

Democratic People's Republic of Korea

In August 2019, the UN released the latest UN Secretary-General's report on the human rights situation in DPRK, covering the period from September 2018 to July 2019. The report noted that during that period the UN Office of the High Commissioner for Human Rights (OHCHR) had received accounts of "gross violations of the rights to life, liberty and security of the person perpetrated by officers of the security apparatus".ⁱ In particular, "arbitrary arrests, beatings, forced labour, executions and other forms of mistreatment and abuse perpetrated by officers in the detention centres and prisons of the two ministries [Ministry of State Security and Ministry of People's Security] appear to be carried out in a widespread and systematic manner".ⁱⁱ Large-scale political prison camps likewise remain a grave concern, despite Pyongyang's persistent denial that such camps exist.ⁱⁱⁱ The Secretary-General also reaffirmed that the OHCHR's analysis of information gathered since the establishment of its field office in Seoul had "confirmed the findings of the [2014] commission of inquiry that there were reasonable grounds to believe that crimes against humanity had been committed and continued to be committed in the Democratic People's Republic of Korea pursuant to policies formulated at the highest levels and implemented by local political and administrative authorities".^{iv}

DPRK citizens who cross the land border to China, the majority of whom are women, continue to face a significant risk of grave human rights violations. According to the OHCHR, DPRK women who are trafficked into China, "are sold to men or sold into sexual slavery and exploitative labour".^v The testimonies the OHCHR has heard are consistent with the findings the UK-based Korea Future Initiative, which has 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".^{vi} DPRK citizens in China also continue to be under threat of forcible repatriation, whereupon they are subjected to abuse in detention, including torture and sexual violence.^{vii} There remains an urgent need for China to recognise DPRK citizens as refugees *sur place* and grant access and support to them, in accordance with the principle of non-refoulement.

The UN has also raised concerns that DPRK citizens continue to face severe restrictions on the right to shelter, food, health and work. The Secretary-General notes that the situation "appears to be linked to the continuing mismanagement and mispending of State funds, including a continuing disproportionate amount of the country's financial and human resources being directed towards the military at the expense of the general welfare of the people".^{viii} There remains a pressing need for Pyongyang to establish a legitimate private sector and address endemic corruption and bribery, and 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. Such reforms may also increase international confidence in the system and help to stem the steady decline in humanitarian funding that has rendered humanitarian operations in the DPRK among the lowest funded UN humanitarian appeals in the world.^{ix}

In May, the DPRK underwent its third cycle of the Universal Periodic Review process. Pyongyang received 262 recommendations, and in its August 2019 position paper on the review process resolutely rejected 63 recommendations on the basis that they are "based on false information fabricated by hostile forces".^x The recommendations Pyongyang rejected outright relate to discrimination based on its *songbun* social class system, forced labour, political prison camps and torture and ill-treatment.^{xi} Pyongyang also categorically rejected all cooperation with the UN Special Rapporteur on the situation of human rights in the DPRK, and despite repeated requests, Pyongyang continues to deny Tomás Ojea Quintana access to the country.

Although the UN OHCHR office in Seoul continues to pursue accountability for crimes against humanity, there have been no apparent high-level, concrete efforts to raise human rights concerns with DPRK authorities in recent months. The recent breakdown of negotiations with the US likewise suggests there is limited progress in denuclearisation.^{xii} The breakdown of nuclear talks coupled with the DPRK's continued unwillingness to engage with the UN Special Rapporteur or grant access to special mandate holders undercuts the rationale for more conciliatory approaches in the UN. For this reason, the US and other states should again press the UN Security Council to add a discussion on the DPRK human rights situation to its agenda this year, as it did following the release of the report of the Commission of Inquiry in 2014 until abandoning the initiative in 2018.

Efforts to sustain UN Security Council attention on the peace and security challenges posed by probable crimes against humanity in the DPRK are likely to be resisted by Russia and China. China in particular has repeatedly resisted discussing the issue in the UN Security Council on the basis that it politicises the situation, and forecloses cooperative avenues for meaningfully improving human rights through dialogue and consultation. However, there is need to reinforce to China that is not enough simply to assert this position, and China should be expected to demonstrate the merits of the "non-confrontational" approach it advocates. One such measure could include Beijing following through on the UN Special Rapporteur's recommendation 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.^{xiii}

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.
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-refoulement, 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 add the situation to its 2019 agenda, and hold regular briefings on the situation 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.

ⁱ A/74/268, 'Situation of human rights in the Democratic People's Republic of Korea', Report of the United Nations Secretary-General, 2 August 2019, p.4, para.7.

ⁱⁱ Ibid., p.6, para.16.

ⁱⁱⁱ Ibid., p.6, para.19.

^{iv} Ibid. p.14, para.57.; See also A/HRC/40/36, 'Promoting accountability in the Democratic People's Republic of Korea', Report of the United Nations High Commissioner for Human Rights, 7 March 2019.

^v Op.Cit. 1, p.7, para.25

^{vi} 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>

^{vii} Op.Cit. 1, p.7, para.25

^{viii} Op.Cit.1, p.11, para.43

^{ix} Op.Cit.1, p.15, para. 59

^x A/HRC/42/10/Add.1, 'Report of the Working Group on the Universal Periodic Review, Democratic People's Republic of Korea', United Nations Human Rights Council, 28 August 2019, para 3.

^{xi} Op.Cit.1.

^{xii} David E. Sanger, 'U.S. Nuclear Talks with North Korea Break Down in Hours', *The New York Times*, 5 October 2019, <https://www.nytimes.com/2019/10/05/us/politics/trump-north-korea-nuclear.html>

^{xiii} 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.13, para.35.