

## Democratic People's Republic of Korea

Five years since the UN commission of inquiry on human rights in the DPRK, no meaningful progress has been made in addressing ongoing violations that could amount to crimes against humanity, including: murder, imprisonment, enslavement, torture, enforced disappearances, sexual violence, forced abortions, deliberate starvation, and persecution.

On 9 May, the UN Human Rights Council discussed the DPRK's third cycle of the Universal Periodic Review process. In remarks at the meeting, a representative of Pyongyang rebutted concerns raised over serious human rights abuses linked to its use of political prison camps by stating that "there is no such thing as a political prisoner, or a political prison camp, in the vocabulary of the criminal law and criminal procedure law of the DPRK".<sup>1</sup> These remarks only serve to draw attention to the acute need for legal reform in the DPRK, particularly in relation to the criminal code.

The critical importance of legal reform pertains not only to ending the widespread and systematic abuse of political prisoners, but extends to broader, everyday violations of the basic subsistence and livelihood rights of DPRK citizens. At the end of May, the UN Office of the High Commissioner for Human Rights (OHCHR) issued a report documenting cycles of human rights violations stemming from Pyongyang's failure to uphold the right to an adequate standard of living for its population.<sup>2</sup> The collapse of the public distribution system in the mid-1990s has forced people to "eke out a living in a legally precarious parallel economy", where they are "exposed to arbitrary arrest, detention and extortion".<sup>3</sup>

Highlighting the "vicious cycle of deprivation, corruption and repression" this situation presents, the OHCHR called on DPRK authorities to undertake major reforms of the criminal code to end prosecutions of people involved in informal market activities and to uphold the right to freedom of movement within the country and across its borders. The UN assessed that legal reform measures could help to establish a legitimate private sector and combat the endemic system of corruption and bribery that undercuts DPRK citizens' right to shelter, food, health and work. As UN High Commissioner for Human Rights Michelle Bachelet remarked, "People must not be arrested, detained, prosecuted or subjected to extortion simply for trying to acquire an adequate standard of living...Addressing these issues could open a path to tackling the wider range of human rights concerns that exist in the DPRK today".<sup>4</sup>

The pressing need for the DPRK undertake legislative reforms to establish the rule of law with due process and fair trials was also reinforced by the release of a report in early June by the Seoul-based Transitional Justice Working Group. Drawing on over four years of research and interviews with more than 600 DPRK escapees, the report documented 323 sites of summary or public executions and extrajudicial killings in state custody—a practice that is reported to continue under Kim Jong-un.<sup>5</sup>

---

<sup>1</sup> 'During periodic UN rights council review, North Korea denies political prison camps exist', *The Japan Times*, 10 May 2019, <https://www.japantimes.co.jp/news/2019/05/10/asia-pacific/periodic-u-n-rights-council-review-north-korea-denies-political-prison-camps-exist/#.XQsSDC17Hq0>

<sup>2</sup> "The Price is Rights: The Violation of the Right to an Adequate Standard of Living in the Democratic People's Republic of Korea", (Geneva: Office of the High Commissioner for Human Rights, May 2019), [https://www.ohchr.org/Documents/Countries/KP/ThePriceIsRights\\_EN.pdf](https://www.ohchr.org/Documents/Countries/KP/ThePriceIsRights_EN.pdf)

<sup>3</sup> "People in North Korea trapped in vicious cycle of deprivation, corruption and repression", (Geneva: Office of the High Commissioner for Human Rights, 28 May 2019), <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=24651&LangID=E>

<sup>4</sup> Ibid.

<sup>5</sup> "Mapping the Fate of the Dead: Killings and Burials in North Korea" (Seoul: Transitional Justice Working Group, 2019).

Beyond the grave impact on family members and individuals who witness the killings, the report assessed that state-sanctioned killings have a chilling psychological and socio-cultural impact at the community level and are “deliberately designed to consolidate the regime’s control over the behaviour of citizens”.<sup>6</sup>

The plight of DPRK citizens in China remains a serious concern. A report issued in May by the UK-based Korea Future Initiative documented patterns of sexual and gender based violence (SGBV) against DPRK women and girls in China, including “systematic rape, sex trafficking, sexual slavery, sexual abuse, prostitution, cybersex trafficking, forced marriage and forced pregnancy”.<sup>7</sup> The report raised alarms that “urgent and immediate” action is required to save the lives of potentially thousands of DPRK women and girls who are presently at risk of sexual violence and exploitation in China.

The priority emergency protection measure is for China to recognise DPRK citizens as refugees *sur place* and grant access and support to them.<sup>8</sup> The urgency for raising this issue with Chinese authorities is compounded by recent reports by family members and activist groups that China is holding at least 30 DPRK citizens in detention after a series of raids on safe houses since mid-April.<sup>9</sup> The raids exacerbate concerns that China may be upscaling arrests in an effort to disrupt the informal ‘underground railroad’ network assisting DPRK escapees.<sup>10</sup>

Although the UN OHCHR office in Seoul continues to pursue accountability for alleged crimes against humanity, there have been no apparent high-level, concrete efforts to raise human rights concerns with DPRK authorities in recent months. Since early May, attention has focused on Pyongyang’s most recent short-range ballistic missile tests, which was in contravention of UN sanctions.

From 17-21 June, the UN Special Rapporteur on the human rights situation in DPRK, Tomás Ojea Quintana, visited South Korea to meet with senior representatives of the South Korean government, DPRK escapees, and civil society organisations to receive information on the human rights situation in the DPRK. Despite repeated requests, Pyongyang continues to deny Ojea Quintana access to the country.

### Recommendations

#### The government of the DPRK should:

1. Immediately cease the commission of crimes against humanity.
2. Revise the criminal code to recognise legitimate market activities, respect the freedom of movement, and uphold due process and fair trial rights.
3. Engage constructively with the UN Office of the High Commissioner for Human Rights (OHCHR), the Special Rapporteur and the OHCHR field office in Seoul to develop plans to faithfully implement human rights treaty obligations as well as the universal periodic review recommendations.

---

<sup>6</sup> Ibid, p.51.

<sup>7</sup> Yoon Hee-soon, *Sex Slaves: The Prostitution, Cybersex & Forced Marriage of North Korean Women & Girls in China* (New Malden: Korea Future Initiative, May 2019). <https://www.koreafuture.org/report/sex-slaves>

<sup>8</sup> Ibid.

<sup>9</sup> Josh Smith and Joyce Lee, ‘Chinese raid target ‘Underground Railroad’ of North Korean defectors’, *The Japan Times*, 18 June 2019, <https://www.japantimes.co.jp/news/2019/06/18/asia-pacific/chinese-raids-hit-north-korean-defectors-underground-railroad/#.XQrspdMza9Y>

<sup>10</sup> Josh Smith and Joyce Lee, ‘Chinese raid target ‘Underground Railroad’ of North Korean defectors’, *The Japan Times*, 18 June 2019, <https://www.japantimes.co.jp/news/2019/06/18/asia-pacific/chinese-raids-hit-north-korean-defectors-underground-railroad/#.XQrspdMza9Y>

4. Engage in bilateral and regional human rights dialogue.

### **Regional actors should:**

1. Reaffirm that the DPRK has a Responsibility to Protect its population from atrocity crimes, and actively affirm that addressing widespread and systematic human rights violations in the DPRK is central to achieving stability on the Korean peninsula.
2. As a condition for sanctions relief, the US, ROK, China and Russia should encourage DPRK authorities to: grant free and unimpeded access to the UN country team, cooperate with the OHCHR, to invite special procedure mandate holders for country visits, and to engage in parallel human rights dialogue alongside peace and denuclearisation talks.
3. Welcome discussion of human rights accountability in the DPRK in regional dialogue platforms and support continued consultation and information gathering.
4. China should recognise DPRK citizens in China as refugee *sur place*, respect the principle of non-refoulment, and adopt measures to protect the rights of DPRK citizens residing in or transiting through China, particularly women and girls who are systematically subjected to sexual violence, exploitation and abuse.

### **The international community should:**

1. Follow through on DPRK's recent third cycle of the universal periodic review by urging the DPRK to accept and implement recommendations.
2. Address grave human rights violations in the DPRK in a coordinated and unified manner. Specifically:
  - The Human Rights Council should continue to support the Special Rapporteur and implement the recommendations of the group of independent experts on accountability to secure truth and justice for victims of crimes against humanity in the DPRK.
  - The OHCHR, including the field office in Seoul, should closely monitor human rights in the DPRK and investigate unresolved human rights issues.
  - The General Assembly should continue to maintain visibility of the human rights situation and call for accountability in the DPRK.
  - The Security Council should hold regular briefings on the issue with the participation of the UN High Commissioner for Human Rights, Special Rapporteur and other relevant experts.
  - Donor states should increase humanitarian funding for the DPRK as requested by the UN Emergency Relief Coordinator.
3. Civil Society actors should continue to raise awareness and visibility of the human rights situation, including supporting (1) reform of the criminal code and (2) efforts to map suspected perpetrators of serious crimes and the related chain of command structure in the DPRK.