



# General Assembly

Distr.: General  
19 September 2018  
Original: English

---

## Seventy-third session

Item 74 (c) of the provisional agenda\*

**Promotion and protection of human rights: human rights  
situations and reports of special rapporteurs  
and representatives**

## **Situation of human rights in the Democratic People's Republic of Korea\*\***

### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Tomás Ojea Quintana, submitted in accordance with General Assembly resolution [72/188](#).

---

\* [A/73/150](#).

\*\* The present report was submitted after the deadline in order to reflect the outcomes of the Special Rapporteur's latest visit to the Republic of Korea, as well as the most recent developments.



## **Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea**

### *Summary*

The present report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea is submitted pursuant to General Assembly resolution [72/188](#). In the report, the mandate holder provides an overview of recent developments in the human rights situation in the Democratic People's Republic of Korea, in particular after the country opened up to peace and denuclearization dialogue with the Republic of Korea and the United States of America. The Special Rapporteur analyses the implications of those talks for human rights and provides recommendations as to how that opening can be used to improve the human rights situation in the Democratic People's Republic of Korea. The analysis is based on the results of recent testimonies of people who left the Democratic People's Republic of Korea, as well as additional information collected during the mandate holder's latest visits to the North-East Asia region.

## I. Introduction

1. The rapprochement between the two Koreas, which started at the Winter Olympics held in Pyeongchang, Republic of Korea, and continued with the recent summit between the leaders of the Democratic People's Republic of Korea and the United States of America, reflects extraordinary developments and the possibility of achieving long-standing peace on a denuclearized Korean Peninsula and beyond. The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, who has been stressing the relevance of dialogue since assuming his position in 2016, commends and welcomes the determination of all Governments involved to this end and hopes for successful negotiations.

2. Undoubtedly, the promotion and protection of human rights is inextricably linked to the conditions needed for sustainable peace. Despite the marked improvement in the geopolitical situation, there have been no substantial changes in the serious human rights situation in the Democratic People's Republic of Korea. It is therefore imperative that the parties involved in the peace negotiations, the relevant United Nations agencies and the international community as a whole develop a clear and explicit strategy to start improving the human rights situation on the ground.

3. The unfortunate reality is that human rights remains off the agenda in the expanding dialogue among the parties involved, including the Democratic People's Republic of Korea, the Republic of Korea, the United States, China and the Russian Federation. No human rights language has been included in the key inter-Korean public statements that have emerged during the latest rapprochement, nor in the Singapore statement following the meeting of the leaders of the Democratic People's Republic of Korea and the United States held on 12 June.

4. While being aware of the geopolitical complexity and the vicissitudes of the ongoing peace and denuclearization process, the Special Rapporteur reiterates that history has shown time and again that, if the human rights issues at the root of any conflict are not addressed, there can be no genuine or sustainable peace, security or development. In this regard, at the seventy-third session of the General Assembly, where the human rights situation in the Democratic People's Republic of Korea will be discussed on the basis of the report presented by the Special Rapporteur, Member States will have to confront a historical challenge: to push for a peace process that contemplates the need to improve the human rights in the Democratic People's Republic of Korea and that brings that issue to the negotiating table. It is the belief of the Special Rapporteur that to sideline human rights in peace agreements and dialogues is to weaken the international system of protection for the people living in the Democratic People's Republic of Korea.

## II. Overview of the political and security situation

5. The reporting period began with an acute escalation of political and security tensions in the wake of the continued nuclear and ballistic missile tests by the Democratic People's Republic of Korea. On 22 December 2017, the Security Council, in its resolution [2397 \(2017\)](#), extended the sanctions regime to the import of refined petroleum products and the deployment of workers abroad. The resolution was preceded by three others adopted earlier in 2017 — resolutions [2356 \(2017\)](#), [2371 \(2017\)](#) and [2375 \(2017\)](#) — which targeted, inter alia, the extractive and financial industries and the fisheries sector.

6. However, the Pyeongchang Winter Olympics, held in February 2018, ushered in an Olympic truce, which was followed by a series of high-level talks that brought together the leader of the Democratic People's Republic of Korea with those of the

Republic of Korea, the United States and China. In a welcome development after years of conflict rhetoric and manoeuvre, the Supreme Leader of the Democratic People's Republic of Korea announced on 21 April that the country would halt nuclear tests and intercontinental ballistic missile launches, while the United States and the Republic of Korea suspended cyclical military exercises on the Korean Peninsula. The inter-Korean summit of 27 April 2018, held in Panmunjom, Democratic People's Republic of Korea, resulted in a joint declaration in which the two leaders pledged to end the Korean War, promote peaceful unification and work towards the denuclearization of the Korean Peninsula. The Democratic People's Republic of Korea committed to a nuclear-free Korean Peninsula for the first time since the joint declaration made between the two countries in 1992.

7. The Special Rapporteur welcomed this historic opportunity to restore peace and security on the Peninsula and beyond. In the lead-up to the 27 April summit, he issued a statement<sup>1</sup> in which he called upon the two countries to fully integrate pressing human rights concerns in the Democratic People's Republic of Korea into their talks, reiterating the need to bring the human rights agenda back into focus. Warning that any denuclearization deal would remain fragile if it sidelined the rights and needs of the population of the Democratic People's Republic of Korea, he reiterated that peace and security could not be achieved only in the form of intergovernmental agreements but also, and perhaps more importantly, in the shape of domestic policies that guaranteed the full enjoyment of human rights without discrimination.

8. On 5 May, prior to the summit in Singapore between the Democratic People's Republic of Korea and the United States, three citizens of the United States who had been detained in Pyongyang were released by the Democratic People's Republic of Korea. The Special Rapporteur issued a public statement<sup>2</sup> on the release in which he welcomed the decision, while urging the Government of the Democratic People's Republic of Korea to release the six nationals of the Republic of Korea, including three pastors, who remain in detention. The Special Rapporteur continues to be concerned by reports that the foreign detainees do not receive due legal process and may be held in inhumane conditions without consular access. In this regard, he urges the authorities to strengthen the protection system for national and foreign detainees in line with the standard minimum rules for the treatment of prisoners.

9. On 7 June 2018, the Special Rapporteur held a press conference<sup>3</sup> at the United Nations Office at Geneva, just ahead of the Singapore summit between the two leaders of the Democratic People's Republic of Korea and the United States of America. He underscored the importance of including human rights in the high-level talks, raising concern that failure to do so would have negative repercussions for building a "sustainable agreement with the Democratic People's Republic of Korea with regard to denuclearization". He also made a call to the authorities to free political prisoners through a general amnesty to signal its commitment to universal human rights principles.

10. During the summit, held on 12 June in Singapore, "President Trump committed to provide security guarantees to the Democratic People's Republic of Korea, and Chairman Kim Jong Un reaffirmed his firm and unwavering commitment to complete

<sup>1</sup> See [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22988&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22988&LangID=E).

<sup>2</sup> See [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23061&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23061&LangID=E).

<sup>3</sup> See [webtv.un.org/meetings-events/treaty-bodies/watch/ohchr-press-conference-human-rights-in-dprk-geneva-7-june-2018/5794701580001/?term=http%3A%2F%2Fwebtv.un.org%2Fmeetings-events%2Ftreaty-bodies%2Fwatch%2Fchildren-on-the-move-preventing-child-trafficking-by-implementing-the-un-global-plan-of-action%2F5588262537001%2F&sort=date](http://webtv.un.org/meetings-events/treaty-bodies/watch/ohchr-press-conference-human-rights-in-dprk-geneva-7-june-2018/5794701580001/?term=http%3A%2F%2Fwebtv.un.org%2Fmeetings-events%2Ftreaty-bodies%2Fwatch%2Fchildren-on-the-move-preventing-child-trafficking-by-implementing-the-un-global-plan-of-action%2F5588262537001%2F&sort=date).

denuclearization of the Korean Peninsula”.<sup>4</sup> In the joint statement issued as a result of the summit, both leaders “committed to cooperate for the development of new United States-Democratic People’s Republic of Korea relations and for the promotion of peace, prosperity and security of the Korean Peninsula and of the world” and agreed to the recovering of remains of prisoners of war and soldiers missing in action and the immediate repatriation of those already identified.<sup>5</sup>

11. All of these developments are of great significance for the countries involved and humanity as a whole. However, the Special Rapporteur regrets that neither the Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula nor the Joint Statement of the Democratic People’s Republic of Korea and the United States included any human rights terminology. In following the rapidly shifting political environment, the Special Rapporteur reiterates his strong hope that there will soon be progress on tackling the human rights situation as an integral part of the peace, security and denuclearization agenda.

12. On 16 June, it was reported by the Korean Central News Agency of the Democratic People’s Republic of Korea that the country would “grant an amnesty to those who had been convicted of the crimes against the country and people on the occasion of the seventieth founding anniversary of the Democratic People’s Republic of Korea”. The Special Rapporteur, having previously called for this, welcomed the announcement in a letter sent on 16 June to the Permanent Mission of the Democratic People’s Republic of Korea to the United Nations Office and other international organizations in Geneva, but also enquired about further details of the planned amnesty, including the number of prisoners who would benefit from it and the locations of their detention.

### **III. Missions undertaken by the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea**

13. The Special Rapporteur conducted two official missions during the reporting period. From 10 to 16 December 2017, he visited the Republic of Korea and Japan. The visit to the Republic of Korea included meetings with officials of the Ministries of Foreign Affairs, Unification and Justice, as well as additional meetings with civil society organizations, members of the diplomatic corps in Seoul, and the field-based structure of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The Special Rapporteur also interviewed escapees from the Democratic People’s Republic of Korea in resettlement centres in the Republic of Korea. In Japan, he participated in a symposium organized by the Government and met with government officials and families of people who had been abducted by the Democratic People’s Republic of Korea and who remain unaccounted for.

14. On 31 May, the Special Rapporteur undertook a visit to Stockholm. During the visit, he met with officials of the Ministry of Foreign Affairs of Sweden, including the Special Envoy for the Korean Peninsula. The visit was informative with respect to the important role of Sweden in having had a long history of diplomatic relations with the Democratic People’s Republic of Korea, and in representing the consular interests of the Governments of the United States, Australia, Canada and the Nordic

<sup>4</sup> See Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the Democratic People’s Republic of Korea at the Singapore Summit, 12 June 2018.

<sup>5</sup> Ibid.

countries. The lack of adequate consular access for Otto Warmbier was addressed in particular.

15. On 1 June, the Special Rapporteur visited Brussels to meet with the secretariat of the European Parliament Committee on Foreign Affairs and its Subcommittee on Human Rights and with the European External Action Service of the European Commission. During the visit, the Special Rapporteur engaged in useful discussions about the role of the European Union in the ongoing rapprochement on the Korean Peninsula and the importance of pushing for a human rights dialogue with the Democratic People's Republic of Korea.

16. The Special Rapporteur also visited Geneva twice during the reporting period, in March 2018 to report to the Human Rights Council at its thirty-seventh session, and in June 2018, and used both occasions to engage and exchange views on issues pertaining to the situation of human rights in the Democratic People's Republic of Korea with Member States, including China, as well as other stakeholders.

17. The Special Rapporteur conducted his second official mission during the reporting period to the Republic of Korea from 2 to 10 July 2018. During the visit, he met with senior government officials from the Ministry of Foreign Affairs and the Ministry of Unification. He also held meetings with the Korean Red Cross, the Korea Institute for National Unification, the National Human Rights Commission of Korea and members of the diplomatic community, as well as the field-based structure of OHCHR. He also received first-hand accounts from people who had left the Democratic People's Republic of Korea, including young students at Hangeore High School, and had meetings with human rights organizations and civil society actors offering a broad range of views and perspectives.

18. The Special Rapporteur is grateful to all those who took the time to share insights and information with him during the aforementioned visits. The Democratic People's Republic of Korea remained closed to formal cooperation with the mandate of the Special Rapporteur during the reporting period despite the repeated requests made.

## **IV. Recent developments in the situation of human rights in the Democratic People's Republic of Korea**

### **A. Humanitarian situation**

19. The Office for the Coordination of Humanitarian Affairs, the humanitarian agency of the United Nations, has stated that the Democratic People's Republic of Korea is facing a "protracted humanitarian crisis that is largely overlooked by the rest of the world".<sup>6</sup> The United Nations has reported that chronic food insecurity, early childhood malnutrition and nutrition insecurity are widespread in the Democratic People's Republic of Korea, and more than 10 million people, or 40 per cent of the population, are said to require humanitarian assistance. The total food production in the country has seen a decrease by 7.42 per cent in 2018 compared with last year, and reportedly some 10.3 million out of a population of 25 million (41 per cent) are

<sup>6</sup> See United Nations, Office for the Coordination of Humanitarian Affairs, "United Nations humanitarian chief to visit the Democratic People's Republic of Korea 9–12 July 2018", media advisory, 6 July 2018. Available at [reliefweb.int/report/democratic-peoples-republic-korea/un-humanitarian-chief-visit-democratic-people-s-republic](https://reliefweb.int/report/democratic-peoples-republic-korea/un-humanitarian-chief-visit-democratic-people-s-republic).

undernourished, while around a third of pregnant women are anaemic.<sup>7</sup> More than a quarter (27.9 per cent) of children under 5 are stunted owing to chronic malnutrition, which has implications for cognitive development.<sup>8</sup> While there are many complex intertwined factors that have contributed to this situation, including the diversion of critically needed resources to develop nuclear weapons and ballistic missiles, the breakdown of the Public Distribution System, the impact of climate change on food production<sup>9</sup> and the impact of sanctions, addressing the economic and social rights of the people of the Democratic People's Republic of Korea is especially crucial for the prospects of a durable peace environment on the Korean Peninsula and in North-East Asia and beyond.

20. Following the call made in his previous report to the General Assembly on the potential adverse impact of sanctions on the population in the Democratic People's Republic of Korea,<sup>10</sup> the Special Rapporteur continued to monitor the situation during the reporting period. He was informed of the continued slowdown in the operations of humanitarian actors as a result of operational difficulties, including with respect to banking channels and custom clearance delays. The United Nations country team has reported that the logistics for humanitarian actors are becoming increasingly complex, costly and time-consuming, which has resulted in fewer available supplies for those in need when they are needed most.<sup>11</sup> Chronic food insecurity is reported to have been exacerbated by the lack of access to modern agricultural equipment and fertilizers due to sanctions, among other challenges.<sup>12</sup>

21. In November 2017, the Special Rapporteur exchanged correspondence with the Panel of Experts on the Democratic People's Republic of Korea to monitor compliance with the sanctions regime, calling for a comprehensive assessment of the unintended impact of sanctions on the enjoyment of human rights. He therefore welcomes the decision by the Security Council Committee established pursuant to resolution 1718 (2006), on 6 August 2018, to issue "Guidelines for Obtaining Exemptions to Deliver Humanitarian Assistance to the Democratic People's Republic of Korea", necessary "to provide a clear explanation of its comprehensive humanitarian exemption mechanism".<sup>13</sup> The Special Rapporteur also encourages the Committee to consider further exemptions to facilitate exchanges and cooperation between the two Koreas aimed at achieving peace and prosperity on the Peninsula. At the same time, the Special Rapporteur reiterates his call upon the Democratic People's

<sup>7</sup> Statement by the United Nations Resident Coordinator for the Democratic People's Republic of Korea to the Security Council Committee established pursuant to resolution 1718 (2006) on the humanitarian situation in the Democratic People's Republic of Korea, p. 4.

<sup>8</sup> Ibid.

<sup>9</sup> According to the International Federation of Red Cross and Red Crescent Societies, at the time of reporting, "the Democratic People's Republic of Korea (DPRK) is facing the worst drought in 100 years, a catastrophe which now threatens to cause widespread food and water shortages in the country". See [www.ifrc.org/ar/news-and-media/news-stories/asia-pacific/korea-democratic-peoples-republic-of/red-cross-prepares-to-respond-to-the-drought-in-dprk-69021/?print=true](http://www.ifrc.org/ar/news-and-media/news-stories/asia-pacific/korea-democratic-peoples-republic-of/red-cross-prepares-to-respond-to-the-drought-in-dprk-69021/?print=true).

<sup>10</sup> The Special Rapporteur recalled Committee on Economic Social and Cultural Rights general comment No. 8 (1997) on the relationship between economic sanctions and respect for economic, social and cultural rights, in which the Committee emphasized that, although it had no role to play in decisions to impose sanctions, it had the responsibility to monitor compliance by all States parties with the International Covenant on Economic, Social and Cultural Rights. The Special Rapporteur holds an analogous responsibility.

<sup>11</sup> Statement by the Resident Coordinator for the Democratic People's Republic of Korea to the Security Council Committee established pursuant to resolution 1718 (2006), p. 13.

<sup>12</sup> Ibid., p. 4.

<sup>13</sup> Available at [www.un.org/press/en/2018/sc13445.doc.htm](http://www.un.org/press/en/2018/sc13445.doc.htm).

Republic of Korea to publicize specific information, such as historical records and disaggregated economic data, that may help with this assessment.<sup>14</sup>

## **B. Inter-Korean developments**

22. As the Democratic People's Republic of Korea and the Republic of Korea work together to encourage more active cooperation, visits and contacts at all levels with the aim of rejuvenating the sense of national reconciliation and unity, as stated in the Panmunjom Declaration, the Special Rapporteur reminds all actors of the importance of ensuring that such efforts are made in full compliance with international human rights standards. The Panmunjom Declaration included a pledge to promote economic growth and prosperity in the Democratic People's Republic of Korea by adopting practical steps to modernize roads and railways. Whereas that is a welcome initiative, the human rights implications of economic cooperation projects with the Democratic People's Republic of Korea should inform future steps. Domestic employment practices fall far short of international labour standards. Workers are vulnerable to various forms of abuse, including forced mobilization, unsafe working conditions and the absence of adequate pay. Restrictions on women's access to the labour market, which has been highlighted by the Committee on the Elimination of Discrimination against Women, also requires attention.<sup>15</sup> The implementation of joint inter-Korean initiatives, including the construction of railways and roads, pipeline projects, the possible reopening of the Kaesong Industrial Complex, the promotion of tourism and unified sports participation, will all have important human rights implications and involve responsibilities for the authorities in both the North and the South, including those set out in the human rights treaties to which both Governments are party. The Special Rapporteur calls upon the Governments of the Democratic Republic of Korea and the Republic of Korea to ensure that the cooperation dialogue addresses such concerns and that people who are mobilized for construction projects are guaranteed the protections to which they are entitled.

## **C. Human rights issues**

23. The interviews held by the Special Rapporteur with persons who left the Democratic People's Republic of Korea during the reporting period indicate that the circumstances faced by ordinary citizens continue to be dire. Serious difficulties in their living conditions, including severe restrictions on freedoms and chronic food insecurity, continue to be cited as the reason that people leave, particularly those from the countryside, who make up the majority of the population. On the basis of these interviews and other information collected, in this section the Special Rapporteur focuses on the following substantive areas: the rights of persons deprived of liberty;

<sup>14</sup> On 24 November 2017, the Special Rapporteur addressed a communication to the Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office and other international organizations in Geneva, in which he invited the Government to forward to him any additional information that it might have on any negative impact that sanctions had on the population in the Democratic People's Republic of Korea. He also requested a courtesy call to discuss the matter further.

<sup>15</sup> In its concluding observations, the Committee recommended that the State, among other things: (a) review its labour laws and policies, including occupational tables, that restrict the participation of women in the labour market or assign low-paid jobs to women, with a view to ending gender segregation at work; and (b) promote the participation of women in managerial and leadership positions, including by adopting temporary special measures such as quotas or fast-track selection processes (see [CEDAW/C/PRK/CO/2-4](#), para. 36).



separated families and abductions; the right to health; and the rights to safe drinking water and sanitation.

## 1. Rights of persons deprived of liberty

24. While the Special Rapporteur is still unable to collect information regarding the conditions of detainees in political prison camps given the secrecy surrounding such camps, he continued to receive information on cases of ill-treatment in other places of detention.<sup>16</sup> The situation of those in detention continues to highlight the particular vulnerability of these persons to serious violations of human rights, including what may constitute a deliberate denial of economic and social rights.

25. Torture and ill-treatment were reported by many interviewees who had undergone interrogation by the Ministry of State Security. In addition to prolonged and severe restrictions on movement, such as being forced to sit in a still position all day with head down, legs crossed and hands on knees, with short or no breaks, beatings were reportedly common during interrogations. Various interviewees confirmed having been subjected to ill-treatment, beaten, tortured or threatened with torture if they did not reveal information that Ministry officers considered to be true. In two separate accounts, women who had been held at the Ministry's *kuryujang* (pretrial detention facility) in Hyesan City, Ryanggang Province, recounted having been beaten. One woman, who had been detained in 2017, described her experience as follows: "While in the cell, I was forced to sit still the whole time. When I moved by mistake, I was punished by being forced to crawl on my knees between the door and the bars, from one end of the cell to the other. This was painful, and my knees got scratched up, because the floor was not even, but was made out of rough wooden planks."

26. In addition to acts of torture and ill-treatment, the Special Rapporteur received numerous accounts of what appears to be the deliberate denial of economic and social rights of persons in detention, in particular the right to food, the right to health and the rights to clean water and sanitation, amounting to cruel and inhuman treatment.

27. While all of the individuals with experience of detention attested to not having had sufficient food, there were some variations in the amount of food provided, according to location and type of detention facility. Most detainees recounted having been fed cornmeal, corn or grains of poor quality and without variation. Malnutrition was common, and reports of deaths in custody due to malnutrition were also received, involving in particular those who had contracted illnesses.

28. Denial of the right to adequate health care, including access to medication, is a form of ill-treatment. The Special Rapporteur received information from an individual who had been held in a *kuryujang* and who had witnessed other detainees dying from tuberculosis, as no medication had been given to them by the prison authorities. It had reportedly been left to their families to provide them with such medication. Sick and healthy detainees were reportedly mixed together in some of these detention facilities, in which cells containing detainees with tuberculosis were located in the same corridor as the other cells, without any separation. There were also reports of seriously ill detainees being released, in some cases following bribes or with

<sup>16</sup> Recent commercial satellite imagery highlighted by the Committee for Human Rights in North Korea shows what appears to be a group of prisoners and guards at political camp No. 25 in Chongjin, Democratic People's Republic of Korea, on 6 November 2017. See Joseph S. Bermudez, Jr., Robert Collins and Amanda Mortwedt Oh, "Satellite imagery shows captives inside camp No. 25 in North Korea", HRNK Insider, 30 August 2018. Available at [www.hrnkinsider.org/2018/08/satellite-imagery-shows-captives-inside\\_30.html](http://www.hrnkinsider.org/2018/08/satellite-imagery-shows-captives-inside_30.html).

documents provided by relatives guaranteeing that they would be responsible for keeping the individual concerned at home.

29. Prison inmates remain vulnerable to inadequate access to water and sanitation. For example, a man who had been detained at a *kyohwaso* (re-education camp) in Kangwon Province described his experience as follows: “It was hard to have access to drinking water, because 3 or 4 cells out of 30 at the *kyohwaso* had tap water, and those provided [it] for one hour in the morning because of the ageing pipelines. We had to walk 500 to 600 metres to get water. It took an hour to reach drinking water, so it was hard to wash your face or shower. The head of each cell could enjoy washing, but not the rest of us.” A woman who had been held in a *kuryujang* of the Ministry of State Security in Hyesan City recounted that the small cell in which she had been placed with 9 to 10 other female detainees had a toilet that was just a hole in the floor with no running water. A 50-litre bucket was filled every morning by the prison guards for washing and for toilet use, but in reality, to save work for the guards who carried the water, they were allowed to use only half of the water provided for one day. Drinking water was not always provided upon request: “It depended on the guard whether we were given water”. Another woman who had been held at a Ministry of State Security *kuryujang* in Samjiyon, Ryanggang Province, described the sanitary conditions in the small cell — which housed 20 to 30 women and was not large enough for them to stretch their legs or lie down to sleep — as “very poor” and said, “There was just a bucket where we could relieve ourselves.”

30. The Special Rapporteur recalls that persons deprived of their liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty, and that respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons.<sup>17</sup> While it is difficult to categorically establish that the denial of adequate nutrition, medical care and hygiene, including tap water and washing facilities, to detainees is currently being used as a deliberate policy to punish detainees further, what is clear is that such denial of basic rights can amount to torture and ill-treatment and that the authorities of the Democratic People’s Republic of Korea clearly have a responsibility to ensure that the treatment of prisoners is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners and other international instruments. The Special Rapporteur urges the authorities of the Democratic People’s Republic of Korea to seek technical expertise from the United Nations human rights system as well as the International Committee of the Red Cross in order to reform the penitentiary system in line with international standards. He also urges the authorities to give humanitarian agencies access to detention facilities so that basic needs of detainees are addressed.

## 2. Separated families and abductions

31. At the time of reporting, the first family reunion event in three years was being organized by the two Koreas to take place from 20 to 26 August, resuming a tradition that the political deadlock of the past three years had halted.<sup>18</sup> The Special Rapporteur praises the efforts that have gone into organizing this event, and shares the happiness of the family members. It is important that the event be the start of a series of ongoing initiatives that will allow for the establishment of sustainable, long-term channels enabling family members to maintain permanent contact beyond reunion events, through written correspondence, telephone communications and visits to both countries. It is also important that the selection process of candidates for reunions be as inclusive of the family members as possible, and that it be based on the principles

<sup>17</sup> Human Rights Committee, general comment No. 21 (1992) on the humane treatment of persons deprived of their liberty.

<sup>18</sup> On 20 August 2018, the Special Rapporteur issued a press statement on the issue; see [www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23468&LangID=E](http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23468&LangID=E).

of transparency, accountability and non-discrimination, so that all families wishing to restore lost family ties are able to do so regardless of nationality or financial circumstances. In this regard, the Special Rapporteur shares the view, expressed in the OHCHR report on this issue, that the responses should be “formulated on the basis of entitlement rather than according to need”, and he encourages reflection on the recommendations included in that report.<sup>19</sup>

32. The Special Rapporteur was also pleased to learn that the Republic of Korea National Red Cross is working tirelessly to establish, with its Northern counterpart, the fates of separated family members with a view to facilitating contact between them or, in cases in which family members are deceased, assisting the surviving family members in visiting their hometown or the graves of their loved ones to pay their last tribute. The Special Rapporteur urges the two countries to also make full use of the technical expertise of the International Committee of the Red Cross in restoring family ties.

33. The issue of international abductions remains unresolved, although the situation of Japanese abductees was mentioned at the high-level talks that took place in recent months. To date, officially, 12 abductees from Japan and 516 from the Republic of Korea remain unaccounted for. The issue continues to affect the families of abductees in profound ways. Enforced disappearance is a serious crime that places the persons subjected thereto outside the protection of the law, with implications for their enjoyment of the right to life, liberty, security and dignity of person, and the right not to be subjected to torture or other cruel, inhuman or degrading treatment. It is a crime that will continue until the fate and whereabouts of every disappeared person has been clarified. In the efforts to bring back the loved ones to their families, there is also the need to bring truth to the families, who, in the absence of information indicating that they are not still alive, will keep searching for their loved ones in order to seek their return. The rights of the families of abductees should be duly considered in further dialogue with the Democratic People’s Republic of Korea with a view to providing them with knowledge concerning the fate and whereabouts of their loved ones, as well as other remedial measures to which they are entitled.

34. The Democratic People’s Republic of Korea approached OHCHR to help to resolve outstanding cases involving its nationals in the Republic of Korea, including the case of 12 women restaurant workers who allegedly had been taken from China to the Republic of Korea against their will in April 2016. Throughout the reporting period, the Special Rapporteur highlighted his concerns regarding the lack of clarity about the circumstances of their arrival in the Republic of Korea. The Special Rapporteur has called for an independent investigation into the case, while also stressing that the utmost priority must be given to respecting the rights of these women and their families, including their right to safety and their right to privacy, as well as their right to leave the country. On this last point, the Special Rapporteur welcomes the decision by the Republic of Korea to grant them passports. He will continue to follow the case with a view to engaging in further advocacy with the Governments concerned and other relevant actors as necessary.

35. During his field visits, the Special Rapporteur met with a woman named Kim Ryon Hui and a man named Kwon Chol Nam, who currently reside in the Republic of Korea and wish to return to the Democratic People’s Republic of Korea in order to be reunited with their families. The two have reportedly been convicted on espionage charges and have been unable to return to their homeland owing to restrictions imposed by the authorities of the Republic of Korea. The current political momentum

<sup>19</sup> OHCHR, “Torn apart: the human rights dimension of the involuntary separation of Korean families” (2016), para. 18. Available at [seoul.ohchr.org/EN/Documents/2016/TORN%20APART%20final%2007122016%20LAUNCH.pdf](http://seoul.ohchr.org/EN/Documents/2016/TORN%20APART%20final%2007122016%20LAUNCH.pdf).

should serve to resolve cases of this nature and bring about greater freedom of movement between the two countries. The Special Rapporteur calls upon the authorities of the Republic of Korea to review the cases of these individuals with a view to granting them the possibility to travel back to the Democratic People's Republic of Korea, on the basis of humanitarian grounds.

36. During the reporting period, the Special Rapporteur received additional information concerning a wave of arrests in China in March 2018 targeting citizens of the Democratic People's Republic of Korea. Information received by the Special Rapporteur about women and girls who had been trafficked from the Democratic People's Republic of Korea to China, including those who had then been repatriated from China, as well as those who had transited through China into the Republic of Korea, continued to reveal the vulnerability of such women and the girls to serious violations of their human rights on both sides of the border.

37. The testimonies of women who had been trafficked from the Democratic People's Republic of Korea to China, and who had escaped from their Chinese husbands to the Republic of Korea, also highlighted the vulnerability of these trafficking victims, as well as of the children born to them. A woman who had fled from her husband and left him with a 4-year-old daughter in 2018 described her ordeal in these words: "My [Chinese] husband was not good to me because he thought that, since I was North Korean, I should not complain. He was not sure we should get an ID for my daughter because of my origin." Many such children cannot attend school owing to their lack of citizenship, and many are orphaned when the mother is arrested for repatriation. The testimony is an important reminder of the multiple layers of the vulnerability of these women and children who have sought to escape a situation of the violation of human rights to find a better life, only to face another reality of abuses.

38. As documented in the previous reports of the Special Rapporteur, people who are forcibly returned from China, most of whom are trafficked women, remain especially vulnerable to detention, torture and ill-treatment upon repatriation. Testimonies of ill-treatment by women who experienced repatriation from China confirm that any forcible return of persons who have left the Democratic People's Republic of Korea should be considered as an act of refoulement, given the likelihood of the serious human rights violations that they will face upon their return.<sup>20</sup>

39. On 6 March 2018, the Special Rapporteur issued a joint appeal,<sup>21</sup> together with the Working Group on Arbitrary Detention, urging the Chinese authorities not to repatriate six people, including a 5-year-old girl, whom they had arrested in February 2018.<sup>22</sup> In April 2018, it was reported that many people had been released from detention and allowed to stay in China. Whereas this is a positive development, the Special Rapporteur urges the two countries to agree on a full-fledged protection

<sup>20</sup> In its concluding observations, the Committee on the Elimination of Discrimination against Women expressed further concern that "upon repatriation, women who are victims of trafficking are reportedly sent to labour training camps or prisons, on the charge of 'illegal border crossing', and may be exposed to further violations of their human rights, including sexual violence by security officials and forced abortions" (see CEDAW/C/PRK/CO/2-4, para. 27).

<sup>21</sup> See joint urgent appeal, communication No. UA CHN 6/2018; available at [spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23684](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23684).

<sup>22</sup> In its response on 19 July, the Permanent Mission of China to the United Nations Office and other international organizations in Geneva maintained its position that the "so-called 'North Korean refugees' are not refugees", but are people who have crossed the border illegally and have come to China for economic reasons. It stated that China will continue to take measures with respect to such persons in accordance with the respective and combined principles of domestic law, international law and humanitarianism (Permanent Mission of China, letter to OHCHR, 19 July 2018).

policy and legal framework for citizens of the Democratic People's Republic of Korea who live in China or transit through its territory. The policy should be designed with a view to protecting their freedom of movement, allowing them to settle in countries of their choosing, and providing the most vulnerable among them, particularly children, with adequate health care and education as well as additional protections against loss of family ties and human trafficking.<sup>23</sup> He also urges the Government of China to give United Nations agencies access to the areas concerned.

### 3. Right to health

40. Article 72 of the Constitution of the Democratic People's Republic of Korea states that "Citizens are entitled to free medical care, and all persons who are no longer able to work because of old age, illness or a physical disability, the old and children who have no means of support are all entitled to material assistance. This right is ensured by free medical care, an expanding network of hospitals, sanatoriums and other medical institutions, State social insurance and other social security systems". While the Democratic People's Republic of Korea has experienced many public health gains in recent years, including improved immunization coverage, obstetric care and significant reductions in under-5, infant and maternal mortality rates,<sup>24</sup> inequalities persist in access to health care. Information received by the Special Rapporteur highlights the particular challenges faced by people living in the provinces in gaining access to an adequate and affordable standard of health care provided by qualified professionals. Medical care, with the notable exception of vaccinations for children, is provided only upon payment. Those who cannot afford the expenses related to illnesses or accidents will simply not receive the medical care needed. "If you can't pay, you will be turned away", said a woman from Northern Hamgyong Province whom the Special Rapporteur interviewed. She had lost her son to cancer, because she could not pay for the treatment he needed. With travel by foot being the main means of transport in the Democratic People's Republic of Korea, in the absence of an affordable and reliable transport network in most rural areas, inability to gain physical access to medical facilities prevents many who are ill, injured or living without family members from obtaining the medical care that they require. People continue to rely on traditional herbs or traders who sell medicine, as hospital visits are prohibitively expensive. A former nurse who worked at a rural hospital in North Hwanghae Province said that people were able to see a doctor, but they had to pay for their own medicine. The nurse, who had not undergone any specialized training before taking up her job, said that "in the Democratic People's Republic of Korea, anyone who can do injections into the bloodstream can work as a nurse".

41. Tuberculosis is still a major health concern in the Democratic People's Republic of Korea, and the situation has worsened since the Global Fund to Fight AIDS, Tuberculosis and Malaria, at the end of June 2018, suspended grants to the country

<sup>23</sup> Both the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women expressed concern in their concluding observations about the guarantees of civil registration and access to nationality of children. For example, the former recommended that "the State party review its bilateral agreements to ensure that children born to mothers who are citizens of the Democratic People's Republic of Korea residing outside the territory of the State party have access to birth registration and nationality without the children or their mothers being forcibly returned to the State party's territory" (see [CRC/C/PRK/CO/5](#), para. 19, and [CEDAW/C/PRK/CO/2-4](#), para. 32).

<sup>24</sup> See United Nations, Office for the Coordination of Humanitarian Affairs, "Democratic People's Republic of Korea needs and priorities, March 2018". Available at [reliefweb.int/report/democratic-peoples-republic-korea/dpr-korea-needs-and-priorities-march-2018](http://reliefweb.int/report/democratic-peoples-republic-korea/dpr-korea-needs-and-priorities-march-2018).

aimed at combating the disease.<sup>25</sup> To date, the World Health Organization has maintained the Democratic People's Republic of Korea on a list of the countries most affected by tuberculosis. Cooperation with the Republic of Korea resumed in late 2017 with the establishment of joint inspection teams and the delivery of lifesaving medicine and other humanitarian aid. The current opening for humanitarian dialogue between the two countries should be used to strengthen the exchange of medical expertise as well as outreach to international donors to help contain the incidence of tuberculosis.

42. According to official media in the Democratic People's Republic of Korea, high temperatures during the summer caused medical institutions to conduct information campaigns to raise awareness of preventive health measures among the general population and ensured that hospitals and clinics in Pyongyang and other parts of the country had secured medicines to treat circulatory and cerebral diseases that have high incidence rates in hot and humid weather. It was also reported that hygienic and anti-epidemic institutions had tightened their supervision and control over public catering facilities and soft drink stalls.<sup>26</sup>

43. However, the information received by the Special Rapporteur repeatedly underscored the complete breakdown of the health-care system and others, such as the Public Distribution System, together with the lack of a social safety net provided by the State. Testimonies by those who left the Democratic People's Republic of Korea in the past year reveal a situation in which no assistance is provided by the State in any form to guarantee the right to social security for all. Any shortfalls in meeting basic needs, such as chronic food shortages, and any medical needs resulting from illnesses, accidents or disability, can be met only through supplementary incomes in the informal economy. As a 22-year-old woman from Northern Hamgyong Province expressed: "We were taught that everything is equal and fair under the socialist system, but when I lived there (in the North), it didn't feel that way ... Life was so difficult for everyone. Everyone lived for their own good, for themselves, and couldn't care about anyone else."

44. In the view of the Special Rapporteur, the urgent need to reform the social security system from the perspective of the ongoing humanitarian situation in the country is made even more pressing by the dire situation of those who have fallen through the cracks. The Special Rapporteur encourages the Government in the meantime to enhance the assistance of the United Nations country team in meeting the needs of particularly vulnerable groups, which includes providing them with free and unimpeded access to all parts of the country.

#### **4. Rights to safe drinking water and sanitation**

45. Access to safe drinking water and sanitation remains a challenge for provincial communities, which make up the majority of the population of the Democratic People's Republic of Korea. While both communicable and non-communicable diseases continue to be major health concerns,<sup>27</sup> a survey conducted by the United Nations Children's Fund (UNICEF)<sup>28</sup> indicated that 60 per cent of rural areas had

<sup>25</sup> No specifics came out of the decision of the Global Fund to suspend aid to the Democratic People's Republic of Korea.

<sup>26</sup> See KCNA Watch, "Deep attention paid to health protection in Democratic People's Republic of Korea", 8 August 2018. Available at [kcnawatch.co/newstream/1533780057-60622886/deep-attention-paid-to-health-protection-in-dprk/](http://kcnawatch.co/newstream/1533780057-60622886/deep-attention-paid-to-health-protection-in-dprk/).

<sup>27</sup> See Office for the Coordination of Humanitarian Affairs, "Democratic People's Republic of Korea needs and priorities, March 2018".

<sup>28</sup> See Central Bureau of Statistics and UNICEF, *Multiple Indicator Cluster Survey 2017: Survey Findings Report — Democratic People's Republic of Korea* (2018), available at [mics.unicef.org/surveys](https://mics.unicef.org/surveys).



poor waste disposal, resulting in contaminated water, to the point that faecal contamination was detected in the household drinking water of 54.1 per cent of the rural household population.<sup>29</sup>

46. It is rare for households in the provincial areas of the Democratic People's Republic of Korea to have an indoor toilet, and many people use outdoor facilities that are not connected to a public sewage system. Sanitation systems that are managed by households are not necessarily defective, but they imply a health concern for users and the community at large in the absence of government oversight and awareness-raising. None of the escapees interviewed by the Special Rapporteur had had access to treated, readily available water or a toilet inside their homes, but only to outdoor toilets or latrines that were not connected to a public sewage system. A woman from Hyesan City said: "We lived close to the Yalu River, and we got our drinking water from the river. We used to go before sunrise, when it was still clean, and people did not start washing their clothes. This is the case for most people in Hyesan City." Another woman, from Musan County, North Hamgyong Province, described the struggle to gain access to clean water as follows: "Our house had a toilet outside. We had water at home, but we had to pump it. It was not always clear. It was mixed with sand, and it was intermittent as well. We could also get water from a river stream close to the house when the supply at home was not enough, and this was the case for other people." The testimonies point out the serious risk posed by the consumption of river water that is vulnerable to contamination and pollution. The Special Rapporteur urges the authorities to adopt a comprehensive plan to monitor the quality and safety of river water, and to ensure that people who are not able to gain access drinking water through government supply can nonetheless receive a supply of purified river water at specific collection sites operated by the Government.

47. In its concluding observations, the Committee on the Rights of the Child welcomed the State party's 2016 intersectoral initiative to integrate water, sanitation and nutrition, and drew attention to target 6.2 of the Sustainable Development Goals. The Committee also recommended that the State party prioritize water, sanitation and nutrition interventions and participate in South-South learning exchanges on technology and use of gravity-fed water systems.<sup>30</sup> The Special Rapporteur encourages the authorities to engage with the Special Rapporteur on the human rights to safe drinking water and sanitation. In this regard, the recent engagement of the Government with the Special Rapporteur on the rights of persons with disabilities, including a field visit, must serve as a good example for further cooperation in the future with the water and sanitation mandate holder and others.

## **V. Cooperation with the United Nations human rights system**

### **A. Mandate of the Special Rapporteur**

48. The Democratic People's Republic of Korea remains closed to any form of cooperation or engagement with the mandate of the Special Rapporteur and has declined his repeated requests for meetings with the country's Permanent Missions to the United Nations in Geneva and New York. While the Government rejects the mandate, alleging politicization and double standards of the mechanism itself, the Special Rapporteur has continued to call for dialogue with the authorities while being strictly guided by the principles of independence, neutrality and impartiality.

<sup>29</sup> Ibid., p. 148.

<sup>30</sup> See [CRC/C/PRK/CO/5](#), para. 44.

49. In view of the ongoing rapprochement with key Member States, the Special Rapporteur believes that there is an urgent need for the Government of the Democratic People's Republic of Korea to step up the human rights dialogue and to extend a parallel opening alongside the current openings on peace and denuclearization. The call is to end the era of self-isolation and to engage, as a credible Member of the United Nations, in a process of dialogue with the Special Rapporteur as a concrete sign of its commitment, which will only serve to reinforce the ongoing process.

50. In the meantime, the Special Rapporteur continues to seek indirect contacts with officials of the Democratic People's Republic of Korea, with the support of a multitude of regional and international actors.

## **B. Office of the United Nations High Commissioner for Human Rights**

51. The Special Rapporteur believes that the appointment of the new High Commissioner for Human Rights offers a unique opportunity for OHCHR to explore meaningful engagement and cooperation with the Democratic People's Republic of Korea. In this regard, he would strongly support a visit by the High Commissioner to the Democratic People's Republic of Korea as a first step towards engaging in human rights issues. A number of areas identified by the Special Rapporteur offer good opportunities for cooperation with the authorities, as follows:

(a) Advice and technical assistance to the National Committee for the Implementation of International Human Rights Treaties, created in April 2015, with a view to enhancing the implementation of treaty obligations and the recommendations emanating from such bodies;

(b) Technical assistance, training and sensitization for government officials on international human rights instruments and mechanisms;

(c) Advice and technical assistance in establishing an independent national human rights institution, in accordance with the Paris Principles;

(d) Advice and technical assistance to improve complaint mechanisms for abuses existing at the domestic level;<sup>31</sup>

(e) Advice and technical assistance in developing a system that allows public access to domestic legislation;<sup>32</sup>

(f) Advice and technical assistance in enhancing the collection and analysis of data on human rights issues, in accordance with "A human rights-based approach to data: leaving no one behind in the 2030 Agenda for Sustainable Development"<sup>33</sup> and other guidelines such as "Human rights indicators: a guide to measurement and implementation";<sup>34</sup>

(g) Advice and technical assistance for the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the

<sup>31</sup> In its concluding observations, the Committee on the Rights of the Child noted "the information provided by the State party on the existence of complaints departments, complaints boxes and the required confidentiality from complaints officers" (ibid., para. 11).

<sup>32</sup> In its concluding observations, the Committee on the Elimination of Discrimination against Women expressed regret that "the State party's laws are not publicly available, which would allow for constructive criticism and independent monitoring" (see CEDAW/C/PRK/CO/2-4, para. 11).

<sup>33</sup> OHCHR, "A human rights-based approach to data: leaving no one behind in the 2030 Agenda for Sustainable Development", 2018. Available at [www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf](http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf).

<sup>34</sup> OHCHR, "Human rights indicators: a guide to measurement and implementation" (2012). Available at [www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf).



International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(h) Advice and technical assistance with a view to encouraging the withdrawal by the Democratic People's Republic of Korea of its unilateral declaration against the treaty obligations under the International Covenant on Civil and Political Rights;

(i) Mediation between the Government and the International Labour Organization (ILO) with a view to the Democratic People's Republic of Korea becoming a member of ILO and a State party to the core ILO conventions;

(j) Provision of advice and technical assistance to the two Koreas in exchanges and cooperation initiatives which involve human rights obligations.

52. With regard to the accountability agenda for violations committed in the Democratic People's Republic of Korea, significant steps have been taken in the past year, in particular the establishment of a dedicated investigation team at OHCHR. In accordance with Human Rights Council resolution 34/24, the capacity of the Office, including its field-based structure in Seoul, has been reinforced with a dedicated team tasked with conducting monitoring and documentation activities with a view to establishing a central repository of information and evidence relating to cases. The Special Rapporteur, underscoring the imperative importance of seeking truth and justice with respect to crimes against humanity, continues to work closely with the new team and commends the efforts undertaken to advance the accountability agenda in the Democratic People's Republic of Korea.

### **C. Other United Nations human rights mechanisms**

53. The Democratic People's Republic of Korea has complied with its reporting obligations before the Committee on the Rights of the Child (see [CRC/C/PRK/CO/5](#)) and the Committee on the Elimination of Discrimination against Women (see [CEDAW/C/PRK/CO/2-4](#)). The country also underwent the second cycle of the universal periodic review of the Human Rights Council in 2014 and will undergo the third cycle in May 2019. This progress in the relationship of the Democratic People's Republic of Korea with United Nations human rights mechanisms, including the past official visit of the Special Rapporteur on the rights of persons with disabilities, now needs to be reflected in terms of steps towards the implementation of the recommendations from those mechanisms. In this regard, the Special Rapporteur strongly encourages the Government to seek technical assistance from the relevant United Nations entities and, once again, insists on the importance of accepting his visit to the country to further address all these human rights issues.

54. The Special Rapporteur also encourages the United Nations country team in the Democratic People's Republic of Korea to continue working with the authorities to assist with the implementation of those recommendations, including in the context of the strategic framework for cooperation between the United Nations and the Government of the Democratic People's Republic of Korea 2017–2021. The advancement in the rapprochement between the two Koreas will increase the activities and the role of the United Nations office, including in terms of human rights affairs.

55. The visit to Pyongyang made by the Under-Secretary-General for Political Affairs in December 2017 was a valuable opportunity to defuse tensions and restore political dialogue with the Democratic People's Republic of Korea. The Special Rapporteur encourages the Government to continue to build on that contact, and

encourages the United Nations agencies concerned to secure the best from this opening.

## VI. Conclusions

56. The rapprochement that the world has witnessed since the beginning of 2018 between the two Koreas comes after 70 years of confrontation and division, with significant meaning for the people and for the prospects for peace and prosperity on the Korean Peninsula and beyond. Likewise, the ensuing summit between the leaders of the Democratic People's Republic of Korea and the United States could represent a pivot in history regarding the denuclearization of the Democratic People's Republic of Korea.

57. While the Special Rapporteur regrets that neither the Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula nor the Singapore summit statement included any human rights terminology, he believes that the resumption of dialogue channels on peace and denuclearization is also an opportunity to lay the foundations for a human rights dialogue with the Government of the Democratic People's Republic of Korea.

58. To achieve peace, denuclearization and prosperity entail multiple actions with implications for human rights, including humanitarian aid, the improvement of economic and social statistics, development and infrastructure projects, labour standards, progress on freedoms, environmental impact assessments, cultural and religious exchanges, the fostering of tourism, and the overall historical challenge of opening up the country to technical cooperation and reliable monitoring and verification. Therefore, the Special Rapporteur is convinced that bringing human rights to the table is not a hindrance, but a way of ensuring that peace talks are sustainable and comprehensive. For the authorities of the Democratic People's Republic of Korea, this is the time and the opportunity to prove its attachment to the international system by upholding universal human rights principles.

59. Addressing human rights in Democratic People's Republic of Korea is not only the responsibility of the parties involved in negotiations, but also a primary burden of the United Nations as a whole, especially in view of continuing grave violations and the findings of the 2014 Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, including that crimes against humanity have been committed in the country. In this regard, the Special Rapporteur would support a declaration of the General Assembly to end the Korean war and to initiate a peace process, but he calls upon the Member States and the United Nations institutions to simultaneously integrate human rights throughout its consideration of the Democratic People's Republic of Korea, and not to restrict it to discussions in the Third Committee. Regardless of the extent of, and progress or backtracking in, negotiations, there are many issues that must be addressed without further delay, such as political prison camps, special measures for victims of trafficking, providing answers on reported cases of enforced disappearance, accountability measures, or dire socioeconomic conditions, which cannot wait until the international community decides that the timing is appropriate or convenient. History has shown time and again that whenever human rights are put aside in a peace process, it will pose risks for the future. In this regard, the Special Rapporteur hopes that the security guarantees demanded by the Democratic People's Republic of Korea in order to denuclearize do not result in a renouncement of the supervision of universal human rights responsibilities, which not so long ago was a top priority for the international community. Ultimately, for the United Nations mandate that he holds, it is tangible results for the people of the Democratic People's Republic of Korea that matter.

60. Finally, the Special Rapporteur believes that it is critical that the process of dialogue with the Democratic People's Republic of Korea be fully inclusive and transparent. It must not remain a process that is driven exclusively by the leaders, but must be opened up to other actors for their active participation. In moving forward, the relevant Governments should hold further consultations with all stakeholders, including civil society organizations, so that the peace process can benefit from a diverse range of views and perspectives.

## **VII. Recommendations**

**61. The Special Rapporteur recommends that the Democratic People's Republic of Korea:**

(a) **Seek the assistance of the international community in addressing chronic food insecurity and malnutrition, as well as access to essential health services and access to clean water and adequate sanitation, with particular attention to vulnerable groups;**

(b) **Consider taking steps to reduce military expenditure with a view to ensuring equitable reallocation of resources to respond to the ongoing humanitarian situation;**

(c) **Recognize the fundamental right to leave and enter the Democratic People's Republic of Korea in law and practice, and ensure that those who are repatriated, including victims of human smuggling and trafficking, are not subjected to punishment upon repatriation;**

(d) **Ensure that family reunion events are conducted with the interests of the families first and foremost in mind, including by ensuring the possibility for them to maintain longer-term communication with their relatives in the Republic of Korea in a sustainable manner;**

(e) **Address allegations of enforced disappearance and provide information to the families of the victims on the fates and whereabouts of their missing relatives;**

(f) **Consider reforming the Public Distribution System with a view to ensuring the right to social security for all, in particular those who cannot meet their basic needs owing to illnesses, accidents, old age, disability or maternity;**

(g) **Review any formal or informal practice that requires children to perform labour tasks that interfere with their rights to education, health, rest and leisure, and prohibit in law the employment of children under 18 years of age in harmful or hazardous work;**

(h) **Release statistical and other data that will allow for an assessment of the impact of international sanctions on the population;**

(i) **Consider becoming a member of the International Labour Organization with a view to adhering to the core labour standards;**

(j) **Ensure that the nationals of the Republic of Korea currently detained in Pyongyang are provided with consular assistance, in accordance with the Vienna Convention on Consular Relations, with a view to their early release, and that their treatment fully complies with the standard minimum rules for the treatment of prisoners;**

(k) Consider the further granting of amnesty to political prisoners, particularly those imprisoned for guilt by association, as part of a longer-term ongoing process, while ensuring transparency in the process;

(l) Consider seeking the expertise of the United Nations human rights system as well as that of the International Committee of the Red Cross to reform the penitentiary system in line with international standards;

(m) Continue to cooperate with the Human Rights Council, in particular in relation to the upcoming universal periodic review, paying due attention to the implementation of the recommendations accepted during the previous review;

(n) Submit the periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights;

(o) Consider seeking the technical assistance of the Office of the United Nations High Commissioner for Human Rights, including by granting access to the country;

(p) Initiate a process of dialogue with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea;

(q) Engage with the High Commissioner for Human Rights on the issues recommended in paragraphs 51 and 52 above;

(r) Engage with the Special Rapporteur on the human rights to safe drinking water and sanitation.

62. The Special Rapporteur recommends that the Republic of Korea:

(a) Integrate human rights into the ongoing peace and denuclearization talks;

(b) Undertake consultations with stakeholders engaged in issues of relevance to the situation of human rights in the Democratic People's Republic of Korea, including civil society organizations working on the accountability agenda;

(c) Adopt a rights-based and victim-centric approach to family reunions, allowing for unhindered contact between all relatives;

(d) Facilitate people-to-people exchanges with the Democratic People's Republic of Korea by lowering restrictions on freedom of communication;

(e) Consider allowing people who wish to go back to the Democratic People's Republic of Korea to do so;

(f) Enforce strict guidelines for economic and humanitarian cooperation, including to ensure that aid reaches those most in need.

63. The Special Rapporteur recommends that China:

(a) Refrain from forcibly returning individuals to the Democratic People's Republic of Korea who are at risk of serious human rights violations upon repatriation;

(b) Consider adopting a legal and policy framework for citizens of the Democratic People's Republic of Korea who live in China or who transit through its territory that would allow them to seek asylum on a case-by-case basis, or to apply for settlement in countries of their choosing;

(c) Consider adopting a legal and policy framework to protect victims of human trafficking in China, in particular women and children, that would allow for access to health care and education, among other basic services.

**64. The Special Rapporteur recommends that the international community:**

(a) Use any available opportunity for dialogue with the Democratic People's Republic of Korea to create an environment for progress in the human rights situation, in particular by calling for prevention of violations and effective protection of human rights in an accountable manner, as well as the participation of the people of the Democratic People's Republic of Korea in determining the path towards peace and prosperity;

(b) Provide increased financial and other support to humanitarian actors, including the United Nations, in responding to the most urgent food, health, nutrition, water, sanitation and hygiene needs in the ongoing humanitarian situation;

(c) Consult and involve civil society actors in efforts of Member States to address the situation of human rights in the Democratic People's Republic of Korea;

(d) Support efforts to promote accountability in the Democratic People's Republic of Korea, including the work of the dedicated OHCHR accountability team;

(e) Use the upcoming third cycle of the universal periodic review, in May 2019, as an opportunity to urge the Government of the Democratic People's Republic of Korea to implement the recommendations accepted during the first and second cycles.

**65. The Special Rapporteur recommends that the United Nations:**

(a) Continue to press for the full inclusion of human rights in future peace talks as part of system-wide efforts in a coordinated and unified manner;

(b) Support technical cooperation projects on human rights with the Democratic People's Republic of Korea, including in areas suggested in paragraphs 51 and 52 above;

(c) Support efforts to promote accountability in the Democratic People's Republic of Korea, in consultation with the dedicated OHCHR accountability team.

**66. The Special Rapporteur recommends that civil society organizations:**

(a) Continue to use the results of human rights monitoring to advocate changes in the laws and policies of the Democratic People's Republic of Korea;

(b) Strengthen advocacy efforts aimed at raising awareness on the link between human rights protection and peacebuilding;

(c) Reach out to humanitarian organizations inside the Democratic People's Republic of Korea to develop synergies that can help to advance human rights, including with respect to specific groups, themes or issues;

(d) Use the upcoming third cycle of the universal periodic review, in May 2019, as an opportunity to highlight the status of implementation of the recommendations accepted during the first and second cycles by the Government of the Democratic People's Republic of Korea.