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BEYOND RHETORIC: THE UN UNIVERSAL PERIODIC REVIEW AND EXAMPLE OF HUMAN RIGHTS PROTECTION IN THE DEMOCRATIC REPUBLIC OF NORTH KOREA

RETORİĞİN ÖTESİNDE: BM EVRENSEL PERİYODİK İNCELEMESİ VE KORE DEMOKRATİK HALK CUMHURİYETİ'NDE İNSAN HAKLARININ KORUNMASI ÖRNEĞİ

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ABSTRACT

The United Nations Human Rights Council views the Universal Periodic Review system (UPR) as the most comprehensive and inclusive mechanism for evaluating state compliance with international human rights obligations. However, this system relies heavily on state cooperation and compliance, hence, this article seeks to constructively evaluate the effectiveness of the Universal Periodic Review system, particularly within non-compliant states. In specific terms, this article seeks to examine whether the UPR translates into real progress in human rights protection beyond rhetoric and deliberations. Focusing on the Democratic People's Republic of Korea as a case study, the article examines whether the UPR results in tangible progress in human rights protection or merely serves as rhetorical window dressing. It provides recommendations on strengthening these mechanisms through the creation of an independent human rights' judicial organ that not only legally binds the reviewing states to the Universal Periodic Review outcome but also accords jurisdiction to legally enforce punitive measures against non-compliance.

Key words: Rhetoric, Universal Periodic Review (UPR), Human Rights Protection, Evaluation, North Korea.

ÖZ

Birleşmiş Milletler İnsan Hakları Konseyi, Evrensel Periyodik İnceleme (EPİ) sistemini, devletleri insan hakları antlaşması yükümlülüklerine karşı sorumlu tutmak ve hem ulusal hem de uluslararası düzeyde insan hakları korumasını ilerletmek için en evrensel forum olarak görmektedir. Ancak, EPİ sistemi büyük ölçüde devletlerin işbirliği ve uyumuna bağlıdır. Bu çalışmada, uyumsuz devletler içinde EPİ sisteminin etkinliği yapıcı bir şekilde değerlendirilmektedir. EPİ sisteminin retoriğin ve sonuçsuz müzakerelerin ötesine geçip insan haklarında gerçek bir ilerleme sağlayıp sağlamayacağını incelemeyi amaçlamaktadır. Bu analizi yaparken, yükümlülüklerine rağmen insan haklarını sağlamadaki başarısızlığıyla kötü bir şöhrete sahip olan Kore Demokratik Halk Cumhuriyeti vaka çalışması olarak kullanılmaktadır. Kuzey Kore vakası, devletlerin uyum göstermediği durumlarda EPİ sisteminin sınırlamalarını ve eksikliklerini göstermektedir. Sonuç olarak EPİ yaptırım mekanizmalarının etkisiz olduğu ve acil reform ihtiyacı ortaya çıkmaktadır. Çalışma, devletleri EPİ sonuçlarına yasal olarak bağlayan, insan hakları yargı yetkisine sahip, bağımsız bir yargı organının oluşturulması gibi önerilerle, söz konusu mekanizmaları güçlendirmeye yönelik tavsiyelerde bulunacaktır.

Anahtar kelimeler: Retorik, Evrensel Periyodik İnceleme (UPR), İnsan Haklarının Korunması, Değerlendirme, Kuzey Kore.

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1. INTRODUCTION

The UPR is executed and overseen by the United Nations Human Rights Council (UNHRC). The process is rooted in the foundational human rights system, including the UN Charter,³ the Universal Declaration of Human Rights (UDHR).⁴

One of the key strengths of the UPR is its role in scrutinising member states' compliance with their human rights obligations. Every UN member state is obliged to participate in the review process, regardless of whether it has ratified specific human rights treaties. According to *Tistounet*, "the UPR is the most comprehensive and objective mapping of the human rights situation in the world."⁵

While the procedural structure of the UPR is commendable, this article does not focus on its formal merits, but on a more substantive question: to what extent does the UPR have real-world impact beyond diplomatic rhetoric?

Despite the system's procedural strength, concerns persist regarding its tangible effectiveness.

Critics such as *Noam* contend that the UPR may serve as a shield for member states to avoid accountability. They argue that instead of implementing substantive reform, many states use the platform to deflect criticism.⁶ Additional concerns arise from the mechanism's reliance on voluntary compliance and the absence of robust enforcement tools for addressing persistent non-compliance.

This article investigates the Democratic People's Republic of North Korea (DPRK), hereinafter referred to as North Korea, as a case study to evaluate whether the UPR translates into meaningful change in the protection of human rights. Given North Korea's widely documented record of gross human rights abuse and ongoing defiance of international norms, it provides a

compelling case study for assessing the UPR's impact.

The main hypothesis of this study is that the UPR system is largely ineffective in bringing about tangible, lasting change. North Korea is used to explore why authoritarian states tend to resist compliance, despite having voluntarily joined the UN and ratifying several human rights treaties. This study demonstrates that the UPR fails to produce concrete outcomes in context such as North Korea.⁷ This lack of effectiveness would be proven based on tangible data, including reports by the UN Commission of Inquiry, witness testimonials, and statements from other stakeholders.

Therefore, the research question of this study revolves around the following: Is the UPR merely rhetoric, or is it an effective tool in driving real progress in human rights advancement? Why does UPR appear to be progressive in some countries and redundant in others? These questions will be addressed through a comparative analysis of democratic and authoritarian UPR performance data as well as a nuanced analysis of North Korea's UPR reports and the final reviews of each UPR cycle. This article highlights the need for reforming human rights law enforcement mechanisms.

The study begins with an overview of the UPR's structure, procedural framework, stakeholders, and the key components of the mechanism. It then proceeds to discuss the motivating factors for compliance between democratic and authoritarian states with regard to procuring a pattern or trend of performance that is peculiar to each country. North Korea is then evaluated in depth to assess whether its non-compliance is exceptional or reflective of broader trends among authoritarian regimes.

Subsequently, this article highlights some general criticisms of the UPR system, aiming to shed more light on its weak and ineffective areas. The article concludes with recommendations for reform. It

³ United Nations, *Charter of the United Nations*, adopted at the United Nations Conference on International Organization, San Francisco, April 25–June 26, 1945, accessed August 11, 2025, <https://www.un.org/en/about-us/un-charter>.

⁴ *Universal Declaration of Human Rights*, adopted by the United Nations General Assembly at its 183rd plenary session, Paris, December 10, 1948.

⁵ Eric Tistounet, *The UN Human Rights Council: A Practical Anatomy* (London: Routledge, 2021), 45.

⁶ Noam Schimmel, "The UN Human Rights Council's Universal Periodic Review as a Rhetorical Battlefield of Nations: Useful Tool or Futile Performance?" *World Affairs* 186(1) (2022): 14.

⁷ Human Rights Watch, *World Report 2024: North Korea Chapter*, accessed August 1, 2025, <https://www.hrw.org/worldreport/2024/country-chapters/north-korea>.

essentially proposes the creation of an independent judicial organ at the universal level, with the authority to legally mandate non-compliant states to fulfil their human rights obligations. It also discusses practical pathways to implementing such reforms in a court system in a politically motivated environment, such as the UN, which depends solely on state cooperation to function effectively.

2. THE UNIVERSAL PERIODIC REVIEW SYSTEM IN CONTEXT

Despite its significance in maintaining international legal accountability, its effectiveness in addressing issues of human rights abuse, especially in non-compliant states, is a subject of ongoing debate.⁸ The discourse is centred around the fact that authoritarian regimes have used the system to influence reporting, divert criticism, and feign compliance without executing any real changes.⁹

This chapter examines the UPR in context, analysing the challenges it faces within different non-compliant states such as Russia, Iran, and North Korea, with the aim of laying the foundation for the discussion of North Korea's role in a broader context of defiance against global human rights enforcement mechanisms.

2.1. Overview of the Universal Periodic Review (UPR)

The Office of the United Nations High Commissioner for Human Rights (OHCHR) provides foundational information about the UPR. Established in March 2006 by the UN General Assembly (UNGA) in resolution 60/251, the UPR was designed to prompt, support, and expand the promotion and protection of human rights in every country¹⁰.

The UPR is a unique process that involves periodic review of the human rights records of all 193 UN

Member States. It is based on the principle of equal treatment of all countries and provides an opportunity for all states to declare what actions they have taken to improve the human rights situation in their countries and overcome challenges to the enjoyment of human rights. Currently, no other mechanism of this kind exists.¹¹ The first periodic review was conducted in 2008, and since then, all 193 countries have undergone the review system three times. The fourth cycle of the review began in November 2022 at the 41st session of the UPR Working Group.¹²

This review was based on three major documents and information sources. The first source is the National Report, which requires the state under review to produce a report on the country's human rights situation. The second report is compiled by the Office of the High Commissioner for Human Rights (OHCHR) as a supplementary document to the national report presented by the state under review. The third source includes key stakeholders, such as national human rights institutions (NHRIs) and non-governmental organizations (NGOs), including Human Rights Watch and Amnesty International.¹³ These reports provide an additional level of scrutiny and a more nuanced outlook on the gravity of human rights situations that may have been excluded or overlooked in the national state or OHCHR reports.

After a thorough examination of these reports, recommendations for improvements are made in the form of outcome reports and are adopted by the plenary of the Human Rights Council, marking the end of the process for that cycle. Member states are primarily responsible for implementing recommendations following a review cycle. Subsequent review cycles are treated as a follow-up to the progress of member states by addressing their identified shortcomings in protecting human rights.

⁸ Valentina Carraro, "Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies," *International Studies Quarterly* 63(4) (2019): 1079.

⁹ Elvira Domínguez-Redondo, "The Universal Periodic Review: Is There Life Beyond Naming and Shaming in Human Rights Implementation?" *New Zealand Law Review* 4 (2012): 673.

¹⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Basic Facts About the UPR –

UPR Info," accessed August 6, 2025, <https://www.ohchr.org/en/hr-bodies/upr/basic-facts>.

¹¹ *Ibid.*

¹² Office of the United Nations High Commissioner for Human Rights: "Universal Periodic Review (UPR) Home": Universal Periodic Review | OHCHR: 20.05.2024

¹³ Tistounet, *The UN Human Rights Council*, 8.

The main question remains: can the UPR effectively translate its recommendations into actual actions within member states?

Etone, Nazir, and Storey supported the UPR system, stating that it contributed to positive changes on the ground.¹⁴

Carraro mentions that a major feature of the UPR enforcement mechanism is extreme public and peer pressure, whereby states that respond better to these pressures tend to be more compliant, whereas states less likely to be affected by such pressure are non-compliant.¹⁵

The next section examines this theory of compliance within democratic and authoritarian regimes. The key question is, why are some states unnerved by public pressure or so-called naming and shaming while others are not? To answer this, democratic states—Canada and Germany—will be analysed against authoritarian states— Iran and North Korea.

2.2. Motivating Factors for Compliance

Carraro explained the theory of compliance as a process whereby states comply with their international obligations through various mechanisms, including management, constructivist, and enforcement approaches. Carraro further asserts that external pressures such as public scrutiny, international pressure, and the practical feasibility of recommendations are effective enforcement approaches to exert compliance from states.¹⁶ This is analysed between democratic and authoritarian states.

Democratic states, such as Canada and Germany, have undergone approximately three UPR cycles between 2009 and 2022.¹⁷ They are among the democratic countries with a strong record of

compliance with the UPR enforcement mechanisms. For instance, Canada, in its most recent cycle in 2018, accepted over 75% of recommendations.¹⁸ They have consistently shown a strong willingness to align their national democratic values with those of the UPR.

Germany presents a similar pattern, especially regarding the advancement of political and civil rights, including freedom of expression, social welfare, and asylum policies. Germany has also undergone three UPR cycles, with its latest review held in 2021.¹⁹ In its 2021 cycle, Germany accepted nearly all the recommendations provided at the end of its review and has since demonstrated significant legislative action towards implementation.

States such as Canada and Germany operate under a system of democratic accountability towards their citizens and the international community. An international reputation can be a strong motivating factor for these countries to comply with their obligations.

Their motivation to comply with their human rights obligations is, in this sense, straightforward. It is tied to their desire to maintain legitimacy and uphold their democratic values. This contrasts with authoritarian regimes, which may prioritize regime survival and the maintenance of state sovereignty over international opinion, no matter how negative the narrative is.

North Korea, which is the main case study, exhibited this pattern. In its 2019 UPR session, it rejected approximately 130 of the 262 recommendations provided on issues of political freedoms, freedom of movement, and even the dismantling of labour camps.²⁰ Their justification for the rejection was largely centred “hostility and

¹⁴ Edward R. McMahon and Tomek Botwicz, “Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion,” 86. In *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion*, edited by Damian Etone, Amna Nazir, and Alice Storey. Abingdon: Routledge, 2024.

¹⁵ Carraro, “Promoting Compliance with Human Rights,” 1090.

¹⁶ *Ibid*, 1080.

¹⁷ United Nations Human Rights Council, “Universal Periodic Review: Canada,” *OHCHR*, accessed August 7, 2025, <https://www.ohchr.org/en/hrbodies/upr/ca-index>; “Universal Periodic Review: Germany,” *OHCHR*, 54

accessed August 7, 2025, <https://www.ohchr.org/en/hrbodies/upr/de-index>.

¹⁸ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Canada* [UN Doc. A/HRC/39/10] (New York: United Nations, 2018).

¹⁹ UN Human Rights Council. *Report of the Working Group on the Universal Periodic Review: Germany* [UN Doc A/HRC/47/6]. New York: United Nations 2021.

²⁰ Human Rights Watch, *Joint Submission for the Universal Periodic Review of the Democratic People's Republic of Korea*, accessed August 10, 2025, <https://www.hrw.org/news/2024/04/09/joint-submission-universal-periodic-review-democratic-peoples-republic-korea>.

inconsistency” of the recommendation with its National Socialist principles.²¹

These regimes are not accountable to their citizens or international actors; they have found ways to create allegiance with other authoritarian states, so that international sanctions do not significantly impact their economy.

Consider Iran as an example: Iran is subject to extensive sanctions, largely due to its nuclear program, human rights abuses, and alleged support for terrorism. To salvage the effects of these sanctions, Iran has built strong alliances with other autocratic states like China and Russia, which have provided economic and political support to the country.²² Reports show that they have received access to financial support, investment in infrastructure, and economic support through grey market channels with the assistance of their allies.²³

In other words, since the country has been able to find a sustainable means of running its economy, the principles of peer review, public pressure, and international cooperation on which the UN and the UPR mechanisms rely do not pose a strong motivating factor to provoke these states to comply. Instead of adhering to international compliance, these autocratic states devised means to evade accountability. For instance, they tend to accept broad, non-specific recommendations to create an appearance of compliance, while simultaneously rejecting recommendations for substantial policy changes. Additionally, they devise rhetoric by reframing the narrative to best suit their interests.

In stark contrast to democratic states, these states limit or resist the operation of independent civil societies in the UPR process. They would typically require only government-affiliated NGOs to submit

reports on behalf of the state, which generally distorts the review process.

The examination of the broader patterns of compliance and resistance to the UPR among democratic and authoritarian regimes in this section provides a clear case for the next section, which focuses on the unique case of North Korea regarding its limitations and challenges with the UPR and its human rights obligations.

3. CASE STUDY: EVALUATING THE EFFICACY OF THE UPR IN NORTH KOREA

North Korea, officially known as the Democratic People’s Republic of Korea, is separated from South Korea by the Korean Demilitarised Zone (DMZ) along the 38th parallel. North Korea is led by the Kim Dynasty, which began with Kim Il-sung; the leadership is currently held by Kim Jong-un, who assumed office in 2011 and has been leading for 12 years and five months as of May 2024.²⁴ The country operates under a socialist ideology, which implies that property is owned and distributed by the state based on the needs and interests of its citizens.²⁵

Michael Kirby, the chief UN investigator of North Korean rights abuses, described the human rights situation as a ‘Holocaust-type phenomenon’, comparing the violations to those perpetrated by the Nazis during the Second World War. *Choi and Howe emphasized* the fact that North Korea has consistently neglected its duties to protect or guarantee basic rights for its citizens and has equally resisted becoming an international human rights law-abiding state.²⁶

North Korea officially joined the United Nations on September 17, 1991.²⁷ As of 2019, North Korea has

²¹ *Ibid.*

²² Atlantic Council, “Global Sanctions Dashboard: How Iran Evades Sanctions and Finances Terrorist Organizations Like Hamas,” Atlantic Council, 2024, accessed September 10, 2024, <https://www.atlanticcouncil.org/blogs/econographics/global-sanctions-dashboard-how-iran-evades-sanctionsand-finance-terrorist-organizations-like-hamas/>.

²³ *Ibid.*

²⁴ BBC News, “North Korea Leader Kim Jong-il Dies: State Media,” 2011, accessed September 1, 2025, <https://www.bbc.com/news/world-asia-16239693>.

²⁵ Democratic People’s Republic of Korea, *National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1* (Geneva: United Nations Human Rights Council, 2009), <https://www.refworld.org/reference/statepartiesrep/unhrc/2008/en/59455>.

²⁶ Jina Choi and M. Brendan Howe, “United Nations Contributions to Promoting Human Rights in the DPRK: Impetus for Change,” *Asian International Studies Review* 19(2) (2018): 115.

²⁷ United Nations, *Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea*, 2014, “Admission of the Democratic People’s Republic of Korea and the Republic of

ratified five human rights treaties:²⁸ the Convention on the Rights of the Child (CRC),²⁹ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)³⁰, the Convention on the Rights of Persons with Disabilities (CRPD),³¹ the International Covenant on Civil and Political Rights (ICCPR),³² and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³³ Ratifying these treaties obliges North Korea to adopt and implement policies that promote and protect the rights outlined in each document.

Regardless of how commendable signature or ratification is, it could be, as *Geodde* puts it, “a low-cost symbolic gesture as opposed to actual implementation via domestic legislation”.³⁴ Unfortunately, this has been the reality for North Korea in the UN.

Retrospectively, North Korea’s compliance with and responsiveness to its ratified human rights treaty obligations has been consistently substandard; it has obstructed efforts by Special Rapporteurs to investigate the human rights situation in the country by refusing entry access. While North Korea has made attempts at treaty-related legal revisions, it has obstructed the monitoring mechanisms of treaty bodies and cited reports or findings as confrontational.³⁵

This disruptive behavior led to the establishment of a Commission of Inquiry (COI) in March 2013.³⁶ The COI was mandated to investigate systematic,

widespread, and grave violations of human rights in the country³⁷. It marked “a critical turning point in elevating the North Korean human rights issue into the global political arena with unprecedented gravity”.³⁸

Although North Korea rejected the mandate of the COI and abruptly ignored the invitation to participate in the investigation,³⁹ the COI still carried out extensive activities, including examining defector testimonials, remote monitoring, and more, in identifying the extent and seriousness of human rights violations in the country.⁴⁰

The results of this investigation were a 400-page comprehensive report detailing a variety of violations of basic rights, including social and economic rights to food due to the prejudiced distribution system, the right to life exacerbated by the great famine, and civil rights such as freedom of opinion, access to information, freedom of religion, and freedom of movement (citizens are unable to freely travel within and outside the country).

Additionally, the report details violations of the freedom from torture and inhumane treatment, citing that citizens are detained without a free and fair trial, tortured, and can face public execution in various detention facilities and political prison camps.⁴¹ North Korea has repeatedly disputed these claims by citing a lack of credible on-site statistics; their complete isolation and rejection of putting

Korea to Membership in the United Nations,” accessed April 25, 2024.

²⁸ Human Rights Watch, *World Report 2024: North Korea Chapter*.

²⁹ United Nations General Assembly. *Convention on the Rights of the Child*. United Nations, Treaty Series, vol. 1577, p. 3. Adopted November 20, 1989, accessed August 11, 2025. <https://www.refworld.org/legal/agreements/unga/1989/en/18815>.

³⁰ United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, United Nations, Treaty Series, vol. 1249, p. 13, adopted December 18, 1979, accessed August 11, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-againstwomen>.

³¹ United Nations General Assembly, *Convention on the Rights of Persons with Disabilities*, A/RES/61/106, adopted December 13, 2006, accessed August 11, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>.

³² United Nations General Assembly, *International Covenant on Civil and Political Rights*, United Nations, Treaty Series, vol. 999, p. 171, adopted December 16, 1966, accessed August 11, 2025, <https://www.refworld.org/docid/3ae6b3aa0.html>.

³³ United Nations General Assembly. *International Covenant on Economic, Social and Cultural Rights*. UNTS vol. 993, p. 3. Adopted December 16, 1966, accessed August 11, 2025, <https://www.refworld.org/docid/3ae6b36c0.html>.

³⁴ Patricia Goedde, “Human Rights Diffusion in North Korea: The Impact of Transnational Legal Mobilization,” *Asian Journal of Law and Society* 5(1) (2017): 6.

³⁵ *Ibid.*, 7.

³⁶ *Ibid.*

³⁷ United Nations, *Report of the Detailed Findings of the Commission of Inquiry*.

³⁸ Goedde, “Human Rights Diffusion in North Korea,” 2.

³⁹ Goedde, “Human Rights Diffusion in North Korea,” 15.

⁴⁰ Choi and Howe, “United Nations Contributions to Promoting Human Rights in the DPRK,” 5.

⁴¹ *Ibid.*, 75.

their state up for investigation solidifies their rhetorical gestures to evade accountability.

3.2. Analysis of North Korea's Response to the UPR

As of April 2024, North Korea has participated in three UPR cycles, submitting its first national report in 2009, its second in 2014, and its latest report in 2019.⁴² Chow summarized the focus of the 2009 and 2014 reports as broadly surveying the human rights regime and its policy developments.⁴³

In its 2009 national report, North Korea placed great emphasis on describing the basic principles and nationalistic values surrounding human rights, a tactic to shift the focus away from real issues surrounding the protection of human rights in the country. They essentially made it clear that there should not be a universal definition of human rights; instead, it is to be determined and guaranteed by sovereign states.⁴⁴

Aside from this, the report is equally filled with vague and ambiguous descriptions of human rights enforcement mechanisms within the country, reporting, “No person is arrested, detained, or arbitrarily deprived of life, according to the Constitution and the criminal law, unless he/she has committed a very serious crime”.⁴⁵

These so-called “very serious crimes” have been proven through stakeholders' reports to include trivial actions such as foraging for or stealing food, attempting to escape, repatriation from a neighbouring country, rioting, assaulting guards, religious worship, and criticizing the country, actions that do not warrant the death sentence.⁴⁶

During their discussions on issues of gross human rights abuses raised by key stakeholders, North Korea has deflected accountability and instead held international bodies and human rights experts

responsible, stating that their anti-DPRK resolutions were moves aimed at “divorcing the DPRK citizens from their government under the pretext of protection of human rights”.⁴⁷ Generally, the other two cycles, held in 2014 and 2019, adopted similar approaches.

For instance, regarding protecting the right to food, they stated, “Though affected by floods and typhoons, agricultural output increased year after year thanks to the nationwide efforts concentrated on farming...”.⁴⁸ Deliberately omitting information on how these foods are distributed or gaining access to them. As usual, the North Korean government mentions little to no actual progress by implementing the recommendations of previous findings and instead dwells on self-presenting North Korea as a compliant actor in the protection of rights within their jurisdiction.

However, it is inconsistent with international obligations. Key stakeholders' reports, like those from Human Rights Watch (HRW), have continuously told a different narrative than the one North Korea would wish the international community to believe. For instance, regarding the issue of inhumane treatment of individuals, it was noted that “pregnancies are generally disallowed inside prisons, and testimonies suggest that, should efforts by authorities to induce abortion not be successful, babies alive at birth are killed. Some accounts even describe prisoners being forced to kill their new-born child”.⁴⁹

The Citizens' Alliance for North Korean Human Rights (NKHR) has also reported that statutory laws preventing employment and workplace discrimination are meaningless in practice. Additionally, education and health services are so expensive that only the rich can afford such basic

⁴² United Nations Human Rights Council, *Report on the Universal Periodic Review: Democratic People's Republic of Korea*, Session 6, A/HRC/WG.6/6/PRK/1 (May 5, 2009); Session 19, A/HRC/27/15 (July 21, 2014); Session 35, A/HRC/42/8 (August 9, 2019).

⁴³ Jonathan Chow, “North Korea's Participation in the Universal Periodic Review of Human Rights,” *Australian Journal of International Affairs* 71(2) (2017): 149.

⁴⁴ United Nations Human Rights Council, “Report of the Working Group on the Universal Periodic Review: Democratic People's Republic of Korea,” submitted at its

6th Session, A/HRC/WG.6/6/PRK/1 (May 5, 2009), 4, para. 15.

⁴⁵ *Ibid*, 4, para. 15.

⁴⁶ *Ibid*, 5, para. 17.

⁴⁷ *Ibid*, p. 8, para. 36.

⁴⁸ United Nations Human Rights Council, “Report of the Working Group on the Universal Periodic Review: Democratic People's Republic of Korea,” submitted at 19th Session, A/HRC/WG.6/19/PRK/1 (May 2014), 11, para. 74.

⁴⁹ *Ibid*, p. 4, para. 36; UN Human Rights Council, “Report of the Working Group,” 4, para. 36.

rights.⁵⁰ The International Federation for Human Rights reported that “since the DPRK’s first UPR, dozens of people have been executed”.⁵¹

The judiciary was regularly bypassed, and these executions frequently occurred in an arbitrary manner, including within the DPRK’s vast prison camp framework. Both public and secret executions were carried out and the death penalty was applied to non-serious crimes and against vulnerable groups.⁵² This pattern has persisted, as a recent 2024 report by HRW reveals that North Korean citizens live in a controlled, repressive, and isolated state, due to prolonged COVID-19 measures.⁵³

Throughout their UPR participation, the pattern has been clear: North Korea considers its national sovereignty a higher priority than its international obligations. Their reductionist view is captured in its statement, “It is of the view that as human rights are guaranteed by sovereign States, any attempt to interfere in others’ internal affairs, overthrow the governments, and change the systems on the pretext of human rights issues constitutes violations of human rights”.⁵⁴ This distorted interpretation of sovereignty allows for the justification of resisting public scrutiny and rejecting the UN’s technical assistance, which has created a devastating outcome for victims of human rights abuse within the country.

Although North Korea joined the UN, acceded or ratified several international human rights documents, it appears that this was a tactic to promote its national sovereignty, create strong political alliances, and project itself on the global front, as opposed to genuine interest in moving the union’s values, as exemplified by its rhetoric and participation in the UPR process.

The general behaviour of North Korea towards the UN and the UPR process has been riddled with extreme objections and the use of false narratives to

challenge real provisions of support as a direct interference in the country’s independent affairs and an infringement against the government. Consequently, its reports were summarised on the premise that the protection and promotion of genuine human rights meant defending the country against foreign interference and achieving durable peace and stability for the state.

Nevertheless, upon closer analysis, public scrutiny and international reputation have also been motivating factors, albeit weak ones. This is because, despite their allegiance to national sovereignty over citizens’ rights, how they are perceived on a global front can also increase the amount of public pressure on the country for compliance. This is evident when North Korea accepted nearly half of its 167 UPR recommendations in its second UPR cycle after rejecting all of them in the first cycle in 2009, because the 2013 COI report detailing horrific abuses was released.

However, such performative actions can be clearly seen as a facade and a deflection through rhetorical devices, as there is no real progress or change. In a 2024 joint submission between the Transitional Justice Working Group and HRW, they noted, “Since the last UPR, the DPRK has not meaningfully engaged with any international human rights mechanisms and has adopted new repressive laws, further deteriorating the human rights conditions in the country”.⁵⁵

The case study of North Korea mirrors other authoritarian and non-compliant states, particularly regarding their motivating factors. Although each of these countries differs in its methods of non-compliance, at the core is the motivation to uphold national values and sovereignty over the protection of human rights.

⁵⁰ Marzuki Darusman, *Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea Report*, U.N. Doc. A/HRC/25/63 (February 7, 2014), 7, para. 18.

⁵¹ *Ibid.*

⁵² Darusman, *Special Rapporteur Report*, 7, para. 21.

⁵³ Human Rights Watch, *Statement at Interactive Dialogue with the Special Rapporteur on the Situation of Human Rights in Democratic Republic of the Congo*, accessed May 10, 2024, [https://www.hrw.org/news/2024/03/18/statement-](https://www.hrw.org/news/2024/03/18/statement-interactive-dialogue-special-rapporteur-situation-human-rights-democratic)

[interactive-dialogue-special-rapporteur-situation-human-rights-democratic](https://www.hrw.org/news/2024/03/18/statement-interactive-dialogue-special-rapporteur-situation-human-rights-democratic).

⁵⁴ United Nations Human Rights Council, “Report of the Working Group on the Universal Periodic Review: Democratic People’s Republic of Korea,” Session 6, A/HRC/WG.6/6/PRK/1 (May 5, 2009), para. 15.

⁵⁵ Human Rights Watch, “Joint Submission for the Universal Periodic Review of the Democratic People’s Republic of Korea,” *HRW News*, accessed August 10, 2025, <https://www.hrw.org/news/2024/04/09/jointsubmission-universal-periodic-review-democratic-peoples-republic-korea>.

This analysis demonstrates that the UPR enforcement system requires strong reforms. These reforms should be more robust and well equipped to address countries such as North Korea, which are notoriously non-compliant despite their motivating factors. The subsequent sections will highlight some criticisms of the UPR system and recommendations to improve and strengthen its effectiveness.

4. CRITIQUES OF THE UNIVERSAL PERIODIC REVIEW

The UPR has received considerable criticism regarding its operative aspects. *Noam* has argued that authoritarian regimes use the UPR not only to serve their interests but also to employ rhetorical strategies to defend, downplay, and deny any alleged violations and present themselves as human rights heroes before the UN.⁵⁶ In this section, the author discusses two criticisms: first, the lack of effective enforcement mechanisms; and second, the tendency of the UPR to serve as a hub for evading rather than advancing accountability. This is done with the aim of highlighting the shortcomings of the UPR.

4.1. Lack of Effective Enforcement Mechanisms

The OHCHR has attempted to answer the question, “What happens if a state is not cooperating with the UPR?” by stating that “in such cases, the Human Rights Council decides what measures it would employ in addressing persistent non-compliance”.⁵⁷ However, what these measures entail and what steps should be taken to protect victims of human rights abuses were not mentioned, thereby leaving the issue open to ambiguity and potential abuse.

Baek categorised the enforcement mechanisms into three approaches: “(i) *exerting pressure on target countries with gross human rights violations, including an attempt at regime change*; (ii)

providing a policy of prioritised peacebuilding followed by a gradual realisation of human rights; and (iii) adopting a parallel and concurrent approach to human rights, economic support, and peace”⁵⁸. He explained that none of these positions has clearly resolved the issue of human rights in the target countries.⁵⁹

In practice, the approach of the UPR system in human rights enforcement has primarily been non-confrontational and cooperative, involving the typical “naming and shaming” of countries with poor human rights records, dialogue and recommendations, and, in very rare cases, economic coercion⁶⁰. Unlike treaty bodies or international courts, the UPR lacks the capacity to impose sanctions or mandate binding decisions on noncompliant states. Instead, it relies heavily on states’ willingness, external persuasion, diplomatic pressure, and peer accountability in addressing noncompliance.

George and Michael have highlighted that “the impact of naming and shaming on the reputation of states is weaker than conventionally imagined in relation to compliance with international legal obligations, whether human rights-related or not”⁶¹. The rationale behind this critique is that the enforcement mechanisms are wholly dependent on the state’s goodwill and desire to participate; they are of little to no use for those who are not willing to participate.⁶²

Counter-arguments to this criticism posit that the current UPR enforcement mechanisms are the best means necessary for advancing human rights, as resorting to any other alternative, more intrusive methods would impede the state’s sovereignty and autonomy, hence hindering cooperation and progress in human rights protection. For instance, *Baek* highlighted in his article that “The protection

⁵⁶ Schimmel, “The UN Human Rights Council’s Universal Periodic Review,” 10.

⁵⁷ OHCHR, “Basic Facts About the UPR – UPR Info.”

⁵⁸ Buham Suk Baek, “Partially Right, Partially Wrong: Rethinking the Implementation of International Human Rights Law in Countries with Gross Human Rights Violations,” *Pacific Focus: Inha Journal of International Studies* 33(3) (2018): 359.

⁵⁹ *Ibid.*

⁶⁰ Domínguez-Redondo, “The Universal Periodic Review,” 675.

⁶¹ W. George Downs and Michael A. Jones, “Reputation, Compliance, and International Law,” *Journal of Legal Studies* 31 (2002): 95.

⁶² Olivier De Frouville, “Building a Universal System for the Protection of Human Rights: The Way Forward,” in *The UN Human Rights System: Case Law and Commentary*, ed. Cherif M. Bassiouni and William Schabas (Cambridge: Intersentia Publishing Ltd, 2011), 241.

and promotion of human rights can be mainly enhanced with a respect for state sovereignty”.⁶³

The present authors view the above refutation as unfounded. The emphasis of the critique is not on the mechanisms and procedures of the UPR, but on the system, structure and outcome of the mechanisms employed after each UPR cycle. While it is customary to respect state sovereignty and non-intervention, the implications and severity of human rights violations necessitate the need for stronger enforcement measures, beyond non-confrontation and co-operation.

Baek, in his article, explains that the traditional sense of state sovereignty, which is states having absolute autonomy within their internal borders, devoid of external scrutiny and interference, is gradually becoming obsolete. Such principle can be defied on strong legal grounds of gross and systematic abuses by the state concerned.⁶⁴ In other words, the protection of nationals’ basic human rights takes precedence over respecting the principle of non-intervention.

Despite claims that the UPR enforcement mechanism could pose an infringement on state sovereignty, it is undeniable that the UPR enforcement system needs to become more robust and effective in addressing human rights issues. Creating stronger mechanisms is not an impediment to state sovereignty, as some have claimed. Instead, it is, as *Nazir, Storey, and Yorke* put it, “a lens to question the legitimacy of state sovereignty through a cosmopolitan reflection.”⁶⁵

4.2. Potential for Evading Accountability

UPR is a system of interactive and constructive dialogue; hence, the likelihood that member states will excessively politicise the entire UPR process is alarmingly high. Human Rights Watch, in its report,

highlighted the fact that “*The quality of the UPR depends on critical but fair assessment by peers. In a few cases, governments have been able to avoid such critical assessments by rallying the support of friendly governments eager to praise their human rights record without devoting any attention to the shortcomings that exist regarding human rights in all states*”.⁶⁶

Terman, in her article, examined about 40,000 recommendations from the first two cycles of the UPR process. The examination tested the different aspects of political relationships between states, including formal military alliances, humanitarian aid, arms trade, and geopolitical affinity. They found strong evidence that “states spare their strategic partners in the review process, giving less severe commentary on average”.⁶⁷ Beyond rallying friends and politicizing the process, the UPR has also been criticized for being used as a rhetorical gesture to evade accountability. *Noam* expresses that some of the UPR national reports are “not detailed or data-driven, are highly selective, impressionistic, and lacking in shared standards of assessment which would enable comparative analysis.”⁶⁸

Counter-arguments to this critique posit that the fact-checking measures set in place by the UPR system mitigate the possibility of member states evading accountability. *Ramcharan* emphasises that the Council considers principles of universality, impartiality, objectivity, non-selectivity, inclusiveness, and many others when selecting its composition and members.⁶⁹

The present authors refute the above counter-argument, noting that despite the existence of fact-checkers, the UPR system is centred on the voluntariness and cooperation of member states regarding the recommendations provided. As *Baek*

⁶³ Baek, “Partially Right, Partially Wrong,” 4.

⁶⁴ Buhm Suk Baek, “Economic Sanctions Against Human Rights Violations,” in *Cornell Law School Inter-University Graduate Student Conference Papers*, 1–95 (Ithaca, NY: Cornell Law School, 2008), 3.

⁶⁵ Amna Nazir, et al., “Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion,” in *Human Rights and the UN Universal Periodic Review Mechanism*, ed. Damian Etone, 1st ed. (New York: Routledge Taylor & Francis Group, 2024), 37.

⁶⁶ Human Rights Watch, *Curing the Selectivity Syndrome: 2011 in Review of the Human Rights Council*, 7, accessed 60

September 20, 2025, <https://www.hrw.org/report/2010/06/24/curing-selectivity-syndrome/2011-review-human-rights-council>.

⁶⁷ Rochelle Terman and Erik Voeten, “The Relational Politics of Shame: Evidence from the Universal Periodic Review,” *Review of International Organizations* 13(1) (2017): 2.

⁶⁸ Schimmel, “The UN Human Rights Council’s Universal Periodic Review,” 25.

⁶⁹ Bertrand G. Ramcharan, *The Law, Policy and Politics of the UN Human Rights Council* (Leiden: Brill Nijhoff, 2015), 153.

stipulates, “in order to improve the human rights conditions in so-called rogue states, the main force should come from the inside”.⁷⁰

While the inclusion of reports from key stakeholders in the UPR process does play a significant role in reviewing states’ human rights obligations, the process is intrinsically political, with states often forming strategic alliances to advance their interests, evade accountability, and limit the advancement of human rights within their jurisdiction.

The final section of this article will examine the UPR system beyond critiques. It would analyse its effectiveness in advancing human rights protection, particularly in North Korea, a persistent non-compliant state.

5. EFFICACY OF THE UPR AND RECOMMENDATIONS FOR REFORMS

The reports analysed in this article have shown that the UPR has not effectively driven real change in North Korea. Instead, North Korea has been used by the UPR as a political means to divert focus and attention away from the documented human rights violation within its borders.

To put things into perspective, North Korea, during its first cycle, rejected 167 recommendations posed to it. However, after a report was issued by the Commission of Inquiry in 2014 on the violations in the country, it quickly announced acceptance of 121 recommendations just before the second UPR cycle in May 2014. *Chow* explains that this was done to divert attention from its human rights violations, attempt to boost its international image, advocate for the primacy of state sovereignty over universal human rights, and challenge the legitimacy of country-specific human rights mechanisms, such as the COI and Special Rapporteur.⁷¹

Recent reports from Human Rights Watch have shown that the situation in the country has only got worse, especially with the outset of COVID-19, specifically noting, “In 2023, the government continued to maintain extreme and unnecessary

measures under the pretext of protecting against the COVID-19 pandemic, with deepened isolation and repression; border, trade, and travel restrictions; and strong ideological control. Till date, it does not tolerate pluralism, and it bans independent media, civil society organizations, and trade unions.”⁷²

The present authors argue that the motives behind North Korea’s persistent practice regarding implementing the UPR recommendations are largely due to ally countries with substantial power within the UN, willing to support North Korea, and veto any detrimental resolution against them, most notably China. This argument is backed by a report by Human Rights Watch stating, “The Chinese government continued to seek to detain North Korean asylum seekers and return them to North Korea, violating China’s obligations as a state party to the UN Refugee Convention.”⁷³

5.1. Recommendations for Reforms

The above analysis underscores the urgent need for reform of the UPR enforcement mechanisms. The primary recommendation for improving the UPR system is the establishment of an independent judicial organ, the World Court of Human Rights (WCHR), specifically to challenge states’ non-compliance, render binding judicial decisions, and provide adequate reparation for victims of human rights abuses. This recommendation has equally been suggested by Nowak, who states, “by far the most effective method to implement the right to an effective remedy on the international level is to allow direct access of the rights holders to a fully independent international human rights court with the power to render binding judgments and to grant adequate reparation to the victims of human rights violations”.⁷⁴

5.1.1. Creation of an Independent Judicial Organ

The need for creating an independent judicial organ - WCHR, which would serve as a corrective measure or an equalizer to the political nature of the UN system, is increasingly imminent because it would have the jurisdiction to issue binding decisions on human rights violations and would provide a channel for states to be held accountable

⁷⁰ Baek, “Partially Right, Partially Wrong,” 359.

⁷¹ Chow, “North Korea’s Participation in the Universal Periodic Review of Human Rights,” 146.

⁷² Human Rights Watch, “North Korea Chapter.”

⁷³ *Ibid.*

⁷⁴ Manfred Nowak, “The Need for a World Court of Human Rights,” *Human Rights Law Review* 7(1) (2007): 258.

for their inactions regarding their international human rights obligations.

The importance of such a court at the UN level is underscored by its pivotal role within regional human rights systems. The European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACHR), and the African Court on Human and Peoples' Rights are courts that have the authority to issue binding decisions based on their conventions and provide direct reparation for victims.

The existing UN judicial organs: the International Court of Justice (ICJ) and the International Criminal Court (ICC) play a very limited role. They are not effective or equipped to handle the demands of the proposed WCHR.

The ICJ serves as the primary organ for adjudicating legal disputes between states, providing advisory opinions on legal questions referred to it by the union. It is mainly of an advisory nature and cannot issue binding or enforceable rulings without the consent of both parties.⁷⁵ The ICC, on the other hand, although not formally a part of the UN system, collaborates closely with it to prosecute individuals for perpetrating crimes against humanity, genocide, war crimes, and aggression, regardless of their nationality or status.⁷⁶ The court only intervenes in cases where member states are unable or unwilling to prosecute offenders.⁷⁷ This makes both courts very weak in holding states accountable for human rights violations.

The WCHR can address these limitations. The court would have jurisdiction over both state and non-state actors, providing a comprehensive legal framework for deciding cases involving human rights violations, including those committed by

businesses or other legal entities. This court would be equipped to issue binding decisions and enforce reparations for victims, overcoming the gaps of both the ICJ and ICC.

5.1.2. Theoretical Framework of the World Court of Human Rights (WCHR)

The theoretical framework of the WCHR requires careful consideration, as various elements must align for effective functioning within the UN human rights system. The court must have a strong legal foundation, institutional independence, and strong enforcement mechanisms to ensure compliance, particularly from non-cooperative states.

Several Human Rights Law scholars and the authors of the Draft Consolidated World Court Statutes,⁷⁸ particularly *Manfred Nowak and Julia Kozma*, support the establishment of a WCHR. Manfred Nowak and Julia Kozma are prominent authorities in human rights law, particularly in the domains of torture prevention and enforcement methods. Nowak, a former UN Special Rapporteur on Torture,⁷⁹ and Kozma, a legal expert, has worked extensively on prison monitoring and police custody reforms.⁸⁰

Their Draft Consolidated Statute advocates for a court with integrated supranational characteristics, as existing regional courts, despite differing structures and missions, provide deeper insights into the requirements, demands, and constraints needed to achieve the objectives of the court.⁸¹ The present authors agree with Nowak's recommendations in Articles 1 and 2 of the Draft Statute, proposing that the Court be established as a permanent UN institution, with binding authority on all human rights violations, complementing national human rights courts as per Article 9⁸². Article 9(1) requires

⁷⁵ International Criminal Court, *Rome Statute of the International Criminal Court*, adopted July 17, 1998, Art. 36, accessed August 9, 2025, <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>.

⁷⁶ International Criminal Court, *Rome Statute*, Art. 14-16.

⁷⁷ *Ibid.*, Art. 16.

⁷⁸ European University Institute, *Consolidated World Court Statute*, European University Institute, 2010, accessed August 9, 2025, <https://www.eui.eu/documents/departmentscentres/law/professors/scheinin/consolidatedworldcourtstatute.pdf>.

⁷⁹ Czech Centre for Human Rights and Democracy, *Interview with Professor Manfred Nowak, The World Court of Human Rights – a proposal on the shelf, ready for use*, 62

March 2016, accessed August 15, 2024, <https://www.humanrightscentre.org/blog/interview-professor-manfred-nowak-world-court-human-rights-proposal-shelf-ready-use-2016>.

⁸⁰ Julia Kozma, *Biographical Data Form of Candidates to the Subcommittee on Prevention of Torture (SPT)*, 2022, accessed February 10, 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/spt-opcat/elections2022/2022-08-26/kozma.pdf>.

⁸¹ European University Institute, *Consolidated World Court Statute*.

⁸² Manfred Nowak and Julia Kozma, *Draft Statute of the World Court of Human Rights*, 2009, arts. 1–2, accessed September 22, 2025, <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e3863.013.3863/law-mpeipro-e3863>.

member states to establish national human rights courts within one year of ratifying the statute, providing domestic remedies for human rights violations.⁸³

However, the present authors disagree with the one-year requirement for the establishment of the Court as announced in Draft Article 9, considering it extremely impractical and idealistic, especially for states with limited resources and unstable judicial systems. Authoritarian states, which are often uncooperative with UN mechanisms, may resist the statute in its entirety. Historically, it took nine years to fully establish the European Court of Human Rights (ECtHR) after the signing of the ECHR⁸⁴. Expecting member states to establish the Court within a year would create more discussions and disagreements, and would lack providing states the opportunity to create and conduct the necessary national preparatory process. Even if the Court were established in a year, the rush to establish, and possible shortcomings, may result in public opinion undermining the credibility and effectiveness of the courts at the national and international levels.

The present authors recommends that the WCHR apply the principle of subsidiarity, collaborating closely with existing national judicial organs. As the primary enforcers of human rights obligations, member states should receive support and oversight from the WCHR to ensure domestic compliance. The WCHR should have broad jurisdiction to address human rights abuses, including cases involving direct victims, groups, states, multinational corporations, and international organizations, and the authority to compel states to provide adequate reparation for the harm suffered. Due to its complementary nature, the Court can only hear cases after the exhaustion of all domestic remedies, and its admissibility criteria would be assessed based on timelines and compatibility with the relevant human rights treaties.

It is also important to note that the jurisdiction of the WCHR falls within the scope of already existing

human rights treaties that have been ratified by member states. For new treaties upon creation or ratification, they are not automatically included in the jurisdiction of the court, as is the practice under international law with the International Court of Justice (ICJ).⁸⁵ The ICJ does not automatically assume jurisdiction over new treaties; its jurisdiction is mostly dependent on whether or not the states involved have consented to the court's authority, either explicitly within the clauses themselves or through declarations from the member states designating the ICJ as the means for dispute resolution. This would equally be the case for the WCHR.

However, even if there is an explicit clause in the new treaty conferring jurisdiction on the WCHR, it would only be effective if the states involved provided consent or declarations. Conversely, the WCHR could adopt a similar framework to the ICJ's Optional Clause under Article 36 of its Statute, which would allow member states to voluntarily consent to the Court's jurisdiction, thereby enabling states to accept the jurisdiction over disagreements resulting from human rights abuses or new treaties.

Article 5 of the Draft Consolidated Statute highlights the Court's structure as consisting of twenty-one judges who are citizens of parties to the present Statute. These judges are to be elected in their individual capacity, and the Court's structure shall be categorized into chambers and committees for different case types and caseloads. These judges must have the highest moral authority, impartiality, and integrity, with full competence in the field of human rights. They must act independently without allegiance to any of their own or other countries.⁸⁶

The present authors agree with the assessment criteria for judges but disagrees with having only twenty-one judges. The WCHR is of a universal nature and represents the interests of all individuals regardless of nationality; this should be reflected in the composition of the court. Limiting the number of judges to twenty-one may lead to marginalization

⁸³ *Ibid.*, art.9(1).

⁸⁴ The Convention for the Protection of Human Rights and Fundamental Freedoms, November 4, 1950. *Council of Europe* (Accessed May 20, 2025). <https://www.coe.int/en/web/human-rights-convention/the-convention-in-1950#:~:text=The%20Convention%20for%20the%20Protection,for ce%20on%203%20September%201953.>

⁸⁵ International Court of Justice, *The Statute of the International Court of Justice*, 1945, Art. 36, accessed August 20, 2025, <https://www.icj-cij.org/en/statute>.

⁸⁶ Nowak and Kozma, *Draft Statute*, arts. 5.

and fail to represent the diverse legal traditions and regional representation necessary for a global institution. The UN General Assembly, in its resolution A/RES/51/210, emphasizes the importance of inclusivity and global diversity.⁸⁷

The present authors suggests that WCHR should have 30 to 35 judges, allowing for more specialized chambers to handle complex human rights cases and ensuring balanced geographic representation. This suggestion aligns with the composition of the UN judicial organs, such as the ICJ, which has approximately 15 judges despite its streamlined focus on interstate disputes. In contrast, the ICC has about 21 judges, despite its focus on prosecuting individuals for their gross human rights abuses⁸⁸. Expanding the WCHR bench is crucial for effectively meeting its objectives.

The key question regarding the WCHR theoretical framework centres on whether it should be established as a direct mandate under the UN Charter or as a sub-institution of the Human Rights Council. If it were a subsidiary of the Human Rights Council, there would be a high tendency for the Court to be influenced by the political agenda of the UN member states, which would make it difficult for the Court to operate impartially and independently on human rights cases.⁸⁹ For the WCHR to be effective, it needs to be shielded from fulfilling state interests and any types of political interference, whether on a personal or institutional level.

Hence, the present authors recommends that this body, similar to the ICJ, be recognized as a principal judicial organ, deriving its authority directly from the UN Charter. To formally include this new body, the UN Charter must undergo the formal amendment process outlined in Article 108.⁹⁰ With such an amendment, the WCHR would be granted full institutional power and authority. Any other

method, such as creation by the General Assembly under Article 22,⁹¹ would establish a subsidiary body, which would not have the same legal standing or influence. If the UN Charter remains unamendable, alternative articles may nonetheless furnish a legal foundation for the creation and enhancement of the WCHR.

Article 13 of the UN Charter⁹² empowers the General Assembly to commence studies and recommend proposals for the advancement of international law and human rights. This could serve as the basis for advocating the establishment of the WCHR. Furthermore, Article 62 authorizes the Economic and Social Council (ECOSOC)⁹³ to provide recommendations and advocate for human rights, facilitating the establishment of the WCHR as a significant body within the UN framework.

The WCHR, being established as a primary institution, would not only enhance its legitimacy but also grant it a stronger legal foundation, more autonomy, and clearer authority. Most of its decisions would carry significant weight in the international community, making the court one of the pillars of the UN human rights system.

Article 55 of the UN Charter, which contains the promotion and protection of human rights, provides the basis for the establishment of this Court⁹⁴. This approach would ensure that the Court would have a universal legal standing and a legal basis that protects it from political pressures.

The primary feature of this proposed court would be its enforcement mechanisms. A major challenge with enforcing international law judgments is the absence of coercive power found in national legal systems. Since the Court's decisions would be binding and final, to ensure execution of the judgments, *Nowak* suggests transferring the supervision of the execution of all judgments to the UN High Commissioner of Human Rights

⁸⁷ United Nations General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, UNTS vol. 660, p. 195, adopted December 21, 1965, accessed August 11, 2025, <https://www.refworld.org/legal/agreements/unga/1965/en/13974>.

⁸⁸ International Criminal Court, "Members of the Court," *Understanding the International Criminal Court*, accessed November 11, 2024, <https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>.

⁸⁹ Lise S. Zuercher, *The Nature of Power and Influence at the Human Rights Council: A Membership Network*

Analysis, Universal Rights Group, 2020, accessed May 19, 2025, <https://universal-rights.org/publications/the-nature-of-power-and-influence-at-the-human-rights-council/>.

⁹⁰ UN, *Charter of the United Nations*. art. 108.

⁹¹ *Ibid*, art. 22.

⁹² *Ibid*, art. 13.

⁹³ *Ibid*, art. 62.

⁹⁴ *Ibid*, art. 55.

(OHCHR). He specifically asserts the following in Article 17 of the Draft Statute:

“Any judgment of the Court shall be transmitted to the UN High Commissioner for Human Rights who shall supervise its execution. The States Parties, other respondent parties, and the applicants shall report to the High Commissioner all measures taken to comply with the judgment and enforce its execution. If the High Commissioner concludes that any State Party or other respondent party fails to abide by or enforce any judgment of the Court, it shall seize the Human Rights Council or, in appropriate cases, the Security Council with a request to take the necessary measures to enforce the judgment.”⁹⁵

The present authors agree that entrusting the OHCHR with executing the court’s judgments ensures that there is a supervisory authority to oversee implementation among member states. It integrates existing enforcement mechanisms into the court’s jurisdiction. This approach mirrors that of the ECtHR, which has the Committee of Ministers to enforce its judgments. However, the reliance on the Human Rights Council and Security Council as final arbiters for non-compliant states introduces complications. Both bodies are criticized for being politicized. The Security Council’s permanent members have veto powers, allowing them to block enforcement actions that conflict with their geopolitical interests. For WCHR enforcement mechanisms to be more effective, there must be impartiality, enhanced neutrality, and accountability.

The present authors recommend establishing an independent enforcement committee within the WCHR framework. This committee would collaborate with the OHCHR, the Security Council, and the Human Rights Council, but would operate independently. Its sole mandate would be to implement the court’s decisions by monitoring and overseeing compliance. Composed of independent experts from each member state and civil societies, this approach could strengthen the court’s effectiveness.

To this end, the present authors recommend the establishment of an independent enforcement committee within the WCHR framework. This committee would be required to collaborate closely with the OHCHR, Security Council and the Human Rights Council but would operate independently of these bodies. Its mandate would be solely to implement the court’s decisions through the monitoring and overseeing compliance. They would be composed of independent experts from each member state as well as civil societies. This approach could strengthen the effectiveness of the court.

5.1.3. Challenges and Criticisms of the WCHR

Although the concept of a WCHR is invigorating, holds great potential, and has been considered a generally favourable idea by some, the major opposition to such a court largely centres around its feasibility and the pragmatic approach to implementing such a system.⁹⁶ Several criticisms highlight that such a court would face significant political resistance from member states.

Stefan Trechsel, the former president of the *European Commission on Human Rights (ECHR)*, who proposed the idea for a world court in 1993, revisited the idea in 2004 and concluded that the proposal was “neither desirable, necessary, nor probable.” His primary concern was that member states would not be willing to consent to such a court, thereby rendering it ineffective.

Additionally, *Antonio Cassese*, a key advocate for international judicial solutions to human rights challenges, also opposed the idea of a world court, describing it as naive and expendable because states would not submit their domestic relations with individuals within their territory to binding international scrutiny.⁹⁷

While the present authors acknowledge the validity of the critics’ fears that political resistance, especially from powerful sovereign states, may present a major obstacle to the creation and implementation of the WCHR. Such critiques fail to consider the evolving nature of state behaviour in global cooperation. It has been seen through several

⁹⁵ Nowak and Kozma, *Draft Statute*, arts. 17.

⁹⁶ Philip Alston, “Against a World Court for Human Rights,” NYU School of Law, Public Law Research Paper No. 13-71 (2014), 18, <https://ssrn.com/abstract=2344333>.

⁹⁷ *Ibid.*

international agreements and organizations that states can be incentivized to adopt binding frameworks when diplomatic pressure and economic incentives align.

For instance, the Paris Agreement on Climate Change demonstrates how states, despite having different interests, can cooperatively commit to addressing global challenges. Although the issues of climate change and human rights abuses differ, at their core, international cooperation is attainable through persistent diplomacy, incentives, and the creation of global frameworks that balance state sovereignty with international accountability.

Additionally, the creation of the ECtHR and the ICC suggests that states can concede their sovereignty and submit their citizens to international judicial oversight, even on sensitive national issues. There is now a modern shift in the paradigm of state sovereignty in the international legal order, whereby the protection and guaranteeing of the basic and fundamental rights of individuals takes precedence over state sovereignty. Louis Henkin explains that sovereignty is not a shield for human rights violations.⁹⁸ In other words, although political resistance is a tangible fear or obstacle, it can be mitigated through the incorporation of multi-tiered compliance incentives. This could include both positive and negative incentives.

Research by Harold Koh has shown that states are more inclined to comply with international law if it occurs through the “internationalisation of norms” rather than through direct coercion.⁹⁹ To this end, WCHR should leverage existing diplomatic mechanisms and public pressure to help states properly integrate human rights norms into their legal systems. This would reduce the need for external interference within these states.

An obvious question regarding the above recommendation is how authoritarian states like North Korea could submit to the jurisdiction of such a court, especially given their track record of

hostility or non-compliance with international legal obligations and norms. The present authors recommends that the WCHR adopt a phased integration strategy to address this issue.

This strategy implies that states would be required to gradually submit to the jurisdiction of this court; it should not be imposed outright. The consensus can begin with more cooperative states, and over time, more states would accede to the court's jurisdiction. This same approach was adopted by the ECtHR, which drastically reduced political resistance while building a broader consensus on the enforcement of human rights obligations. Over time, authoritarian states like North Korea may increasingly see compliance not as a loss of sovereignty, but as an alignment with global norms that enhance their diplomatic standing and domestic governance.

5.2. Potential Implications

Without establishing a robust accountability mechanism for the protection of human rights, humanitarian crises can be exacerbated, affecting large numbers of individuals. Also, humanitarian organizations may be unable to access or provide the necessary technical support for victims. Considering North Korea, reports indicate that citizens have continually experienced extreme food shortages, with about 72% of defectors claiming never to have received any government food rations as of 2016 or 2020.¹⁰⁰

Furthermore, there is an increased likelihood of continued violations of human rights, without a judicial organ dedicated to keeping member states directly accountable for their human rights obligations, perpetrators are indirectly encouraged to continue aggression and abuse against citizens, which in turn, creates suffering and unbearable conditions for victims. Above all, there is a risk of undermining international mechanisms. When systematic violations of human rights go unaddressed, it creates scepticism about the

⁹⁸ Louis Henkin, “Human Rights and State ‘Sovereignty,’” *Georgia Journal of International and Comparative Law* 25(1) (1996): 43.

⁹⁹ Harold Hongju Koh, “Why Do Nations Obey International Law?” *Yale Law Journal* 106(8) (1997): 2602, accessed August 10, 2025, https://openyls.law.yale.edu/bitstream/handle/20.500.13051/1394/Why_Do_the_Nation_s.pdf.

¹⁰⁰ Hyonhee Shin, “North Korea Defectors Cite Dwindling Food Rations, Market Reliance: Study,” *Reuters*, August 9, 2025, <https://www.reuters.com/world/asia-pacific/north-korea-defectors-cite-dwindling-food-rations-market-reliance-study-2020206/#:~:text=North%20Korea%20has%20faced%20serious,border%20trade%20during%20the%20pandemic>.

credibility of these mechanisms and could potentially weaken the collective resolve to uphold human rights.

6. CONCLUSION

This article has thoroughly examined the UPR as a crucial human rights enforcement mechanism. It has illuminated both the strengths and weaknesses of the UPR, especially within its capacity for driving tangible improvements to the protection of human rights in authoritarian countries like North Korea.

While the UPR exhibits commendable and praiseworthy aspects such as providing a universal interactive platform for discussing human rights records within the borders of member states and serving as a medium for holding states accountable to their obligations, it has also been questioned how much change its mechanism proffers within member states. The limitations of solely relying on diplomatic pressure and voluntary compliance, especially in authoritarian states like North Korea, were also emphasized.

Going back to the research questions, the depth of analysis in this article has procured answers to the negative. It has shown that in countries like North Korea, known for their persistent non-compliance and poor records of human rights abuses, the UPR has largely been ineffective in driving tangible progress. The implication of this is that innocent victims continue to suffer at the hands of their government.

North Korea is part of a broader problem of non-compliance. The need for reform remains both urgent and indispensable in modern practice, and the present article tries to highlight a major recommendation: the creation of an independent judicial body, a body that would not only be responsible for legally enforcing states' compliance with their human rights obligations but would guarantee that individuals, regardless of nationality, can get adequate reparations for harm suffered or for the abuse of their basic human rights. As explained in this article, the practical implementation of such an institution may be challenging and time-consuming, but it is not impractical and can be achieved with adequate planning and strategizing.

The hallmark of this analysis is to create more awareness of a significant problem in the discourse of international human rights law. Besides rhetoric, dialogue, interactive forums, and international pressure, and diplomatic sanctions, there is a need for more robust and tangible measures to be set in place to protect the innocent, weak, and vulnerable from unjust interference with their basic rights. Every human, regardless of nationality, should be considered the responsibility of the international community, in addition to their domestic state. Although it may be impractical to expect a complete eradication of human rights abuses in all countries, there needs to be such eradication of gross and systematic abuses as those described in this article.

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