

Democratic People's Republic of Korea

In his March 9 report to the UN Human Rights Council, the UN Special Rapporteur on the situation of human rights in the DPRK, Tomás Ojea Quintana, conveyed that there has been no meaningful improvement and the situation “continues to be extremely serious”.ⁱ According to the 2014 report of the Commission of Inquiry (COI), serious human rights violations that could amount to crimes against humanity include murder, imprisonment, enslavement, torture, enforced disappearances, sexual violence, forced abortions, deliberate starvation, and persecution.

Although the UN OHCHR office in Seoul continues to pursue accountability for alleged crimes against humanity, support appears to be waning within the UN to pressure the DPRK to reconsider its repressive policies. The US failed to garner support for the UN Security Council to hold a formal debate on the human rights situation in the DPRK in December 2018, which it has done every year since the release of the 2014 COI report.ⁱⁱ For the first time in 11 years, in early March Japan decided not to join the European Union in sponsoring a draft Human Rights Council resolution condemning DPRK human rights abuses. This departs from Japan's position as recently as 17 December 2018, when the General Assembly passed a resolution co-sponsored by Japan and the European Union that condemned the DPRK's “long-standing and ongoing systematic, widespread and gross violations of human rights”, and encouraged the UN Security Council to consider referring the situation to the International Criminal Court.ⁱⁱⁱ

Late last year, the DPRK vehemently denounced condemnatory resolutions passed by the UN General Assembly, which Pyongyang characterised as “hostile” resolutions that instigate “confrontation” when “the atmosphere of reconciliation and cooperation is prevailing on the Korean peninsula”.^{iv} In this regard, Japan's decision to refrain from sponsoring a 2019 Human Rights Council resolution on the DPRK appears to be a “conciliatory gesture”, and an attempt to prompt Pyongyang to resume bilateral talks with Tokyo on the past abductions of Japanese nationals.^v The DPRK cancelled these talks, which were negotiated under the May 2014 Japan-North Korea ‘Stockholm Agreement’, in protest of sanctions Japan applied following Pyongyang's nuclear and long-range missile tests in early 2016.

It is too early to assess whether Japan's decision to refrain from sponsoring a human rights resolution at the UN can yield practical results in addressing the issue of past abductions of Japanese nationals. However, there are risks that it, along with the absence of UN Security Council discussion on the matter, sends the message to Pyongyang that human rights accountability can be bargained away, and is a low international priority. Recall that in 2014, the DPRK invited the former UN Special Rapporteur on the DPRK human rights situation, Marzuki Darusman, to undertake a “full-fledged country visit” in exchange for removing two paragraphs from the 2014 UN General Assembly resolution that called for accountability and a referral to the ICC.^{vi} In response, Marzuki Darusman sent a strong message that accountability is paramount, and that the DPRK should issue such an invitation to UN mandate holders without any preconditions and irrespective of General Assembly resolution.^{vii} Perceptions that the international community now has less resolve to address the dire human rights situation in the DPRK than it did in 2014 are reinforced by the fact that there have been no apparent efforts to raise human rights concerns in high-level denuclearization talks over the past year, including during the recent US-DPRK summit in Vietnam.^{viii} The failure of the US or ROK to initiate any discussion on human rights undercuts the rationale for more conciliatory approaches in the UN, as there is little evidence to suggest that the human right situation will improve through bilateral engagement as multilateral pressure eases.

Although human rights groups have raised concerns that the international community is failing to maintain pressure on the DPRK, Japan's new approach to addressing the past abductions is likely

welcomed by China, which has repeatedly resisted UN condemnation of the human rights situation in the DPRK on the basis that human rights issues are best resolved through dialogue and consultation. Yet, Beijing has done little to demonstrate the merits of the “non-confrontational” approach China advocates. In this regard, China could play a pivotal role in easing concerns that reduced pressure from UN bodies gives Pyongyang no incentive to ease repression. As the UN Special Rapporteur has noted, one practical measure would be for China to propose a high-level bilateral dialogue with the DPRK on protecting the rights of DPRK citizens transiting through or living in China, which should also focus on adopting a victim-centred approach to tackling human trafficking.^{ix} This dialogue should be aimed at adopting a formal protection policy and legal framework that addresses long running concerns over China’s repatriation of DPRK nationals, who are reportedly sent to prisons or labour camps, where they face grave risk of further human rights violations, including sexual violence.^x Along with this dialogue, China should also grant the UNHCR access to areas and persons of concern, whom the Special Rapporteur has argued should be considered refugees *sur place*.

Most importantly, it is the onus of DPRK authorities, who contest that UN condemnation of the human rights situation is inappropriate at a time of “reconciliation and cooperation”, to demonstrate good faith commitment to cooperation in the field of human rights. A test of Pyongyang’s commitment to constructive engagement will be its upcoming third cycle of the universal periodic review, which is scheduled for May 2019.

Recommendations

The government of the DPRK should:

1. Immediately cease the commission of crimes against humanity.
2. Address the pervasive culture of impunity by holding perpetrators to account in accordance with due process and the rule of law.
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 that were accepted by the DPRK in 2014. The DPRK should engage with the OHCHR prior to May 2019, when it will undergo its third cycle of the Universal Periodic Review.
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 respect the principle of non-refoulement, adopt measures to protect the rights of DPRK citizens residing in or transiting through China, and adopt measures to protect victims of trafficking in China.

The international community should:

1. Use the upcoming third cycle of the universal periodic review, in May 2019, as an opportunity to urge the DPRK to implement the recommendations accepted during the first and second cycles.
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 request a report from the Secretary-General assessing the impact of sanctions on the human rights and humanitarian situation 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 and advocate for accountability, including supporting efforts to map suspected perpetrators of serious crimes and the related chain of command structure in the DPRK.

ⁱ UN Document A/HRC/40/66, “Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea”, UN Human Rights Council, 8 March 2019, p.3, para. 3.

ⁱⁱ “US Scraps UN Meeting on North Korea Human Rights”, Channel News Asia, 08 December 2018, <https://www.channelnewsasia.com/news/asia/us-scraps-un-meeting-on-north-korea-human-rights-11012546>

ⁱⁱⁱ UN Document A/RES/73/180, “Situation of Human Rights in the Democratic People’s Republic of Korea”, UN General Assembly, 23 January 2019, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/180

^{iv} Edith M. Lederer, “Key UN Committee Condemns North Korea’s Rights Violations”, *Associated Press*, 16 November 2018, <https://news.yahoo.com/key-un-committee-condemns-north-koreas-rights-violations-214709844.html>

^v “Japan to Opt out of U.N. Motion Condemning North Korea’s Rights Abuses in Apparent Bid for Talks on Abductions”, *The Japan Times*, 13 March 2019, <https://www.japantimes.co.jp/news/2019/03/13/national/japan-forgo-submitting-north-korean-human-rights-motion-u-n-panel-bid-get-answers-abductions/#.XJhQQdUzaUk>

^{vi} “Statement by the United Nations Special Rapporteur on the Situation of Human Rights in the Democratic Republic of Korea at the end of his visit to the Republic of Korea from 10 to 14 November 2014, The Office of the High Commissioner for Human Right, 14 November 2014, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15293&LangID=E>

^{vii} “Statement by the United Nations Special Rapporteur on the Situation of Human Rights in the Democratic Republic of Korea at the end of his visit to the Republic of Korea from 10 to 14

November 2014, The Office of the High Commissioner for Human Rights, 14 November 2014, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15293&LangID=E>

^{viii} Joyce Lee, “Half of North Korean Defectors Suffered Violence, but Rights is Not a Top Summit Issue”, *The Japan Times*, 27 February 2019, <https://www.japantimes.co.jp/news/2019/02/27/asia-pacific/half-north-korean-defectors-suffered-violence-rights-not-top-summit-issue/#.XJhPntUzaUk>

^{ix} Op. Cit. UN Document A/HRC/40/66, p.13, para.35.

^x CEDAW/C/PRK/CO/2-4, ‘Concluding Observations on the Combined Second to Fourth Periodic Reports of the Democratic People’s Republic of Korea’, Committee on the Elimination of Discrimination Against Women, 17 November 2017, p.7, para. 27.