



Government Prosecution for Food Insecurity in North Korea

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Abstract

Food security is one of the basic human rights and governments are committed to establishing and maintaining it in their countries. North Korea has an authoritarian government whose ideological priorities have led to disregard for the nation's human rights. Throughout the history of the North Korean government, millions of people have lost their lives as a result of its decisions. Food insecurity has been one of the most important causes of terrible damage to the people of North Korea. This challenge has sometimes manifested itself in the form of a terrible famine. Can the regime of North Korea be prosecuted for its crimes against humanity based on its responsibility to create food insecurity in North Korea? This is the question that this research seeks to answer it. Researchers in this study believe that the North Korean government, with its policies and behaviour over the decades, has, directly and indirectly, created the challenge. The crisis that has led to human catastrophe at times and its perpetrators have committed crimes against humanity.

Keywords: *North Korea; Food Insecurity; Prosecution; Crimes Against Humanity*

Introduction

In North Korea, everything is mixed with politics, and politics is also mixed with ideology. It is considered the most closed authoritarian country in the world. North Korea is governed by extremism ideological laws. Laws that affect all aspects of lives, including food security.

The Kim dynasty have created a new face of the totalitarian at the highest possible level and made this country the largest prison in the world. (khosravi, 2020, 47) Over the years, the people of North Korea have suffered a lot. In the 1990s, the food shortage crisis killed millions of Koreans. That famine has been effective in the societal change in North Korea. It was a human catastrophe.

The regime's chief party ideologue who defected to South Korea in 1997— estimated may have killed 3.5 million North Koreans. (Collins, 2012 ,3) Which has intensified again today, the food insecurity crisis in North Korea is not a new phenomenon. This country has experienced fluctuating but steadily

food shortages for years. The famine crisis in these years had social and economic consequences that have continued to these days. Although these crises have sometimes been caused by phenomena such as drought or floods. But Problematic management has pushed the country into the hunger crisis. The governments are responsible for ensuring food security in their countries, The North Korean regime's food security management can be examined. The North Korean government has never tried to behave transparently. This hidden behavior also includes managing social needs such as food security in country. That governmental management method has led to severe and deep humanitarian crises. The regime does not give real statistics on the human casualties of crises. However, according to the reports of international organizations, it is possible to understand the deterioration of the situation in that country in some periods. So here are some of the reasons why the North Korean government is accused of crimes against humanity and can be prosecuted. In this regard, a history of related research has been reviewed. It can be said that although there has not been much litigation about this country in this regard. It is an important case to follow up on. Therefore, it is possible to use several researchers' studies in similar fields and put them together like puzzle pieces to help to a better understanding.

Research Background

The article "Analysis of the Components of Totalitarianism in North Korea", examines governance in the North Korean leader family. Khosravi Researched about the Totalitarianism in the Kim family generation. Lina Eun, entitled North Korea in Crisis: Food Shortages and Information Lockdown in September 2020, noted that data collection from North Korea is not directly possible because of the atmosphere of horror and suffocation in it. Choe Sang-Hun discussed the timing of the outbreak of the coronavirus in North Korea in The New York Times on June 21, 2021. The North Korean government's policies regarding the corona and its role in food insecurity are been one of the important parts of that article. In an article, Barbara Crossette in an article (1999) cited death tolls and severe dangers threatening people at the height of the famine. Yogini Yi in the state of hunger in North Korea In this article, the role of the government in establishing food insecurity in the country from a managerial perspective is discussed. In this book (Marked for Life: Songbun North Korea's Social Classification System), Robert Collins conducts researched on social justice and the creation of social inequalities in North Korea. Based on the evidence he provided, the North Korean government has established a segregated population structure to provide government support. Lee et al. In White Paper on Human Rights in North Korea 2020. The structure of social stratification and its achievements in the lives of the people of North Korea have been studied. This structure goes so far as to play a role in the fate of children before they are born or based on their area of birth. North Korea Confidential: Private Markets, Fashion Trends, Prison, written by Daniel Tudor and James Pearson in 2015. This book explained the economic sociology and coexistence of North Korea and the events that resulted in the challenge of hunger and poverty in this country. Numerous studies have been conducted on the issue of the legal protection of food security. In the field of food security assurance, most studies have focused on the International Criminal Court and the role of this international body in protecting human rights. In the legal part of the article, while defining the legal position and the reason for the accusation of crime against humanity, the possibility of trials in different conditions has been investigated. Examines the capacity of the Regional Domestic courts, international criminal courts, other independent international courts, and courts of third countries. It has considered the previous experiences and future possibilities.

Food Security in North Korea

The statistics and reports of each country are needed to accurately assess the food security situation in that country. Given the situation in North Korea, it is not easy to achieve them. Therefore, surveys are always based on data from international aid organizations and research departments of some countries capable of research in these areas. Hiding data about human rights factories and society information and information almost occur in North Korea under the pretext of country security roles.

However, the published information is also unrealistic and purposeful. The purpose of publishing this information is to deceive public opinion. The Red Cross has openly stated the need for humanitarian assistance in its reports.

Overall, it was estimated that 10.1 million people (40 percent of the population) are food insecure and in urgent needs of food assistance. (The International Federation of the Red Cross and Red Crescent Societies (IFRC) and the International Committee of the Red Cross , 2019)

Studies in some countries have addressed the dire humanitarian situation in North Korea and its effects on people's lives. There are also reports from specific aid organizations that are dependent on the united nation.

An estimated 59.2 percent of North Korea's population is food-insecure in 2020, rising slightly to 59.8 percent when the effects of the COVID-19 macro shock are taken into account," the report said. The USDA assessment defines a daily intake of 2,100 calories as necessary to maintain an active and healthy lifestyle and said that North Korea is running a per capita deficit of 430 calories. (FAO/WFP,2019) People are forced to ration food to escape these difficult conditions. They have put pressure on their families. These psychological and physical pressures, in addition to short-term symptoms, also have physical and psychological damage in the long run for their families and North Korean society. UN warns of the diversity and nutritional of low-value meals in North Korea, as well as dangerous ways to reduce meals

Diets mainly consist of rice, maize or potatoes complimented by kimchi (cabbage) or vegetables and greens, when available. Protein intake is very low.(FAO/WFP,2019)

North Korean Regime Role in Insecurity Food Crisis

A look at the behavior of the North Korean government shows many examples of managerial inadequacy. This management way has caused a lot of damage to the Korean people. Here are just some examples to point to them.

The height of the famine catastrophe in North Korea occurred during the Great Famine. The people of North Korea suffered a lot during the years of the Great Famine. Which the effects of them continue to this day. The North Korean famine disaster followed the end of the Cold War and the fall of the Soviet Union. The regime could not ignore the situation and refused to request timely international aid. The result of their management was a catastrophe. The North Korean great famine was the culmination of a horrible food crisis. Millions of people died of malnutrition, and the horrific consequences were recorded in history. Its effects on a surviving generation also remain. Evidence shows events and very difficult times during the four years of famine (1995-1998) which has plunged the North Korean nation into a crisis of lasting damage. And its effects on the health of the people of that country remain to this day.

Two million to three million lives, according to accumulating evidence gathered by a range of experts. Many of the dead were old people and children. (Crossette, 1999) Although the crisis was related to natural disasters, it was due to North Korea's vital political dependence on the Soviet Union and the lack of crisis management in the country.

The DPRK, which had become heavily dependent on subsidized trade with its former communist partners during the Cold War, found itself with no economic safety net. At the same time, the country was hit by a series of droughts and floods, along with a sudden shortage of energy sources. This devastated an agriculture system almost entirely dependent on chemical fertilizers and mechanized irrigation. With diminishing amounts of food, the effectiveness of the Public Distribution System that regulated the allocation of basic goods decreased gradually. (Spezza ,2017) The government understood how much is

weak food security management although they did not accept their duty during that crisis. That crisis was a profound impact on North Korean society and led people to create a black market to prepare their daily food.

The economy plays an important role in every country's food security. But North Korea's economic situation is very bad and the source of these changes is important.

In 2020, North Korea exported a total of \$142M. During the last five reported years the exports of North Korea have changed by -\$2.71B from \$2.86B in 2015 to \$142M in 2020. The country's official imports are \$ 556 million. (OEC, 2020) Also GDP was -4.5 in reports (2020).

Researchers about North Korea have repeatedly pointed out that provocative military behavior, threatening neighbors, and the nuclear crisis have led to the isolation of the regime and the imposition of heavy global sanctions on the country. North Korea's weak economy has been hit hard by the sanctions. These conditions have also caused many humanitarian crises, including food insecurity. Human consequences. The food challenges are highly politicized and secure, and without foresight are wise and even human considerations. Short time and what plans with long times have shown their results. Heavy sanctions have crippled North Korea's economy, leading it to full dependence on China and black ways of making money. On the other hand, this income is not used for the development of agricultural infrastructure and food security. The regime, in addition to widespread economic corruption, spends large sums of money on its threatening actions in the region.

Sanctions, fuel restrictions and lack of or out-of-date machinery and equipment are worsening the humanitarian situation, stressing communities' already limited coping capacities. (FAO, 2020) Thus, the country's ability to strengthen food production structures is very low. Another significant violation by the North Korean government is the use of food as a weapon. The North Korean regime has formally divided the people of the country into three main groups and dozens of subgroups. This division plays a clear role in all areas of North Korean life, including food security and hunger is a form of punishment in this country.

These three classes may have affected how families fared during the Great Famine of the 1990s. In the context of the famine, songbun may have determined who lived and who died, who ate well and who starved, and whose children suffered permanent physical (through stunting) and intellectual damage (prolonged acute malnutrition lowers IQ levels) from acute severe malnutrition. We have some evidence that the songbun system determined ration levels in the public distribution system which fed the country from the founding of the North Korean state until the deterioration of the system during the famine and its ultimate collapse. (Collins, 2012)

The Korean government also uses food as a weapon to punish and encourage different parts of the country and to put pressure on them. The government is deliberately starving some parts of the country and supporting its elites and supporters in the provincial capitals and important points and the capital and has established a discriminatory structure.

North Korea's prioritization of food distribution to the regime's elite and core class of high songbun—particularly citizens of Pyongyang— has left most of the North Korean population competing in food distribution with those most powerful in communities outside Pyongyang.(Collins , 2012 , 69)

In such circumstances, North Korea is a regular recipient of food aid. The amount of food aid provided to North Korea by international aid organizations is large

There are multiple countries sending aid to North Korea, including China, South Korea, Russia, Canada and numerous other European countries. South Korea fulfilled its promise to donate \$4.5 million to the WFP in 2019. In addition, South Korea announced that it will further provide 50,000 tons of rice as

food aid to North Korea. The United States used to be the biggest provider of food aid to North Korea between 1995 and 2008. It provided over \$1 billion in assistance, about 60 percent of which was food aid. (YONGJIN, 2020) Several countries are involved in this assistance, including the countries that North Korea calls the enemies. But even in the distribution of international aid, fraud has occurred many times. Something that has worried donors, forcing them to look for ways to gain more control over food distribution.

During UN inspection visits, donated rice bags were stored temporarily at civilian warehouses, then transported to military units after the inspectors left. Too many cases undoubtedly remain where the Kim regime takes back distributed aid as soon as international monitors depart. (Lee et al , 2020)

Crimes Against Humanity

If look at the behavior of the North Korean government according to the statute of the International Criminal Court. This government can be accused of crimes against humanity in creating food insecurity. Article 7 says so; For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

B; Extermination ,H; Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court, j; The crime of apartheid, k; Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. For the purpose of paragraph 1 :(A) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack. (B) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population; (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person... (E) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law.(International criminal court,1998)

It can also be mentioned to London 1945 Charter. One of the themes of this charter, which was prepared for the Nuremberg tribunal, is the crime against humanity. It states the crimes that the court is dealing with. Article 6 (C) Crimes against humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. (CVCE (NURMENBURG) , 1945)

According to this study, The North Korean government leaders have committed crimes against humanity and can therefore be prosecuted. Countries have a duty to prosecute crimes against humanity in accordance with their international obligations. Investigation of crimes against humanity is also one of the jurisdictions of the International Criminal Court. According to a brief review of North Korea's behavior in various cases, that government can be considered a perpetrator of crimes against humanity, including:

The North Korean government has caused direct and indirect deaths and destruction of its citizens, citing that it has systematically and purposefully created food deprivation or insufficient attention to the food security of North Korean citizens.

Second, covert slavery and imprisonment or other severe deprivation and harassment of citizens contrary to international law. The North Korean government has deliberately used food to suppress and enslave its citizens in concentration camps.

The North Korean Government Categorize people structurally and legally into three main groups and many sub-groups. That is a type of established apartheid. These groups do not have equal access to food, and thus the North Korean government even takes revenge on the children of families. Also, there is not having sufficient access to food in some areas intentionally, especially in areas that the government is pessimistic about, which is an example of mass punishment. Another cause can be called corruption, fraud and misuse of global aid. The North Korean government has repeatedly fraudulently used and distributed the aid unclearly in its goals way. There are numerous examples of all of these that have been reported, and international reports confirm many of them. Therefore, the North Korean government has openly created food insecurity at home by violating international covenants and the Charter of Human Rights.

Prosecution of Food Insecurity Perpetrators

One of the important issues regarding the pursuit and punishment of the causes of food insecurity is the review of existing legal and political solutions. In this section, we will try to answer this question with a practical look, is it possible to punish the perpetrators of food insecurity? Given the extensive progress that has been in the formation and development of law and international organizations. However, in this regard, we will also examine the theoretical and possible ways too.

Jurisdiction of Domestic Courts

First, we need to discuss the subject to can examine the possibility of prosecuting allegations of food security threats inside the country. One of the important principles of fair trial realization and the rule of law is judicial independence. The judge's freedom here means freedom of any influence and interference of political forces and the litigants' sides. The realization of judicial independence, on the one hand, requires the guarantee of the structural independence of the judiciary and, on the other hand, needs the creation of mechanisms to guarantee the individual independence of judges. Judicial independence in its original sense is the freedom and independence of the judiciary from other governmental institutions;

In other words, in order to recognize the judiciary as an independent power, equal to the executive and legislative branches, with the authority to administer the executive affairs within its own organization, without undue interference from other branches. This means that the judiciary should be free from any undue pressure that affects the way it makes its decisions, and judges should not be afraid of their own decisions or be influenced by the authorities before making decisions. (Sibni , 2017) Public confidence in the rule of law and a fair trial in any society depends to a large extent on the degree of judicial independence. In other words, the people's sovereign government is inextricably linked with the concept of judicial independence and the ability of the court to prevent the abuse of power and the violation of the fundamental rights and freedoms of the people. (amiri & vijeh , 2014)

Given the structure of North Korea's political system, it cannot be expected that the judiciary will be able to deal independently and freely with the crimes committed by managers whose actions have been effective in food insecurity. The lack of any clear information in this regard due to the lack of transparency is confirmed this view. So far, 'There is no clear example of a transparent and acceptable treatment of human rights violations that have been published by the country's judicial system. Also, there were a lot of human rights violations in courts' actions and their rulings have been repeatedly mentioned by the observers and human rights organizations. In the case of domestic trials, the capacity of countries at the time of release must also be taken too. There have been several cases in which dictatorial regimes were overthrown and after a while, it was possible to prosecute criminal leaders inside their countries. A few examples are mentioned here. Former Argentine dictator Jorge Rafael Videla, the head of Argentina's

military government, was one of the notorious criminals who was tried along with his accomplices. But in 2007 the Argentine Supreme Court overturned his pardon. But in 2007 the Argentine Supreme Court overturned his pardon order. He was tried again in 2010 and 2012 for kidnapping, torture, disappearance, forcing children to leave their parents. ; The last example of these difficult dialogues is the discussion concerning the number of people who disappeared during the 1976–83 dictatorship. Since the end of the dictatorship, human rights organizations have insisted that there were 30,000 victims of enforced disappearance;(Goransky, 2018) Apart from him, several other criminals were also sentenced to life imprisonment and shorter prison terms. Another case of prosecuting criminals against humanity in the domestic courts of a country has been the trial of Saddam Hussein and other criminals by the Iraqi Supreme Court addressed this issue in 2006 such as Ibrahim Hassan, Yassin Ramadan, Hamad al-Bandar, Kadhim Ruwayid , Dayeh Ali, Azzawi Ali al-Marsum. Some of Iraqi Ba'athist leaders were tried in court for crimes against humanity and sentenced to death, life imprisonment and medium-term imprisonment. The conditions of similar courts have been the same in some South American countries and so on. In this way, we can hope that criminals in North Korea will be brought to justice if the People's Democratic Government comes to power.

Challenge and Possibility of Trial in Other Countries

The other way is to prosecute cases in the courts of other countries. In the Statute of the International Criminal Court introduction (paragraph 6), it is noted that ' Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes'. Also, the Statute of the Court has the view that it can complement the national jurisdiction of countries. The definition of the principle of universal jurisdiction says so; The principle of universal jurisdiction means that the state claiming this type of jurisdiction, without any relation in terms of the place of the crime and the citizenship of the perpetrator and only based on the nature of the crime, prosecutes and punishes certain crimes. (Foroughi , 2018) In this regard, the general perception has always been that there are restrictions. One of the most important of these restrictions is the diplomatic and judicial immunity of leaders and diplomats. Restrictions on prosecuting officials stem from the political immunity of officials and diplomats under the 1961 and 1963 Vienna Conventions. But this is not an unsolvable problem and has its limitations. According to Article 98 of the Statute of the International Criminal Court, no political or diplomatic immunity is granted in the jurisdiction of the International Criminal Court in the event of any crime against humanity. For example, Chilean ex-dictator Augusto Pinochet was arrested by a British court. He was accused of committing crimes against humanity during his tenure. Major war criminals with high administrative and political positions were also tried in Nuremberg and Tokyo after World War II. Another example is Sudan's former dictator Omar al-Bashir, whose International Criminal Court ruled that his crimes should be investigated and handed over to the tribunal for trial during negotiations in a third country. One of the important issues in the statute and international procedure is that according to Articles 27 and 87 of the Statute of the International Criminal Court and Resolution 1593 of the Security Council, there is no immunity for criminals against humanity. Although this includes countries members of the International Criminal Court, other cases from non-member countries may be considered at the request of the Security Council. In the other hand according to the Nuremberg and Tokyo tribunals under the London Charter, no political immunity and neither No government official can protect individuals in front of prosecution for crimes against humanity. In Pinochet's trial case, while he was in London in 1998, at the request of the victims' families' lawyer in Spain, a Spanish judge ordered Pinochet extradited for torturing Spanish citizens, although the British judiciary did not consider him eligible for a court trial and refused to extradite him to Spain. Pinochet eventually returned to Chile in 2000, but he had encountered arresting in Europe. Although the use of universal jurisdiction over crimes is very important, it also includes cases of crimes against humanity. In a war crimes case in the former Yugoslavia, the former president was tried while in power. In this case, this protest was ignored. The jurisdiction of this Tribunal is not conditional upon President Milosevic's consent, nor is it dependent on the outcome of any negotiations between him and anyone else. It is for the Judges of this Tribunal to interpret such jurisdiction and for the Security Council to modify or expand. (Unitd nation international criminal

tribunal for the former Yugoslavia , 1998) Also the former Prime Minister of Kenya during the Tutsi genocide who was tried during the Rwandan case.

Universal jurisdiction to prosecute crimes against humanity and the realization of public rights can be exercised by a country that has nothing to do with the crime scene, the nationality of the perpetrator, the state and the nationality of the perpetrator or the oppressed. It is also possible that for sake of any war and the occupation of North Korea by foreign forces, there is a possibility that the leaders of the Korean regime may be tried under special international tribunals or outside the jurisdiction of the court of the occupying country. As was the case with the trials of World War II crimes in the Far East and Nuremberg. There have been some references to the Statute of the International Criminal Court made in the courts of member and even non-member countries, and as a result, a way is opened for the prosecution of criminals against humanity in many countries. Genocide, crimes against humanity and slavery, all linked to the northern government's treatment of its people and food insecurity, are among the crimes that fall under international jurisdiction and are recognized in international law. Today, the principle of universal jurisdiction along with the domestic law of countries has paved the way for justice and the prosecution of criminals.

Amnesty International reports that, in total, 163 of the 193 UN Member States “can exercise universal jurisdiction over one or more crimes under international law, either as such crimes or as ordinary crimes under national law.(International justice resource center)

One example of the trial of criminals against humanity is the Eichmann trial in Israel which is significant. In Eichmann's case, the court acted in accordance with the principle of universal jurisdiction and Israeli domestic law. Leaving aside Israeli domestic law, the court is allowed to try Eichmann not of only for the Jews but for all the victims of crimes against humanity. (JUDGEMENT)

The case of others is Ivan Demjanjuk. He was a Ukrainian who joined the Nazi SS service. He was involved in the deaths of 29,000 people in the Holocaust. He underwent a complex two-phase identification that took years. Finally, in July 2009, the German prosecutor's office in Munich was tried on charges of crimes against humanity, genocide and participation in the Holocaust. (dw , 2009) The case of genocide in Guatemala is also noteworthy. General Efraín Ríos Montt came to power in Guatemala through a coup in March 1982. A month later, he

Launched a “scorched earth” operation against the country’s Ixil Maya population.

(The center of justice and accountability) About 200,000 people were estimated to have died in this genocide, including children too. Rigoberta Menchú ,the Guatemalan Nobel Peace Prize laureate send a complaint to the (Audiencia Nacional) of Spain in1999. In her complaint, she requested to torture, genocide, illegal detention, and state-sponsored terrorism she complained of Ríos Montt and four other retired Guatemalan generals as defendants.3th people in this group were ex Guatemala presidents. In 2005, Spain's Constitutional Court ruled that Spanish courts could try those accused of crimes against humanity. They clearly mentioned even if the victims were not Spanish nationals. (Wikipedia) However, his future trial took place in Guatemala itself and was accompanied by ups and downs. In the initial verdict, he was sentenced to 80 years in prison. He died in the middle of the proceedings. Another example is the trial of Argentine military criminals in Spanish courts (Adolfo Scilingo, Ricardo Miguel Cavallo for crimes committed Internal repressions known as dirty war between 1976 and 1983) for his involvement in murders and illegal detentions in Argentina. These trials were not conducted in Spain based on the principle of universal jurisdiction and were not even subject to time.

The trial of Scilingo actually began on January 14, 2005; Cavallo's trial has not yet commenced. (Wilson, 2008) After the Syrian war, various people and organizations started to complain about the leaders or agents of the Syrian government for the crime of using chemical gases, torture and suppression, etc., On the other hand, the members of the terrorist groups against the Syrian government were also

prosecuted. In 2019, the German prosecutor's office filed a lawsuit against two former Syrian security officers. These people have been accused of "crimes against humanity" for participating in murder, rape and torture. (^{Dw} , 2009) In another case, in 2022, a court in Frankfurt, Germany started the trial of a Syrian doctor accused of torturing opponents of the Assad regime in a Syrian military hospital. (Radio zamaneh , 2022)

Another way is the possibility of investigating the complaints of North Korean refugees or immigrants with dual nationality in their second country. Among the ways of trial, can be mentioned the complaint of people with dual citizenship, as a result of the complaint of a group of these people, the court of Swedish in the case of Hamid Nouri, accused of participating in the unfair trials and killings of the year 1367 (1988), sentenced him to severe punishment and life imprisonment. This case was a crime against humanity. North Korean leaders have been privately sued on occasions. Although these complaints were in civil form, it is a sign of a way to bring them to trial. In July 2020, a South Korean court ruled against the North Korean leader. In that order was mentioned leader Kim Jong Un must compensate former South Korean prisoners of war. North Korea forced them into laborer's while in captivity. The Seoul judge condemned the North Korean leadership to pay compensation. (Shim , 2020)

In another case five North Korean escapees in Japan complained of North Korea government for human rights abuses. They went to North Korea after joining a resettlement program that it was based on the propaganda that North Korea was a "Paradise on Earth. In 1959 -1984, 93,000 ethnic Koreans and Japanese leaved Japan and went to North Korea in Paradise on Earth plan. (Kanaedoi , 2021)

Jurisdiction of the International Criminal Court

The need for an organized international criminal for responding to violations of fundamental human rights rules goes back to the Nuremberg and Tokyo courts at the end of World War II. (Turkmani , 2017) Thus, the International Criminal Court was established in 2002 on the basis of the 1998 Rome Statute. There are now 123 member states of the International Court of Justice.

The International Criminal Court (ICC) establishment was a major forward step in the human rights field; because the institutionalization of investigations has been one of the best examples of criminal justice. (Ramezani Qawamabadi et all , 2014) The jurisdiction of this court is complementary and applies where countries have not been able or unwilling to pursue crimes. There are some restrictions on the International Criminal Court, for example, all countries are not members of the ICC. In this way, some countries try to escape the shadow of arbitration. The crimes within the jurisdiction of the Court mostly includes serious international crimes. They usually include crimes that disrupt peace, security, comfort and human conscience. While not all human rights abuses have such characteristics. (Turkmani , 2017) There are several ways to deal with crimes against humanity in the International Criminal Court. According to the Statute of the Court, it is possible for human rights situations to be referred to the Court by the Prosecutor of the Court. But because North Korea is not a member of the ICC, the prosecutor does not have the power to act independently. However, in the case of crimes in non-member countries, it is possible to prosecute by the Court at the request of the Security Council. Here it is appropriate to mention some of the cases reviewed by the International Criminal Court. So far, 21 crimes against humanity have been heard in the International Criminal Court. The charges against the former Sudanese dictator Omar al-Bashir are as follows; five counts of crimes against humanity: murder, extermination, forcible transfer, torture, and rape; two counts of war crimes: intentionally directing attacks against a civilian population as such or against individual civilians not taking part in hostilities, and pillaging; three counts of genocide: by killing, by causing serious bodily or mental harm, and by deliberately inflicting on each target group conditions of life calculated to bring about the group's physical destruction, allegedly committed at least between 2003 and 2008 in Darfur, Sudan;. (International criminal court) There are similar allegations against Sudanese Foreign Minister Ahmad Muhammad Harun and Abdel Raheem Muhammad Hussein (former Minister of the Interior and former Sudanese President's Special Representative in Darfur). He

has been charged with 2003 and 2004 crimes in Darfur, Sudan. Mikhail Mayramovich MINDZAEV, Gamlet GUCHMAZOV and David SANAKOEV have also been detained for their crimes in Georgia. These suspects held positions in the Autonomous Republic of South Ossetia. They have key roles in detention held 171 Georgians or South Ossetians in inhumane conditions in 39 residences and, according to their evidence, were deprived of minimum prison standards such as food, water, etc. This crisis happened in 2008. (International criminal court , 2022)

All of these are examples of the International Criminal Court's ability to address crimes against humanity in the context of hunger. One of the notable trials was the trial of the former Liberian dictator. Charles McArthur Ghankay Taylor Sentenced to 11 counts, including "war crime" and "crime against humanity" in April 2012. He played a key role in the catastrophes of the Liberian and Sierra Leone civil wars. On May 30, 2012, he was sentenced to 50 years in prison in a special case related to Sierra Leone in The Hague for committing war crimes.

History of Other Relevant International Courts

One of the most famous cases of prosecution for crimes against humanity is the Yugoslav War Crimes Tribunal. Former Yugoslav President Slobodan Milosevic was among charged in 1999 and 2001 of the Special Court for Crimes against Humanity and War Crimes in the Territories of Kosovo (after January 1999), Croatia (August 1991 to June 1992) and Bosnia (March 1992 to March 31 December 1995) . His case was the first trial of a head of state for crimes against humanity and war crimes, which helped establish a legal procedure. In other case, the Convicted person was VIDOJE BLAGOJEVIĆ, ex-commander of the Bratunac Brigade of the Bosnian Serb Army. He is charged with assaulting Bosnian citizens while they were in a UN camp. He has caused a shortage of food, adequate water and medicine, in other words, deprived civilian citizens of their right to food security. Another case was TIHOMIR BLAŠKIĆ. He was a colonel in the Croatian Defense Council at the time of the crime against Bosnian citizens. This person has been involved in physical abuse and inhumane treatment in camps and in not facilitating the treatment of civilians in the absence of access to food and water as a human right. This person was sentenced to 45 years in prison. LAHI BRAHIMAJ (ex-Kosovo Liberation Army commander during the Kosovo War), in a way, He has been a factor in participating in crimes against humanity. This person committed crimes against humanity during his responsibility by providing inadequate food in detention and failing to provide medical services.

Thus, the former Yugoslav Tribunal refers to the crimes of individuals in the field of crimes against humanity and food security, and this shows the importance of a special court whose jurisdiction has been determined by the jurisdiction of the Criminal Court and the UN Security Council. Another very important case is the Nuremberg International Criminal trials

(International Military Tribunal). The Nuremberg Trials have played a very important role in the history of international law. Part of this impact has included these international approvals 1948 Genocide Convention, Universal Declaration of Human Rights, Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 26 November 1968 and Geneva Convention on the Law of War, 1949 and its Additional Protocols in 1977. The Nuremberg indictment addressed three issues. These three categories of crimes include; crime against peace, war crime and crime against humanity. What is important to us is the section on crimes against humanity mentioned by the court.

Along with adults the Nazi conspirators mercilessly destroyed even children. They killed them with their parents, in groups and alone. They killed them in children's homes and hospitals, burying the living in the graves, throwing them into flames, stabbing them with bayonets, poisoning them, conducting experiments upon them, extracting their blood for the use of the German Army, throwing them into prison and Gestapo torture chambers and concentration camps, where the children died from hunger, torture and epidemic diseases. (cvce , 1945 (2015) , 17)

However, in some sections, war crimes can also be mentioned because the right to food is one of the first human rights and in many cases, people were faced with various forms oppression. That is, although committed by the military during the war, can be considered as a crime against humanity. Because it has happened widely and involves a lot of people.

Frequently prisoners captured on the Western Front were obliged to march to the camps until they completely collapsed. Some of them walked more than 600 kilometers with hardly any food; they marched on for 48 hours running, without being fed; among them a certain number died of exhaustion or of hunger; stragglers were systematically murdered. In military goals in Graudenz for instance, in reprisal camps as in Rava-Ruska, the food was so insufficient that the men lost more than 15 kilograms in a few weeks. In May, 1942, 1 loaf of bread only was distributed in Rava-Ruska to each group of 35 men. (cvce , 1945 (2015) , 19)

Hunger, famine, and malnutrition were among the weapons used by the Nazis against their captives. It was also they used it in the Holocaust as a means of death and destruction.

The program of action against the Jews included disfranchisement, stigmatization, and denial of civil rights, subjecting their persons and property to violence, deportation, enslavement, enforced labor, starvation, murder and mass extermination(cvce, 1945 (2015 , 6) Throughout the period of their occupation of territories overrun by their armed forces the defendants, for the purpose of systematically terrorizing the inhabitants, murdered and tortured civilians, and ill-treated them, and imprisoned them without legal process. The murders and ill-treatment were carried out by divers means, including shooting, hanging, gassing, starvation, gross overcrowding, systematic under nutrition, systematic imposition of labor tasks beyond the strength of those ordered to carry them out. (cvce , 1945 (2015) , 12) The indictment refers to hunger and food insecurity in various places, which is one of the obvious crimes of the Nazi forces.

Here also can point to the International Criminal Tribunal for Rwanda have been established. The International Criminal Tribunal for Rwanda was established in 1994 at the request of the Security Council. Jean Kambanda who at the time of the massacre of the Tutsis by Hutus, the former Prime Minister of Rwanda and the interim president of this country was tried. On 21 March 2013, the United Nations Human Rights Council established the Commission of Inquiry on Human Rights in North Korea. The first task that this commission was ordered to look into was Violations of the right to food. It is clearly mentioned there that, among the violations to be investigated are those pertaining to the right to food. The Commission of Inquiry is mandated to look into "systematic, widespread and grave violations of human rights. The North Korean government has not cooperated with the commission. (United nation human rights council, 2013)

The 2014 report of the UN Commission of Inquiry on North Korean human rights recommended that the UN Security Council refer the case to the International Criminal Court. Although it does not happen by political influences. As a result of the clashes and North Korea's lack of response, the UN special representative reacts. United Nations Special Investigator Marzuki Darusman submitted a succession report in 2016. Six years of reports sent by him to the Council show the deterioration of the situation. "The country is pouring a large amount of resources into developing weapons of mass destruction, while large parts of its population continue to suffer from food insecurity, and while the government sends systematically recruited workers abroad to earn foreign exchange for the state, while working under severe labor conditions," he added. (Schlein , 2016)In this way, he demands that all North Korean leaders, including Kim Jong UN, should be tried for crimes against humanity. (Schlein , 2016)

Conclusion

According to the investigations, it is clear that the ruling regime of North Korea has committed a crime in terms of establishing food security in the country. As a result, the Pyongyang government can be accused of crimes against humanity for endangering food security and using food as a weapon for torture and confessions, as well as mass punishment. There are several ways to try the North Korean criminals and leaders. Considering that the judicial system in North Korea is not independent and fair, we cannot expect North Korean courts to try criminals. But in case of regime change, this way will be possible, what happened to the criminal dictator of Iraq (Saddam Hussein) and other leaders of the Baath party. Also, in case of war or occupation of this country, the occupying forces can establish trials with international approval, like the ones after the Second World War in Asia or Nuremberg. In the other case, it is possible to establish a trial in a special international court, like what happened to the criminals in the Criminal Court for the former Yugoslavia. Also tried by the International Criminal Court. In international proceedings, the favorable opinion of the members of the Security Council should be provided, which has not happened so far. Another way of the trial is through the request of foreign citizens, dual citizens in their own country. Measures have been taken in this direction in South Korea and Japan, although it is not enough. This direction can be a breakthrough in today's conditions. Another golden opportunity that is in front of us today is trial based on universal jurisdiction. Another golden opportunity that is in front of us today is trial based on universal jurisdiction. According to this rule, all cases involving crimes against humanity can be tried in the courts of free countries. There is another solution which, although it is not formal and has no guarantee of implementation, but it is very effective. It can also pave the way for the international community to become aware and sensitized to the crimes against humanity in North Korea. There is another solution that, although it is not formal and has no guarantee of implementation, is very effective. It can also pave the way for the international community to become aware and sensitized to the crimes against humanity in North Korea. Establishing people's tribunals like the Russell Court is a valuable way. Trials based on human conscience can pave the way for judicial trials. In this way, we can see that if there is international will and global conscience, it is possible to pursue the implementation of justice through different methods. In this way, we can hope for justice for the previously injured and preventive justice to prevent oppression.

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