

### Democratic People's Republic Korea -Very High Risk / Ongoing Atrocity Crimes

The Democratic People's Republic of Korea (DPRK) continues to perpetrate widespread crimes against humanity against its own population. Since the 2014 UN Commission of Inquiry documented observations of extensive human rights violations by the Kim regime, these violations have continued to occur despite efforts by member states of the UN and regional actors to put a stop to them.

Chronic food insecurity, restricted freedom of movement within and without the territory of the DPRK and lack of access to sufficient health care by the government continue to plague DPRK citizens. Despite recommendations from various UN entities, the DPRK continues to maintain obedience from such citizens with arbitrary detention, forced labour and execution [1], while failing to address or recognise the human rights violations within the country.

In his statement following a trip to the Republic of Korea (ROK) where he met with defectors from the DPRK as well as ROK government officials, the Special Rapporteur on human rights in the DPRK, Tomás Ojea Quintana, acknowledged the continued social and economic discrimination within the country. He expressed further concern for what was a growing disparity in living standards between residents in Pyongyang and other parts of the country.[2] The national ideology of *juche*, based initially on national self-reliance and loyalty to the state, has no real purchase outside of Pyongyang, where ordinary DPRK citizens rely on clandestine economic activities to survive.[3]

The recent reviews of submissions by the DPRK to the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women have been encouraging signs of the regime opening to the international community and mechanisms of accountability. Yet both Committees noted in their concluding observations that the DPRK had a long way to go before practical implementation of the respective Conventions can be deemed satisfactory. [4] This held true for those citizens with disabilities as well, despite the recent ratification of the Convention on the Rights of Persons with Disabilities by the DPRK. In the UN Special Rapporteur's report on the Convention, the lack of legal and policy frameworks within the DPRK prevented persons with disabilities gaining '... equal recognition as persons before the law and their access to education and work to ensure their social and economic inclusion...' [5] into wider society. Currently women and children, along with persons with disabilities, are vulnerable to the same crimes against humanity committed by the state as are other DPRK citizens, yet institutional biases and stereotypes permeating through social, legal and economic systems further discriminate against them.

Throughout 2017, human rights violations within the DPRK were committed against a backdrop of increased ballistic missile and nuclear weapon tests including the detonation of a hydrogen bomb and the establishment of intercontinental ballistic missile (ICBM) capability to threaten cities within the US. The escalation of tensions during 2017 on the Korean Peninsula and between the DPRK and the US has risen the chance of nuclear conflict on the peninsula and the subsequent chance of war crimes and further crimes against humanity. The warning by Kim Jong-un in his New Year's Day speech that the DPRK would use nuclear weapons if threatened, in particular by the US, further cast the threat of nuclear war into the new year.[6]

Yet in his speech Kim also suggested sending a delegation to the 2018 Olympic Winter Games in Pyeongchang, which subsequently occurred after discussions with ROK officials. The two Koreas marched together in the opening ceremony and proceeded to field a women's ice hockey team comprised of athletes from the two countries. Annual military exercises between the ROK and the US were postponed in order to facilitate this participation which has brought about a genuine, albeit limited, *détente* between the two Koreas. An ROK delegation has been sent to the DPRK to discuss specifics of talks between ROK president Moon Jae-in and the DPRK, which delivered a significant joint

statement.[7] In the wake of the bilateral détente, Quintana has urged the DPRK to build on the dialogue between itself and the ROK and include approaches to UN mechanisms, specifically human rights monitoring procedures.[8] In his most recent statement to the Human Rights Council, Quintana has urged the Council to ensure a focus on human rights in any future negotiations between the parties in parallel to those focusing on security issues. In particular, for the Council and UN Office of the High Commissioner for Human Rights ‘... to promote accountability for human rights violations through criminal responsibility, specifically through the implementation of the Human Rights Council resolution 34/24...’[9] in conjunction with other resolutions.

The United Nations Security Council (UNSC) imposed a new set of sanctions for the fourth time in December 2017 to augment the three rounds of sanctions previously enacted in June, August and September of that year. Resolution 2397 restricted the amount of crude oil member states could sell to the DPRK as well as industrial machinery and metals. It also expanded on bans for DPRK exports and provisions against unscrupulous maritime practices with countries in the region. Furthermore, member states were called on to repatriate DPRK workers in their states (without breaching the principles of non-refoulement) to stop funds from those workers furthering weapons programs.[10]

There is a continued need for the UN Security Council to review these existing sanctions for two reasons. First, to make sure they do not exacerbate the hardships and vulnerabilities already felt by ordinary DPRK citizens. Second, a recent UN report accusing the DPRK of making US\$200million in spite of sanctions regimes illustrates the enforcement mechanisms of the current regimes need to be re-evaluated to ensure proper adherence. The report also detailed that the DPRK provided assistance to Myanmar’s government in the use of conventional and ballistic missile weaponry.

The continued visibility of the DPRK in UN proceedings in 2017 can only help in facilitating opportunities for further diplomatic engagement with the DPRK and the expansion of talks to include human rights issues as hoped for by the Special Rapporteur.

### **Recommendations**

#### **The government of the DPRK should:**

1. Immediately cease the commission of crimes against humanity.
2. Explore further opportunities to implement the joint declaration with the ROK and engage in confidence-building with the ROK and in the wider region.
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 for technical assistance to faithfully implement human rights treaty obligations as well as the universal periodic review recommendations that were accepted by the DPRK in 2014.
4. Follow through on the September 2015 invitation from the DPRK’s Minister of Foreign Affairs to the High Commissioner for Human Rights to visit the country and respond favourably to the outstanding requests for country visits from four special procedure mandate holders, including the 2015 requests of the Working Group on Arbitrary Detention and the Working Group on Enforced and Involuntary Disappearances.
5. Initiate discussions with the International Committee of the Red Cross concerning access to detention facilities.
6. 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 that there is a collective responsibility to address widespread and systematic human rights

violations in the DPRK to live up to the responsibility to protect principle and to achieve stability on the Korean peninsula.

2. Support confidence-building and peacebuilding initiatives between the DPRK and ROK to de-escalate tensions and reduce the DPRK's international isolation.
3. Encourage DPRK authorities to cooperate with the OHCHR and to invite special procedure mandate holders for country visits.
4. Welcome discussion of human rights accountability in the DPRK in regional dialogue platforms and support continued consultation and information gathering.
5. Respect the principle of non-refoulement in regards to complying with sanctions and refrain from repatriating individuals to the DPRK where they are likely to face torture or other serious human rights violations.
6. The government of the Republic of Korea should place human rights high on the dialogue agenda with the DPRK.

### The international community should:

1. Support the ROK and DPRK in initiatives to build confidence between the two countries.
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 should closely monitor human rights in the DPRK; investigate unresolved human rights issues including the practice of sending workers abroad in conditions of forced labour; prepare to provide technical assistance and deepen its support for the UN's engagement.
  - 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.
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.

### References

- 1 Human Rights Watch (HRW), 2018. *North Korea Report 2018: Events of 2017*. Accessed 19 February 2018. Available at: <https://www.hrw.org/world-report/2018/country-chapters/north-korea>
- 2 Quintana, Tomás Ojea, 2017. *Press Statement by the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea*. Accessed 19 February 2018. Available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22540&LangID=E>
- 3 Ibid. See also: Dukalskis, Alexander, 2016. 'North Korea's Shadow Economy: A Force for Authoritarian Resilience or Corrosion?' *Europe-Asia Studies*. 68(3) p. 488; Weismann, Mikael and Hagström, Linus, 2016. 'Sanctions Reconsidered: the Path Forward with North Korea'. *The Washington Quarterly*. Fall 2016 p. 63.
- 4 See United Nations, Committee on the Rights of the Child (CRC), Concluding observations on the fifth periodic report of the Democratic People's Republic of Korea, 23 October 2017, CRC/C/PRK/CO/5 and United Nations, Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), Concluding observations on the combined second to fourth periodic reports of the Democratic People's Republic of Korea, 22 November 2017, CEDAW/C/PRK/CO/2-4.

5 United Nations, Human Rights Council (HRC), Report of the Special Rapporteur on the rights of persons with disabilities on her visit to the Democratic People's Republic of Korea, 8 December 2017, A/HRC/37/56/Add.1 p.17.

6 Reuters, 2017. 'A Nuclear Button Is Always On My Desk.' *Kim Threatens the U.S. in a New Year's Day Speech*. Accessed 20 February 2018.

7 Al Jazeera, 2018. *South Korea envoys to visit North following Olympic détente*. Accessed 5 March 2018.

Australian Broadcasting Corporation (ABC), 2018. *Donald Trump says North Korea talks with Kim Jong-un could fail or bring 'the greatest deal for the world'*. Accessed 13 March 2018.

8 United Nations Office of the High Commissioner for Human Rights (UNOHCHR), 2018. *North Korea détente: UN expert urges opening for human rights*. Accessed 12 March 2018.

9 Quintana, Tomás Ojea, 2018. *Statement by Mr Tomás Ojea Quintana Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 37<sup>th</sup> Session of the Human Rights Council*. Accessed 13 March 2018.

10 United Nations, Security Council (UNSC), Resolution 2397 (2017), 22 December 2017, S/RES/2397/ (2017).