

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

From 2-10 July 2018, the UN Special Rapporteur on the human rights situation in the DPRK, Tomás Ojea Quintana, conducted a field mission to Seoul. Based on meetings with people who have recently left the DPRK, the Special Rapporteur assessed that '[r]egrettably, there have been no substantial changes in the serious human rights situation on the ground'.¹ DPRK citizens continue to suffer from abuses that, according to the 2014 UN Commission of Inquiry, could amount to crimes against humanity. Grave human rights violations are associated with the DPRK's extensive use of political prison camps and labour camps, as well as severe restrictions on freedom of expression, movement, and access to information. There are also reports that the humanitarian situation is worsening due to chronic food insecurity, lack of safe drinking water and sanitation, and early childhood malnutrition.

According to recent reporting, only 488 refugees from the DPRK safely entered the Republic of Korea in the first half of 2018. This represented an 18% drop from the same period a year earlier. The decrease appears to be in part due to harsher border controls, including the DPRK installing new wire fencing and an increase in China detaining and repatriating DPRK citizens who have crossed into China.² The Special Rapporteur has expressed concern over forcibly repatriated women in particular, amidst recent reports of torture and other degrading treatment of women at holding centres near the border with China.³

In June, the US State Department issued its Trafficking in Persons Report 2018, which listed DPRK among tier 3 countries with worst record of human trafficking.⁴ The following month, the Global Slavery Index published data indicating that the DPRK has the worst record of modern day slavery practices out of 167 countries surveyed. The data covers slavery and slavery-like conditions, including human trafficking, forced labour, debt bondage, forced or servile marriage, and the worst forms of child labour. The Global Slavery Index estimated that 2.6 million DPRK citizens (or approximately 1 in every 10 people) live in slavery conditions.⁵

While the serious human rights situation remains largely unchanged, the inter-Korean Summit on April 27 and the meeting between US President Donald Trump and DPRK leader Kim Jong-un on June 12 in Singapore show signs of political rapprochement. Efforts to de-escalate tensions and reduce the risk of military confrontation on the Korean Peninsula should be encouraged. However, there are troubling signs that human rights are being sidelined as the political situation improves. Neither the Panmunjom Declaration that emanated from the inter-Korean Summit nor the DPRK-US statement following the

¹ 'Statement by the United Nations Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Tomas Ojea Quintana, mission to Seoul', United Nations Office of the High Commissioner for Human Rights, 10 July 2018,

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23352&LangID=E>

² L.S., 'The Dark Side of Peace on the Korean Peninsula', *The Economist*, 17 July 2018,

<https://www.economist.com/open-future/2018/07/17/the-dark-side-of-peace-on-the-korean-peninsula> ; See also, 'Human Rights in North Korea', June 2018 Briefing Paper, Human Rights Watch, 5 June 2018,

<https://www.hrw.org/news/2018/06/05/human-rights-north-korea>

³ United Nations General Assembly Document A/HRC37/69, 'Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea', 9 March 2018, para 17,

http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/37/69

⁴ *Trafficking in Persons Report* (Washington, DC: Department of State, United States of America, June 2018),

<https://www.state.gov/documents/organization/282798.pdf>

⁵ *The Global Slavery Index* (Nedlands: Walk Free Foundation, July 2018),

<https://www.globalslaveryindex.org/2018/data/country-data/north-korea/>

talks in Singapore, expressly mentions human rights issues. The government of ROK also appears to have recently withdrawn or cut funding for organisations working to advance human rights in the DPRK, which are reportedly under pressure to avoid criticising Pyongyang as talks progress.⁶

US Secretary of State Mike Pompeo visited Pyongyang in early July to follow up on denuclearization commitments made at the June meeting in Singapore. DPRK authorities are reportedly resisting any further movements toward denuclearization unless the US begins to relieve sanctions. Meanwhile, a week prior to Pompeo's visit to Pyongyang, members of the US House of Representatives introduced a resolution calling for 'complete, verifiable, and irreversible human rights improvements' as part of the US strategy for denuclearization of the Korean peninsula.⁷ If passed, the resolution would link sanctions relief with improvements in the human rights situation, which is broadly consistent with the North Korean Human Rights Reauthorization Act of 2017 that President Trump signed into law on 20 July.⁸

A practical way that the US could help improve human rights is to condition any talks on sanctions relief to the DPRK authorities engaging with the UN Office of the High Commissioner for Human Rights and accepting the UN Special Rapporteur's request for a country visit. This could help open a parallel track for dialogue on human rights alongside denuclearization and peace talks, as called for by Ojea Quintana. The Special Rapporteur has indicated that human rights dialogue could first address economic and social rights of the people of DPRK, which is 'a priority that all actors can agree on—the Government of the DPRK, as well as the international community'.⁹ The DPRK has already taken some positive steps in human rights as the political situation has thawed, including the release of US nationals held in detention in DPRK and an agreement to hold a reunion event with the ROK for separated families in August. Such actions suggest that despite Pyongyang's strong protests over raising human rights concerns as part of denuclearisation talks, it is possible to secure human rights concessions as the DPRK becomes less politically isolated.

The humanitarian situation in the DPRK remains dire despite improvements in humanitarian access. Total food production in DPRK decreased by 7.42 percent in the first half of 2018 compared to similar period last year, and it is estimated that 10 million people or approximately 40% of the population require humanitarian assistance.¹⁰ The UN is struggling to provide needed assistance due to a dramatic decline in humanitarian funding for the DPRK since 2012. The UN has raised only 10 percent of the \$111m it has requested for the DPRK through the 2018 Needs and Priorities Plan to provide vital health, water, sanitation and food security assistance to about 6 million people.

For the first time since 2011, in early July the DPRK accepted a country visit from the head of the UN Office for the Coordination of Humanitarian Affairs. According to UN Emergency Relief Coordinator Mark Lowcock, 'the funding gap comes as humanitarian access has significantly improved across DPRK in recent years. In other words, if donors step up now and provide the needed funding, the United

⁶ Jeongmin Kim, 'As North and South Korea Cosy Up, Human Rights Groups Struggle for Cash', *The Japan Times*, 28 June 2018, <https://www.japantimes.co.jp/news/2018/06/28/asia-pacific/politics-diplomacy-asia-pacific/north-south-korea-cosy-human-rights-groups-struggle-cash/#.W1posTMza9Y>

⁷ 'H.Res.976- 115th Congress: Expressing the sense of the House of Representatives that complete, verifiable and irreversible human rights improvements...', 28 June 2018, <https://www.govtrack.us/congress/bills/115/hres976>

⁸ H.Res.2061-Northe Korean Human Rights Reuathorization Act of 2017, Public Law No: 115-198, United States of America, 20 July 2018. <https://www.congress.gov/bill/115th-congress/house-bill/2061>

⁹ 'Statement by the United Nations Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Tomas Ojea Quintana, mission to Seoul', United Nations Office of the High Commissioner for Human Rights, 10 July 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23352&LangID=E>

¹⁰ Ibid.

Nations and its partners will be able swiftly to scale up delivery of aid to those most in need and closely monitor the deliveries so that donors know their funds are well spent'. Lowcock also voiced concern over the negative humanitarian impact of sanctions. Although sanctions exempt humanitarian aid, they have resulted in a collapse of the banking channels needed to transfer funding as well as delays in delivering humanitarian supplies throughout the country.¹¹ Recalling that the 2014 UN Commission of Inquiry explicitly includes 'the right to food and related aspects of the right to life' as core aspect of DPRK human rights, there is a need to review the impact of the sanctions regime on the humanitarian situation, and to consider how upscaling humanitarian funding may contribute to the improvement of human rights in the DPRK.

Recommendations

The government of the DPRK must:

1. Immediately cease the commission of crimes against humanity.
2. 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. The DPRK should engage with the OHCHR prior to October, when the Special Rapporteur's next annual report on the human rights situation in the DPRK is due to be discussed in the UN General Assembly.
3. 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.
4. Initiate discussions with the International Committee of the Red Cross concerning access to detention facilities.
5. Engage in bilateral and regional human rights dialogue.

The international community 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. The governments of the United States and Republic of Korea in particular should encourage DPRK authorities to 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.
4. Welcome discussion of human rights accountability in the DPRK in regional dialogue platforms and support continued consultation and information gathering.

¹¹ Mark Lowcock, 'UN Humanitarian Chief: Why I'm Visiting North Korea', *CNN*, 9 July 2018, <https://edition.cnn.com/2018/07/09/opinions/north-korea-un-mission-lowcock-opinion/index.html>

5. 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.
6. Support the ROK and DPRK in initiatives to build confidence between the two countries.
7. 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 meetings 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.
8. 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.