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Human rights situations that require the Council's attention

Albania,* Australia,* Austria, Belgium,* Bulgaria, Croatia,* Cyprus,* Czechia, Denmark, Estonia,* Finland,* France, Germany, Greece,* Hungary,* Ireland,* Israel,* Italy, Japan, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands, New Zealand,* North Macedonia,* Norway,* Poland, Portugal,* Romania,* San Marino,* Slovakia,* Slovenia,* Spain,* Sweden,* Switzerland,* Turkey,* Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America*: draft resolution

46/... Situation of human rights in the Democratic People's Republic of Korea

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Recalling all previous resolutions adopted by the Commission on Human Rights, the Human Rights Council and the General Assembly on the situation of human rights in the Democratic People's Republic of Korea, including Council resolution 43/25 of 22 June 2020 and Assembly resolution 75/190 of 16 December 2020, and urging the implementation of those resolutions,

Bearing in mind paragraph 3 of General Assembly resolution 60/251 of 15 March 2006,

Recalling its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

Stressing the importance of following up on the recommendations contained in the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea,¹ which was welcomed by both the Human Rights Council and the General Assembly, and transmitted to the relevant bodies of the United Nations, including the Security Council,

Deeply concerned about the systematic, widespread and gross human rights violations in the Democratic People's Republic of Korea that, in many instances, constitute crimes against humanity, and about the impunity of perpetrators, as described in the report of the commission of inquiry,

* State not a member of the Human Rights Council.

¹ A/HRC/25/63.



Recalling the responsibility of the Democratic People's Republic of Korea to protect its population from crimes against humanity, and noting that the General Assembly, in its resolution 75/190, recalled that the commission of inquiry had urged the leadership of the Democratic People's Republic of Korea to prevent and suppress crimes against humanity and to ensure that perpetrators were prosecuted and brought to justice,

Concerned that the precarious humanitarian situation in the country is exacerbated by the restrictions imposed by the Government of the Democratic People's Republic of Korea on the free and unimpeded access for humanitarian agencies to all populations in need,

Deeply concerned that the humanitarian and human rights situation in the Democratic People's Republic of Korea, and the conditions for international staff in the country, may further deteriorate as a result of the global coronavirus disease (COVID-19) pandemic, emphasizing the importance of timely assistance to the Democratic People's Republic of Korea in addressing the impact of COVID-19, and underlining in this regard the importance of allowing entry into and exit out of the country by international staff, free and unimpeded access to all populations in need and the import of materials necessary for assisting vulnerable people, in accordance with relevant Security Council resolutions,

Stressing that any restrictions on addressing the pandemic must be necessary, proportionate, non-discriminatory, time-bound, transparent and strictly in line with international law, including the obligations of the Democratic People's Republic of Korea under international human rights law and relevant Security Council resolutions,

Acknowledging General Assembly resolution 75/190, in which the Assembly noted with concern the findings of the United Nations that 10.4 million people in the Democratic People's Republic of Korea were estimated to be undernourished, one third of children 6 to 23 months of age did not receive a minimum acceptable diet, one in five children suffered from stunting (chronic malnutrition), around 9 million people were estimated to have limited access to quality health services and 33 per cent, or an estimated 8.4 million, of people did not have access to a safely managed drinking water source, including 56 per cent of people in rural areas, condemning the Democratic People's Republic of Korea for its national policies of, among other things, diverting its resources into pursuing nuclear weapons and ballistic missiles over the welfare of its people and their access to food, and emphasizing the necessity for the Democratic People's Republic of Korea to respect and ensure the welfare and inherent dignity of the people in the country, as referred to by the Security Council in its resolutions 2321 (2016) of 30 November 2016, 2371 (2017) of 5 August 2017, 2375 (2017) of 11 September 2017 and 2397 (2017) of 22 December 2017,

Reaffirming that it is the responsibility of the Government of the Democratic People's Republic of Korea to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population, including the right to an adequate standard of living, including adequate food, as well as to respect, among other things, freedom of movement, freedom of religion or belief, freedom of expression and freedom of association and peaceful assembly,

Recognizing that particular risk factors affect women, children, persons with disabilities and older persons and the need to ensure their full enjoyment of all their human rights and fundamental freedoms against neglect, abuse, exploitation and violence, and taking note in this regard of the concluding observations of the Committee on the Elimination of Discrimination against Women on the combined second to fourth periodic reports of the Democratic People's Republic of Korea² and the concluding observations of the Committee on the Rights of the Child on the fifth periodic report of the Democratic People's Republic of Korea,³

Encouraging the Democratic People's Republic of Korea to implement all of the recommendations made by the Special Rapporteur on the rights of persons with disabilities in her report on her visit to the Democratic People's Republic of Korea, submitted to the Human Rights Council at its thirty-seventh session,⁴ and noting with appreciation the

² CEDAW/C/PRK/CO/2-4.

³ CRC/C/PRK/CO/5.

⁴ A/HRC/37/56/Add.1.

submission of the initial report of the Democratic People's Republic of Korea on the implementation of the Convention on the Rights of Persons with Disabilities,⁵ in December 2018,

Acknowledging the participation of the Democratic People's Republic of Korea in the third cycle of the universal periodic review, noting the acceptance by the Government of the Democratic People's Republic of Korea of 132 of the 262 recommendations contained in the outcome of the review⁶ and its stated commitment to implementing them and to looking into the possibility of implementing a further 56 recommendations, and emphasizing the importance of the implementation of the recommendations in order to address the grave human rights violations in the country,

Noting with regret that independent civil society organizations cannot operate in the Democratic People's Republic of Korea and that, as a result, no civil society organization based in the Democratic People's Republic of Korea was able to submit a stakeholder report for the universal periodic review process,

Stressing the importance of extending the cooperation of the Government of the Democratic People's Republic of Korea to the Office of the United Nations High Commissioner for Human Rights,

Recognizing the important work of the treaty bodies in monitoring the implementation of international human rights obligations, and emphasizing the need for the Democratic People's Republic of Korea to comply with its human rights obligations and to ensure regular and timely reporting to the treaty bodies,

Stressing again with grave concern the urgency and importance of the issue of international abductions and of the immediate return of all abductees, as they and their family members age, expressing grave concern at the long years of suffering experienced by abductees and their families and the lack of positive action by the Democratic People's Republic of Korea, notably since the investigations on all the Japanese nationals commenced on the basis of the government-level consultations held between the Democratic People's Republic of Korea and Japan in May 2014, and strongly demanding that the Democratic People's Republic of Korea address all allegations of enforced disappearances, to faithfully provide accurate and detailed information to the families of victims on the fate and whereabouts of their missing relatives, and to resolve all issues relating to all abductees at the earliest possible date, in particular the realization of the immediate return of all abductees of Japan and the Republic of Korea,

Noting with concern the allegations of continued violations of the human rights of unrepatriated prisoners of war and their descendants,

Welcoming the international community's diplomatic efforts, and stressing the importance of dialogue, including inter-Korean dialogue, engagement and cooperation for the improvement of the human rights and humanitarian situation in the Democratic People's Republic of Korea,

Stressing the urgency and importance of the issue of separated families, including affected Koreans worldwide, in this regard encouraging the resumption of reunions of separated families across the border and in accordance with the commitments made on this issue at the inter-Korean summit held on 19 September 2018 to strengthen humanitarian cooperation to fundamentally resolve the issue of separated families, and highlighting the importance of allowing permanent regular reunions and contact between separated families, including through meetings at an easily accessible location and regular facility, regular written correspondence, video reunions and the exchange of video messages, in accordance with relevant Security Council resolutions,

Reaffirming the importance of States engaging fully and constructively with the Human Rights Council, including with the universal periodic review process and other mechanisms of the Council, for the improvement of their situation of human rights,

⁵ CRPD/C/PRK/1.

⁶ A/HRC/42/10.

1. *Condemns in the strongest terms* the long-standing and ongoing systematic, widespread and gross human rights violations and other human rights abuses committed in the Democratic People's Republic of Korea, and expresses again its grave concern at the detailed findings made by the commission of inquiry in its report, including:

(a) The denial of the right to freedom of thought, conscience and religion, including the right to adopt a religion or belief, and of the rights to freedom of opinion, expression and association, both online and offline, which is enforced through an absolute monopoly on information and total control over organized social life, and arbitrary and unlawful State surveillance that permeates the private lives of all citizens;

(b) Discrimination based on the *songbun* system, which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion, discrimination against women, including unequal access to employment, discriminatory laws and regulations and violence against women;

(c) Violations of all aspects of the right to freedom of movement, including forced assignment to State-designated places of residence and employment, often based on the *songbun* system, and denial of the right to leave one's own country;

(d) Systematic, widespread and grave violations of the right to adequate food and related aspects of the right to life, exacerbated by widespread hunger and malnutrition;

(e) Violations of the right to life and acts of extermination, murder, enslavement, torture and other cruel, inhuman and degrading treatment or punishment, imprisonment, rape and other grave forms of sexual and gender-based violence and persecution on any grounds, including on the grounds of political opinion, religion or belief and sexual orientation and gender identity, in political prison camps and ordinary prisons, and the widespread practice of collective punishment, with harsh sentences imposed on innocent individuals;

(f) Persistent violations and abuses of all rights of women and girls, who remain the most vulnerable to trafficking for the purposes of prostitution, domestic servitude or early, child or forced marriage and to other forms of sexual and gender-based violence;

(g) The enforced and involuntary disappearance of persons by arrest, detention or abduction against their will, the refusal to disclose the fate and whereabouts of the persons concerned and the refusal to acknowledge the deprivation of their liberty, which places persons subjected thereto outside the protection of the law and which has had the effect of inflicting severe suffering on them and their families;

(h) Systematic abduction, denial of repatriation and subsequent enforced disappearance of persons, including those from other countries, on a large scale and as a matter of State policy;

2. *Urges* the Government of the Democratic People's Republic of Korea to acknowledge its crimes, abuses and human rights violations, in and outside of the country, and to take immediately all steps necessary to end all such crimes, abuses and violations through, inter alia, the implementation of relevant recommendations contained in the report of the commission of inquiry and in General Assembly resolution 75/190, including, but not limited to, the following steps:

(a) Ensuring the right to freedom of thought, conscience and religion or belief and the rights to freedom of opinion, expression and association, both online and offline, including by permitting the establishment of independent newspapers and other media;

(b) Ending discrimination against citizens, including State-sponsored discrimination based on the *songbun* system, and taking immediate steps to ensure gender equality and the full enjoyment by women and girls of their human rights and the protection of women and girls from sexual and gender-based violence;

(c) Ensuring the right to freedom of movement, including the freedom to choose one's place of residence and employment;

(d) Promoting equal access to food, including by allowing humanitarian access to all people in need and full transparency regarding the provision of humanitarian assistance

so that such assistance is genuinely provided to vulnerable persons, including individuals in detention;

(e) Allowing humanitarian organizations to carry out their activities in the context of the COVID-19 pandemic, commencing with the immediate reopening of the national borders of the Democratic People's Republic of Korea, for the delivery of urgently required humanitarian goods such as food, medicines and agricultural supplies;

(f) Halting immediately all human rights violations relating to prison camps, including the practice of forced labour and the use of torture and other cruel, inhuman and degrading treatment or punishment and sexual and gender-based violence, dismantling all political prison camps and releasing all political prisoners, immediately ceasing the practice of the arbitrary and summary execution of persons in custody, and ensuring that justice sector reforms provide for protections for fair trials and due process;

(g) Resolving the issue of all persons who have been abducted or otherwise forcibly disappeared and their descendants, in a transparent manner, including by ensuring their immediate return;

(h) Ensuring the reunion of separated families across the border;

(i) Abolishing immediately the practice of guilt-by-association punishment;

(j) Ensuring that everyone within the territory of the Democratic People's Republic of Korea enjoys the right to liberty of movement and is free to leave the country, including for the purpose of seeking asylum outside the Democratic People's Republic of Korea, without interference by the authorities of the Democratic People's Republic of Korea;

(k) Providing nationals of other countries detained in the Democratic People's Republic of Korea with protections, including freedom of communication with and access to consular officers, in accordance with the Vienna Convention on Consular Relations, to which the Democratic People's Republic of Korea is a party, and any other necessary arrangements to confirm their status and to communicate with their families;

3. *Recalls* General Assembly resolution 75/190, in which the Assembly expressed its very serious concern at the violations of workers' rights, including the right to freedom of association and effective recognition of the right to collective bargaining, the right to strike and the prohibition of the economic exploitation of children and of any harmful or hazardous work of children, as well as the exploitation of workers sent abroad from the Democratic People's Republic of Korea to work under conditions that reportedly amount to forced labour;

4. *Also recalls* paragraph 11 of Security Council resolution 2371 (2017), paragraph 17 of Council resolution 2375 (2017) and in particular paragraph 8 of Council resolution 2397 (2017), in which the Council decided that States Members of the United Nations should repatriate to the Democratic People's Republic of Korea all nationals of the Democratic People's Republic of Korea earning income in their jurisdictions and all Democratic People's Republic of Korea government safety oversight attachés monitoring Democratic People's Republic of Korea workers abroad immediately, but no later than 24 months from 22 December 2017, urges all States to fully comply, unless the particular State determines that the national is a national of that State or is prohibited from repatriation under applicable national and international law, including international refugee law and international human rights law, the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations or the Convention on the Privileges and Immunities of the United Nations, and also urges the Democratic People's Republic of Korea to promote, respect and protect the human rights of workers, including workers that were repatriated to the Democratic People's Republic of Korea by 22 December 2019, in accordance with paragraph 8 of Security Council resolution 2397 (2017);

5. *Further recalls* paragraph 4 of General Assembly resolution 75/190, in which the Assembly underscored its very serious concern regarding reports of torture, cruel, inhuman and degrading treatment or punishment, summary executions, arbitrary detention, abductions and other forms of human rights violations and abuses that the Democratic

People's Republic of Korea commits against citizens of other countries within and outside of its territory;

6. *Reiterates* its deep concern at the findings of the commission of inquiry concerning the situation of refugees and asylum seekers returned to the Democratic People's Republic of Korea and other citizens of the Democratic People's Republic of Korea who have been repatriated from abroad and made subject to sanctions, including internment, torture, cruel, inhumane and degrading treatment or punishment, sexual and gender-based violence, enforced disappearance or the death penalty, in this regard strongly urges all States to respect the fundamental principle of non-refoulement, to treat humanely those who seek refuge and to ensure unhindered access to the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights, with a view to protecting the human rights of those who seek refuge, and once again urges States to comply with their obligations under international human rights law and the Convention relating to the Status of Refugees and the Protocol thereto in relation to persons from the Democratic People's Republic of Korea who are covered by those instruments;

7. *Stresses and restates* its grave concern at the finding of the commission of inquiry that the body of testimony gathered and the information received provided reasonable grounds to believe that crimes against humanity have been committed in the Democratic People's Republic of Korea, pursuant to policies established at the highest level of the State for decades and by institutions under the effective control of its leadership, and that the crimes against humanity entail extermination, murder, enslavement, torture and other cruel, inhuman and degrading treatment or punishment, imprisonment, rape, forced abortions and other sexual and gender-based violence, persecution on political, religious, racial and gender-related grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation;

8. *Stresses* that the authorities of the Democratic People's Republic of Korea have failed to prosecute those responsible for crimes against humanity and other human rights violations and abuses, and encourages all States, the United Nations system, including relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and other stakeholders to cooperate with accountability efforts, especially the efforts made by the Office of the United Nations High Commissioner for Human Rights, and to ensure that the crimes do not remain unpunished;

9. *Welcomes* General Assembly resolution 75/190, in which the Assembly encouraged the Security Council to continue its consideration of the relevant conclusions and recommendations of the commission of inquiry and to take appropriate action to ensure accountability, including through consideration of referral of the situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the further development of sanctions in order to target effectively those who appear to be most responsible for human rights violations, which the commission has indicated may constitute crimes against humanity;

10. *Commends* the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea for the activities undertaken to date and his continued efforts in the conduct of his mandate despite the lack of access to the country;

11. *Welcomes* the report of the Special Rapporteur;⁷

12. *Recalls* the recommendations of the commission of inquiry and those contained in General Assembly resolution 75/190, and reiterates the importance of maintaining the grave human rights situation in the Democratic People's Republic of Korea high on the international agenda, including through sustained communications, advocacy and outreach initiatives, and requests the Office of the High Commissioner to strengthen those activities;

13. *Welcomes* the report of the High Commissioner, submitted to the Human Rights Council pursuant to its resolution 40/20, on promoting accountability in the

⁷ A/HRC/46/51.

Democratic People's Republic of Korea,⁸ commends the Office of the High Commissioner, including its field-based structure in Seoul, for the efforts it has made to date, and encourages it to take into account the experience of other relevant mechanisms and to actively engage and cooperate with national, regional and international mechanisms, as appropriate, as part of its efforts to identify strategies for accountability, in accordance with international law standards;

14. *Decides* to continue to strengthen, for a period of two years, the capacity of the Office of the High Commissioner, including its field-based structure in Seoul, to allow the implementation of relevant recommendations made by the group of independent experts on accountability in its report, aimed at strengthening current monitoring and documentation efforts, establishing a central information and evidence repository and having experts in legal accountability assess all information and testimonies, with a view to developing possible strategies to be used in any future accountability process;

15. *Requests* the High Commissioner to provide an oral update on the progress made in this regard to the Human Rights Council at its forty-ninth session and to submit a full report on the implementation of the recommendations to the Council at its fifty-second session;

16. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, in accordance with Human Rights Council resolution 37/28, for a period of one year;

17. *Requests* the High Commissioner to include additional options for strengthening, institutionalizing and further advancing work on accountability in the Democratic People's Republic of Korea, in the report to be submitted to the Human Rights Council at its fifty-second session;

18. *Requests* the Office of the High Commissioner to organize a series of consultations and outreach activities with victims, affected communities and other relevant stakeholders, with a view to including their views into avenues for accountability;

19. *Calls again upon* all parties concerned, including United Nations bodies, to consider implementation of the recommendations made by the commission of inquiry in its report, in order to address the dire situation of human rights in the Democratic People's Republic of Korea;

20. *Encourages* the field-based structure of the Office of the High Commissioner in Seoul to continue its endeavours, welcomes its regular reports to the Human Rights Council, and invites the High Commissioner to provide the Council with regular updates on the situation of human rights in the Democratic People's Republic of Korea;

21. *Calls upon* all States to undertake to ensure that the field-based structure of the Office of the High Commissioner can function with independence, that it has sufficient resources to fulfil its mandate, that it enjoys full cooperation with relevant States and that it is not subjected to any reprisals or threats;

22. *Requests* the Office of the High Commissioner to report on its follow-up efforts in the regular annual report of the Secretary-General submitted to the General Assembly on the situation of human rights in the Democratic People's Republic of Korea;

23. *Requests* the Special Rapporteur to submit regular reports to the Human Rights Council and to the General Assembly on the implementation of his mandate, including on the follow-up efforts made in the implementation of the recommendations of the commission of inquiry;

24. *Urges* the Government of the Democratic People's Republic of Korea, through continuous dialogues, to invite and to cooperate fully with all special procedure mandate holders, especially the Special Rapporteur, to give the Special Rapporteur and supporting staff unrestricted access to visit the country, to provide them with all information necessary

⁸ A/HRC/46/52.

to enable them to fulfil such a mandate and to promote technical cooperation with the Office of the High Commissioner;

25. *Encourages* the Government of the Democratic People's Republic of Korea to extend an invitation to the Office of the High Commissioner to visit the country;

26. *Also encourages* the Government of the Democratic People's Republic of Korea to provide comprehensive information on the implementation of the recommendations it accepted in the second and third cycles of the universal periodic review and to further expand cooperation with other United Nations human rights mechanisms, in order to address all human rights violations and abuses in the country;

27. *Encourages* the United Nations system, including its specialized agencies, States, regional intergovernmental organizations, interested institutions, independent experts and non-governmental organizations to develop constructive dialogue and cooperation with special procedure mandate holders, including the Special Rapporteur, and the field-based structure of the Office of the High Commissioner;

28. *Encourages* all States, the United Nations, including its relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and engaged business enterprises and other stakeholders towards which the commission of inquiry has directed recommendations to take forward those recommendations;

29. *Encourages* all States, the United Nations, including its relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and engaged business enterprises and other stakeholders to support efforts aimed at improving dialogue on and engagements with regard to the humanitarian and human rights situation, including international abductions, in the Democratic People's Republic of Korea, including inter-Korean dialogue;

30. *Urges* the Democratic People's Republic of Korea to refrain from the use of deadly and other excessive force at its borders and elsewhere, to work with the international community, including the United Nations system, in the context of COVID-19, and facilitate conditions for alleviating the suffering of the citizens of the Democratic People's Republic of Korea and to allow international staff to operate in the country, so that the international community can provide assistance based on independent needs assessments, including of vulnerable populations in detention centres, and a monitoring capacity, consistent with international standards and humanitarian principles and in accordance with relevant Security Council resolutions;

31. *Encourages* the United Nations system as a whole to continue to address the grave situation of human rights in the Democratic People's Republic of Korea in a coordinated and unified manner, including through consideration by the Security Council;

32. *Encourages* all States that have relations with the Democratic People's Republic of Korea to use their influence to encourage it to take immediate steps to end all human rights violations and abuses, including by closing political prison camps and undertaking profound institutional reforms;

33. *Requests* the Secretary-General to provide the Special Rapporteur and the Office of the High Commissioner with regard to the field-based structure with sufficient resources and the support necessary to carry out the mandate effectively, including to support the information and evidence repository, and to ensure that the mandate holder receives the support of the Office of the High Commissioner;

34. *Decides* to transmit all reports of the Special Rapporteur to all relevant bodies of the United Nations and to the Secretary-General for appropriate action.