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ATROCITY CRIMES  
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# INTRODUCTION

Using the [UN Framework of Analysis for Atrocity Crimes](#), this report analyses the risk of atrocity crimes (genocide, war crimes, crimes against humanity and ethnic cleansing) in the Democratic People's Republic of Korea. As the Framework contends, atrocity crimes do not occur spontaneously; they are large-scale and planned events based on history and trigger incidents. The Framework forces the country analyst to take into account eight common risk factors for atrocity crimes, ranging from background conditions to motivations and capabilities of perpetrators, and trigger events. The Framework further identifies specific risk factors for genocide, war crimes and crimes against humanity. Not every risk factor has to be present to determine a significant risk of atrocity crimes.

Analysing the situation in the Democratic People's Republic of Korea, taking into consideration the common risk factors and specific risk factors for crimes against humanity, this report finds a **very high level of risk of continued atrocity crimes**.

The perpetration of crimes against humanity in the Democratic People's Republic of Korea is a daily reality for the tens of thousands of political prisoners. The deliberate policy of atrocity crimes not only serves as punishment for perceived crimes against the state, but also as a deterrent. Serious and widespread violations of human rights are committed as a deliberate state policy to maintain power in the absence of popular legitimacy (Risk Factor 4: Motives or incentives). State structures are set up to aid in the commission of atrocity crimes; the legislature, executive and judiciary are concentrated in the hands of the powerful elite and there is no separation of power (Risk Factor 3: Weakness of state structures). The leadership is not only unwilling to address a long history of human rights abuses, but actively encourages it (Risk Factor 2: Record of serious violations of international human rights and humanitarian law). The state's isolationism, characterised by a near complete absence of unilateral or multilateral engagement, in addition to a lack of independent media and civil society, means there is very little effective pressure to end the ongoing atrocities perpetrated against the population (Risk Factor 6: Absence of mitigating factors).

The report sets out recommendations for the Democratic People's Republic of Korea, regional actors and international actors to address ongoing atrocity crimes.

# MAP DEMOCRATIC PEOPLES REPUBLIC OF KOREA



Map acknowledgement United Nations Cartographic Section

## List of Terms

DPRK: Democratic People's Republic of Korea

*Juche*: WPK's nationalism, characterised by a strong isolationism and a desire for autarky and national self-determination

*Kwanliso*: Literally "management centres", *kwanliso*s are the DPRK's political prison camps (see **Indicator 2.2**)

INGO: international non-governmental organisation

*Songbun*: A state-allocated class system that divides populations across a socio-economic spectrum and determines the treatment of individuals by state structures (see **Indicator 1.9**)

*Songun*: DPRK's "military-first" policy

UN: United Nations

WPK: Worker's Party of Korea

## THE FRAMEWORK OF ANALYSIS

The Framework of Analysis is comprised of 14 Risk Factors of atrocity crimes. Each Risk Factor has an accompanying set of Indicators. Risk Factors are conditions that increase susceptibility to the commission of, or potential for, atrocity crimes. Indicators are “manifestations of each Risk Factor”. The Framework should be employed "to guide the collection and assessment of information" regarding the potential for atrocity crimes.

The Risk Factors are separated into two different groups. The Common Risk Factors do not specify crimes committed, but identify the overall potential for atrocity crime commission. For instance, weak state structures. The Specific Risk Factors are further disaggregated into the risks associated with genocide, crimes against humanity, and war crimes. The more Risk Factors and Indicators that are present, the greater degree of risk that atrocity crimes may be committed. However, not all Risk Factors must be present to represent a significant risk. The Risk Factors and Indicators are not ranked because the relative importance of each is dependent upon context. Risk Factors and Indicators should be considered in relation to a country’s politics, history, and culture.

COMMON RISK FACTORS		
Risk Factor	1	Situations of armed conflict or other forms of instability
Risk Factor	2	Record of serious violations of international human rights and humanitarian
Risk Factor	3	Weakness of State structures
Risk Factor	4	Motives or incentives
Risk Factor	5	Capacity to commit atrocity crimes
Risk Factor	6	Absence of mitigating factors
Risk Factor	7	Enabling circumstances or preparatory action
Risk Factor	8	Triggering factors
SPECIFIC RISK FACTORS		
Genocide		
Risk Factor	9	Inter group tensions or patterns of discrimination against protected groups
Risk Factor	10	Signs of an intent to destroy in whole or in part a protected group
Crimes Against Humanity		
Risk Factor	11	Signs of a widespread or systematic attack against any civilian population
Risk Factor	12	Signs of a plan or policy to attack any civilian population
War Crimes		
Risk Factor	13	Serious threats to those protected under international humanitarian law
Risk Factor	14	Serious thrests to humanitarian or peackeping operations

Each of these Risk Factors are accompanied by 6-18 more specific Indicators, which can be used to more precisely identify and analyse the risks of atrocity crimes. These Indicators and further information on the full UN Framework of Analysis for Atrocity Crimes <sup>1</sup>can be found by visiting the UN website at [www.un.org](http://www.un.org).

# COMMON RISK FACTORS

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OR OTHER FORMS OF INSTABILITY

**Risk Factor 1** relates to the conditions within a state, “situations that place a State under stress and generate an environment conducive to atrocity crimes”; these include armed conflicts or humanitarian, political and social crises. The Democratic People’s Republic of Korea (DPRK) is suffering ongoing health, economic and humanitarian crises, due to large-scale natural disasters and a massive economic downturn since the outbreak of the COVID-19 pandemic. The humanitarian crisis illustrates the leadership’s unwillingness to protect its population from harm and may exacerbate atrocity crimes as severe repression is necessary to maintain political power.

### Insecurity from Humanitarian Crisis

#### **Indicator 1.3: “Humanitarian crisis or emergency, including those caused by natural disasters or epidemics”**

Since the beginning of 2020, the DPRK has suffered a grave humanitarian crisis related to natural disasters and the COVID-19 pandemic, exacerbating severe food insecurity and poor health outcomes.

Throughout August and September 2020, heavy rains, floods and typhoons displaced tens of thousands of people and destroyed large areas of farmland.<sup>1</sup> Many who had already been unable to meet their most basic needs are now suffering from even worse humanitarian conditions. A 2019 UN food assessment concluded that 10 million people are suffering from “severe food shortages” and nearly half the population is under-nourished.<sup>2</sup> Since the beginning of 2020, the price of some food items has increased fourfold.<sup>3</sup> Many people cannot afford two meals a day and have to resort to foraging for food and medicinal herbs in the mountains or to cultivating small patches of land to survive.<sup>4</sup> Some who have become homeless may be starving.<sup>5</sup>

Today’s humanitarian crisis mirrors past famines. The deadliest famine to date occurred between 1993 and 1995, when the government-run food distribution system collapsed.<sup>6</sup> Extreme floods had destroyed the harvest and lack of international assistance led to mass starvation. The period between 1996 and 1999 was referred to as the DPRK’s “Arduous March” and saw between 450,000 and 2 million people starve to death.<sup>7</sup> Like today, effects of the food shortages were distributed unevenly among the population. Vulnerable groups residing in rural areas bore a greater burden than populations in Pyongyang and surrounding areas, where the political elite resides. Mass starvation was largely due to the leadership’s decision to restrict humanitarian organisations from areas where populations were in dire need of aid, conditions that are playing out again today (see **Indicator 6.4**).<sup>8</sup>

Food insecurity, coupled with high rates of tuberculosis and limited access to health services,<sup>9</sup> make the population vulnerable to COVID-19. The DPRK leadership has maintained that there has not been a single case of COVID-19 within its borders. While such claims are likely exaggerated, the leadership has taken extraordinary steps to avoid a large-scale epidemic within the country, knowing the fledgling health system would be unable to cope with any sizeable outbreak. Following the decision on 30 January 2020 to close its border to China, no essential supplies, including important medical personal protective equipment and vaccines, have been able to enter the DPRK.<sup>10</sup>

With the closure of the country’s borders and ongoing food shortages, the humanitarian crisis facing the DPRK is suspected of becoming worse. In early April 2021 at the closing of the Sixth Conference of Party Cell Secretaries, Kim Jong-un addressed the delegates, urging them “...to wage another more difficult ‘Arduous March’ in order to relieve our people of the difficulty...” the country finds itself in.<sup>11</sup> It is suspected that the use of the term ‘Arduous March’ in this address is alluding to future widespread food shortages and likely famine.<sup>12</sup> Following the announcement the DPRK would not participate in the Tokyo Olympics due to fears of COVID-19,<sup>13</sup> Kim Jong-un appears to be preparing the WPK to more strongly adhere to the *juche* ideology (see **Indicator 5.4**) in the face of increased isolation.

## RISK FACTOR 1: SITUATIONS OF ARMED CONFLICT OTHER FORMS OF INSTABILITY

The measures to combat COVID-19 have taken a large toll on the nation's economy (see **Indicator 1.8**), further exacerbating the dire humanitarian situation.

### Economic Instability

#### **Indicator 1.8: "Economic instability caused by severe crisis in the national economy"**

The DPRK's economy, which is centrally planned and coordinated, suffers from UN sanctions and trade restrictions and is highly reliable on its largest trading partner China.<sup>14</sup> Since 2017, the DPRK has run a trade deficit of \$2 billion each year<sup>15</sup> and its trade dependency on China increased to over 95 percent in 2019.<sup>16</sup> The impact of the increased implementation of sanctions is affecting the entire economy of the country.<sup>17</sup>

Prior to the COVID-19 pandemic, the DPRK's economy survived due to Chinese assistance, some tourism, smuggling of coal into China, as well as consumer goods, raw materials and fuel and machine parts out of China.<sup>18</sup> Even this low level of legal and illegal economic activity came to a sudden halt when the regime closed its border to China in early 2020 due to the growing COVID-19 pandemic, drastically cutting foreign currency inflows.<sup>19</sup> This has worsened an already dire humanitarian situation, in which people are starving, undernourished and forced to forage for food (see **Indicator 1.3**).

#### **Indicator 1.9: "Economic instability caused by acute poverty, mass unemployment, or deep horizontal inequalities"**

The vast majority of the population of the DPRK lives in acute poverty and the society is characterised by deep inequalities. Access to wealth, resources and services is largely dictated by the *songbun* system and a person's place of residence.

The *songbun* system classifies individuals and families into three categories of "loyal", "wavering" or "hostile" with multiple subdivisions. That *songbun* category determines a person's socio-political status. *Songbun* status is either inherited or assigned following the commission of crimes against the state. The punishment for acts against the state is meted out against all members of the family across three generations; the descendants of a perpetrator will be punished for the crimes of their forbearers. The *songbun* system results in systematic discrimination in the access to basic human rights such as food, education, healthcare or the right to choose one's profession (see **Indicator 2.1**).<sup>20</sup>

A person's place of residence is also partly determined by *songbun* status. Residents of Pyongyang and surrounds have notably better access to resources than the rural population. Disparity in living standards between Pyongyang and the rural parts of DPRK is growing.<sup>21</sup>

## RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN

**Risk Factor 2 refers to evidence of serious violations of human rights and international humanitarian law. Less severe violations of human rights can also serve as a springboard to atrocity crimes.**<sup>22</sup> In the DPRK, there is evidence of widespread and systematic violation of human rights by government authorities, as well as policies and practices that promote and encourage atrocity crimes in certain circumstances.

### Past and Present Violations of International Human Rights and Humanitarian Law

**Indicator 2.1: "Past and present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations, or individuals"**

## RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

The DPRK has a long history of serious human rights violations and abuses that continue to this day. The degree to which the population suffers from human rights abuses is partly determined by a person's socio-political status (*songbun*). Particularly grave are the violations of human rights of persons in detention, which may amount to crimes against humanity (see **Indicator 2.2**).

The following human rights violations and abuses are widespread and some form part of deliberate state policy: the rights to life, liberty and security of the person; the right to a fair trial; the right to freely choose work; the right to an adequate standard of living, including the rights to food and health; the rights to freedom of expression, thought, conscience and religion; the rights to freedom of association and peaceful assembly; the right to freedom of movement.

*Rights to life, liberty and security of the person:* Officers of the security apparatus perpetrate gross violations of the rights to life, liberty and security of the person, particularly of arrested and detained persons, who are often arrested for carrying out their most fundamental human rights.<sup>23</sup> Detainees are subjected to invasive body searches, during which some security officers perpetrate sexual violence against female detainees. Detainees are interrogated every day, sometimes up to a month or longer and are often severely beaten and abused.<sup>24</sup> In many cases, the abuses amount to ill-treatment or torture.<sup>25</sup>

*Right to a fair trial:* Persons found to have engaged in anti-State behaviour are dealt with by the Ministry of State Security, while those found to have committed ordinary crimes are dealt with by the Ministry of People's Security. The Ministry of State Security conducts the entire legal process, including sentencing, without judicial oversight. The Ministry of People's Security does not allow detainees to choose their own lawyer or to meet with them before the trial; during the trial, which often lasts less than an hour,<sup>26</sup> the lawyer is not allowed to present a defence. There are no reported committals.<sup>27</sup> The penal system is also characterised by widespread corruption (see **Indicator 3.5**).

*Right to work:* Military service is compulsory for the entire population, with the initial service set at 13 years for men and 8 for women, although it is common for the service to end early due to malnutrition.<sup>28</sup> Following school or military service, everyone, with the exception of married women, is assigned a job by the state. Conditions and treatment of workers in state-assigned jobs vary. Better jobs are usually assigned based on *songbun*, personal connections or bribes.<sup>29</sup> Wages or rations are unable to meet even the most basic needs.<sup>30</sup> The UN Special Rapporteur has stated that "some forms of labour ... may amount to forced labour".<sup>31</sup> The Global Slavery Index estimated that close to 10% of DPRK citizens live in conditions of slavery.<sup>32</sup> Controls over workers has tightened since the outbreak of COVID-19 and there has been an increase in sentencing to detention in labour training camps (*rodongdanryondae*).<sup>33</sup>

*Rights to freedom of expression, thought, conscience and religion:* The DPRK's leadership severely restricts its population's freedom of expression, thought, conscience and religion.<sup>34</sup> Severe penalties apply for voicing criticisms of the country or its leadership, and even for expressing attitudes deemed to be excessively warm towards other countries.<sup>35</sup> Exercising religion, particularly Christianity, is curtailed.<sup>36</sup> Indoctrination occurs from a young age, which hinders the development of free thought and conscience.<sup>37</sup> State propaganda permeates every aspect of life; loudspeaker systems, as well as all forms of television and radio broadcasting, constantly bombard the population with state propaganda.<sup>38</sup> The media is strictly controlled by the government (see **Indicator 6.2**).<sup>39</sup>

*Rights to freedom of association and peaceful assembly:* The state uses a "pervasive system of surveillance" on its population.<sup>40</sup> Children are taught to reveal their daily behaviour and confess misdemeanours while criticising those of other children. Children are forced to participate in mass games and propaganda events and teenagers are compelled to become members of mass organisations, thereby losing their right to freedom of

## RISK FACTOR 2: RECORD OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

association. A vast network of traditional bodies and secret informers ensure that no area of a person's life goes unchecked (see **Indicator 11.6**).<sup>41</sup>

*Right to adequate standard of living (food, water, sanitation and health):* The government is failing to uphold its obligation to ensure an adequate standard of living. A large proportion of the population is severely food insecure, lacks adequate access to clean water and sanitation, and does not have access to quality health services.<sup>42</sup> This gives rise to a humanitarian emergency, which has worsened following natural disasters and the outbreak of the COVID-19 pandemic (see **Indicator 1.3**).

*Right to freedom of movement:* Travel abroad is effectively prohibited; those who are forcibly returned from abroad face severe punishment.<sup>43</sup> Movement within the country is severely restricted with citizens required to obtain permission to travel.<sup>44</sup> The government has taken measures to stop the spread of COVID-19, which further limit the population's ability to freely move within and outside of the country, such as travel restrictions between cities and regions, as well as strict quarantine measures.<sup>45</sup>

### Record of Atrocity Crimes

#### Indicator 2.2: "Past acts of genocide, crimes against humanity, war crimes, or their incitement"

The DPRK has a record of committing atrocity crimes which continue today. Crimes against humanity committed against the population are "of a gravity rarely seen".<sup>46</sup>

Atrocity crimes go back until at least the 1950s. Between 1957 and 1960, the DPRK underwent massive purges of "class enemies", resulting in thousands of executions. The Worker's Party of Korea (WPK) instructed security forces to evaluate the political background of every adult in the DPRK for counter-revolutionary tendencies. This gave rise to the *songbun* system (see **Indicator 1.9**) and resulted in the establishment of the first political prison camps (*kwanliso*).<sup>47</sup> The purges extended to three generations of the alleged "enemy", wiping out entire groups and families.<sup>48</sup>

Credible reports confirm the continued existence of *kwanlisos*, despite government denial.<sup>49</sup> Arbitrary arrests, forced labour, executions and other forms of abuse "appear to be carried out in a widespread and systematic manner"<sup>50</sup> and may amount to crimes against humanity.<sup>51</sup> Hundreds of thousands of political prisoners are estimated to have perished in *kwanlisos* over the course of the five decades since their inception, and between 80,000 and 120,000 may still be imprisoned.<sup>52</sup>

Conditions within *kwanlisos* are extremely harsh. The use of torture and forced labour are widespread and systematic, prisoners experience inadequate nutrition and sanitation and are vulnerable to enforced disappearances.<sup>53</sup> Women and children suffer from gender-specific human rights violations, including an increased risk of sexual violence.<sup>54</sup> Inmates are often held without trial and, where used, trials are held in secret with the accused denied representation (see **Indicator 3.3**).

Children may also end up in *kwanlisos* by birth or through the system of collective responsibility (ironware) and are not spared from punishments.<sup>55</sup> Children are forced to work from the age of 5 and from the age of 15, they engage in the same working assignments as adult prisoners.<sup>56</sup> Women who become pregnant while imprisoned without authorisation are subjected to forced abortion and other punishments, which include torture and execution. Prison guards often force women into sexual relations in return for additional food and less harsh labour assignments (see **Indicator 7.9**).<sup>57</sup>

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

The DPRK has also conducted systematic and large-scale abductions of foreign nationals as state policy. Enforced disappearances mainly targeted Japanese and Chinese citizens during the 1950s, as well as between the 60s and 80s, with evidence of more recent abductions of Chinese citizens.<sup>58</sup> It is estimated that more than 200,000 people have been abducted from their countries.<sup>59</sup>

### **Impunity for Violations of Human Rights and Atrocity Crimes**

#### **Indicator 2.3: “Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement”**

The Special Rapporteur has criticised the “entrenched culture of impunity” within the DPRK. While the political leadership is responsible for meting out punishment on the entire population, it is not held accountable for any of its actions.<sup>60</sup>

The UN General Assembly has adopted resolutions expressing concern at “the failure of the [DPRK] to prosecute those responsible for human rights violations and abuses, including violations which the commission of inquiry has said may amount to crimes against humanity”, encouraging the Security Council to consider referring the situation to the International Criminal Court (ICC).<sup>61</sup>

### **Denial of Human Rights Violations and Atrocity Crimes**

#### **Indicator 2.6: “Justification, biased account or denial of serious violations of international human rights and humanitarian law or atrocity crimes”**

The DPRK denies most of the accusations of human rights violations levied against it. As a response to the Commission of Inquiry, which released its final report in 2014, the State-controlled media publicly accused the Commission of slander and claimed that witness testimonies from escaped nationals had been fabricated.<sup>62</sup> The authorities misguide the population to absolve themselves from responsibility. Food shortages, which have led to mass starvation, have been blamed on foreign powers.<sup>63</sup>

DPRK officials are given strict instructions to deny the existence of *kwanlisos*.<sup>64</sup> The camps are deliberately concealed and disguised as military facilities, and referred to with euphemisms and code names. Guards are instructed to “wipe out” all inmates to “eliminate any evidence” in case of an international conflict.<sup>65</sup>

### **Absence of Reconciliation**

#### **Indicator 2.7: “Politicization or absence of reconciliation or transitional justice processes following conflict”**

The legacy of the Korean War remains an unresolved issue. Ongoing fears of invasion and infiltration serve to justify actions against political dissidents, branded as foreign spies, and human rights violations under the guise of “protection” from foreign powers.<sup>66</sup> The Armistice Agreement of 1954, which called for three months of ceasefire, collapsed after only two months. Talks have not resumed and no comprehensive peace treaty has been signed. Tensions between North and South Korea have been constant for many decades, resulting in violence on multiple occasions. During the 1960s and 70s, 900 soldiers and civilians died as a result of near-daily exchanges of fire along the demilitarised zone.<sup>67</sup> These conditions have fostered an environment of paranoia and an over-emphasis on security within the DPRK.

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

**Risk Factor 3 describes circumstances that negatively impact the capacity of a state to prevent or halt atrocity crimes.** In the case of the DPRK, state structures themselves are the principal source of risk of atrocity crimes. State structures are centralised and far-reaching, able to monitor and manipulate the lives of the entire DPRK population. Crimes against humanity are perpetrated as state policy.

### Lack of Ample and Effective Protection

**Indicator 3.1: “National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties”**

Legislation is primarily made by the WPK and the Supreme Leader<sup>68</sup> and their decisions override any other laws.<sup>69</sup> The state and military effectively sit above the law, controlled only by the Supreme Leader. The Criminal Code is broad and vague in its definition of “crimes against the State or the people” to allow criminal prosecution for any exercise of human rights perceived as threatening to the leadership. Victims of State abuses have no means of seeking recourse through legal means.

The DPRK has ratified a number of international treaties, but their implementation remains unsatisfactory. Women,<sup>70</sup> children<sup>71</sup> and persons with disabilities<sup>72</sup> are particularly vulnerable to crimes committed against them by the State.<sup>73</sup> Treaties ratified include:

- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- Convention on the Rights of Persons with Disabilities;
- Convention on the Elimination of Discrimination Against Women (CEDAW);
- Convention on the Rights of the Child.
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The DPRK has not ratified a number of important international treaties, including:

- Rome Statute of the International Criminal Court;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- International Convention for the Protection of All Persons from Enforced Disappearance;
- International Convention on the Elimination of All Forms of Racial Discrimination ;
- Convention relating to the Status of Refugees;
- Convention relating to the Status of Stateless Persons;
- Convention against Discrimination in Education;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict;
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- Optional Protocol to the Convention on the Rights of Persons with Disabilities.

The DPRK is not a member of the International Labour Organization (ILO) and has not ratified the relevant conventions. Workers cannot freely associate, organise or bargain collectively. The only authorised trade union – the General Federation of Trade Unions of Korea – is controlled by the DPRK’s government.<sup>74</sup>

The DPRK has not established a national human rights institution in accordance with the Paris Principles.

### Lack of Independent Judiciary

**Indicator 3.3: “Lack of an independent and impartial judiciary”**

The DPRK’s judicial branch is a political tool of the state to guarantee the survival of the regime. The political leadership employs the formal appearance of the rule of law but maintains direct control over the judiciary.<sup>75</sup> The lack of an impartial judiciary severely decreases the level of protection available to the population.

## RISK FACTOR 3: WEAKNESS OF STATE STRUCTURES

The convergence of the judicial and executive branches began in 1958, when DPRK's first Supreme Leader Kim Il-sung stated that "the DPRK's laws should serve as a weapon to champion socialism" and "all workers of the judicial organs should be true to the WPK's leadership".<sup>76</sup> The political function of the judiciary is inscribed in the Constitution; Article 162 requires the courts and judges to use their constitutional prerogatives to combat class enemies and protect the socialist system.<sup>77</sup>

Although there is a formal appearance of impartiality in the selection of judges – appointed by and accountable to the Supreme Assembly and its provincial assemblies – in practice judges are selected by the Supreme Leader and the WPK.<sup>78</sup> In articulating their decisions, judges take into consideration the State-assigned *songbun* status (see **Indicator 1.9**). A person of higher *songbun* receives lighter punishment than one with lower *songbun* for the same crime.<sup>79</sup> For individuals of lower *songbun*, there is no presumption of innocence.<sup>80</sup> Ordinary crimes or minor political infractions such as watching South Korean movies can result in lengthy detention.<sup>81</sup>

### High Levels of Corruption

#### Indicator 3.5: "High levels of corruption or poor governance"

Corruption is endemic across the entire society. The DPRK is ruled by a single family with the support of a totalitarian party, the WPK. The position of Supreme Leader has been handed down from father to son: from Kim Il-Sung to Kim Jong-Il to current Supreme Leader Kim Jong-Un.<sup>82</sup>

Today's high levels of corruption can partly be traced back to the famine of the 1990s. During that period, survival was only possible by cultivating food, participating in informal markets and travelling around the country without prior authorisation. Regional and local authorities turned a blind eye to these unlawful practices in return for small bribes. Once the famine passed, the central government attempted a crackdown on bribery but failed. The paying of bribes to State officials at all levels has become endemic.

Particularly worrisome is the high level of corruption within the justice system. One of the deciding factors of whether a person's (perceived) crimes will be judged by a court or dealt with through extra-legal means is the accused's ability to pay bribes.<sup>83</sup> This is generally determined by the person's *songbun*; other determining factors are the perceived gravity of the crime and the political cost of subjecting the suspect to a judicial process. Generally, more serious cases are dealt with extra-legally, thus bypassing the judiciary.

### Lack of Accountability

#### Indicator 3.6: "Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse of their claim"

Decisions related to many important matters that affect the lives of the population, such as food allocation, are determined by a small group of officials.<sup>84</sup> These conditions translate to very little oversight and accountability of decision-makers.<sup>85</sup>

Suspects of political crimes are regularly held without communication with their family members. This is a deliberate aspect of the system to prevent accountability and to instil fear to enforce compliance.<sup>86</sup> The DPRK Criminal Code criminalises torture and states that victims can report cases to the Prosecutor and obtain due compensation. In practice, only a very small percentage of victims has been compensated and where it was given, compensation was neither adequate, effective nor provided promptly.<sup>87</sup>

## RISK FACTOR 4: MOTIVES AND INCENTIVES

**Risk Factor 4 refers to the reasons, aims and drivers that justify the use of violence against protected groups, populations or individuals.** In the DPRK, crimes against humanity are committed by the State to maintain power. Political and economic motives are intertwined. Extreme violence and forced labour are used to instil fear in the minds of potential dissidents, which allows the elite to maintain a tight grip on society and reap economic benefits. The official narrative divides the "loyal classes" from "enemies of the State", thus creating an "us" (elite) vs "them" (general population) mentality.

## RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

### Consolidation of Power

#### Indicator 4.1: “Political motives, particularly those aimed at the attainment or consolidation of power”

The DPRK leadership has a strong incentive to maintain its reign of oppression and human rights violations. Lacking popular legitimacy, the regime relies on systematic violence to maintain power.

The concept of *juche*, the strong isolationist nationalism propagated by the WPK (see **Indicator 5.4**) and the violations of human rights perpetrated in its name, have served to maintain a cult of personality on the Supreme Leader and a dynastic succession line that has consolidated power around the Kim family. Since the ascension to power of second Supreme Leader Kim Jong-Il in 1974, when he announced the “Ten Principles in Establishing Party’s Monolithic Ideological System”, the regime has called for the entire society to “adhere strictly to the one-ideology system” and to “establish the one and only leadership of the Central Party”.<sup>88</sup>

The DPRK leadership avoids economic equality due to fears over losing political control.<sup>89</sup> The distribution of food has been used as a tool to control the population.<sup>90</sup> The use of brutal violence and disproportionate punishment serves to create a climate of fear that prevents a political contestation of the leadership.<sup>91</sup> People who attempt to flee the country or who are returned to the DPRK face severe punishment due to fears of the leadership that contact with the outside world will challenge the system of isolation, information control and indoctrination.<sup>92</sup>

The DPRK is facing a severe and prolonged economic crisis due to the self-imposed COVID-19 lockdown (see **Indicator 1.8**). Some in the leadership may fear that a breakdown of food supply chains and the foreign exchange market trigger panic in the public, which may challenge the WPK’s complete control.<sup>93</sup>

### Economic Interests

#### Indicator 4.2: “Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources”

The DPRK engages in systematic forced labour (see **Indicator 2.1** and **Indicator 2.2**), including to acquire foreign currency. Around 50,000 North Korean workers are forcibly employed in the mining, logging and construction industry in Russia and China. These workers endure hard working conditions and are taxed between 60 to 90 percent of their income.<sup>94</sup> Through its forced labour practices, it is estimated that the DPRK earns between US\$1.2bn and US\$2.3bn in foreign currency.<sup>95</sup> In December 2017, the UNSC imposed new sanctions against the DPRK, including a call for member states to repatriate DPRK workers to stop funds from those workers furthering weapons programs.<sup>96</sup>

Domestic forced labour, including in detention, allows the regime to obtain politically important economic objectives, such as the generation of energy or the provision of supplies to the security forces, at minimal cost.<sup>97</sup> Forced labour also provides the state with its primary export industries, which are traded for foreign currency earnings in the international market, helping to maintain the elite’s grip on power.<sup>98</sup>

### Perceived Threats

#### Indicator 4.5: “Real or perceived threats posed by protected groups, populations or individuals, against interests or objectives of perpetrators, including perceptions of disloyalty to a cause”

The DPRK carries out systematic and widespread attacks against individuals deemed to pose a threat to the political system and the leadership of the WPK.<sup>99</sup> Detainees in *kwanlisos*, persons attempting to flee the country and religious believers count among those who the leadership perceives to be challengers to their rule (see **Risk Factor 11**).<sup>100</sup>

## RISK FACTOR 5: CAPACITY TO COMMIT ATROCITY CRIMES

**Risk Factor 5 points to conditions that indicate the ability of relevant actors to commit atrocity crimes.** Atrocity crimes require planning over a sustained period of time. The leadership uses extreme violence, surveillance and unequal distribution of resources to maintain complete control over the population.

### **Strong Culture of Group Conformity and Obedience**

#### **Indicator 5.4: “Strong culture of obedience to authority and group conformity”**

The relationship between the leadership and the population is one of absolute obedience to the Supreme Leader, who claims a “Mandate of Heaven”. The personality cult permeates all aspects of social life and demands absolute conformity and total obedience.<sup>101</sup>

Another element that justifies conformity and obedience is the concept of *juche*, the policy aspiration to an extreme form of nationalism based on autarky and self-determination. The principles of *juche* require devotion to the Supreme Leader and to the nation, self-sacrifice and hard work.<sup>102</sup> Any economic deficits are attributed to the population’s lack of hard work.<sup>103</sup>

A third important ideological pillar for the maintenance of the regime is the “military-first” policy (*songun*). This policy prioritises the army in the allocation of the State’s resources.<sup>104</sup> *Songun* represents the necessity to support the nuclear program to guarantee independence and self-reliance. It accomplishes the dual objectives of delegitimising the calls from other states and international organisations to give up its nuclear capacity, while justifying the accumulation of resources in the hands of the military and the political elite.

## RISK FACTOR 6: ABSENCE OF MITIGATING FACTORS

**Risk Factor 6 refers to the absence of elements that could contribute to the prevention or mitigation of atrocity crimes.**<sup>105</sup> There are very few elements that inhibit atrocity crimes in the DPRK.

### **Lack of Civil Society and Independent Media**

#### **Indicator 6.2: “Lack of a strong, organised and representative national civil society and of a free, diverse and independent national media”**

There is no independent civil society in the DPRK. The media is controlled by the state.<sup>106</sup> Accessing foreign media is unlawful. Radios and televisions can only be obtained by special license (the granting of which is linked to *songbun*, WPK membership and evidence of loyalty to the State) and devices are modified to ensure no access to foreign media sources. Seals are attached to prevent tampering and the unauthorised breaking of seals is a criminal offence that can result in lengthy prison sentences.<sup>107</sup>

### **Limited Presence of International Actors**

#### **Indicator 6.4: “Lack of or limited presence of the United Nations, INGOs or other international or regional actors in the country and with access to populations”**

The DPRK’s policy of isolationism shields it from presence, and thus scrutiny, from international actors. A very small number of international non-governmental organisations (INGOs) have been able to offer aid and humanitarian relief to the regime since the 1990s. Their activities are severely restricted. Several INGOs, such as Médecins Sans Frontières and Oxfam, have withdrawn from the country.<sup>108</sup> Due to the measures implemented to combat COVID-19, most UN and INGO staff were forced to leave the country in early 2020.<sup>109</sup> International staff presence of UN humanitarian agencies has fallen below 20 per cent.<sup>110</sup>

### **Lack of Exposure and Openness, Both Political and Economic**

#### **Indicator 6.6: “Lack of exposure, openness or establishment of political or economic relations with other states or organisations”**

The DPRK is the most isolated State in the world. Only three embassies (China, Russia and Pakistan) are located within Pyongyang itself, with a further 22 located in the Munsu-dong Diplomatic Compound, including the United Kingdom, Germany and India. Diplomats are closely monitored and open dialogue is near impossible.<sup>111</sup> Despite a severe humanitarian crisis in 2020, the country’s leadership has refused outside assistance due to fears of COVID-19.<sup>112</sup>

The DPRK maintains limited economic cooperation with China (see **Indicator 1.8**).<sup>113</sup> During a brief period in 2018 and 2019 it seemed like the DPRK may open up to the United States, but the diplomatic efforts between Kim Jong-Un and United States President Donald Trump failed to secure an agreement which would have seen the lifting of some economic sanctions in exchange for limited denuclearisation measures.<sup>114</sup> During the WPK’s 8<sup>th</sup> Congress in January 2021, the United States was again declared as the state’s “principal enemy”. While Kim Jong-Un did “not rule out diplomacy”, he emphasised that it would be influenced by the DPRK’s nuclear power, which he vowed to expand.<sup>115</sup>

### **Lack of participation in human rights mechanisms**

#### **Indicator 6.7: “Limited cooperation of the State with international and regional human rights mechanisms”**

The DPRK continues to reject cooperation with the UN’s human rights mechanisms, including with the Special Rapporteur on the situation of human rights in the DPRK and the OHCHR field-based structure in Seoul.<sup>116</sup> Since the inception of the mandate in 2004, no UN Special Rapporteur on the situation of human rights in the DPRK has been allowed entry to the country. The DPRK alleges that the establishment of such a position was a hostile act, a “product of political confrontation and conspiracy”.<sup>117</sup>

During its third Universal Periodic Review (UPR) in May 2019, the DPRK has refused to accept certain recommendations related to civil and political rights, the abolition of political prison camps and the release of political prisoners, the elimination of guilt by association, the abolition of the songbun class system, the cessation of media censorship, and the elimination of arbitrary detention, torture, and other inhumane treatments.<sup>118</sup>

However, the DPRK has shown some encouraging signs in the development of social rights. As stated in its national report for the 2019 UPR, the DPRK leadership is taking steps to improve the human rights situation for persons with disabilities, as well as women, children and the elderly. In 2017, the UN Special Rapporteur on the rights of persons with disabilities was the first UN special procedures mandate holder to make an official visit to the country.<sup>119</sup> In 2018, the DPRK accepted a country visit by the head of the UN Office for the Coordination of Humanitarian Affairs, the first since 2011.<sup>120</sup> The DPRK has also made submissions to the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women.

### **Lack of Support to Refugees**

#### **Indicator 6.10: “Lack of support by neighbouring states to protect populations at risk and in need of refuge, including the closure of borders, forced repatriation or aid restrictions”**

China has long supported the DPRK and has a policy of returning all refugees who manage to cross into Chinese territory. China does not recognise these persons as refugees, but rather as economic migrants who can be forcibly repatriated. China has also denied access to journalists and UN and INGO workers to border areas.<sup>121</sup> The Special Rapporteur has repeatedly called on China, as well as the Republic of Korea, to refrain from forcibly returning DPRK citizens based on the severe punishment inflicted for leaving the country.<sup>122</sup>

## RISK FACTOR 7: ENABLING CIRCUMSTANCES OR PREPARATORY ACTION

**Risk Factor 7 refers to events or measures, gradual or sudden, which make atrocity crimes possible, or which suggest a trajectory towards their perpetration.**<sup>123</sup> In the DPRK, these preparatory actions and enabling circumstances have been a structural component of the organisation of society since the creation of the songbun system. The DPRK's strong security apparatus, discriminatory practices and inflammatory rhetoric have existed for decades and have enabled the commission of atrocity crimes.

### Strengthening of the Security Apparatus

**Indicator 7.3: "Strengthening of the security apparatus, its reorganisation or mobilisation against protected groups, populations or individuals"**

The security apparatus of the DPRK is extensive and highly centralised<sup>124</sup> and geared towards the uncovering and punishment of political criminals. The criminal justice system serves the dual function of punishing criminals and directing a systematic and widespread attack against political dissidents.<sup>125</sup> See **Indicator 11.6** for further details on the structure of the security apparatus.

### Violence Against Women

**Indicator 7.9: "Increased serious acts of violence against women and children, or the creation of the conditions that facilitate acts of sexual violence against those groups, including as tools of terror"**

Systemic violence is a daily reality for many women in the DPRK. Domestic violence is common.<sup>126</sup> Many women who leave the DPRK are trafficked across the border into China and sold to Chinese men or forced into sexual exploitation.<sup>127</sup>

Within kwanlisos, it is widespread practice for security officers to force women into acts of sexual violence in exchange for additional food or less arduous work. As it is conducted under conditions of coercion, this practice constitutes rape.<sup>128</sup> If women become pregnant while in prison, they are typically punished and forced to undergo abortions. If the woman is in a "permitted marriage", her child will not be aborted, but once born will live in the prison camp under very similar circumstances to those of its parents.

### Incitement of Violence

**Indicator 7.14: "Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations, or individuals"**

State media and high-level officials regularly label people who commit political crimes as "traitors" and "human scum". Such dehumanising language, coupled with impunity for violence, facilitates and encourages crimes against humanity committed within kwanlisos.<sup>129</sup>

## RISK FACTOR 8: TRIGGERING FACTORS

**Risk Factor 8 relates to events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or spark their onset.** In the DPRK, the most relevant element is the perception that the regime needs to employ violence to protect itself from collapse. The DPRK believes that foreign powers are intent of fostering regime change or collapse. Thus, measures taken by the international community can serve as triggering factors for the continuation of atrocity crimes in the DPRK.

### Perception of a Threatening International System

**Indicator 8.3: "Measures taken by the international community perceived as threatening to a state's sovereignty"**

The DPRK views most types of engagement with the United States and the wider international community as a threat to its survival, confirming to the leadership that only total control over the country's population, work force and military can ensure its existence.<sup>130</sup>

## RISK FACTOR 8: TRIGGERING FACTORS

Pyongyang often accuses the United States of threatening its sovereignty. When the United States blacklisted Supreme Leader Kim Jong-Un along with 10 other officials for their involvement in human rights abuses, Pyongyang responded by calling this action a “declaration of war”.<sup>131</sup>

The DPRK’s leadership also takes very seriously how other countries, or even private companies, portray its government and rulers. Weeks before the release of 2014’s Sony movie “The Interview”, a comedy which depicts a fictional American plot to assassinate Supreme Leader Kim Jong-Un, a DPRK foreign ministry spokesman warned that releasing the movie would be an “act of war”, and would be met with “merciless retaliation”.<sup>132</sup>

The DPRK leadership considers nuclear weapons as the only guarantee to its survival. The UN Security Council has adopted a number of resolutions imposing economic and financial sanctions due to the DPRK’s development of its nuclear and ballistic missile programme, as have a number of states.<sup>133</sup> Calling the sanctions “a panicky response by an American bully”, the DPRK has repeatedly vowed to never give up on its nuclear programme.<sup>134</sup>

Formal discussions of the DPRK’s human rights record by the UN Human Rights Council have been labelled “a product of conspiracy of the hostile forces led by the US pursuing a plot against the DPRK”. The 2014 report by the UN Commission of Inquiry was dismissed as being based on “false information” provided by “defectors”.<sup>135</sup>

### **Indicator 8.9: “Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters or epidemics”**

The outbreak of the COVID-19 pandemic in early 2020 saw the leadership take extreme measures to stop the spread of the virus, such as a total border closure and strict lockdown and quarantine measures. The leadership was wary that a massive outbreak would overwhelm the health system and lead to an even bigger humanitarian crisis, potentially sparking dissent within the population.<sup>136</sup>

Discrimination exercised by the regime on the basis of songbun, gender and ability has created many vulnerable groups in the DPRK that are subject to crimes against humanity.<sup>137</sup> These groups include: an estimated 80,000-120,000 inmates of the kwanlisos; inmates of other prisons; persons who flee the country, in particular those who are forcibly repatriated; Christians and other religious practitioners; other people who introduce perceived subversive influences; starving populations; other nationals, particularly from Japan and Korea who were abducted.

## SPECIFIC RISK FACTORS: CRIMES AGAINST HUMANITY

### RISK FACTOR 11: SIGNS OF A WIDESPREAD OR SYSTEMATIC ATTACK AGAINST ANY CIVILIAN POPULATION

**Risk Factor 11 refers to signs of violent conduct including the use of force against any civilian population that suggests massive, large-scale and frequent violence demonstrating the existence of a widespread or systematic policy against protected populations. The above-mentioned groups are targeted on a massive scale and suffer indiscriminate violence. This meets the criteria of large-scale violence (quantitative element) and methodical violence (qualitative element), indicating the existence of crimes against humanity.**

#### **Use of Media to Incite Violence**

##### **Indicator 11.4: “Use of the media or other means to provoke or incite violent acts”**

The Ministry of State Security labels perpetrators of political crimes as “enemies of the people” and encourag-

## SPECIFIC RISK FACTORS: CRIMES AGAINST HUMANITY

### RISK FACTOR 11: SIGNS OF A WIDESPREAD OR SYSTEMATIC ATTACK AGAINST ANY CIVILIAN POPULATION

es kwanliso guards and security forces to treat inmates as sub-human enemies (see **Indicator 7.14**).<sup>138</sup> Guards are also rewarded for acts of cruelty that maintain order. The population, including workers in charge of the creation of content for the diverse state-curated media outlets, does not possess any freedom of speech or freedom of press (see **Indicator 2.1**). Due to the severe political repression, these violence-encouraging messages encounter no public resistance.

#### **Political and Military Structures for the Commission of Violence**

##### **Indicator 11.6: “Establishment of new political or military structures that could be used to commit violent acts”**

The state apparatus has been geared towards the commitment of violent acts against the population. The security apparatus is deliberately fragmented to prevent the emergence of a security force that could challenge the Supreme Leader.<sup>139</sup> As a result, the various security departments monitor the activities of one another and compete for turf and competencies. This results in a system of extreme distrust where seemingly every individual is scrutinised and in fear of being the next target of political violence. An accusation of having committed a political crime can result in extreme violence.

The principal political policing body is the Ministry of State Security, which investigates “crimes against the State” and violently suppresses threats to the WPK and the Supreme Leader. Its activities include intelligence and counterintelligence, surveillance of the population (especially those who have returned from abroad) and running of the kwanlisos.<sup>140</sup> The Ministry of People’s security also has a number of political policing functions.

The WPK monitors and polices its internal branches.<sup>141</sup> The population is encouraged and rewarded for reporting on fellow citizens that they suspect of having committed political crimes.<sup>142</sup>

## SPECIFIC RISK FACTORS: CRIMES AGAINST HUMANITY

### RISK FACTOR 12: SIGNS OF A PLAN OR POLICY TO ATTACK ANY CIVILIAN POPULATION

**Risk Factor 12 is related to the facts or evidence suggestive of a state or organisational policy, even if not explicitly stipulated or formally adopted, to commit serious acts of violence against any civilian population.** In the DPRK, the policy of systematic crimes against humanity is facilitated by the songbun system, evidence of the regime’s classification of individuals into groups which will receive differential treatment.

#### **Existence of documentation revealing classification of citizens into differential categories**

##### **Indicator 12.1: “Official documents, political manifestos, media records, or any other documentation through which the existence of a state or organisational plan or policy to target civilian populations or protected groups is directly revealed, or could be inferred”**

A person’s songbun is recorded in a register, which describes and archives details on the lives of all adults and their families.<sup>143</sup> The files contain biographical information and observations of ideological steadfastness and political loyalty, ascertained through evaluations in different circumstances such as work or school.

The patterns of discrimination and indoctrination dependent on songbun are reinforced and safeguarded by a policy of isolating the population from one another and the outside world. This serves to maintain the disparate living conditions of the different social groups in the DPRK, and to limit information flows and maximise state control.<sup>144</sup>

## CONCLUSION AND RECOMMENDATIONS

There is a **very high** likelihood of continued atrocity crimes.

The leadership of the DPRK has established State structures that aid in the commission of atrocity crimes (Risk Factor 3). It is unwilling to address a long history of serious violations and abuses of human rights, which may amount to crimes against humanity (Risk Factor 2). These crimes are committed as a deliberate State policy to maintain power in the absence of popular legitimacy (Risk Factor 4). The state's isolationism, characterised by a near complete absence of unilateral and multilateral engagement, as well as a lack of independent media and civil society, means there is very little effective pressure to end the ongoing atrocities perpetrated against the population (Risk Factor 6).

RECOMMENDATIONS FOR THE GOVERNMENT OF DPRK	
1	Uphold the Responsibility to Protect by immediately ceasing the widespread and systematic commission of crimes against humanity.
2	Cease the commission of human rights violations and reallocate budget toward improving the human rights situation, away from disproportionate military expenditures.
3	Engage constructively with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and the OHCHR field-based structure in Seoul.
4	Cooperate with all relevant UN mandate holders and respond favourably to the outstanding requests for country visits.
5	Implement and report on all recommendations received during the third cycle of the Universal Period Review in 2019.
6	Ensure that measures taken to prevent the spread of COVID-19 are proportionate, abide by all relevant human rights obligations and do not exacerbate the existing humanitarian situation.
7	Initiate discussions with the International Committee of the Red Cross concerning access to detention facilities.
RECOMMENDATIONS FOR REGIONAL ACTORS	
1	Respect the principle of non-refoulement and refrain from repatriating individuals to the DPRK where they are likely to face torture or other serious human rights violations.
2	Ensure that human rights accountability is an integral part of diplomatic engagement.
3	Promote and facilitate dialogue with actors in the DPRK on political, human rights and economic reform.
RECOMMENDATIONS FOR INTERNATIONAL COMMUNITY	
1	Reaffirm the DPRK's Responsibility to Protect its population from atrocity crimes.
2	Encourage cooperation with the OHCHR and Special Procedure mandate holders.
3	Continue to offer humanitarian assistance, particularly in response to COVID-19 and natural disasters
4	Support confidence-building and peacebuilding initiatives between the DPRK and the Republic of Korea.
5	Engage in parallel human rights dialogue alongside peace and denuclearisation talks.
6	Address grave human rights violations in the DPRK in a coordinated and unified manner. Specifically: <ul style="list-style-type: none"> <li>The Human Rights Council should continue to support the Special Rapporteur and implement the recommendations of the Group of Independent Experts on Accountability</li> <li>The OHCHR should closely monitor human rights in the DPRK; investigate unresolved human rights violations; and be prepared to provide technical assistance.</li> <li>The General Assembly should continue to highlight the human rights situation and call for accountability in the DPRK.</li> <li>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.</li> <li>The Security Council should hold regular meetings with the participation of the UN High Commissioner for Human Rights, the Special Rapporteur and other relevant experts.</li> <li>Civil society actors should continue to raise awareness of the human rights situation and advocate for accountability, including supporting efforts to identify suspected perpetrators of serious crimes and determine chains of command</li> </ul>

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