days of the adoption of this resolution if such joint venture or cooperative entity has not been approved by the Committee on a case-by-case basis, and States shall close any such existing joint venture or cooperative entity within 120 days after the Committee has denied a request for approval, and decides that this provision shall not apply with respect to existing China–DPRK hydroelectric power infrastructure projects and the Russia–DPRK Rajin–Khasan port and rail project solely to export Russia–origin coal as permitted by paragraph 8 of resolution 2371 (2017).*³⁰

Finally, on 22 December 2017 Resolution S/RES/2397 was adopted, ordering all Member States to repatriate the DPRK workers in their territories. Here, again, a grace period was also invoked, this time a period of two years.

8. Expresses concern that DPRK nationals continue to work in other States for the purpose of generating foreign export earnings that the DPRK uses to support its prohibited nuclear and ballistic missile programs despite the adoption of paragraph 17 of resolution 2375 (2017), decides that Member States shall repatriate to the DPRK all DPRK nationals earning income in that Member State's jurisdiction and all DPRK government safety oversight attachés monitoring DPRK workers abroad immediately but no later than 24 months from the date of adoption of this resolution unless the Member State determines that a DPRK national is a national of that Member State or a DPRK national whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, and the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations, and further decides that all Member States shall provide a midterm report by 15 months from the date of adoption of this resolution of all DPRK nationals earning income in

²⁹ UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2375*, S/RES/2375(2017) (11 September 2017), <https://www.un.org/sc/suborg/en/s/res/2375-%282017%29> (accessed 21 March 2018).

³⁰ Ibid.

*that Member State's jurisdiction that were repatriated over the 12 month period starting from the date of adoption of this resolution, including an explanation of why less than half of such DPRK nationals were repatriated by the end of that 12 month period if applicable, and all Member States shall provide final reports by 27 months from the date of adoption of this resolution.*³¹

This, then, should logically bring to an end the practice of overseas DPRK labour within two years of the adoption of this last resolution: 22 December, 2019. It should, also bring to an end the human rights abuses associated with overseas DPRK labour. It would certainly damage the inflow of foreign currency into the DPRK. There are a few remarks in order.

First, it is not very likely that in two years' time the situation surrounding the DPRK will be fundamentally the same as it is now, given that the UN sanctions concerning overseas labour would still be relevant. Given the political tensions within the UNSC, it stands to reason that the motivation for both China and Russia, by far the two largest users of overseas DPRK labour, to agree with this resolution was the insertion of the temporal condition. A litmus test for the efficacy of this resolution will be the resolution demanding the dissolution of joint ventures and cooperative efforts with the DPRK. An interview with Mr O., the interpreter-foreman at Partner Shipyards and Redshield, is perhaps indicative: According to him, Redshield was not a joint venture or cooperative entity, and thus impervious to the sanctions. It remains to be seen, of course, if Mr O. is right in thinking this. But given the resourcefulness of those involved in overseas DPRK labour, there is a good chance that he is right.

Second, the sanctions are only meaningful and relevant to the extent that they are enforced. Andrea Berger's analysis of sanctions implementation and enforcement has shown sufficiently convincingly how weak the foundation of the sanctions is and therefore we should be cautious about any expectations in this regard.³²

Third, regardless of whether sanctions will or will not be enforced, Recommendation 5 ('Define where civil or administrative litigation procedures can be initiated and/or criminal proceedings are in order. Seek redress and compensation for the workers.'). Recommendation 6 ('Secure protection for workers who intent to lodge complaints, secure a safe haven for possible defectors.'). and Recommendation 8 ('Undertake in-depth research regarding the state liability of the DPRK for severe human rights violations and labour right violations abroad') retain their relevance. Even if overseas DPRK labour ends, access to legal and other remedies for – by then – former overseas labourers might mean that procedures seeking redress and compensation may continue for years after the practice has disappeared.

It seems fitting to finish this chapter with another set of recommendations, without either withdrawing or declaring definitively fulfilled the original nine recommendations. Consequently, in addition to the original nine recommendations, here are five more recommendations we see as necessary to deal with overseas DPRK labour in a responsible,

31) UNSC, Committee established pursuant to resolution 1718 (2006), Resolution 2397 (2017), *Resolution 2397*, S/RES/2397 (2017) (22 December 2017), http://www.securitycouncilreport.org/atf/cf/%7B65BF-CF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2397.pdf (accessed 1 March 2018).

32) Andrea Berger, 'A House Without Foundations: The North Korea Sanctions Regime and Its Implementation', *Whitehall Reports*, 9 June 2017.

humane, and above all legal manner. Most recommendations from our last report can be copied and pasted here, since they were either never or only partially followed-up. We therefore reiterate them here.

Moreover, we want to add recommendations and make them more concrete. The information we have obtained and gathered ourselves for this research has proven to be so detailed that more specific recommendations are appropriate.

Recommendation 10 *Engage with DPRK workers in safe and secure ways. Create possibilities for them to apply for political asylum, if they so desire. Make sure their families are not left behind in the DPRK, if they want to join their family member in asylum.*³³

Recommendation 11 *The companies hiring DPRK workers, profiting from DPRK workers, or who knowingly or unknowingly employ DPRK workers in their value chain should offer transparency. That includes offering transparency on cost reductions, performing – belatedly – due diligence in clearing up the value chain, ask their suppliers for evidence regarding wages paid to the individual workers, and anything else that can lead to full transparency about what happened, but also in what the consequences were. A full calculation must also be made of what the compromised value chains have costs in terms of sanctions evasions and sanctions undermining, even if this happened unknowingly. This calculation must be both financial and political. This should happen as soon as possible, but within six months.*

Recommendation 12 *The value chains that include or included overseas North Korean forced labour should be analysed with regard to EU and UN sanctions transgressions with a view to follow-up legal measures.*

Recommendation 13 *The notion of overseas North Korean forced labour and/or contemporary slavery should be explicitly expanded to include the DPRK workers in Kaesong Industrial Complex, given the similarity of working conditions and financial-legal structuring. A possible restart of the KIC should be considered in the light of the UN sanctions regarding overseas DPRK labour.*

Recommendation 14 *Active redress for DPRK workers should be sought first but not exclusively by the companies who exploited them, but also by the companies in whose value chain North Korean forced labour emerged, with or without the knowledge of the company involved.*

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- 2017D22856, 'Beantwoording van de vragen van de leden Ten Broeke en Karabulut over Noord-Koreaanse dwangarbeiders in Europa'. *Response to parliamentary questions*

33) There is no easy or obvious route to achieving this, but probably the best way to go about it is by including demands for family reunification in a complete parcel of measures dealing with the aftermath of overseas labour, including possible criminal procedures and legal redress processes. Quid pro quo diplomacy: bring out the family and avoid criminal prosecution, would be the message. Or: take home the money earned, but bring out the family. Whether this is viable requires thorough investigation.

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EPILOGUE I

The Potential Benefits of the ILO Supervisory Machinery

Klara Boonstra

*‘Crime depends not on victims, but on customers.’
Mark Fürstenberg.¹*

As the United Nations specialised agency for labour issues, the International Labour Organization (ILO) adopted a Protocol in 2014 that is complementary to its Forced Labour Convention of 1930. With this instrument, the ILO’s constituents gave a new impetus to the global fight against forced labour. While its 1930 convention is among the most ratified conventions and, indeed, is one of the designated *core labour conventions*, it was generally recognised that it required an extension. Where the 1930 convention predominantly concerns forced labour that is imposed by states on their citizens, the new instrument addresses what is often called *modern slavery*. That is, forced labour in private companies, imposed by private entities, often in supply chains. The preamble to the Protocol stipulates that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour. Migrant workers are presented as a particularly vulnerable group, but the focus is not just on human trafficking. Like the 1930 convention, the Protocol covers both domestic and transnational forms of involuntary labour. The protocol therefore does not replace the convention, but rather complements it.

1) Andreas Schloenhardt, ‘Organized Crime and The Business of Migrant Trafficking’, *Crime, Law and Social Change* 32, no. 3 (1999), 5.

The aim of this chapter is to establish the potential benefits of the ILO instruments for the DPRK workers on the Polish shipyard. It must start with a disclaimer. As North Korea is not a member state of the ILO, unfortunately these instruments cannot have their usual impact on the government's practice of sending its citizens abroad as forced labourers, to Poland or any other country. It is also not possible to apply the unique and very advanced supervisory mechanism of the ILO directly to that government's actions, in order to expose North Korea as a major violator of the most fundamental of labour rights. These caveats notwithstanding, I will argue that these standards can potentially have a strong impact on our case. Both Poland, where the forced labour takes place, and the Netherlands, whose companies benefit from this crime, were among the first countries to ratify the Protocol.² Considering that the 1930 convention is already part of the *aquis communautaire* of the European Union, and that it is likely that the connected Protocol will also be adopted as such, the influence that these standards can have on the DPRK forced labour case is potentially strong. Obviously, our ultimate aim is to target the government of DPRK, in order to stop all forced work from that country. However, in order to do so, we shift our attention to the receiving end of the supply chain of forced labour: the European countries where the workers perform their labour.

In this chapter, I review the obligations of the Polish and Dutch governments that will follow from the acceptance of these ILO standards. I will focus on the content of the provisions and also look ahead at the possibilities that the application of the extensive supervisory system will provide. I will argue that the deplorable state of welfare of the DPRK workers is not just the responsibility of the DPRK government, but equally, or perhaps even more so, that of these EU countries. In other words, we will be looking at the possibility of attacking this practice at the demand side of modern slavery, the pull factor of forced labour. Special regard will be given to the likelihood that the workers will be able to have access to justice and an effective remedy, possibly including compensation.

The definition of forced labour in ILO standards

The 1930 Convention on forced labour defines it as work that is performed involuntarily and under coercion, and the 2014 Protocol does not alter this definition. Literally, article 2 of the convention defines forced labour as 'all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. As such, the concept of forced labour is based on the liberal understanding of freely chosen work, notwithstanding some exceptions as specified in the convention.³ It is significant that practices like 'human trafficking' or 'people smuggling' need not be part of the practice in order to fall within the range of the definition. According to this definition, it is irrelevant whether the worker crosses borders or not. Even if a worker entered a labour

2) Poland ratified the Protocol, with immediate force, on 10 March 2017. The Netherlands ratified the Protocol on 8 August 2017. It will come into force one year later on 8 August 2018.

3) International Labour Organization, C029 - Forced Labour Convention, 1930 (No. 29) Convention concerning Forced or Compulsory Labour, Geneva (28 June 1930), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029 (Accessed March 22, 2018), article 2.2.

agreement voluntarily, his or her consent becomes irrelevant once coercion or deception has been used. Moreover, the key indicator to distinguish free from un-free labour is the possibility for a worker to revoke a labour agreement without losing any rights or privileges (like remuneration).

But is it insignificant whether they are migrant workers? It is generally acknowledged that workers who find themselves far from home will usually have extra difficulties escaping from their situation. ILO research that was undertaken in preparation for the Protocol started from the presumption that migration was an inherent part of forced labour.⁴ It initially juxtaposed two categories – ‘victims of trafficking/forced labour’ and ‘successful migrants’ in order to determine the focus of the fight against forced labour for the ILO. Some specific results, however, led to modifications of the initial research design and stimulated further analysis. For example, it was found that the initial two categories were too broad to capture all the relevant information. Therefore, a third category was introduced that captured victims who were deceived during recruitment and exploited at the final employment stage, in contrast to those who did not rely on an abusive intermediary. This shows that the determination of forced labour cannot be made in a binary way with a sharp distinction of the delict. In practice, it can occur in many different forms and it should always be recognised that it can masquerade as regular work to outsiders or even the public authorities.

Employers and recruiters use a wide range of coercive measures to keep migrants in exploitative conditions. In the aforementioned ILO research, the most often cited forms of coercion were withholding of wages and real or perceived lack of freedom of movement. This was followed by debts owed to the employer or intermediary, threats, and violence. The research also documented a continuum of coercion that differs from case to case, but may also change over time within one single case. More often than not, a continuum of exploitation was found: from sub-standard working conditions to forced labour. ILO evidence suggests that forced labour must be understood as a process and not as a static relationship between workers and employers. The chain of exploitation starts with deception about working and living conditions, followed by withholding of wages or other wage manipulations combined with threats of denunciation to the authorities if the person was in an irregular situation. Perhaps surprisingly, there is no mention of remuneration or wages, or rather the possible lack thereof, in the definition of forced labour. That is logical from a criminal law perspective. A criminal act is not necessarily less culpable if the victim is paid. Wages do not negate the coercive nature of forced labour, or the need to end it. But even if it is not part of the delict’s description, wage manipulation of some kind is frequently part of the exploitation. The main forms of manipulation that the ILO research distinguishes are: payment below minimum wage or payment of what is sometimes called ‘starvation wages’; late and irregular payment of wages; illegal wage deductions; withholding of wages or no payment at all. It is arguable that these illegal practices may also affect native workers and may not be an indicator of a coercive employment relationship. As these qualitative case studies on forced labour show, those who left freely, usually had to accept non-payment of wages or other

4) Beate Andrees, *Forced labour and trafficking in Europe: how people are trapped in, live through and come out* (Geneva: International Labour Organization, 2018), http://www.ilo.org/global/topics/forced-labour/publications/WCMS_090548/lang--en/index.htm.

negative consequences. In other words, sub-standard pay is not always forced labour, but forced labour will almost always include sub-standard pay.

The ILO supervisory machinery in action

Does the Polish shipyard modern slavery case qualify as ILO forced labour? Firstly, the defence that these workers may have volunteered for the work in Poland does not refute what has been exacted from them. The aforementioned notion that forced labour is a process and not a static situation fits perfectly to this case. After all, even if they may initially have felt lucky to be chosen for the opportunity to work abroad, they certainly did not volunteer to work under such abhorrent conditions. Furthermore, any ideas about stopping this work are clearly under the menace of a penalty. In fact, this case was already brought to the attention of the ILO supervisory committees, which urged the Polish government to make their inspection services see beyond the first appearances and no longer turn a blind eye to this practice. At the 2017 Conference, the Polish trade union Solidarnosc, in alliance with other European trade unions, successfully brought the case to global attention.⁵

Last year, Solidarnosc expressed its concern at the working conditions of the DPRK workers and stipulated that it might be equated with forced labour. In its defence, the Polish Government stated that, in 2016, comprehensive controls of selected entities known to employ DPRK citizens were carried out throughout the country. It declared that no cases of illegal employment were detected, but that a number of infringements of the provisions of the labour law were found (the Polish Act on Employment Promotion and provisions of the Labour Law). In particular, according to the Government, there were no instances of failure to pay or payment of a lower amount than that stated in the foreigners' work permits, based on the evidence of payments presented by the employers, such as bank transfers and payrolls with signatures of DPRK citizens. However, the Committee confronted that statement with the report of the Special Rapporteur of the United Nations on the situation of human rights in the DPRK, which substantiated that nationals of the DPRK were indeed being sent abroad by their government to work under conditions that reportedly amount to forced labour. The UN report exposed that some 50,000 DPRK workers operate in countries such as Poland, mainly in the mining, logging, textile, and construction industries. As examples of working conditions, according to the UN rapporteur, the workers do not know the details of their employment contract and earn, on average, between 120 and 150 USD per month, while employers in fact pay significantly higher amounts to the Government of the DPRK (employers deposit the salaries of the workers in accounts controlled by companies from the DPRK). It was reiterated that workers were sometimes forced to work up to 20 hours per day, with only one or two rest days per month, and given insufficient daily food rations. They are under constant surveillance by security personnel and their freedom of movement is unduly restricted. The fact that workers' passports are also confiscated was also stressed. This reference by the ILO committee to the wider practice within an ILO context is crucial.

5) See for the conference proceedings: International Labour Organization, Observation (CEACR) - adopted 2017, published 107th ILC session (2018): Forced Labour Convention, 1930 (No. 29), Geneva (30 August 2017), http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3335211 (Accessed March 22, 2018).

By connecting the UN findings with the ILO supervisory mechanism, the ILO supervisory committee shows its potential to not only spread the information it receives from its own constituents, but also to connect cases and substantiate that separate instances of modern slavery are indeed widespread practice.

Clearly, nobody can rightly claim ignorance to these practices when these international organisations (along with our working group and several journalists and media outlets) have exposed this and other cases concerning modern slavery by DPRK workers abroad. But is it enough to stop the practice and to compensate the workers? Unfortunately, no, as was further elaborated by Solidarnosc, which stated that although victims can bring a civil action against the perpetrators of crimes related to human trafficking, very few victims of this practice ever receive compensation from the perpetrators. In a direct request, the ILO urged the Polish government to pursue the issue of providing these workers with access to justice and an effective remedy.⁶ This brings us to the subject and purpose of the 2014 Protocol.

The goals of the Protocol

Over the years, the ILO has adopted a realistic view of what public international labour law can achieve. Merely adopting standards that can be transferred ‘one for one’ as substantive labour law into domestic law, will never suffice as a solution to complex money-driven international exploitation of powerless individual workers by powerful conglomerates. Consequently, the Protocol does aim at legislative interventions, but perhaps more at policy interventions. It recognises the pull factor of forced labour in the destination countries where the work is performed and identifies responsibilities of governments and companies on both ends of the supply chain. In other words, it starts from the point of view that there would be no forced labour without the demand for goods and services that are either illicit or sold so cheaply that their price does not reflect real production costs. In order to accommodate that demand for cheap goods and services, and therefore cheap labour, Western companies relocate part of their production processes to developing countries. However, not all production will brook delay. Where relocation is not an option, because production cannot be postponed or take place elsewhere, we often find its alternative: modern slavery, i.e. production in developed countries taking place in sub-standard, developing world conditions.

The types of modern slavery that occur in developed countries should not be confused with the kind of irregular employment that is the standard in many developing countries. Irregular employment as such does not necessarily imply the use of force and coercion in an employment relationship. However, in many developed countries where regular or formal labour is the norm, we do find pockets in society where economic, legal, and moral responsibility have become, deliberately or not, diffused. Under those informal circumstances, the risk of exploitation lures. In order to tackle this, many states have adopted legislation like the UK Modern Slavery Act of 2015 and Australia’s Fair Work Act 2009. These

6) International Labour Organization, Direct Request (CEACR) - adopted 2017, published 107th ILC session (2018) Forced Labour Convention, 1930 (No. 29), Geneva (30 August 2017), http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3335211 (Accessed March 22, 2018).

legislative examples create legal obligations under which parent and holding companies, franchisers and subsidiaries can be held jointly responsible if they do not follow workplace laws. Employers (often over a certain size) can be required to report on the risk of slavery in their supply chains. Although different countries take different perspectives, there is one common denominator: employers have a duty of care in their supply chains. They are no longer allowed to wash their hands of their responsibilities, nationally or transnationally. As much as all this is necessary and even admirable, transparency is merely the first step to tackling modern slavery. Fortunately, the Protocol offers a number of additional steps.

Action required of member states under the Protocol

The protocol and the complementary recommendation provide the necessary next steps that member states need to make in both law and practice. These are obligations to prevent forced labour, to protect the victims, and to provide them with access to remedies. At the same time, the Protocol reaffirms the importance of prosecuting the perpetrators of forced labour and calls for the ending of their impunity. All member states, those that are sending and those receiving workers, are obliged to develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organisations, as well as with other stakeholders. This implies that these organisations, in particular trade unions and NGOs, will have an opportunity to get a grip on the process, and not just have to accept the outcomes of a legislative process. As explained above, this section focuses on the receiving member states. The measures to be taken for the prevention of forced or compulsory labour include educating and informing people, especially those considered to be particularly vulnerable, in order to prevent them from becoming victims of forced or compulsory labour. The Protocol calls on governments to address the root causes and factors that heighten the risks of forced or compulsory labour, including migration for work.

In case of the DPRK workers in Poland, this implies that the Polish government must reach out to the workers directly, to educate and inform them about their rights. It is clearly not enough to merely let the labour inspectorate scrutinise the paperwork. Also, the Protocol urges member states to educate and inform employers, in order to prevent them from becoming involved in forced or compulsory labour practices. In most EU countries, including Poland and the Netherlands, work permits are issued to employers and not to the workers themselves. Under this obligation, every work permit issued for a worker from a risk country should, in future, be accompanied by the warning that the employer should closely monitor the terms and conditions of the work. The government of the receiving state must be proactive in this regard. After such a warning, no employer can claim ignorance. They must practice due diligence in order to prove that their duty of care has been fulfilled. It is important to note the legal reasoning we are entering into here. Clearly, this obligation will reach all the employers in the supply chain, with a special comprehensive responsibility for the lead firm, the end user.

Furthermore, the Protocol urges member states to undertake efforts to ensure that the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, applies to all workers and all sectors of the economy. This comprehensive approach calls for an active investigation into the above-mentioned pockets of society where forced labour tends to hide. The labour inspection services and other services responsible for the implementation of this legislation must be strengthened. They must protect persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process.

Action for victims

It may seem strange that the older ILO conventions concerning forced labour hardly mention the rights of the victims. This was probably due to the fact that, in a sense, these standards were directed towards the state itself as perpetrator. The current Protocol, however, addresses that deficiency. Ratifying states like Poland and the Netherlands have to take effective measures for the identification, release, protection, recovery, and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support. They must also ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation. That implies that they actively have to call on each individual worker, in order to determine his situation and his needs according to these provisions. Once a workplace has been exposed as somewhere that forced labour takes place, it is likely that the workers will become more, not less vulnerable. This is the reason why the government must provide shelter and legal representation.

Does the Protocol create new obligations for EU countries?

A number of EU member states were swift to ratify the Protocol. It has been argued that this is probably because it creates few, if any, new obligations that they do not already have under European law. There is some truth in this, because the regulation of the Council of Europe, the Convention on Action against Trafficking in Human Beings, and, most importantly, the UN Palermo Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, especially Women and Children, already cover many of the issues dealt with in the Protocol. When we look at the instruments closely, however, the ILO Forced Labour Convention and the Protocol clearly complement these standards. The Palermo Protocol is more specific on the forms of coercion as well as exploitation. While forced labour, according to the ILO definition, includes any work or service – be it legitimate or not – the Palermo Protocol distinguishes between forced prostitution and forced labour. It also lists particular forms of exploitation such as serfdom, debt bondage, and slavery-like practices that are also covered under Convention 29. In content, therefore, even though there is a slight overlap, the Protocol and these European laws complement each other. Article 22 of

the Council of Europe Convention even contains a provision on corporate liability, and, in a sense, stretches beyond the UN and ILO instrument; of course, it is not a global instrument.

The real benefit from the ILO approach, however, will not come from an extension of the definition of forced labour, but from the application of the definition on the practice of modern slavery. The existing regulation has not yet been applied to the multi-faceted form of forced labour in companies' supply chains. The fact that it is recognised that a 'one perpetrator approach' leaves a responsibility gap, and that several actors can be responsible for a case of forced labour, opens the possibility of properly addressing these cases. This view has been elaborately developed in the ILO 2016 Resolution on Decent Work in Supply Chains, admittedly not a binding instrument, but very important in this respect.

This implies that, in the near future, the ILO supervisory mechanisms can also be applied in transnational situations, like the one in question. Considering that both Poland and the Netherlands have already ratified the Protocol, they will soon both be sending their reports concerning the application in law and practice to the ILO. The Polish and Dutch trade unions will be requested to comment upon these reports. It would be logical for them to combine their efforts and send in a joint report that covers the connected case in the supply chain. There is no reason why the ILO supervisory committees should not address the member states together in situations where they have been asked to explain their actions in a particular case.

Conclusion

The governance gap, which, in turn, creates the responsibility gap that allows the violation of this most fundamental of labour rights to continue, can be bridged by adopting a more integral approach. All the legal elements to construct this bridge exist. It is up to all parties involved to strengthen these elements with their policies and activities. It is too early to tell whether individual workers in this case will eventually be compensated. The standards we are reviewing here, including the youngest branch on the tree, the ILO Protocol on forced labour, are not generally intended to have direct legal effect in the member states. This is not a necessarily shortcoming of international labour law, but can, in a sense, be an asset. It means that this catalogue of standards will work as strong normative guidelines for work that will be in continuous progress, and where many different actors will work together on the development of domestic and transnational law and policy. The effect of such joint action is potentially far greater than merely individual redress to a court. After all, if preventive and other non-legal action is successful, there will be no need for court action. However, the ultimate remedy needs to provide compensation for damages suffered. Access to justice is therefore key. Whether victims of forced work will have such low threshold access remains wholly uncertain. The ILO has demonstrated its ability to monitor the process. It is up to the governments, social partners, NGOs, legal professionals, and advocacy organisations to use this machinery.

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EPILOGUE II

Domestic Criminal Accountability for Dutch Corporations Profiting from North Korean Forced Labour

Cedric Ryngaert

Introduction

In this epilogue, I reflect on the potential for legal accountability of Dutch corporations profiting from the labour exploitation of North Korean workers abroad. The factual background of this legal question is well-known. In 2016, a team led by Remco Breuker,¹ professor of Korean Studies at Leiden University, issued a report detailing the appalling (forced) labour conditions in which North Koreans work.² In the EU, this happens in particular in Poland where they are forced to work on shipyards and have to hand most of their wages to the North Korean government. Apparently, North Korea ‘traffics’ these workers to Poland for self-enrichment purposes.³ In the wake of this report, investigative work sponsored by The Why Foundation⁴ exposed how various corporations and governments are complicit in these abuses, work that resulted in the documentary *Dollar Heroes*.⁵ On that basis, Professor Breuker’s research team produced a follow-up report, released on 6 February 2018, which

1) The research that resulted in this publication has been funded by the European Research Council under the Starting Grant Scheme (Proposal 336230—UNIJURIS) and the Dutch Organization for Scientific Research under the VIDI Scheme (No 016.135.322).

2) Remco E. Breuker and Imke B.L.H. van Gardingen, eds., *Slaves to the System, North Korean Forced Labour in the European Union: The Polish Case* (Leiden: LeidenAsiaCentre Press, 2016).

3) Ibid.

4) ‘Why Slavery?’ *The Why Foundation*, accessed 11 February 2018, <http://thewhy.dk/whyslavery/>.

5) The Why foundation, *Dollar Heroes*, documentary, directed by Sebastian Weis, Carl Gierstorfer, Jonghun Yu, Tristan Chytroschek and Wonjung Bae, produced by a&o buero filmproduktion (2018; Germany: ARTE).

highlighted the involvement of Dutch corporations, notably as buyers of ships made by North Koreans in Poland.

In this short contribution, I explain on what grounds these corporations could be held to account under Dutch criminal law, including how Dutch jurisdiction could be established over them. I focus in particular on the offence of profiting from human trafficking and labour exploitation. I argue that Dutch corporations profiting from overseas labour exploitation in their supply chain could indeed be held to account under Dutch law, at least from a legal-doctrinal point of view (Section 1). However, several practical and political constraints may render prosecutorial action addressing foreign human rights abuses rather unlikely (Section 2). As a result, other legal and political accountability mechanisms may have to be explored (Section 3). Section 4 concludes.

Legal options to hold profiting corporations to account to account under Dutch law

In order to hold Dutch corporations profiting from their involvement in exploitative labour practices abroad to account in the Netherlands, the Netherlands should obviously first have jurisdiction. Bearing in mind that the impugned production activities took place *abroad* (in Poland), and involved *foreign* (North Korean) nationals, jurisdiction may, at first glance, appear questionable. Can a Dutch prosecutor exercise jurisdiction over a situation with such a strong extraterritorial dimension? While not denying the extraterritorial elements of the situation, I submit that jurisdiction in this case can be established on the basis of the uncontested *territoriality* principle. This follows from a close reading of the relevant legal provisions in the EU Human Trafficking Directive⁶ and Dutch implementing legislation in Article 273f of the Dutch Penal Code,⁷ which makes punishable human trafficking and related exploitative labour practices.

The EU Human Trafficking Directive not only requires EU Member States to exercise their jurisdiction in case the offence of human trafficking is committed in whole or in part within their territory or in case the offender is one of their nationals.⁸ Crucially, it also authorises – although does not mandate – Member States to exercise jurisdiction where an offence ‘is committed for the benefit of a legal person established in its territory’.⁹ The Dutch legislature rather faithfully gave effect to this provision in Article 273f(6) of the Dutch Penal Code, which criminalises ‘profiting from the exploitation of a person’ – although such profiting had earlier already been criminalised in the Netherlands in the context of pimping.

6) European Parliament and European Council, Directive 2011/36/EU OJ L 101, ‘On preventing and combating trafficking in human beings and protecting its victims’, 15 April 2011, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF> (accessed 1 March 2018).

7) Dutch Criminal Code, Article 273f, ‘On Human Trafficking’, 1 July 2009, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/art_273_dutch_criminal_code_en_1.pdf (accessed 1 March 2018), *non-official translation*.

8) Directive of the Council and European Parliament 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA [2011] OJ L 101/1.

9) European Parliament and European Council, Directive 2011/36/EU OJ L 101.

According to the aforementioned provisions, it suffices that a person *profits* from labour exploitation. For jurisdictional purposes, it is immaterial *where* that exploitation occurred: it suffices that a domestically incorporated legal person somehow profits. It is the territorial *benefit* which a corporation draws from exploitative practices, regardless of location, that serves as the jurisdictional linchpin. Accordingly, Article 273f(6) of the Dutch Penal Code creates opportunities to trigger Dutch jurisdiction over corporations linked to acts of exploitation somewhere down the supply chain, and ultimately hold them liable.

If we apply this to the involvement of Dutch corporations in the exploitation of North Korean nationals on Polish shipyards, it does not actually matter that these persons are foreign nationals working abroad. What matters is that the products they make – the ships they build – are purchased by Dutch corporations, which go on to benefit or profit in the Netherlands from these practices. This act of benefiting or profiting is a territorial one, and triggers application of the territoriality principle, the basic principle of criminal jurisdiction. Its criminalisation somewhat resembles the criminalisation of territorial money laundering, receiving stolen goods, or participating in a criminal organisation, for which one can also be prosecuted in the Netherlands even if the predicate offence took place abroad. For instance, a Dutch NGO (SMX) recently filed a criminal complaint with a Dutch prosecutor against Rabobank, alleging that Rabobank laundered Mexican drug cartel money and participated in a criminal organisation together with these cartels, who allegedly committed crimes against humanity.¹⁰

To date, no Dutch prosecutions have been brought in labour exploitation cases with transnational aspects, but it may only be a matter of time. This has also been highlighted in an extensive study just published by Anne-Jetske Schaap.¹¹ In this study, she compares Article 273f of the Dutch Penal Code with the UK Modern Slavery Act¹² which does *not* provide for the kind of profit-based jurisdiction that would allow buyers to be held to account. She concludes that the Dutch Penal Code provides ample opportunities to hold corporations criminally liable for modern slavery, while finding it remarkable that legal practice does not reflect these opportunities.¹³

I have made a similar observation regarding the use of domestic criminal law, in particular Dutch criminal law, regarding extraterritorial human rights abuses more generally in a recent article in *Criminal Law Forum*.¹⁴ I argue that existing provisions of the Dutch Penal Code may provide relatively unexplored options to hold corporations, or corporate officers for that matter, liable for their involvement in human rights abuses abroad. The *Association Internationale de Droit Penal* (AIDP), in whose work I participated, is currently

10) Prakken d'Oliviera Human Rights Lawyers, 'Aangifte tegen Rabobank Groep vanwege witwassen van winsten van Mexicaanse drugskartels', 2 February 2017, <http://www.prakkendoliveira.nl/nl/nieuws/aangifte-tegen-rabobank-groep-vanwege-witwassen-van-winsten-van-mexicaanse-drugskartels/> (accessed 11 February 2018).

11) Anne-Jetske Schaap, *De strafrechtelijke aansprakelijkheid van ondernemingen voor moderne slavernij* (Nijmegen: Wolf Legal Publishers, 2017).

12) UK Modern Slavery Act 2015, <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>, (accessed 11 February 2018).

13) Schaap, *De strafrechtelijke aansprakelijkheid van ondernemingen voor moderne slavernij*, 152.

14) Cedric Ryngaert, 'Accountability for corporate human rights abuses: Lessons from the possible exercise of Dutch National Criminal Jurisdiction over multinational Corporations', *Criminal Law Forum* 29, no. 1 (2018).

also studying the issue. In its draft resolutions of June 2017,¹⁵ the working group that studied jurisdictional issues concerning the prosecution of companies for violations of international human rights, signalled that states have a duty to protect and on that basis must ‘ensure that their legal frameworks enable the investigation and prosecution of human rights abuses that occur in a company’s business activity, in its supply or distribution chain, and in its other business arrangement that involve multiple legal entities.’ These companies can only escape liability if they fulfil their due diligence obligations in respect of the human rights-sensitive circumstances in which goods are produced in their supply chain. It does not matter in this respect whether these corporations are only customers, and have not directly committed the abuses themselves.

What due diligence precisely means in a context of corporations profiting from labour exploitation in the supply chain has not yet been defined.¹⁶ Accordingly, some international guidance from the OECD or the ILO may be useful.¹⁷ In general, however, it can be stated that a corporation’s liability will be engaged when it consciously accepted the risk that the goods it bought were produced in substandard conditions, including conditions of labour exploitation, even if the corporation did not intend such conditions to occur, and if the corporation did not have positive knowledge of the conditions.¹⁸ Due diligence requires that corporations inquire in what circumstances these goods were produced, and they discontinue their business dealings after being informed of the exploitative practices. The report of Professor Breuker’s team gives indications that some Dutch corporations were not always that diligent.

Practical and political constraints of prosecutions in respect of foreign labour exploitation

It is my self-evident hope that Dutch prosecutors thoroughly examine the involvement of Dutch corporations in the exploitation of North Koreans abroad. They may want to press charges in case of evidence that these corporations, in light of the information reasonably available to them, knowingly accepted the risk that the ships which they bought were produced in conditions of labour exploitation. There is no denying, however, that there are

15) Association Internationale de Droit Penal, 2017, ‘Panel 4 - Prosecuting Companies for Violations of International Human Rights: Jurisdictional Issues, ‘Draft Resolutions’’, presented at *AIDP International Congress of Penal Law: Criminal Justice and Corporate Business*, University of Basel, 2-4 June 2017, http://www.penal.org/sites/default/files/files/XX_AIDP_DRAFT_RESOLUTIONS_circulate.pdf (accessed 11 February 2018).

16) The OECD has however published due diligence guidelines for multinational enterprises, e.g. regarding conflict-minerals supply chains. U.S Customs and Border Protection, Civil Enforcement Division Forced Labor Enforcement, *OECD Due Diligence Guidance*, #0656-1017, <https://www.cbp.gov/sites/default/files/assets/documents/2017-Oct/OECD%20Due%20Diligence.pdf> (accessed 11 February 2018).

17) Note that forced labour does have the ILO’s attention. ‘Publications on forced labour,’ *International Labour Organization*, accessed 11 February 2018, <http://www.ilo.org/global/topics/forced-labour/publications/lang--en/index.htm>.

18) Compare Dutch Supreme Court, ECLI:NL:HR:2003:AF7938, NJ 2006, 328, 21 October 2003, <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2003:AF7938>; Dutch Supreme Court, ECLI:NL:HR:2015:3487, NJ 2016, 23, 8 December 2015, <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2015:3487>, (holding that a person’s failure (omission) to exercise the diligence/care that can reasonably be expected to prevent criminal acts from occurring can be regarded as acceptance of these acts).

serious practical and political constraints to prosecutorial action of this kind, which render its exercise rather unlikely.

Firstly, Dutch corporations that may have benefited from exploitative practices might be important domestic economic players, and have sizeable political connections. Prosecutors, when exercising their discretion, may take the domestic economic consequences of decisions to investigate and prosecute into account, heed signals from their superiors or from their political overlords, or simply apply self-censorship. Also, prosecutors and the police have limited resources at their disposal and may have to set prosecutorial priorities, with *foreign* human rights abuses unlikely to top the list. Law enforcers' general lack of expertise in advanced transnational economic criminality obviously does not help.

Admittedly, these constraints can be overcome by increased investments in economic crime investigations. Such investments may politically be a hard sell, however, in case the returns on investment benefit a foreign rather than domestic constituency. Holding corporations liable for profiting from North Korean slave labour ultimately benefits, or is at least meant to benefit, North Korean labourers (or an amorphous international community, which may be shocked by those labourers' treatment). Corporate accountability does not, or at least does not directly increase Dutch national welfare. Certainly, the contribution to global security resulting from Dutch prosecutorial action could be foregrounded: arguably, holding customers to account may destroy the markets of the companies that exploit North Korean labourers, thereby depriving the North Korean regime of the income necessary to further develop its nuclear weapons programme. However, the causal contribution of Dutch prosecutorial action to the improvement of the Dutch/international security situation may be too tenuous to sustain a prosecution on national interest grounds.

What is left is that initiating a prosecution may simply be the right thing to do. Yet, taking action just because it is morally sound does not motivate (institutional) actors, especially not when the envisaged action is cosmopolitan in nature, i.e. when it serves the interests of non-nationals.¹⁹ One may perhaps object that prosecutors have in the past exercised universal, 'cosmopolitan' jurisdiction over presumed perpetrators of international crimes. But also they have not acted in a purely altruistic fashion. Often, they have done so to bring justice to locally anchored victim (diaspora) communities, and thereby contribute to their integration.²⁰ Moreover, in most states, universal jurisdiction is, legally speaking, only triggered by the territorial presence of the presumed offender.²¹ In the case of Dutch corporations allegedly profiting from North Korean slave labour, these conditions are not met. North Korean victims are hardly present in the Netherlands, and the proximate offenders – the company and its officials who actually exploit the labourers – are abroad.

19) I develop this point at length in Cedric Ryngaert, *Cosmopolitan Jurisdiction and the National Interest*, Oxford Handbook on Jurisdiction (Oxford: Oxford University Press, forthcoming 2018).

20) Frédéric Mégret, 'The 'elephant in the room' in debates about universal jurisdiction: diasporas, duties of hospitality, and the constitution of the political', *Transnational Legal Theory* 6, no. 1 (2015); Itamar Mann, 'The Dual Foundation of Universal Jurisdiction: Towards a Jurisprudence for the 'Court of Critique'', *Transnational Legal Theory* 1, no. 4 (2010), 485.

21) Dutch International Crimes Act, 'Containing rules concerning serious violations of international humanitarian Law', 19 June 2003, https://documents.law.yale.edu/sites/default/files/netherlands_-_international_crimes_act_english_.pdf (accessed 11 February 2018).

While the remote offender – the profiting corporation – may be in the Netherlands, its lack of proximity to ‘the crime scene’ may be considered as too small a factor to motivate institutional action. Certainly, individual prosecutors may possibly favour altruistic intervention,²² but bias in favour of the status quo (which implies a tendency to refrain from prosecuting transnational human rights abuses) combined with conformity effects (which means adjusting to group attitudes or deferring to superiors) may drown out courageous voices.²³

Non-criminal accountability mechanisms

Insofar as the criminal law may be an unlikely avenue to hold corporations to account for profiting from North Korean slave labour, other legal and political options may have to be explored. It exceeds the scope of this contribution to list and discuss these alternatives in-depth, but mention could be made of two mechanism: tort (civil) litigation initiated by victims and/or their representatives, and economic leverage exercised by activist institutional investors and trade facilitators.

Tort litigation has the advantage of bypassing prosecutorial discretion, in that victims could directly sue the presumed offenders before a domestic court. Under private international law, Dutch courts have uncontested civil jurisdiction over Dutch-registered corporations,²⁴ although obviously, it has to be established, just like in the criminal law, that the corporation violated its duty of care in respect of abuses committed in the supply-chain.²⁵ The question remains, however, whether, given the risks involved, a North Korean victim will be willing to step forward to bring the tort claim, and whether (s)he can count on the support of a non-governmental organisation and/or a law-firm offering its services *pro bono*.

As far as economic leverage is concerned, it bears emphasis that corporations profiting from North Korean slave labour may theoretically be subject to market pressures, in particular from ethically motivated consumers, investors, and state agencies. Such market pressures can serve as ‘private’ accountability tools to the extent that these corporations have no other choice than to change their dealings if they are not to lose market share and investment opportunities. The success of this accountability strategy hinges, however, on the intensity of the exerted pressure and the recognisability of major consumer brands.²⁶

22) Anne van Aaken, ‘Behavioural International Law and Economics’, *Harvard International Law Journal* 55, no. 2 (2014), 421–443 (discussing conditional altruism).

23) See the insights of behavioural economics, as lately applied to (international) law, e.g., Tomer Broude, ‘Behavioural International Law’, *University of Pennsylvania Law Review* 163 (2015), 1099–1147 (discussing small decision making groups and conformity effects in international tribunals).

24) The domicile principle is the pre-eminent principle of jurisdiction in private international law. European Parliament and European Council, Regulation (EU) 1215/2012 OJ L351/1, ‘On jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)’, 12 December 2012, Cf. Article 4, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32012R1215> (accessed 1 March 2018).

25) See for an extensive discussion: Liesbeth Enneking et al., *Zorgplichten van Nederlandse Ondernemingen inzake Internationaal Maatschappelijk Verantwoord Ondernemen. Een rechtsvergelijkend en empirisch onderzoek naar de stand van het Nederlandse recht in het licht van de UN Guiding Principles*, Utrecht Centre for Accountability and Liability Law (The Hague: Boom Juridisch, 2016).

26) See on consumer pressure with respect to the realisation of international values: Anne van Aaken, ‘Markets as

As the relevant Dutch corporations are themselves the end-consumers of ships built on Polish shipyards, large-scale civil society-organised citizen-consumer pressure is unlikely to take place. Still, economic partners, such as ethically-minded financiers, insurers, and investors, e.g., pension funds,²⁷ or other private or public entities contracting with, subsidising or otherwise facilitating these corporations, may want to withhold funding, investment, or contracts from these corporations if the latter do not bring profiting from North Korean labour exploitation to a halt. As the UN Guiding Principles on Business and Human Rights (2011) remind us, if such partners are states or state agencies, they may even have an international duty to do so.²⁸

Concluding observations

Legally speaking, Dutch corporations profiting from the exploitation of North Korean labourers abroad can be held to account under Dutch criminal law, at least if it can be established that they failed to exercise due diligence regarding the risk of human rights abuses in their supply chain. No Dutch prosecutions, let alone convictions for profiting in a transnational context have been reported, however. While legally largely irrelevant, the causal and geographical remoteness of Dutch corporations' profiting from overseas labour exploitation, as well as the absence of a clear national interest at stake, are unlikely to spur prosecutors into action. Understaffing and lack of resources may not help either. This is unfortunate: the criminal law can send a strong accountability signal, as it expresses the community's strong moral condemnation of the exploitative practices that the report describes. The criminal law is, however, not the only mechanism available to hold remotely profiting corporations to account and to effect behavioural change. This contribution has suggested tort litigation and especially market pressure exerted by economic partners as potential alternative avenues.

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27) See 'Responsible Investments', *Norwegian Government Pension Fund*, accessed 11 February 2018, <https://www.regjeringen.no/en/topics/the-economy/the-government-pension-fund/responsible-investments/id446948/>.

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EPILOGUE II

Testing the Protective Reach of UN Sanctions for North Korean Migrant Workers

Larissa van den Herik

Introduction

The practice of North Korean overseas labour has great human rights implications. Yet, it was not thoroughly reported upon by the Commission of Inquiry established by the Human Rights Council or by Special Rapporteurs.¹ The disregard may obviously be informed by political considerations, yet human rights law's reservation to extraterritoriality does not encourage treatment of such transnational practices either. Nonetheless, human rights lenses are not the only optic through which the international community reaches out to North Korea. In its stereo-approach, the international community also engages with North Korea through the hard security lens with a continuing central role for the Security Council. The Security Council sanctions regime on North Korea is probably the most complex and expansive UN sanctions regime ever. In this short chapter, the amplification of the UN sanctions regime on North Korea is discussed with its unprecedented features aimed at curtailing overseas labour. The chapter specifically tests the UN sanctions regime's protective reach for North Korea migrant workers.

1) See e.g. reports of Special Rapporteurs for North Korea. United Nations General Assembly (UNGA), *Situation of human rights in the Democratic People's Republic of Korea*, A/72/394 (18 September 2017), <https://undocs.org/A/72/394> (accessed 31 January 2018); UNGA, *Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, A/HRC/31/70 (19 January 2016), <https://undocs.org/A/HRC/31/70> (accessed 31 January 2018); UNGA, *Situation of human rights in the Democratic People's Republic of Korea*, A/70/362 (8 September 2015), <https://undocs.org/A/70/362> (accessed 31 January 2018); UNGA, *Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*, Marzuki Darusman, A/HRC/28/71 (17 March 2015), <https://undocs.org/A/HRC/28/71> (accessed 31 January 2018); UNGA, *Situation of human rights in the Democratic People's Republic of Korea*, A/69/548 (24 October 2014), <https://undocs.org/A/69/548> (accessed 31 January 2018); UNGA, *Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, A/HRC/25/63 (7 February 2014), <https://undocs.org/A/HRC/25/63> (accessed 31 January 2018).

To discuss the protective reach of UN sanctions, the chapter is composed of two parts. Part 1 traverses the elaboration of the North Korea sanctions regime, in particular after 2016, and it zeroes in on the inclusion of the clauses related to migrant workers. Part 2 critically discusses the potential human rights dimension of the clauses. It inquires whether the clauses can be seen as articulations of specific human rights concerns or that they have some other unanticipated human rights benefits, or whether, instead, the clauses are purely functional and subjected to security consideration without any genuine human rights effects.

The re-comprehensivisation of the North Korea sanctions regime

The first Security Council sanctions on North Korea were imposed in 2006 with resolution 1718. Well in line with the contemporaneous trends, these sanctions were fairly targeted. The concept of targeted sanctions had emerged in reaction to the comprehensive sanctions that the Security Council had imposed on Iraq in the early 1990s, which had dramatic consequences for the Iraqi population. After these experiences, and similar ones in Haiti and Yugoslavia, the Security Council adopted the concept of targeted sanctions, a concept developed in transnational policy networks with strong input from scholars such as Sue Eckert and Tom Biersteker from the Watson Institute.² The principle idea of targeted sanctions is that – in contrast to comprehensive sanctions – they are not imposed on a state as such, but rather on selected individuals holding the capacity to change state behaviour. Following this trend of imposing targeted, rather than comprehensive sanctions, the Security Council imposed through resolution 1718 asset freezes and travel bans on specified North Korean individuals who were designated because of their direct involvement in North Korean proliferation. Resolution 1718 also included an arms embargo. The novelty of the 1718-sanctions regime was the ban on luxury goods. The spirit underlying the 1718 sanctions was that North Korea be encouraged to make a cost-benefit analysis and that this calculus would lead it to seek denuclearisation in a negotiated setting.³ Over time, when this did not materialise, the regime expanded, mostly in reaction to subsequent nuclear tests in 2009, 2013 and especially twice in 2016, and even further in 2017.⁴ The North Korean sanctions, as they are

2) See for this development and on UN sanctions generally, Larissa van den Herik (ed.), *UN Sanctions and International Law* (Cheltenham, UK: Edward Elgar Publishing, 2017).

3) Andrea Berger, 'A House Without Foundations: The North Korea Sanctions Regime and its Implementation', *Whitehall Reports*, 9 June 2017, 5, <https://rusi.org/publication/whitehall-reports/house-without-foundations-north-korea-sanctions-regime-and-its>. (accessed 1 March 2018).

4) United Nations Security Council (UNSC), Committee established pursuant to resolution 1718 (2006), *Resolution 1874*, S/RES/1874(2009) (12 June 2009), <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/NKorea%20SRES%201874.pdf> (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2087*, S/RES/2087 (2013) (22 January 2013), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2087.pdf (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2094*, S/RES/2094 (2013) (7 March 2013), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2094.pdf (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2270*, S/RES/2270 (2016) (2 March 2016), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2270.pdf (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2321*, S/RES/2321 (2016) (30 November 2016), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2321.pdf (accessed 21 March 2018).

in place today, are de facto comprehensive sanctions. Or in any event, they are on paper. In practice, there are huge implementation issues, patterns of sanctions evasion, including very sophisticated evasion techniques by North Korea, all of which are eroding the effect of the sanctions.⁵ Despite this divergence of a paper reality versus a more facts-based reality, the re-comprehensivisation of UN sanctions is noteworthy. In fact, this trend can be observed in both non-proliferation regimes. The Iran sanctions, when still in place, had also become very comprehensive, affecting the entire economy and thus the entire Iranian society.⁶ Other UN sanctions regimes do not witness a similar development and they are still very targeted in their design and operation. As regards the re-comprehensivised non-proliferation regimes, one important difference between the Iran and North Korean sanctions must be noted, i.e. in the case of Iran, the most impactful, comprehensive sanctions came from the US and the EU as unilateral measures, while the Security Council sanctions regime was more or less frozen. By contrast, in the case of North Korea, it is the UN Security Council sanctions regime that is comprehensive.⁷ This comprehensiveness evokes human rights questions regarding the humanitarian impact of those sanctions on the population. In its 2013 report, the Commission of Inquiry stated that it did not 'support sanctions imposed by the Security Council or introduced bilaterally that are targeted against the population or the economy as a whole'.⁸ In his 2017 report, the UN Special Rapporteur also expressed concern 'about the possibility that Security Council sanctions may have a detrimental impact on certain vital economic sectors for part of the population, and reiterates the need to give human rights concerns further consideration when drafting and revising sanction resolutions to ensure that they do not affect ordinary people's livelihoods'.⁹

One specific aspect of the comprehensive sanctions regime currently in place concerns the ban on North Korean migrant workers. As of 2016, the UN sanctions regime was steadily intensified, starting with resolution 2270.¹⁰ In addition to expanding the regime in terms of scope, this resolution also aimed at curbing North Korea's access to the international financial system, very much modelled on the Iran sanctions. Also in line with the previous

F96FF9%7D/s_res_2321.pdf (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2371*, S/RES/2371 (2017) (5 August 2017), http://www.securitycouncilreport.org/atf/cf/%7B-65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2371.pdf (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2375*, S/RES/2375 (2017) (11 September 2017), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2375.pdf (accessed 21 March 2018); UNSC, Committee established pursuant to resolution 1718 (2006), *Resolution 2397*, S/RES/2397 (2017) (22 December 2017), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2397.pdf (accessed 21 March 2018).

5) Berger, 'A House Without Foundations'.

6) As discussed by Daniel H. Joyner, 'UN counter-proliferation sanctions and international law', in *UN Sanctions and International Law*, ed. Larissa van den Herik (Cheltenham, UK: Edward Elgar Publishing, 2017), ch. 5.

7) As also discussed here: Larissa van den Herik, 'The Individualization and Formalization of UN Sanctions', in *UN Sanctions and International Law*, ed. Larissa van den Herik (Cheltenham, UK: Edward Elgar Publishing, 2017), ch. 1.

8) UNSC, A/HRC/25/CRP.1, § 1225 (or UNSC, A/HRC/25/63, § 94(a)). This conclusion was referenced in support in the Report of the Group of Independent Experts on Accountability, United Nations General Assembly, *Report of the group of independent experts on accountability*, A/HRC/34/66/Add.1 (24 February 2017), § 65, <https://undocs.org/A/HRC/34/66/Add.1> (accessed 31 January 2018).

9) UNGA. A/72/394, § 6.

10) UNGA. S/RES/2270.

Iran sanctions, access to specialised teaching was restricted in Resolution 2321 of 2016.¹¹ Subsequently, Resolution 2371 of 5 August 2017 is of special relevance.¹² In this resolution, in para. 11, the Security Council,

Expresses concern that DPRK nationals frequently work in other States for the purpose of generating foreign export earnings that the DPRK uses to support its prohibited nuclear and ballistic missile programs, decides that all Member States shall not exceed on any date after the date of adoption of this resolution the total number of work authorizations for DPRK nationals provided in their jurisdictions at the time of the adoption of this resolution unless approved by the Committee.

Going one step further, in Resolution 2375, the Council decided that States should not provide new work authorisations at all, regardless of numbers, but still leaving previously issued authorisations untouched.¹³ Finally, Resolution 2397 scaled up further with the Security Council deciding that all DPRK nationals earning income in Member State's jurisdiction had to be repatriated, including the DPRK government safety oversight attachés monitoring DPRK workers abroad.¹⁴ While adopted under Chapter VII and part of a UN sanctions regime, the repatriation obligation was not hard in nature given the incremental approach in temporal respect. The Resolution stipulated that the repatriation had to be done immediately and no later than 24 months from the date of adoption of the Resolution. The Council also specified that states had to provide a midterm report to show how many DPRK nationals had been repatriated over the 12-month period starting from the date of adoption of this resolution, with a requirement to justify if less than half had been repatriated. After 27 months, states had to report on repatriation of all workers. This timeline thus offered considerable loopholes to avoid direct implementation.

The aspect of the North Korea sanctions aimed at repatriating North Korean workers is unique. While, as indicated, many of the new comprehensive sanctions post 2016 were modelled on the previous Iran sanctions scheme, this feature was specifically designed to deal with the North Korea situation and particularly to counter North Korea's sophisticated sanctions evasion techniques. US ambassador Haley stated that this particular ban would eventually starve the regime of an additional 500 million USD or more in annual revenues. Hence, the sanctions regime's main architect was not inspired by pure human rights considerations in its design of the migrant workers ban. Instead, the ban was rather functional in nature aimed at curbing evasion techniques and geared towards limiting financial flows. Nonetheless, the migrant workers ban could still have a certain protective reach.

11) UNGA. S/RES/2321, § 10.

12) UNGA. S/RES/2371.

13) UNGA. S/RES/2375, § 17.

14) UNSC. S/RES/2397, § 8.

Do sanctions offer human rights protection to migrant workers?

In contrast to the US approach, the migrant workers ban was conceptualised in human rights terms by one other permanent 'P5' member of the Security Council, namely the United Kingdom. Prior to adoption of Resolution 2371, the UK representative stated,

Every year, the Democratic People's Republic of Korea sends thousands of ordinary workers overseas. They often endure poor conditions and long hours, and their toil serves to provide critical foreign currency for North Korean Government coffers. This is undoubtedly a form of modern slavery, and today we have taken the first step to ending it. The world will now monitor and curtail work authorizations for these desperate expatriates. And those who are already victims of this abusive system can trust that the United Kingdom will continue to work towards a complete end to North Korea's institutionalized modern slavery.¹⁵

At the meeting in which Resolution 2375 was adopted, the UK spoke of 'a sickening industry built on modern slavery'.¹⁶ While many other states at the Security Council welcomed the respective migrant worker sanctions as a means to limit the Pyongyang's ability to earn foreign currency, they did not make similar human rights oriented statements, let alone use the word slavery. Only Venezuela expressed concern about the repercussion for workers and the possible non-observance of their specific human rights as migrant workers.¹⁷ To address such concerns, Resolution 2397 provides general caveats for persons with dual nationality and DPRK nationals whose repatriation was prohibited, subject to applicable national and international law, including international refugee law and international human rights law.¹⁸ Yet, there are no concrete references to applicable ILO Conventions and specifically the application of rights to remedies and the obligation of payment of full remuneration directly to the workers. Nor was the question explored in more detail as to the human rights implications of repatriation to a State whose populations was suffering under comprehensive sanctions.

The panel of experts that reports on implementation of the UN sanctions and which offers recommendations to the Security Council has so far not address the phenomenon of migrant workers extensively. Other panels of experts, related to other UN sanctions regimes have been more explicit about extraterritorial practices. For instance, the panel of experts for the Eritrea regime, has been very explicit about techniques used by the Eritrean regime to engage with its diaspora and to use diaspora taxes as an additional means of income.¹⁹ The

15) UNSC, *Non-proliferation/Democratic People's Republic of Korea*, S/PV.8019 (5 Augustus 2017), 3, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_8019.pdf (accessed 31 January 2018).

16) UNSC, *Non-proliferation/Democratic People's Republic of Korea*, S/PV.8042 (11 September 2017), 5, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_8042.pdf (accessed 31 January 2018).

17) UNSC, *Non-proliferation/Democratic People's Republic of Korea*, S/PV.8151 (22 December 2017), 9, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_8151.pdf (accessed 31 January 2018).

18) UNSC. S/RES/2397, § 8.

19) See e.g., Reports of the Monitoring Group on Somalia and Eritrea. UNSC, *Letter dated 18 July 2011 from the Chairman of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council*, S/2011/433 (18 July 2011), <http://undocs.org/S/2011/433>

inclusion of the migrant clauses in the latest DPRK sanctions regimes may offer renewed opportunity to discuss the migrant worker practices in next reports. Such reporting might have a certain protective value in itself and it may also inform other (domestic) accountability processes.²⁰

Conclusion

The conclusion of this essay is that the protective reach of UN sanctions for North Korean migrant workers is limited. The obligation to repatriate is, so far, unique to the North Korea sanctions regime. It is, however, not primarily inspired by human rights concerns, but rather functional in nature, aimed at curbing financial flows to Pyongyang. Given the temporal flexibility for implementation, the strength of the obligation is also rather tenuous. Moreover, specific concerns for the migration workers in question, concerning their workers' rights under ILO conventions, or the implications of their return from a human rights perspective, have not been considered at any great length. Nonetheless, the fact that the phenomenon is addressed at Security Council level may still have a certain stigmatising effect that radiates beyond the sanctions regime as such. If the practices are detailed by the panels of experts, their reports may buttress academic and civil society findings, thus contributing to a web of exposure and accountability, which may eventually lead to more formal process in particular at the domestic level.

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20) See for instance, possibilities of domestic redress as discussed by Cedric Ryngaert in this volume.

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