EXPLORING GRASSROOTS TRANSITIONAL JUSTICE

SUREVY REPORT
EBRUARY 2019

North Korean Escapee Views on Accountability for Human Rights Abuses

TRANSITIONAL JUSTICE WORKING GROUP

Sponsors UNIKOREA FOUNDATION National Endowment for Democracy(NED)

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Survey Report
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ABOUT TJWG

The Transitional Justice Working Group (TJWG) is a Seoul-based NGO founded by human rights advocates and researchers from five countries in 2014. TJWG aims to pursue advanced methods for addressing grave human rights violations and advocating justice for victims in pre- and post-transition societies. We collaborate and share our practices with other organizations and individuals concerned with the pursuit of accountability for mass atrocities and human rights abuses.

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EXECUTIVE SUMMARY

This report focuses on the role of victims in planning for a post-authoritarian future in North Korea. It presents findings from a survey of North Korean escapees on their perceptions of victimhood; the types of mechanisms that might be applied to facilitate collective and individual recovery from the past; and how to engage North Korean escapee participation in a transitional justice process. The findings show broad support for applying transitional justice mechanisms to the North Korean context in the future. However, in contrast to the focus within the transnational advocacy community on pursuing criminal accountability, the research participants showed stronger preference for truth-seeking measures as a means of dealing with North Korea's past, when the opportunity arises. Many participants in the research self-identified as victims of the North Korean regime, but they attached this victimhood to a broad range of experiences and circumstances, not limited to personal experiences of physical harm. The survey participants were supportive of victim participation in planning and designing transitional justice mechanisms; however, they expressed a number of concerns about taking a leading role in such activities. The report concludes with selected recommendations for how non-governmental organisations (NGOs) might develop new approaches to planning for a transitional justice process for North Korea in the future.

Introduction

The 2014 report of the United Nations Commission of Inquiry on human rights in North Korea (COI) called for practical approaches for dealing with alleged crimes against humanity, through a greater focus on accountability. The COI also called for the launch of "a people-driven process to establish the truth about the violations".[1] The post-COI period saw a number of notable developments, including increasing focus given to North Korean human rights on the agendas of various UN bodies; North Korea's sudden willingness to engage with the Universal Periodic Review;[2] the establishment of a United Nations Human Rights Office in Seoul; South Korea's passing of the North Korean Human Rights Act; and sustained advocacy among South Korean NGOs.

These events led to an increase in attention to 'transitional justice' in the discourse on inter-Korean relations, evident in a notable body of research and commentary.[3] Transitional justice is understood as a set of practices, mechanisms and concerns that arise following a period of conflict or repression, aimed directly at confronting and dealing with past violations

1 "Report of the UN COI in the DPRK," 2014, 369, http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/Documents.aspx.

2 The Universal Periodic Review (UPR) is a UN process where states review one another's human rights records and make recommendations. However, accepted recommendations are not binding, nor is there a mechanism for monitoring compliance. Jonathan T. Chow, "North Korea's Participation in the Universal Periodic Review of Human Rights," Australian Journal of International Affairs 71, no. 2 (March 4, 2017): 146–63, https://doi.org/10.1080/10357718.2016.1241978.

3 Buhm-Suk Baek and Yunje Lee, "Pursuing Criminal Responsibility for Human Rights Atrocities in the DPRK," The Korean Journal of International Law 62, no. 1 (2017): 63–95; Buhm-Suk Baek and Ruti G. Teitel, eds., Transitional Justice in a Unified Korea (New York: Palgrave Macmillan, 2015); Junghyun Cho, "A Study on Transitional Justice in the Context of Reunified Korea," Seoul International Law Journal 21, no. 1 (2014): 25–42; Jinyoung Hong, "Research on the Criminal Accountability for Crimes of the North Korean Regime Through International Criminal Mechanism," The Justice 161 (2017): 333–82; Hun Joon Kim, "The Diffusion of Global Transitional Justice Norms and Its Impact: The Case of South Korea," Journal of Korean Politics 26, no. 1 (2017): 101–26; Soo Am Kim, Junghyun Cho, and Buhm-Suk Baek, "Transitional Justice on the Korean Peninsula," Korea Institute for National Unification, 2014.

of human rights and humanitarian law.[4] It has been adopted in many regions globally to hold perpetrators of human rights abuses accountable for their actions, to support the recovery of victims, and facilitate the healing of societies affected by conflict or repression. The emphasis on the need to prepare for criminal justice in North Korea in the future has been based on the position of 'humanity' as a constituency of international criminal justice, not just the individual North Koreans who have experienced abuses by the state. The harms against which international criminal justice is directed (such as genocide and other mass atrocities) are seen as 'global crimes' of concern to all humanity.[5] As a result, over the past several years, the UN human rights office in Seoul and several other organisations have brought legal experts to South Korea to assess documentation practices and advise human rights documentation organisations on their data-gathering, in the interests of improving both the quality and nature of the data being stored.

However, the scope of transitional justice is not limited to criminal justice processes. Rather, it involves a range of different mechanisms designed to address the multifaceted aspects of individual and collective recovery from conflict or oppression. These mechanisms may include truth and reconciliation initiatives, memorialisation and educational programmes, financial reparations and various other grassroots and government-led activities. These mechanisms are designed to support the recovery of victims, institutionalise peace and democracy, and re-build both local communities and society as a whole. The experience of grave human rights abuses will be a crucial part of the North Korean people's identity narrative in the future. However, in the academic and civil society discourse that arose on transitional justice following the COI, the views of abuse survivors on planning for future mechanisms of accounting and redress have been largely overlooked. Moreover, although the existing literature notes the need for a victim-centred perspective of transitional justice, there is little meaningful discussion around what this would look like in practice.[6]

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4 Naomi Roht-Arriaza and Javier Mariezcurrena, Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice (Cambridge University Press, 2006), 2.

5 Mark Findlay, "Activating a Victim Constituency in International Criminal Justice," International Journal of Transitional Justice 3 (2009): 190, https://doi.org/10.1093/ijtj/ijp008.

6 Buhm-Suk Baek, Lisa Collins, and Yuri Kim, "Epilogue," in Transitional Justice in Unified Korea (New York: Palgrave Macmillan, 2015), 236; James Burt, "A Truth Commission for a Future North Korea," Discussion Paper (Korea Future Initiative, January 2017), 8, https://www.koreafuture.org/wp-content/uploads/2018/03/A-Truth-Commission-for-North-Korea.pdf.

Research on a number of settings globally notes that victims in many contexts "know little of rights and instead articulate needs".[7] Externally-imposed discourses around transitional justice can leave urgent needs unmet, by prioritising civil and political rights over economic, social and cultural rights.[8] In addition, re-traumatisation of victims is a consequence that has been associated with truth-telling or criminal justice processes that have been imposed without due care for victim priorities.[9] Top-down processes can also lead to victim frustration when they fail to deliver on promises, or to meet the diversity of needs present in the victim experience.[10] Moreover, there are important distinctions between the healing of the individual and that of wider society, necessitating different approaches to address individual and collective experiences of trauma or other grievance.[11]

In practical terms, two solutions emerge from recent research critiquing the failure to achieve an effective level of victim-centred-ness in efforts to address the past: developing an understanding of victim constituencies, alongside the empowerment of these constituencies to participate actively in the design and implementation of a transitional justice process. The burgeoning research on victim engagement and empowerment in planning for transitional justice measures cites a range of advantages to be gained from this approach, as it allows a distinction between 'rights' versus 'needs' of victims, where the latter are "a product of culture and context and are highly local in nature".[12]

This report is intended to help stakeholders learn more about how victims of the North Korean regime perceive the possible routes to recovery. It presents the findings from a survey of 450 North Korean escapees currently residing in South Korea.[13] It provides insights on 1. Whether those surveyed

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7 Simon Robins, "Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal," International Journal of Transitional Justice 5, no. 1 (March 1, 2011): 77, https://doi.org/10.1093/ijtj/ijq027.

8 Robins, 2011, 78.

9 Simon Robins, "Challenging the Therapeutic Ethic: A Victim-Centred Evaluation of Transitional Justice Process in Timor-Leste," The International Journal of Transitional Justice, 2012, 1–23.

10 Simon Robins, "Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations," Human Rights and International Legal Discourse, 2017, 43–44.

11 Jonathan Doak, "Therapeutic Dimension of Transitional Justice: Emotional Repair and Victim Satisfaction in International Trials and Truth Commissions," The International Criminal Law Review 11 (2011): 11.

12 Robins, 2011, 77.

13 The number of North Korean escapees who have come to South Korea currently stands at 32,150, and most of those have arrived since 1990. "Policy on North Korean Escapees," Ministry of Unification, Republic of Korea, 2019, https://www.unikorea.go.kr/eng_unikorea/relations/statistics/escapees/.

see themselves as victims of the regime and whether they attach specific needs to a victim identity; 2. The types of institutional mechanisms that might be considered appropriate to facilitate collective and individual recovery from the past; 3. How to engage North Korean escapee participation in processes of redress to satisfy local needs and avoid marginalisation.

Methodology

The research presented here is based on the principles and methodologies recommended in previous research in this field, and its associated guidelines.[14] It is also informed by survey research that has taken place in a number of settings globally regarding victim perceptions of transitional justice.[15] The survey conducted for this research was administered between 2015 and 2019, to over 450 North Korean escapees who came to participate in the human rights documentation work of the Transitional Justice Working Group. The questionnaire findings were supplemented with in-depth interviews with ten of the survey respondents, selected on the basis of their experiences in North Korea (see Table 1).

The survey questionnaire evolved through several versions over the four-year period. At times there was a need to re-phrase language that was proving challenging for the participants, in addition to making adjustments to questions following the input of expert consultants on the project. The participant

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14 The International Center for Transitional Justice (ICTJ) has led efforts to consult with local populations and the International Coalition of Sites of Conscience has published a guide for practitioners: "Strengthening Participation in Local-Level and National Transitional Justice Processes". Simon Robins, "Nepali Voices: Perceptions of Truth, Justice, Reconciliation, Reparations and the Transition in Nepal By the International Centre for Transitional Justice and the Advocacy Forum, March 2008," Journal of Human Rights Practice 1, no. 2 (2009): 320, https://doi.org/10.1093/jhuman/hup006; Jennifer Tsai and Simon Robins, "Strengthening Participation in Local-Level and National Transitional Justice Processes: A Guide for Practitioners" (International Coalition of Sites of Conscience, June 2018), https://www.americanbar.org/content/dam/aba/directories/roli/misc/community-participation-toolkit-single-2018.authcheckdam.pdf.

15 Ari M. Levin, "Transitional Justice in Burma: A Survey of Accountability and National Reconciliation Mechanisms after Aung San Suu Kyi's Release," Human Rights Brief 18, no. 2 (2011): 21–25; "Pilot Survey on Transitional Justice" (The Day After, December 2014), http://tda-sy.org/en/category/publications/survey-studies; Patrick Vinck et al., "Living with Fear: A Population-Based Survey on Attitudes about Peace, Justice, and Social Reconstruction in Eastern Democratic Republic of Congo" (Human Rights Center: UC Berkeley School of Law, August 2006), https://www.ictj.org/publication/living-fear-population-based-survey-attitudes-about-peace-justice-and-social; Timothy Williams et al., "Justice and Reconciliation for the Victims of the Khmer Rouge? Victim Participation in Cambodia's Transitional Justice Process," November 2018, https://www.uni-marburg.de/konfliktforschung/forschung/drittmittelprojekte/victimhood-after-mass-violence/victimhood-brief-en.pdf.

sample was not random; participants were selected by referral from previous participants – a snowball or convenience sample. This raises the question of biases emerging in the findings. For example, the gender ratio of the research participants (80 percent women) is more heavily tilted towards women than the gender ratio of the overall population of North Koreans in South Korea, which stands at 72 percent at present.[16] However, given the many difficulties (logistical and resource-related) in securing a random sample within this population, it is argued that the findings shown hold value as a preliminary glimpse into the experiences and views of the many North Korean escapees who are currently participants in NGO activities focussed on accountability for North Korean human rights abuses.

16 "Policy on North Korean Escapees."

Participant Demographics

Survey participants

Chart 1 **Participant age range (at time of interview)**

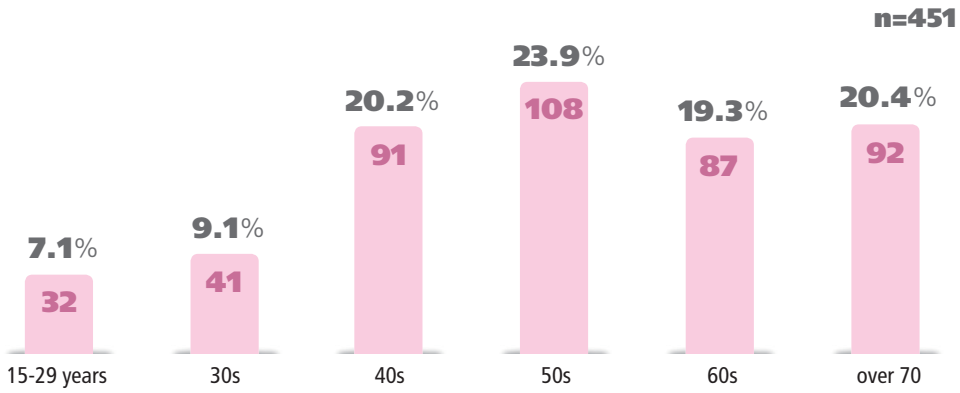


Chart 2 **Participant gender**

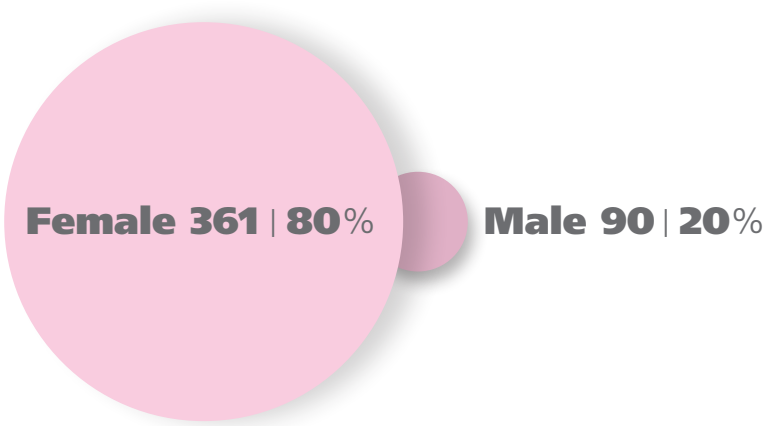


Chart 3 **Year arrived in South Korea**

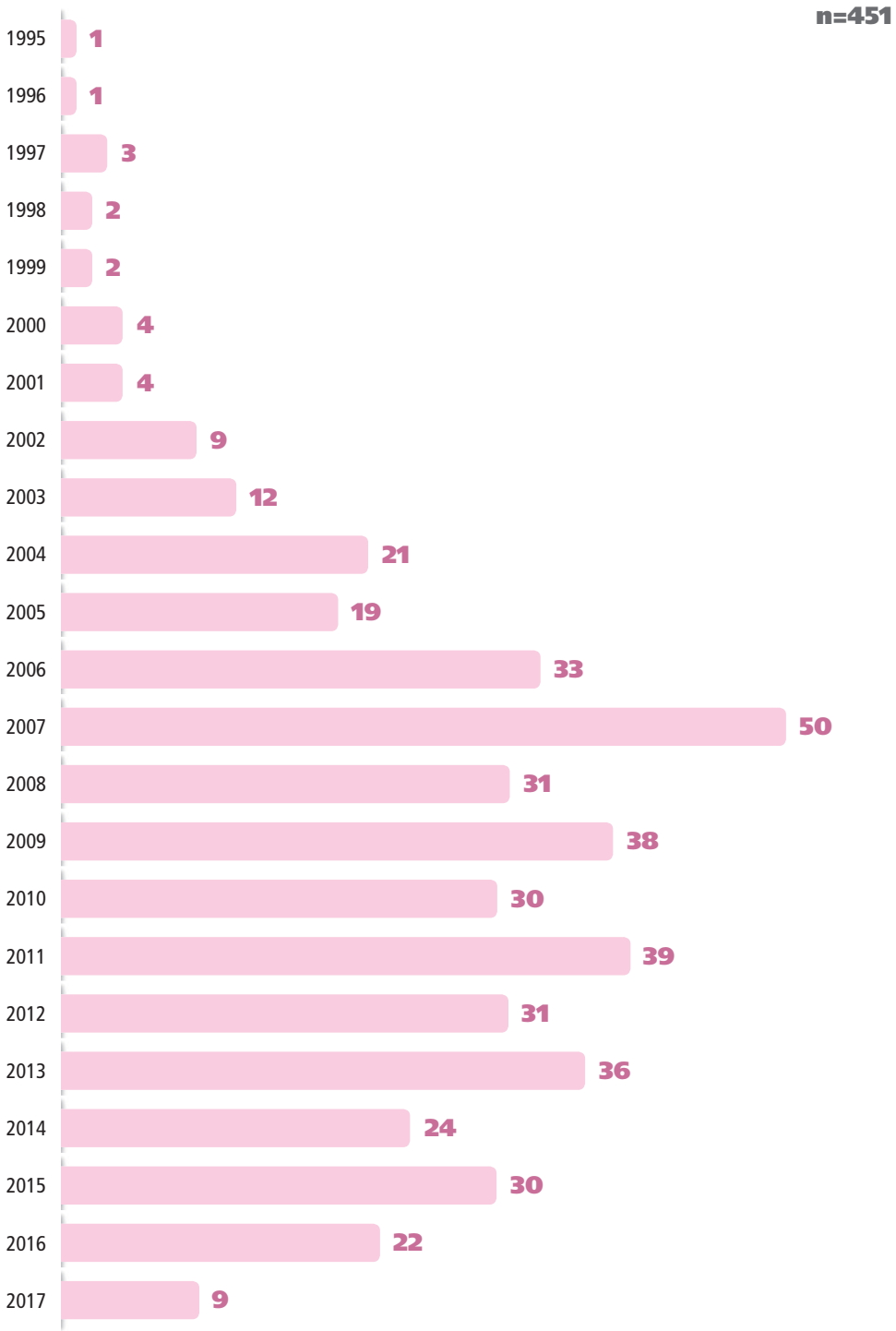


Chart 4 **Length of time spent in South Korea (at time of interview)**

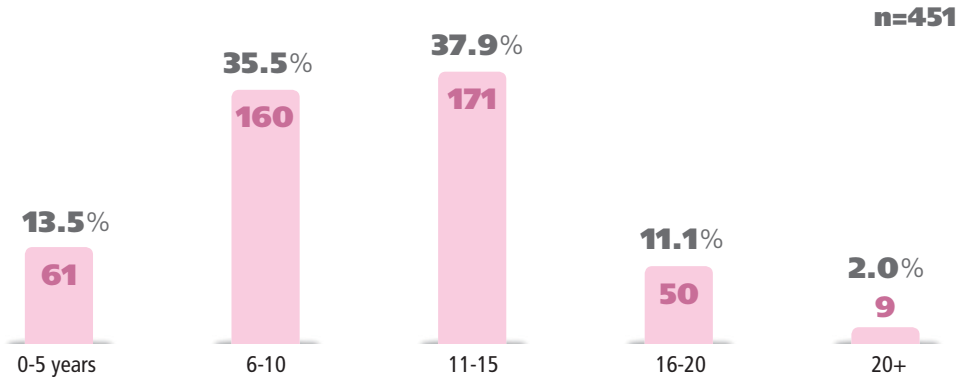


Chart 5 **Reasons for leaving North Korea the first time (Multiple choice)**

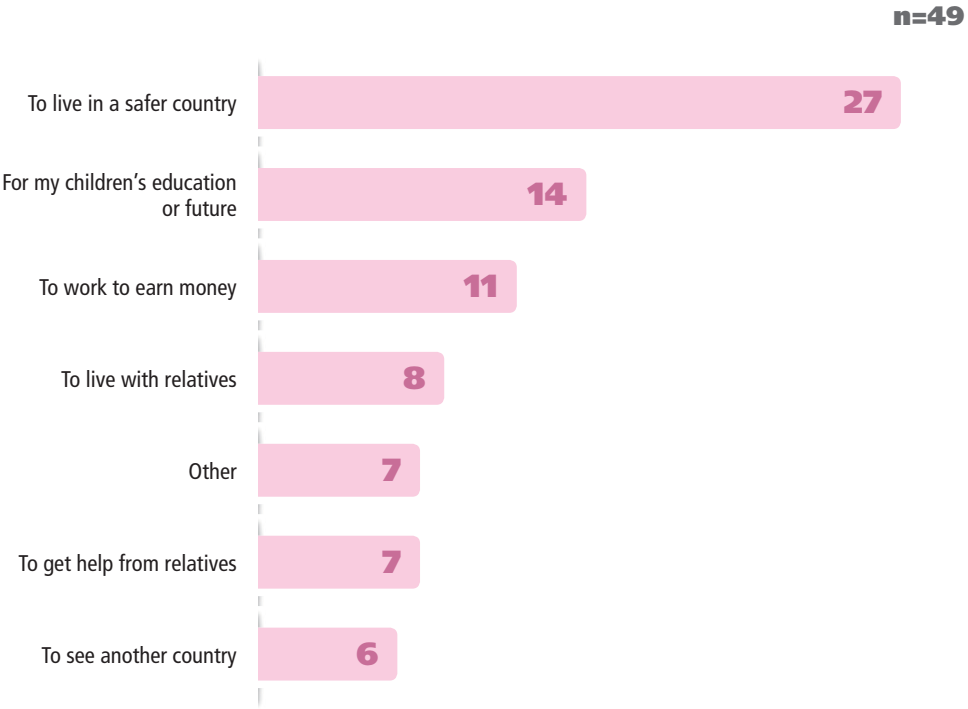
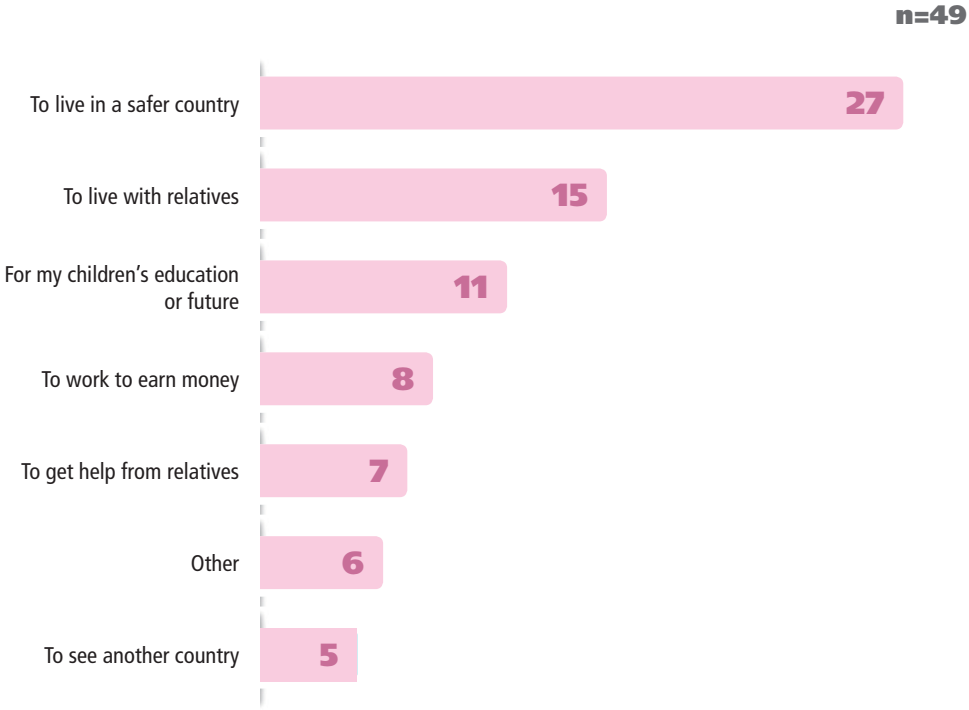


Chart 6 **Reasons for leaving North Korea the last time (Multiple choice)**



In-depth interview participants

Table 1 **In-depth interview participants**

	Gender	Age	Defection year	Arrival year in SK	Occupation in NK
1	M	60s	2015	2015	Office worker
2	M	20s	2010	2010	None
3	M	60s	2005	2006	Miner
4	F	40s	2004	2013	Factory worker
5	M	40s	1997	1998	Soldier
6	F	50s	2010	2017	Postal worker
7	F	40s	2009	2009	Party secretary
8	F	60s	2000	2003	*Inminban* (community group) leader
9	F	80s	2006	2010	Elementary school teacher
10	F	60s	2013	2014	Doctor

Main Findings

Perceptions of North Korea and the needs of North Korean society

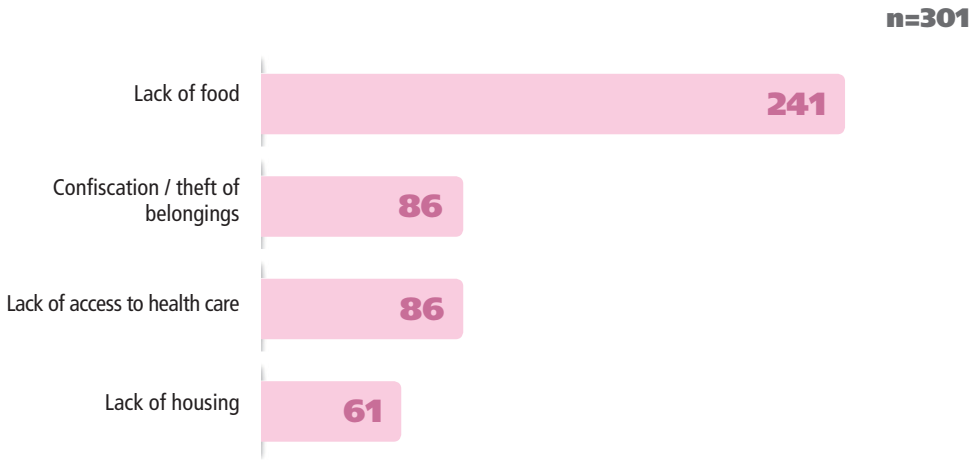
This section of the findings is helpful for understanding how the experience of life in North Korea has affected those surveyed. However, it also connects to larger questions of identity and national belonging that will likely arise when the Kim family is no longer the 'deity' governing all (public) loyalty north of the divide. Those interviewed expressed difficulty articulating their own sense of national identity in regard to one Korea or the other. Several interviewees mentioned their dislike of the characterisation of all aspects of life in North Korea as "bad", with one interviewee noting that "there are some good things". Some mentioned continuing uncertainty about the version of history they have learned in South Korea. They also expressed hurt, sadness or disappointment at the general attitude towards North Koreans prevalent in South Korea, which makes them feel "looked down upon", and which was disappointing given their initial expectations of welcome in the South. This belief was often linked to an apparent lack of interest from South Koreans in the experiences of North Koreans, due to a preoccupation with their own lives and a lack of "patriotism". When discussing the potential implementation of transitional justice mechanisms on the peninsula, a number of interviewees expressed concern that without shared experience of grave human rights abuses, South Koreans would fail to see the value of such mechanisms, which could threaten consensus-building over the process. These themes are not all new: most have been covered widely in the scholarship for two decades.[17] However, it is worth

17 Roland Bleiker, Divided Korea: Toward a Culture of Reconciliation, Borderlines (London: University of Minnesota Press, 2005); Carrol Jung Chang, "The Toil of Talbukja: Assimilation, Identity, and the Everyday Lives of North Korean Defectors Living in Seoul, South Korea" (Harvard University, 2004), http://discovery.lib.harvard.edu/?itemid=%7Clibrary/m/aleph%7C009434951; Sarah A. Son, "Identity, Security and the Nation: Understanding the South Korean Response to North Korean Defectors," Asian Ethnicity 17, no. 2 (February 24, 2016): 1–14, https://doi.org/10.1080/14631369.2016.1151236.

noting the many sources of socio-cultural division that are likely to be present, beyond the experience of human rights abuses, in the process of recovery from North Korea's past, whether that occurs in political unity with South Korea, or in a continuing two-state scenario.

> *"I have feelings towards my hometown and friends, but not towards the North Korean regime."*
> *Interview participant*

Chart 7 **Personal experience of lack of basic needs (Multiple choice)**



At the level of personal, basic needs, the area of deprivation most experienced by those surveyed was that of insufficient food, an unsurprising finding given continuing food shortages in many parts of the country, particularly since the famine of the mid- to late-1990s. Those interviewed stated that addressing these needs is only possible via a complete change of regime in North Korea and said that the current government of Kim Jong Un will never function in a way that permits the improvement needed in these basic areas of resource deficiency.

Chart 8 **Most serious need in North Korea today**

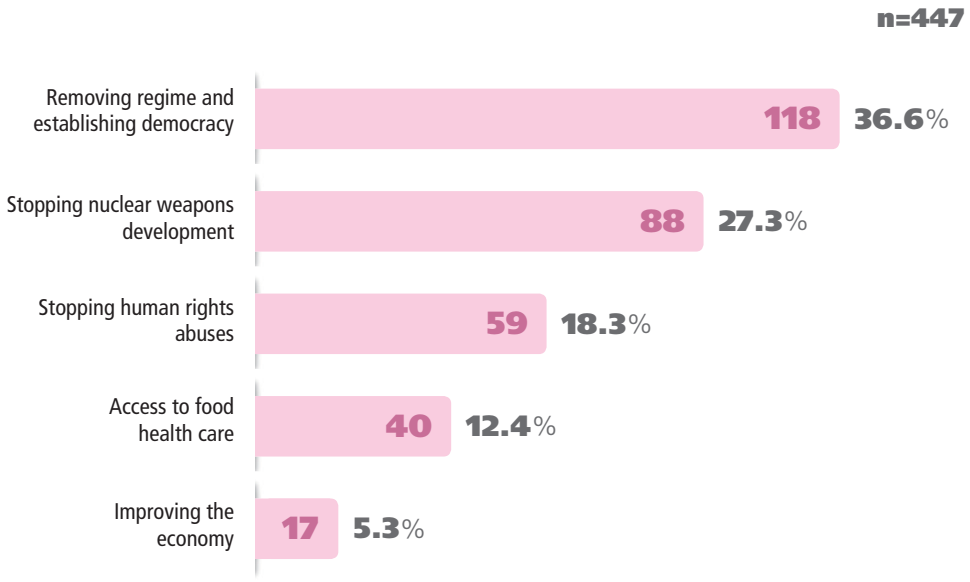
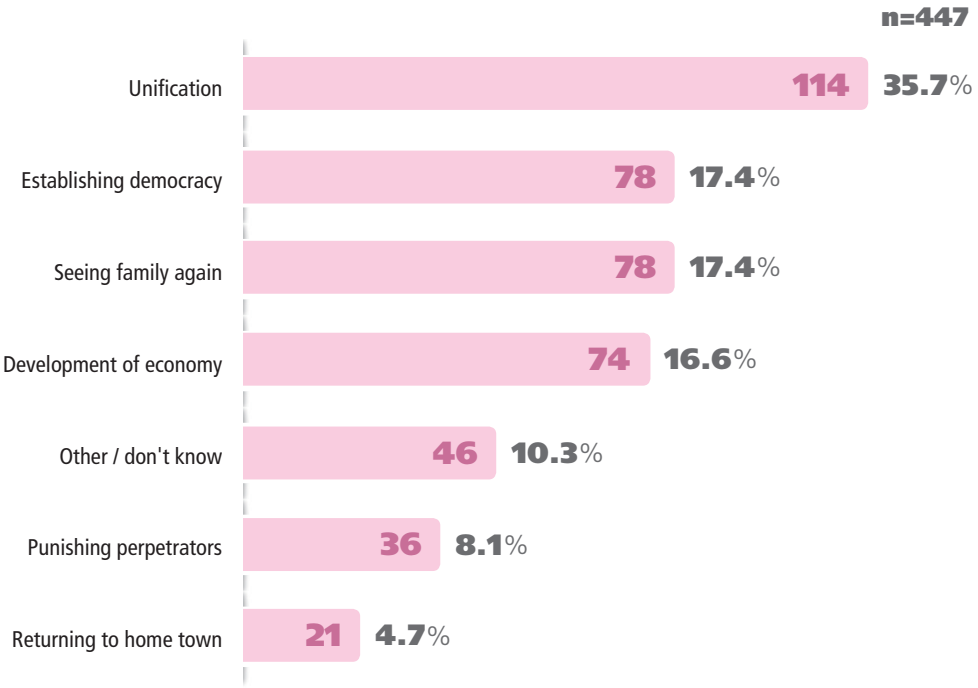


Chart 9 **Most important reason for ending the North Korean regime**



Personal experiences of violence and harm

The survey recorded information on experiences of harm on two levels. First, a scale was used to inquire into individuals' personal experience of physical violence perpetrated by the North Korean authorities, while living in North Korea, including forms of beating, torture, rape and other sexual assault.[18] For this measure, 47.7 percent stated they had experienced physical violence. A second measure of experience of wider harm included experience of physical violence from the previous question and added on experience of the loss of a close family member to execution or starvation, forced repatriation to North Korea from another country, and arrest or detention by the North Korean authorities. For this measure, 75.4 percent reported having experienced wider harm. For those who had experienced one or more of these forms of harm, 63.4 percent indicated that they still struggle with the physical or psychological consequences of their experiences. It should be noted that for the participants who had experienced physical violence, in most cases this violence occurred during an interrogation by the authorities. Of those surveyed, 25 percent had been forcibly repatriated from China, sometimes multiple times, and of those who were repatriated, 80.4 percent experienced interrogation. In our sample there was therefore a strong relationship between previous failed attempts at defection leading to repatriation, interrogation and experiences of physical violence.

18 The scale was adapted from the "Conflict Tactics Scale" Murray A. Straus and Sherry L. Hamby, "Measuring Physical and Psychological Maltreatment of Children with the Conflict Tactics Scales," in Out of the Darkness: Contemporary Perspectives on Family Violence, ed. Glenda Kantor and Jana Jasinski (Thousand Oaks, California, 1997), https://doi.org/10.4135/9781483328058.

Chart 10 **Experience of physical violence in North Korea**

n=199

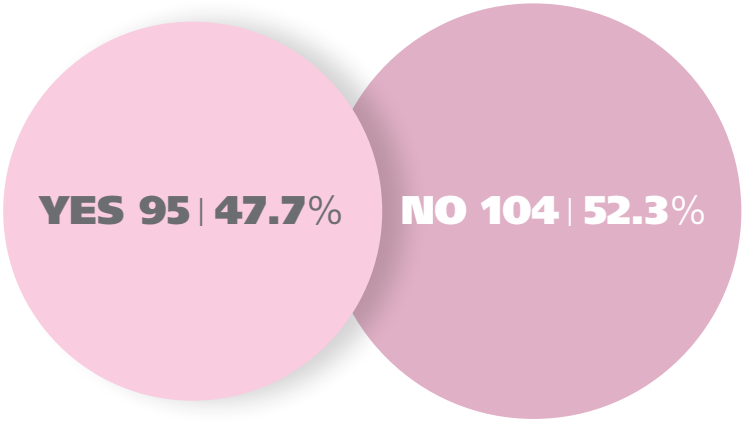


Chart 11 **Experience of wider harm in North Korea**

n=451

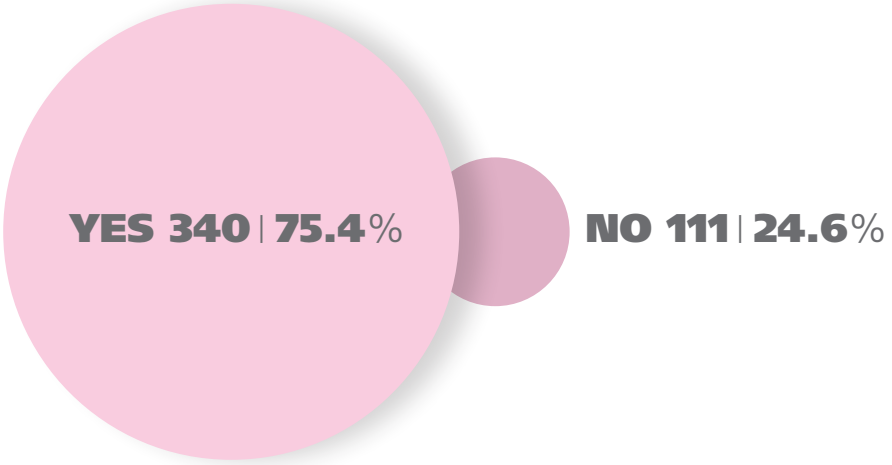
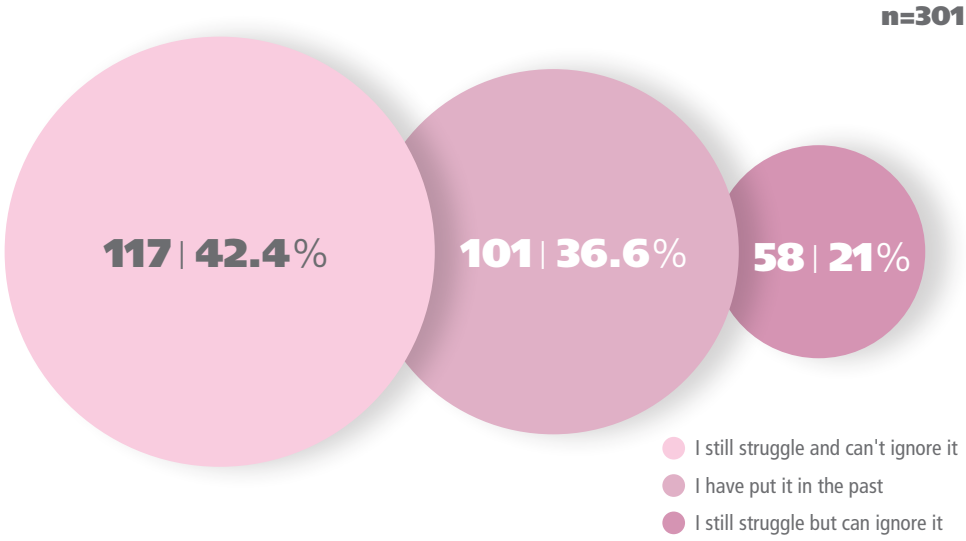


Chart 12 **How do you feel now about experiences of physical violence?**



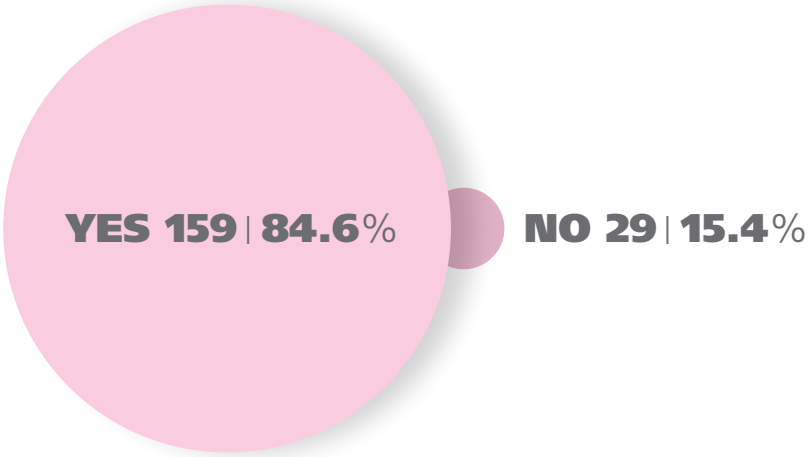
Perceptions of victimhood

When asked whether they consider themselves a victim of the North Korean regime, 84.6 percent of participants answered in the affirmative – more than those who had reported experience of the categories of physical violence or wider harm listed in earlier questions. To investigate how victimhood is understood among the participants, the interviewees were asked to explain the sources of their identification as victims. For several it was grounded in a very obvious experience of abuse such as being sent to a political prison camp following repatriation to North Korea from China, or a serious physical attack by the North Korean authorities. For others it was not due to direct, personal violations of the body, but rather to situations such as the imprisonment of an adult child for attempting to defect, or the very existence of the inter-Korean division, which prevents freedom of movement to visit family remaining in North Korea. Several interviewees discussed the North Korean social classification system, known as *songbun*, which divides citizens into 'loyal', 'wavering' and 'hostile' classes. They attached their victimhood to the unfair treatment they experienced as a result of being of 'low' *songbun*. Low *songbun* is very often passed down the generations,

as was the case for one interviewee who reported persistent discrimination while in North Korea on account of his father being an ethnic Korean who was born in China.

Chart 13 **Do you consider yourself a victim of the North Korean regime?**

n=188



"Yes" by experience of wider harm

Experienced | 85.7% Not experienced | 79.4%

"Yes" by experience of physical violence

Experienced | 84% **Not experienced | 85%**

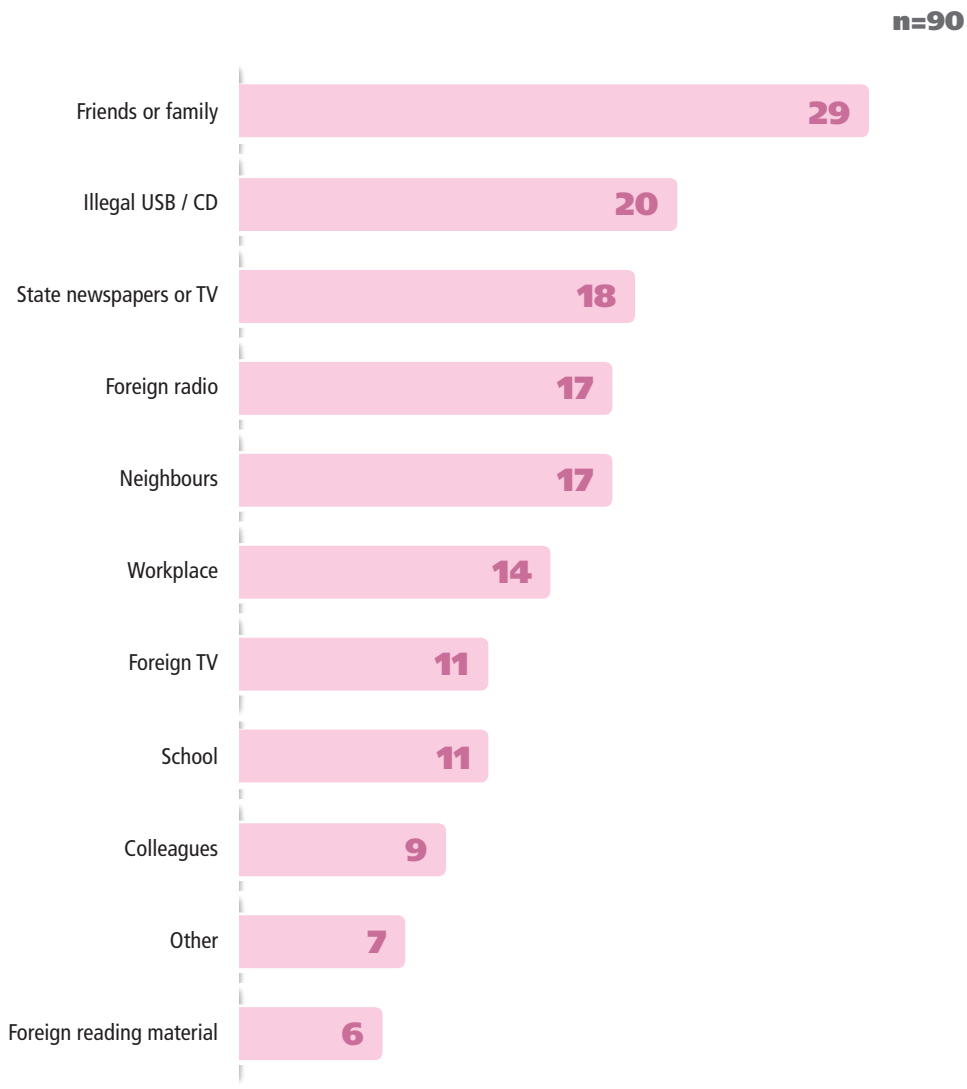
The interviewees were also asked to share what they understand by the concept of human rights, and how they view their own sense of victimhood in relation to human rights abuses. This question elicited a variety of responses, with differing degrees of confidence in their understanding of human rights. The survey respondents had heard about human rights from a variety of sources, both state and non-state, but this did not necessarily lead to a deep understanding of the concept. Participants described human rights as the "autonomy" of human beings, the ability to act without being controlled by others, or the freedom "to protect myself". Retrospective victim identification connected to rights violations was a common theme throughout the interviews. One participant who had suffered an unprovoked attack from a police officer said that at the time she had felt utterly powerless. It was only when she came to South Korea that she came to realise her "importance" and "value". An interviewee who had been repatriated from China stated that at the time she believed she had deserved to be "beaten up" by the authorities, for having betrayed her country. It was only after time interacting with human rights organisations in South Korea that she came to see herself as having rights that had been violated.

"Human rights means the autonomy of human beings. Everyone should respect each other's autonomy and have the ability to act without being controlled by anyone else."
Interview participant

"Even though I was beaten up, I thought I deserved it. As I betrayed my country, I thought I deserved to be treated with disdain."
Interview participant

"North Korea is not the country I had hoped or imagined it to be. I believed that where I was born was my mother country. After I was repatriated, my thoughts changed."
Interview participant

Chart 14 **How did you hear about the concept of human rights abuses while in North Korea? (Multiple choice)**



Perceptions of various modes of redress

The interviewees indicated almost exclusively their assumption that change in North Korea will be via unification with South Korea, and that ideally this should be done independently of other state or foreign non-state entities. Almost all of the scholarship and public discourse produced in South Korea on transitional justice in North Korea situates its analysis in the context of unification, largely due to the lingering taboo around discussing alternative scenarios where a two-state system persists. This suggests the likelihood that those surveyed also understood the transitional justice mechanisms described in the questionnaire to be implemented as part of a unification process. However, when asked about what type of court should try perpetrators of human rights abuses in North Korea, the most popular choice was an international court based in Korea. Two interviewees noted explicitly their opinion that using Korean courts with Korean judges would open the proceedings to bias. They suggested that Korean judges would be too lenient on North Korean perpetrators, seeing them as ethnic 'brethren', rather than judging them objectively.

Chart 15 **What type of courts should prosecute perpetrators of human rights abuses?**

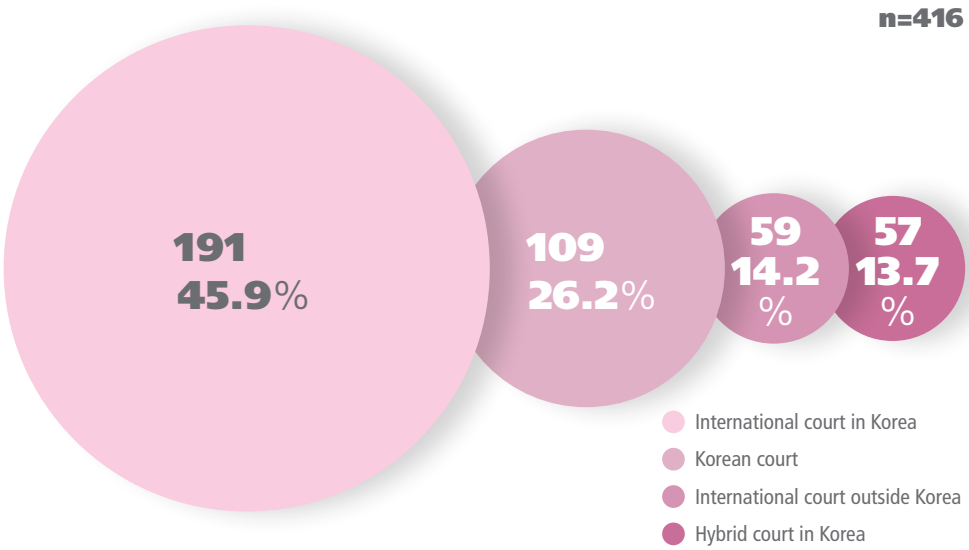
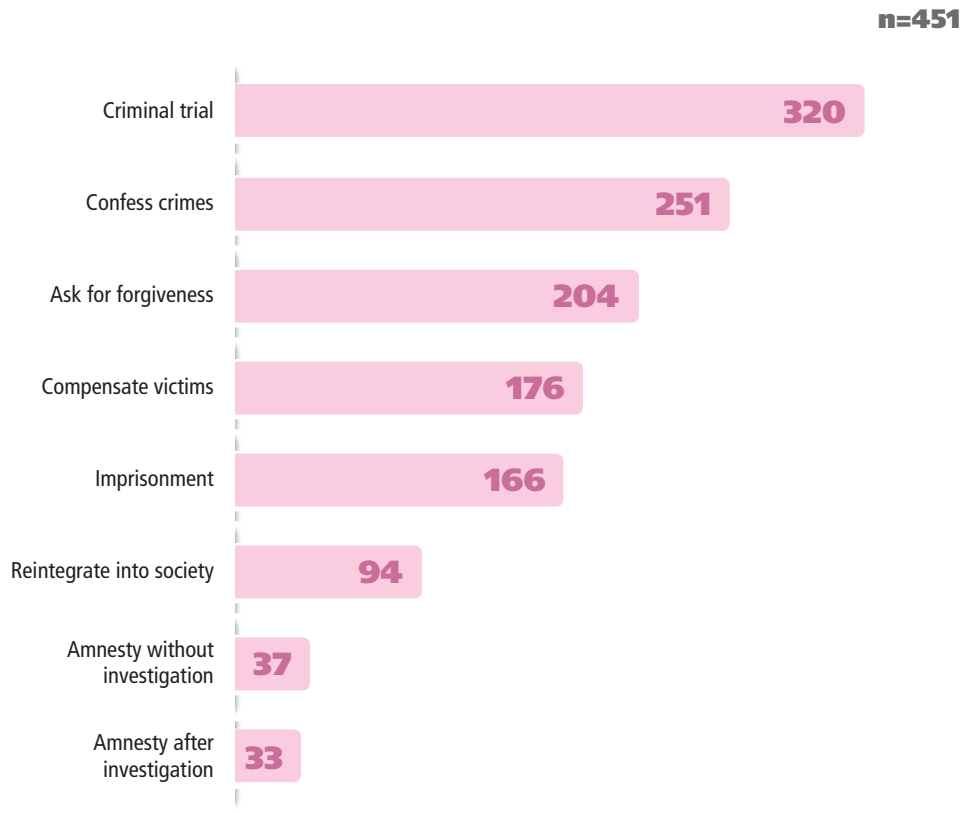


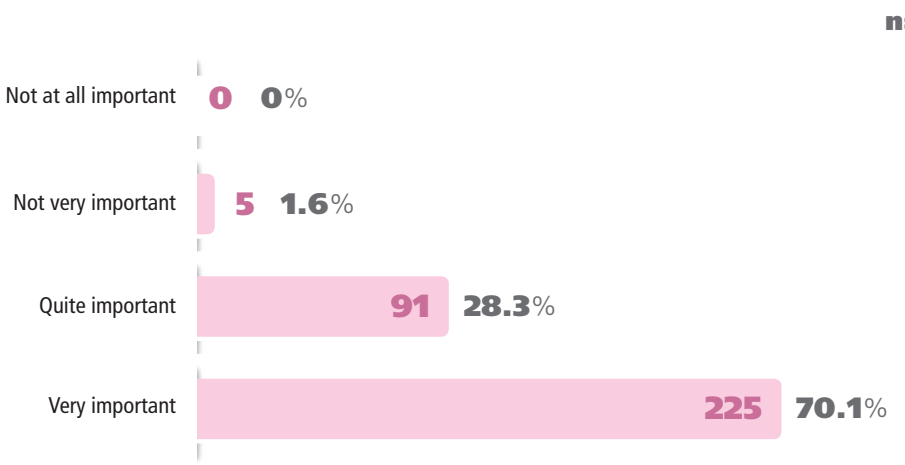
Chart 16 **What should happen to perpetrators of human rights abuses in North Korea in the future? (Multiple choice)**



Survey respondents were asked about the importance of five common transitional justice mechanisms, which have been instituted in other settings: financial reparations, non-judicial truth-telling, criminal prosecutions, official apologies and exhumations of mass burial sites containing victims of abuses. The specific mechanism which gained the most positive approval was non-judicial truth-telling. However, the interviewees gave differing responses regarding the mechanisms they perceived as beneficial for themselves individually, compared to those they felt would serve North Korean society as a whole. The interviewees acknowledged the importance of prosecuting perpetrators, to allow victims and society as a whole to benefit from "fairness and justice" but said that many individuals "just want to know the truth". However, one interviewee pointed out that there is a distinction between simply

hearing the truth and "experiencing" it. The interviewee noted that although North Korean escapees have been speaking about human rights abuses for a long time, "not many South Koreans really understand the problem".

Chart 17 **Importance of financial compensation**



Positive response by experience of wider harm

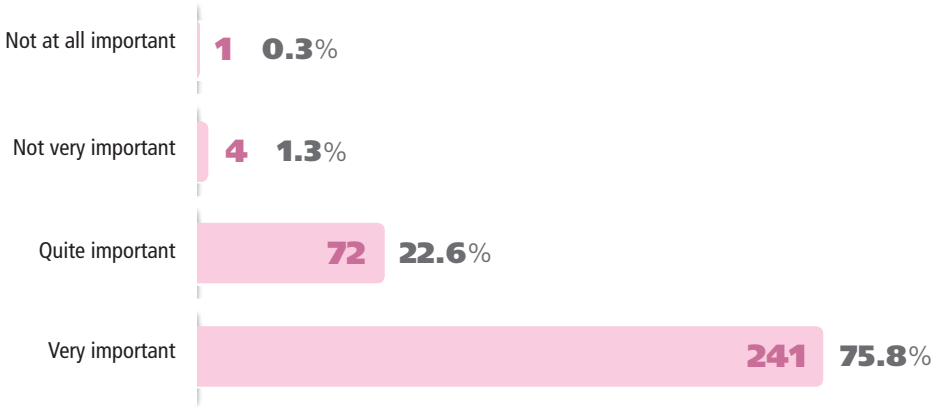
Experienced | 98% **Not experienced | 100%**

Positive response by experience of physical violence

Experienced | 98.5% Not experienced | 97%

Chart 18 **Importance of prosecuting perpetrators**

n=318



Positive response by experience of wider harm

Experienced | **98.1%** Not experienced | 97.2%

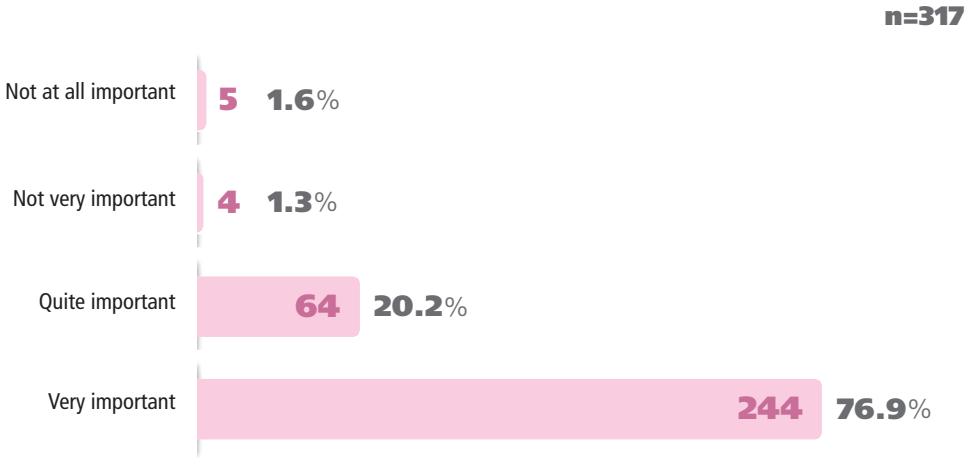
Positive response by experience of physical violence

Experienced | **98.8%** Not experienced | 97%

When asked what should happen to perpetrators of human rights abuses in the future, punitive measures featured highly. The possibility of offering amnesties to perpetrators, with or without investigations into their alleged crimes, was seen as less desirable. The problem of limiting the number of prosecutions also arose in the interviews: a number of participants stated their belief that lower-level members of the authorities often perpetrate human rights abuses on orders from above, not of their own volition. Prosecution of only those deemed "most responsible" for crimes was seen as a viable option for addressing crimes in a judicial setting, without overwhelming the system. This was linked to a second point a number of escapees raised: the difficulty of seeking individual reparation on the basis of there being so many victims.

"We cannot prosecute every criminal who committed crimes under the North Korean regime. We should prosecute depending on the seriousness of the crime. Some officials did things because they were forced to do them, even though they did not want to do so. I have many friends working for the Ministry of State Security. When I talk to them, they understand how normal citizens feel. There are a lot of them who look the other way. On the other hand, there are also a lot of them who don't. Those people should be punished."
Interview participant

Chart 19 **Importance of perpetrators making official apologies**



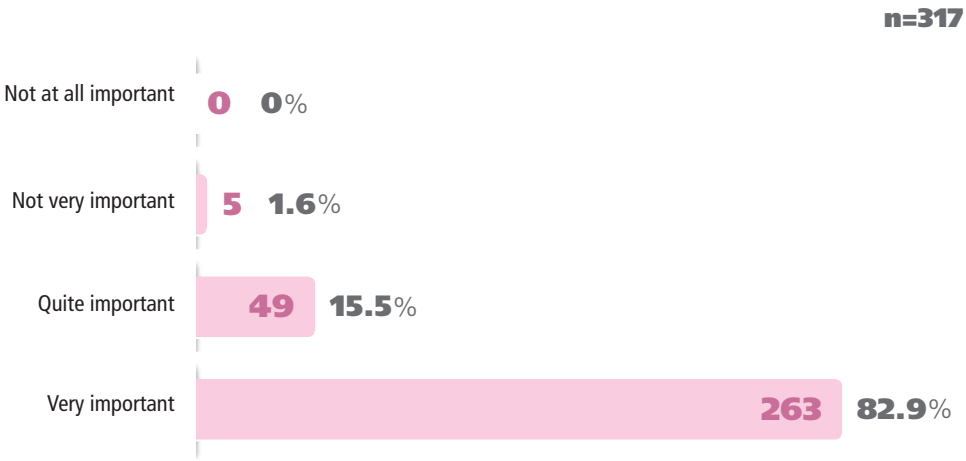
Positive response by experience of wider harm

Experienced | **98.1%** Not experienced | 94.4%

Positive response by experience of physical violence

Experienced | **97.7%** Not experienced | 97%

Chart 20 **Importance of truth-telling**



Positive response by experience of wider harm

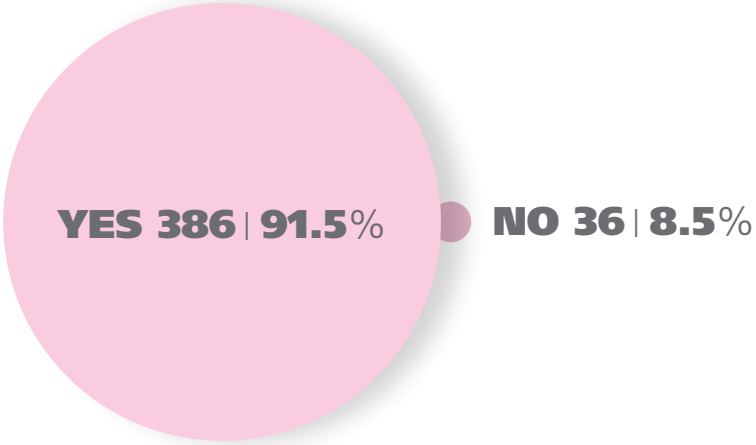
Experienced | **98.7%** Not experienced | 94.6%

Positive response by experience of physical violence

Experienced | **98.9%** Not experienced | 97%

Chart 21 **Importance of exhumations of mass burial sites**

n=422



"Yes" by experience of wider harm

Experienced | 91.4% **Not experienced | 91.9%**

"Yes" by experience of physical violence

Experienced | 91.5% Not experienced | 89.4%

Chart 22 **Why are exhumations of mass burial sites necessary? (Multiple choice)**

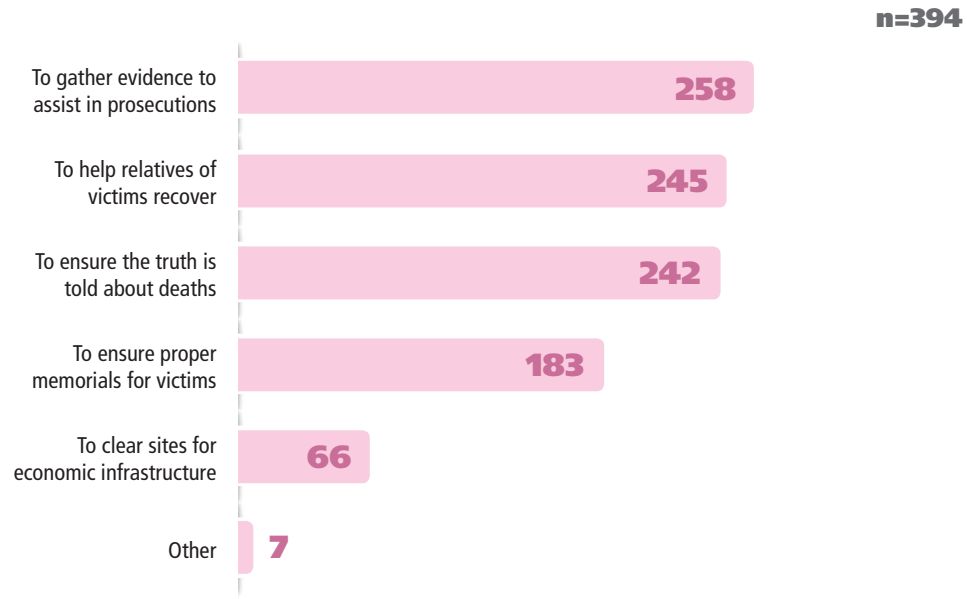
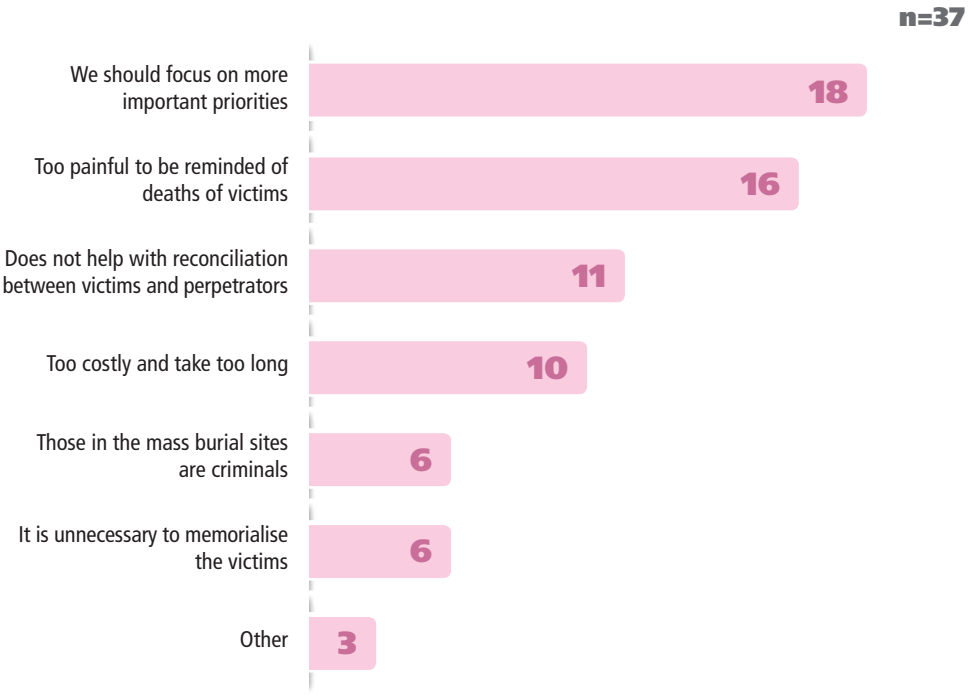


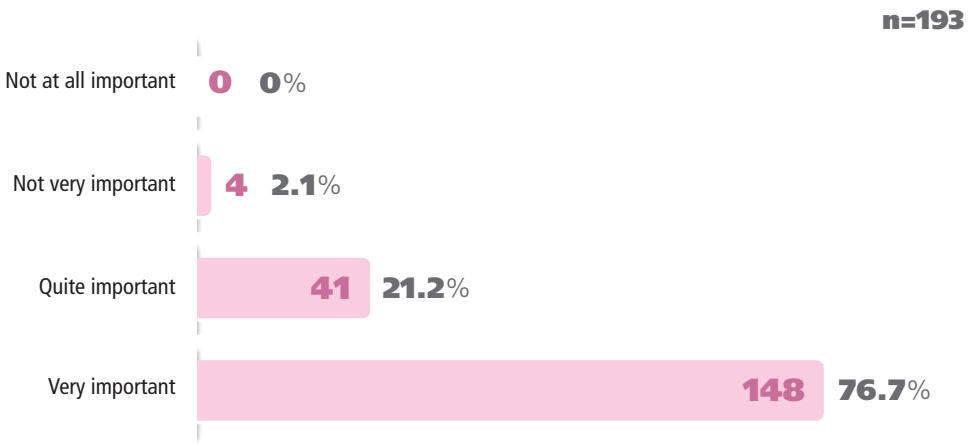
Chart 23 **Why are exhumations of mass burial sites not necessary? (Multiple choice)**



Participation in planning and designing transitional justice measures

Perhaps the most challenging aspect of this research to discuss with the escapee interviewees was the question of victims leading and designing a transitional justice process. Of those surveyed, 97.4 percent felt that it was important for victims to have an active leadership role. However, the interviewees expressed a number of concerns around the details of how this might be done. While some felt that unification would create an environment that would allow people to speak freely, others expressed fear of what would happen to them or their families post-unification/transition, if they were to be seen as traitors by those who remain in the North. This tallies with the survey finding that over 84

Chart 24 **Importance of victims leading and designing transitional justice**



Positive response by experience of wider harm

Experienced | **98.7%** Not experienced | 94.4%

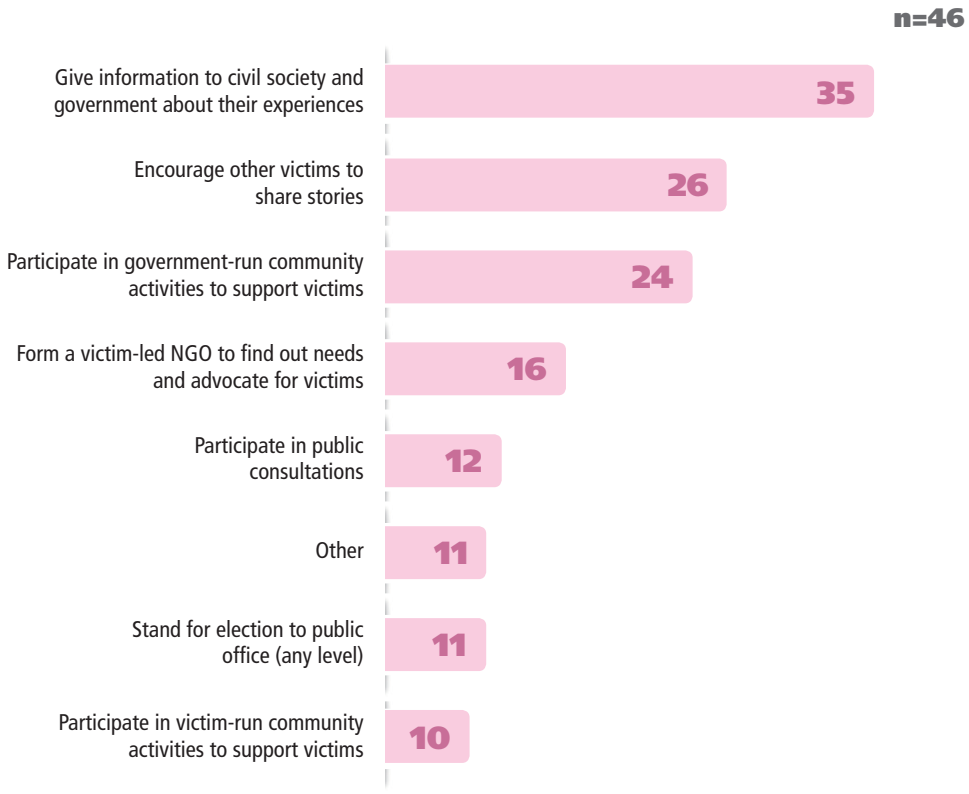
Positive response by experience of physical violence

Experienced | **98.9%** Not experienced | 97%

percent of our research participants have a fear of participating in human rights work focussed on North Korea. The primary reason for this was concerns about the safety of family members still in North Korea.

Chart 25 shows the types of means by which North Korean escapees might engage in supporting activities for a future transitional justice process. Here we see a preference for the types of activities they are already frequently engaged in: the collection of personal testimonies by civil society. More active engagement, such as acting independently to form NGOs, participating in public consultations or standing for public office as a means of influencing policy, were less popular options.

Chart 25 **Preferred methods of leading and designing a future process of seeking justice for human rights abuses in North Korea (Multiple choice)**



"The government should have final decision-making power. If the victims lead decisions, they could be biased because of their personal feelings. It is better for the government to have final decision-making power to ensure neutrality, harmony and the national interest. But if the government leads too much, the voices of victims might not be reflected."
Interview participant

In addition, although the interviewees expressed a desire to see their victimhood acknowledged and their views reflected in policy planning, almost all indicated that the national government should have final decision-making power, due to concerns about victims' groups being biased. Rather, a negotiated balance between victims' groups and the government was seen as the best way to ensure "neutrality". One interviewee who has spent a number of years working in the North Korean human rights community stated the belief that it is difficult for North Korean escapees to voice their opinions independently and to self-organise. However, the interviewee also stated that it would be important to encourage victims to be more aware of their rights, to give them time to consider their options, and to allow them to forget the past and move on, if that is their wish.

Recommendations

In a pre-transition scenario such as exists on the Korean Peninsula at present, the task is to look at innovative ways to pilot programmes, assess methods and design strategies that can be implemented at the earliest stage of a transition process. On the basis of the findings above, several recommendations are made. First, greater attention needs to be paid to moving beyond established thinking on inter-Korean unification and assumptions about what should happen in North Korea. Instead, resources should be invested into more rigorous research on the experiences of other contexts with transitional justice, and their potential application to the Korean context. Localising existing transitional justice models demands an intimate understanding of the way those models have been adapted elsewhere. In the current situation, South Korean NGOs are perhaps best-placed to undertake such work. There is a particular need for more research which "challenges a vision of the transitional citizen as a passive recipient of new legal or political programs and points to the emergence of an alternative understanding of justice and democracy through public outreach programs."[19] How might NGOs begin thinking about future national consultations in North Korea now, of the kind which gets to the heart of local community and individual needs? Surveys like the one carried out here are insufficient to achieve such aims. As the global scholarship has found, grassroots engagement that looks at transitional justice among people rather than among countries and institutions is essential to its success.[20] Related to this, civil society and government bodies in South Korea would benefit from greater collaboration with social science research on North Korea which looks

19 Oliviera Simic and Zala Volcic, "Localizing Transitional Justice: Civil Society Practices and Initiatives in the Balkans," in Transitional Justice and Civil Society in the Balkans, ed. Oliviera Simic and Zala Volcic (New York: Springer, 2013), 4.

20 Roman David, "What We Know About Transitional Justice: Survey and Experimental Evidence," Advances in Political Psychology 38 (2017): 153.

at the social, cultural and political dynamics that shape violence, oppression, and victimhood, as well as the barriers and opportunities to addressing these problems in the future.

Second, there is a need to continually update and improve research methodologies in human rights documentation on North Korea, particularly that undertaken by NGOs. This starts with basic items such as ensuring robust digital infrastructure for the secure storage of data. Doing this will be an important step towards assuring North Korean research participants that the information they share is safe and unlikely to fall into the wrong hands, as occurred in December 2018 from a database at a North Korean escapee resettlement centre under the Ministry of Unification in Gumi. It is important also that civil society think about how variations in the application of the data they collect demand different approaches to data collection methodology. While resource constraints make it impossible to collect all the data that is available, ensuring that the consent infrastructure for data collection is rigorous yet flexible enough to take into account potential changes in the use of that data in the future, is of vital importance. There is a wealth of international expertise to tap into to advise on such matters, and NGOs would do well to consult widely as they review their methodological processes.

Third, there is the larger question of piloting new approaches to outreach, victim empowerment and planning transitional justice mechanisms for implementation when the time is right. Civil society can play a key role in helping victims and communities gain knowledge and expertise on key issues and to learn how to negotiate and compromise in these spaces.[21] Although North Korean escapees have been cited by official voices in South Korea as the vanguard of inter-Korean unification for decades, outreach and training to support genuine preparedness has been limited to activities such as unification camps for youth and education programmes for schools. However, little attention is paid to the overwhelming practical challenges that achieving such a situation would involve. By contrast, providing capacity and support for North Korean escapee-driven initiatives for thinking about the future can challenge exclusive power relations and make it more likely that strategies respond to

21 Tsai and Robins, "Strengthening Participation in Local-Level and National Transitional Justice Processes: A Guide for Practitioners," 13.

local challenges, while lending legitimacy to a transitional justice process.[22]

Educational outreach can also include efforts to manage expectations about what can be achieved by mechanisms such as criminal justice proceedings, especially given the current advocacy focus on criminal accountability. Numerous studies have found that legal processes often set expectations among ordinary people unreasonably high, when in fact prosecutions of crimes against humanity "always prove evidentially difficult" and convictions are not always possible.[23] The Citizens' Alliance for North Korean Human Rights has pioneered study trips for young North Korean escapees to eastern Europe to view first-hand transitional justice processes in action. Programmes such as this could be expanded, empowering young North Korean escapees and professionals to understand the scope of remedies that are possible, and more importantly, to see a potential role for themselves within such a process.

22 Tsai and Robins, 9.

23 Ray Nickson and John Braithwaite, "Deeper, Broader, Longer Transitional Justice," European Journal of Criminology 11, no. 4 (July 1, 2014): 446, https://doi.org/10.1177/1477370813505954.

Conclusion

This report has made a case for exploring in more depth what it means to apply a victim-centred approach to ongoing documentation of human rights abuses in North Korea, and to planning for a future transitional justice process. The findings from the survey and interviews provided useful information on escapee perceptions of victimhood and their thoughts around how different transitional justice mechanisms might benefit them individually, as well as the North Korean nation as a whole. While the findings cannot be considered representative of the views of all those who live or have lived in North Korea, it is nevertheless a starting point in helping discern where inconsistencies may lie between the needs currently being articulated by NGOs, the UN and concerned state governments, and the actual needs of those who have been victimised. Although there are significant challenges to fostering capacity and deeper engagement with North Korean escapees to plan for the future, it is argued that there is ample room for improvement, and NGOs have a central role to play here. Although the current situation on the Korean peninsula does not allow for the full expression of many of the mechanisms described in this report, there are certainly opportunities to begin investigating and testing adapted forms of the above modes of activity in current NGO agendas.

This report presents findings from a survey of North Korean escapees on their perceptions of victimhood; the types of mechanisms that might be applied to facilitate collective and individual recovery from the past; and how to engage North Korean escapee participation in a transitional justice process.

The findings show broad support for applying transitional justice mechanisms to the North Korean context in the future.

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