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## **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, Elizabeth Salmón, in accordance with Assembly resolution [78/218](#).



## **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 [78/218](#). In the report, the Special Rapporteur provides an update on the human rights situation and discusses immediate accountability initiatives, with a focus on reparations for victims of serious human rights violations, in particular enforced disappearance, torture and other cruel, inhuman and degrading treatment following forced repatriation.

## I. Introduction

1. In her recent report to the Human Rights Council ([A/HRC/55/63](#)), the Special Rapporteur provided a comprehensive review of efforts made by relevant stakeholders towards ensuring accountability for human rights violations committed by the Democratic People's Republic of Korea since the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea in 2014 ([A/HRC/25/63](#)) and guided by the report of the group of independent experts on accountability in 2017 ([A/HRC/34/66/Add.1](#)). She also examined what measures needed to be taken to further advance accountability for human rights violations.

2. In the present report, the Special Rapporteur reiterates the importance of a comprehensive victim-centred approach to accountability for human rights violations committed by the Democratic People's Republic of Korea. In particular, she explores what accountability measures can be instituted for victims of torture and enforced disappearance, including a special focus on guaranteeing reparations for victims.

## II. Overview of the human rights situation

3. The Democratic People's Republic of Korea has been isolated from the outside world for several years, increasing security tensions on the Korean Peninsula. In January 2024, the President, Kim Jong Un, announced that the country would no longer pursue reunification with the Republic of Korea.<sup>1</sup> During the reporting period, the Democratic People's Republic of Korea launched several ballistic missiles, including the launch of 18 missiles on 30 May 2024<sup>2</sup> and military reconnaissance satellites. The Republic of Korea and the United States of America also carried out joint military exercises. The Security Council, in response to the launch of ballistic missiles, held several meetings under the agenda item "Non-proliferation/Democratic People's Republic of Korea".<sup>3</sup> Since late May 2024, the Democratic People's Republic of Korea has sent a large number of balloons with trash to the Republic of Korea, allegedly in response to joint military exercises, leaflets and other items sent by balloons from the Republic of Korea, and intrusions across the maritime border.<sup>4</sup> In response, the Republic of Korea resumed loudspeaker broadcasting, which included criticism of the leadership of the Democratic People's Republic of Korea and information about the development of the Republic of Korea, near the military demarcation line for the first time since 2018.

4. On 12 June 2024, the Security Council held an open briefing on the situation of human rights in the Democratic People's Republic of Korea, the sixth briefing held since 2014, at which the United Nations High Commissioner for Human Rights and the Special Rapporteur briefed about the ongoing human rights situation in the country and its impact on peace and security. The resumption of an open briefing is a positive sign that the Council remains concerned over the human rights situation in the Democratic People's Republic of Korea as a threat to international peace and security. However, Member States need to take creative and concrete measures to

<sup>1</sup> KCNA, "Respected Comrade Kim Jong Un makes policy speech at 10th session of 14th SPA", 16 January 2024.

<sup>2</sup> The Democratic People's Republic of Korea called it "power demonstration firing" on 31 May. See KCNA, "Report on power demonstration firing of 600mm super-large multiple rocket sub-units respected Comrade Kim Jong Un directly guides power demonstration firing", 31 May 2024.

<sup>3</sup> See Security Council meeting records, available at [www.securitycouncilreport.org/un\\_documents\\_type/security-council-meeting-records/?ctype=DPRK%20%28North%20Korea%29&cbtype=dprk-north-korea](http://www.securitycouncilreport.org/un_documents_type/security-council-meeting-records/?ctype=DPRK%20%28North%20Korea%29&cbtype=dprk-north-korea).

<sup>4</sup> KCNA, "Press statement by Vice-Minister of National Defence of DPRK", 2 June 2024.

address the past and ongoing human suffering in the Democratic People's Republic of Korea.

5. Instead of lifting the restrictions on fundamental freedoms and border closures implemented early in 2020 as coronavirus disease (COVID-19) preventive measures, the Government of the Democratic People's Republic of Korea continues to further tighten its control over the population, restricting their human rights, including the right to freedom of movement, the right to work, the right to food and the right to freedom of expression, including access to information. The Government has been significantly repressing private commercial activities as "anti-social behaviour", which had been the means of making a living for many people. Women are further tasked with participating in mobilizations and ideological lectures, leaving them with little time to earn a living through private commercial activities. A policy was reportedly reintroduced in 2021 giving a monopoly to the Government to sell rice and corn. In March 2023, the Bluffing Prevention Act was enacted to prevent false reporting of agricultural production.<sup>5</sup> While the Government's efforts appear to focus on supporting agricultural production, these measures are instead aimed at achieving stronger control of food production and distribution.

6. Notwithstanding the partial opening of the international border in August 2023, the supply of necessities and the delivery of humanitarian assistance remains limited. International staff of the United Nations and humanitarian actors have been unable to return to the country. The United Nations Children's Fund (UNICEF) reported that restrictions and border closures had affected its monitoring ability and effective response to needs<sup>6</sup> and that child malnutrition had deteriorated. The Ministry of Public Health of the Democratic People's Republic of Korea reported to UNICEF that "only one in five children treated for diarrheal disease received oral rehydration salts", and UNICEF assesses that this "increases risks to child survival given the high malnutrition rates".<sup>7</sup> In 2022, no child was vaccinated for measles and rubella, polio or tuberculosis, and no pregnant woman received immunization against tetanus and diphtheria, while the vaccination coverage rates for the first and third doses of diphtheria and tetanus toxoid with pertussis were 98 and 97 per cent, respectively, prior to the border shutdown.<sup>8</sup> Approximately 40 per cent of children have been waiting for a first dose of vaccines against five life-threatening diseases (diphtheria, pertussis, tetanus, hepatitis B and haemophilus influenza type B (Hib)) since 2021, and a significant number of children born in 2023 have yet to receive necessary vaccinations.<sup>9</sup> On 18 July 2024, life-saving vaccines for 600,000 children and pregnant women were delivered, which, it is hoped, will contribute to a nationwide catch-up campaign planned in September.<sup>10</sup> From 13 to 16 July 2024, the Director-General of the Food and Agriculture Organization of the United Nations visited the Democratic People's Republic of Korea to "reactivate and strengthen the partnership between FAO and DPRK in addressing food security and nutrition challenges in the wake of the post COVID-19 pandemic".<sup>11</sup> The Special Rapporteur requests the

<sup>5</sup> Lee Wootae and others, *White Paper on Human Rights in North Korea 2023* (Seoul, Korea Institute for National Unification, 2024), p. 315.

<sup>6</sup> United Nations Children's Fund (UNICEF), "Humanitarian Situation Report No. 2, East Asia and Pacific Region", 2 February 2024, p. 2.

<sup>7</sup> UNICEF, "Country office annual report 2023: Democratic People's Republic of Korea", 2024, p. 1.

<sup>8</sup> World Health Organization (WHO) and UNICEF, "Democratic People's Republic of Korea: WHO and UNICEF estimates of immunization coverage – 2022 revision", 1 July 2023.

<sup>9</sup> UNICEF, "Country office annual report 2023", p. 1.

<sup>10</sup> UNICEF, "Life-saving vaccines for children and pregnant women delivered to Democratic People's Republic of Korea", 18 July 2024.

<sup>11</sup> Food and Agriculture Organization of the United Nations (FAO), "FAO Director-General visits Mongolia and DPRK reaffirming FAO's commitments to supporting sustainable agrifood systems transformation in developing countries", 17 July 2024.

Government to urgently facilitate the return of the United Nations and humanitarian agencies to the Democratic People's Republic of Korea in order to support the humanitarian needs of the people in vulnerable situations in the country.

7. In recent years, the Democratic People's Republic of Korea has enacted several laws that included death penalty provisions further restricting the enjoyment of the right to freedom of movement, to work and to freedom of expression and opinion, among other rights: the Law on Epidemic Prevention (2020); the Law on the Elimination of Reactionary Thought and Culture (2020);<sup>12</sup> the Law on Emergency Anti-Epidemic Work (2021); and the Pyongyang Standard Language Protection Act (2023). Under the Pyongyang Standard Language Protection Act, for example, serious cases of speaking or writing in the language of a so-called "puppet state" (article 29) could be punished by the death penalty.<sup>13</sup> The enactment of these laws, combined with the reported reintroduction of public executions and public trials, reinforces the Government's control over its population through fear of severe punishment for exercising fundamental human rights.

8. Stricter control of the borders has made the escape of people and the exchange of information from the Democratic People's Republic of Korea extremely challenging. The number of escapees arriving in the Republic of Korea remains significantly lower than the level before the border shutdown early in 2020. In 2019, 1,047 escapees arrived in the Republic of Korea; conversely, during the first six months of 2024, 105 escapees (95 women and 10 men) arrived.<sup>14</sup> In 2023, 196 escapees (164 women and 32 men) arrived, of whom only a few are estimated to have left the Democratic People's Republic of Korea in 2023.

9. The Democratic People's Republic of Korea continues to engage with the United Nations human rights mechanisms. In December 2023, the Government submitted its replies to the list of issues in relation to its initial report to the Committee on the Rights of Persons with Disabilities (see [CRPD/C/PRK/RQ/1](#)). On 22 March 2024, several mandate holders sent an allegation letter to the Democratic People's Republic of Korea in which they raised concern over the trafficking of girls and women for the purposes of forced marriage, sexual exploitation, forced labour and domestic servitude.<sup>15</sup> On 22 May 2024, the Special Rapporteur and other mandate holders sent a joint allegation letter to the Democratic People's Republic of Korea regarding the treatment of repatriated individuals.<sup>16</sup> On 15 May and 24 June 2024, the Government sent a reply to those letters.<sup>17</sup> This was one of the few instances in which the Democratic People's Republic of Korea replied to communications sent by the special procedures mandate holders. The Special Rapporteur encourages the

<sup>12</sup> On 23 August 2021, the Special Rapporteur and other mandate holders jointly expressed apprehensions regarding the imposition of the death penalty for acts relating to the rights to freedom of opinion and expression, as well as the right to take part in cultural life, guaranteed by international human rights law, to the Government of the Democratic People's Republic of Korea.

<sup>13</sup> In article 2.2 of the law, "puppet language" is defined as a language that has "completely lost the essence of the Korean language due to its vocabulary, grammar, and intonation becoming Westernized, Japanized, or Sincized", further characterized as "a lowly and disgusting garbage language."

<sup>14</sup> Ministry of Unification, Policy on North Korean Defectors database, available at [www.unikorea.go.kr/eng\\_unikorea/relations/statistics/defectors/](http://www.unikorea.go.kr/eng_unikorea/relations/statistics/defectors/).

<sup>15</sup> Communication No. AL PRK 1/2024.

<sup>16</sup> Communication No. AL PRK 2/2024.

<sup>17</sup> Permanent Mission of the Democratic People's Republic of Korea to the United Nations, letter to United Nations Office in Geneva and the other international organizations in Geneva, No. 0024, 16 May 2024, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38429>; and Permanent Mission of the Democratic People's Republic of Korea to the United Nations, letter to United Nations Office in Geneva and the other international organizations in Geneva, No. 0033, 17 June 2024, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38479>.

Government to engage with the United Nations human rights mechanisms in a constructive manner. Notwithstanding its limitations, the exchange of information between the Government and the United Nations human rights mechanisms allows for a better understanding of the situation and the exploration of practical measures to address human rights concerns. The fourth cycle of the universal periodic review of the Democratic People's Republic of Korea is scheduled for November 2024, presenting an important opportunity for the country to engage with the international community and commit itself to improving human rights in the country.

### III. Importance of tailoring accountability measures to victims' needs

10. Accountability is fundamental to the human rights framework. Many actors, including the Office of the United Nations High Commissioner for Human Rights (OHCHR), Governments – in particular of the Republic of Korea – and civil society organizations are monitoring the human rights situation in the Democratic People's Republic of Korea. The ultimate objective of monitoring and documenting human rights is to reinforce State authorities' "responsibility to respect, protect and fulfil human rights"<sup>18</sup> and to ensure accountability for any rights violations, first and foremost in and by the Democratic People's Republic of Korea. Monitoring and documenting human rights are essential not only for criminal accountability, but also to fulfil victim's rights to truth and reparations. In the absence of steps taken by the Democratic People's Republic of Korea towards accountability inside the country, the current documenting efforts made by various actors are particularly important to ensure accountability.

11. In the present report, the Special Rapporteur would like to highlight feasible accountability initiatives that can be undertaken by other States and the international community to fulfil victims' rights.<sup>19</sup> This includes criminal prosecution<sup>20</sup> based on the principle of extraterritorial and/or universal jurisdiction, civil litigation, reparations and truth-seeking efforts. The need for comprehensive accountability measures is supported by surveys of escapees from the Democratic People's Republic of Korea residing in the Republic of Korea. In a 2019 survey of escapees conducted by a civil society organization, the respondents indicated that, along with legal procedures to punish culprits of human rights violations, they believed that perpetrators confessing crimes (55.6 per cent), perpetrators asking for forgiveness (45.2 per cent) and compensation for victims (39 per cent) were other viable options of holding perpetrators accountable.<sup>21</sup> According to a series of consultations with enforced disappearance victims' groups carried out by OHCHR since 2022, victims emphasized the need for criminal prosecutions to hold to account those responsible, as well as truth seeking and comprehensive reparation, including individual and collective compensation, rehabilitation, restitution, apology, education, physical and mental health support, and memorialization. Many families also expressed their hope to resume family reunions and to restore contacts with relatives in the Democratic

<sup>18</sup> OHCHR, "Basic principles of human rights monitoring", in *Manual on Human Rights Monitoring* (United Nations publication, 2011), p. 4.

<sup>19</sup> Victims of serious violations of human rights are entitled to be provided with full and effective reparation, which includes the following forms: restitution; compensation; rehabilitation; satisfaction; and guarantees of non-recurrence. Compensation involves the provision of economically assessable damage, including costs required for legal or expert assistance, medicine and medical services, and psychological and social services (A/HRC/66/63, para. 49).

<sup>20</sup> Criminal prosecutions were discussed in A/HRC/55/63, paras. 18–24.

<sup>21</sup> Transitional Justice Working Group, *Exploring Grassroots Transitional Justice North Korean Escapee Views on Accountability for Human Rights Abuses* (Seoul, 2019), p. 30.

People's Republic of Korea.<sup>22</sup> Victims also highlighted various non-judicial accountability measures. For example, victims and families of forcibly disappeared persons emphasized the importance of the disclosure of the truth about the fate and whereabouts of forcibly disappeared persons and their immediate and safe return, as well as the return of the remains of the victims. In meetings with the Special Rapporteur, victims of human trafficking, including those who experienced torture, stressed the need for apologies from the countries responsible, non-repetition, monetary compensation and mental health support such as psychological counselling.

#### **IV. Two paradigmatic situations: enforced disappearance and torture following forced repatriation**

12. To explore concrete measures for the victims of serious human rights violations committed by the Democratic People's Republic of Korea, in the present report the Special Rapporteur will focus on the situation of victims of enforced disappearance and torture and other cruel, inhuman and degrading treatment. First, allegations of enforced disappearance and torture and other cruel, inhuman and degrading treatment of forcibly repatriated individuals are well documented by the United Nations human rights mechanisms and civil society.<sup>23</sup> Second, the number of victims of these human rights violations living outside of the Democratic People's Republic of Korea is large.<sup>24</sup> This includes family members of victims of enforced disappearance,<sup>25</sup> as well as affected immediate family, dependents and persons who have suffered harm in intervening to assist victims of torture or prevent their victimization.<sup>26</sup> Third, both enforced disappearance and torture and other cruel, inhuman and degrading treatment have long-term or lifelong physical and psychological consequences on victims, including the family members. Fourth, both enforced disappearance and torture, when committed as part of a widespread and systematic attack directed against a civilian population, with knowledge of the attack, constitute crimes against humanity, which is an

<sup>22</sup> OHCHR, *'These Wounds Do Not Heal': Enforced Disappearance and Abductions by the Democratic People's Republic of Korea* (2023); and [A/HRC/52/64](#), para. 26.

<sup>23</sup> Ibid.; OHCHR, *'I Still Feel the Pain': Human Rights Violations against Women Detained in the Democratic People's Republic of Korea* (2020); communication No. AL CHN 9/2023; and [A/HRC/25/63](#).

<sup>24</sup> During the Korean War from 1950 to 1953, between 80,000 and 100,000 people from the Republic of Korea were estimated to have been kidnapped and relocated to the Democratic People's Republic of Korea. Since the end of the Korean War, at least 50,000 prisoners of war from the armed forces of the Republic of Korea have not been repatriated and approximately 500 survivors are estimated to be held as of 2020, according to repatriated prisoners of war. During the resettlement "Paradise on Earth" campaign, 93,340 ethnic Korean people living in Japan and their Japanese spouses "returned" from Japan to the Democratic People's Republic of Korea based on false promises of better life. Hundreds of people from the Republic of Korea, Japan and other nations were also abducted and disappeared, mainly between the 1960s and the 1980s. The Government of the Republic of Korea officially recognizes 516 of its citizens as post-war abductees. Eleven people (four crew members and seven passengers) who were on Korean Air Lines flight YS-11 hijacked on 11 December 1969 have never been returned. Six citizens of the Republic of Korea continue to be detained in the Democratic People's Republic of Korea. According to the Government of Japan, 12 abductees from Japan officially recognized by the Government of Japan remain unaccounted for. In addition, hundreds of missing Japanese may have been abducted by the Democratic People's Republic of Korea.

<sup>25</sup> Under article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance, family members of enforced disappearance victims are considered victims, given that they have "suffered harm as the direct result of an enforced disappearance".

<sup>26</sup> Under the Convention against Torture, "affected immediate family or dependents of the victims as well as persons who have suffered harm in intervening to assist victims or to prevent victimization" of torture also are considered victims. See Committee against Torture, general comment No. 3 (2012), para. 3.

international crime.<sup>27</sup> Lastly, the responsibility of the international community to act to ensure accountability is triggered when both human rights violations are committed.

13. There are thousands of families of enforced disappearances in the Republic of Korea, Japan and other countries, and they are all entitled to the right to reparations. There are also some victims who escaped from the Democratic People's Republic of Korea, such as prisoners of war from the Republic of Korea and victims of the "Paradise on Earth" campaign who had been forcibly disappeared after their arrival in the Democratic People's Republic of Korea. Enforced disappearance, including in the form of abductions, is a serious crime that continues until the fate and whereabouts of the disappeared person has been clarified. The Working Group on Enforced or Involuntary Disappearances stated that "enforced disappearance causes 'anguish and sorrow' ... to the family, a suffering that reaches the threshold of torture" and that this torture is continuous upon the relatives.<sup>28</sup>

14. With regard to victims of torture and other cruel, inhuman and degrading treatment, the Special Rapporteur would like to highlight the extremely traumatic nature of escaping from the Democratic People's Republic of Korea. This process typically involves living in China and other countries at a real risk of forcible repatriation, reattempting to escape and enduring other risky experiences while trying to reach the Republic of Korea or other countries. In the Democratic People's Republic of Korea, notwithstanding the guarantee of freedom of movement in its Constitution, any travel within and outside of the country is strictly controlled by the requirement of permission issued by the authorities, along with multiple inspections within the country and at borders with other countries. People who escaped from the Democratic People's Republic of Korea, the vast majority of whom are women,<sup>29</sup> do so for various reasons such as economic opportunities and the prospect of enjoying freedom, but all of them make this decision as a last resort, taking multiple risks. Prior to the COVID-19-triggered strict border shutdowns, many women and girls who attempted to escape were sold into forced marriages with men or driven into the sex industry. These women usually live in a great risk of forcible repatriation and many report staying in such a situation to be with their children born to Chinese husbands. Some of these women decide to take a risky journey to the Republic of Korea to escape arrest and possible repatriation, domestic violence, economic hardships and discrimination, and to seek better access to education and other services for their children. Allegedly, hundreds of such escapees have been arrested and detained in China and other countries and are currently at the immediate risk of forced repatriation to the Democratic People's Republic of Korea where they face a real risk of torture, arbitrary detention, forced labour, enforced disappearance or other serious human rights violations.<sup>30</sup>

15. Many of the female escapees who were resettled in the Republic of Korea and other countries had previously been detained in the Democratic People's Republic of Korea often for illegal commercial activities, illegal border crossings and for exercising their rights.<sup>31</sup> Forcibly repatriated individuals are initially detained in pretrial detention centres by the Ministry of State Security, where they are searched, interrogated and beaten. Allegedly, invasive searches of body cavities conducted by

<sup>27</sup> Rome Statute of the International Criminal Court, art. 7.

<sup>28</sup> A/HRC/16/48, para. 1. The Human Rights Committee "took note of the anguish caused to the author by the disappearance of her husband, the failure of the State party to provide her with adequate reparation". The Committee considered that "the material on file reveals a violation of article 7 (prohibition of torture) of the Covenant with respect to the author"; see CCPR/C/113/D/2000/2010, para. 11.7.

<sup>29</sup> Some 72 per cent of the escapees are women. See Ministry of Unification, Settlement Support for North Korean Defectors database, available at [www.unikorea.go.kr/eng\\_unikorea/whatwedo/support/](http://www.unikorea.go.kr/eng_unikorea/whatwedo/support/).

<sup>30</sup> See communication Nos. UA CHN 11/2024 and AL CHN 9/2023.

<sup>31</sup> OHCHR, *'I Still Feel The Pain'*.



officials (A/HRC/31/57, para. 23, and CAT/C/CR/29/4, para. 6 (k)) could constitute gender-based violence, rising to the level of torture in some cases. In between interrogations, repatriated people are forced to sit completely still in a kneeling or cross-legged position from early morning until evening. If they move, they are punished, including by being beaten or deprived of food. In response to a joint allegation letter on the treatment of repatriated individuals sent by several mandate holders in May 2024, the Democratic People’s Republic of Korea stated that the letter was full of “falsehood, fabrication and plot” and that tarnishing the “dignified image of socialist system” of the country, which “enjoys the absolute trust and support of the entire people”, was not acceptable.

16. Escapees from the Democratic People’s Republic of Korea reside in various countries, with the largest number of escapees in the Republic of Korea. As of December 2023, 34,078 escapees entered the Republic of Korea. Other countries such as Japan, the United States, the United Kingdom of Great Britain and Northern Ireland, Canada and Germany also host hundreds of people from the Democratic People’s Republic of Korea. In addition, hundreds of escapees, mainly women, are estimated to be living in other countries. The situations of escapees resettled in the Republic of Korea, for example, indicate the urgent need for additional support, in particular for those who have suffered serious human rights violations in the past. In a survey on the social and economic integration of escapees conducted by a civil society organization,<sup>32</sup> 33.2 per cent of all respondents (38.8 per cent of women and 16.8 per cent of men) stated that “in the past year, they continuously felt sad or hopeless for more than two weeks, which negatively affected their daily lives”.<sup>33</sup> This is an increase from 20 per cent before the outbreak of COVID-19 in 2019 to 30 per cent after the outbreak, showing a steady increase.<sup>34</sup> In addition, among those who answered that they felt hopeless, 60 per cent were unemployed and 51.6 per cent were economically inactive, higher than the unemployment percentage of those who did not have such difficulties. Rehabilitation – medical and psychological care and legal and social services – is an important form of a victim’s right to reparation. According to a study conducted by several psychiatric doctors of the Republic of Korea, 53 per cent of escapees surveyed were diagnosed with post-traumatic stress disorder owing to psychological trauma experienced during the process of repatriation to and escaping from the Democratic People’s Republic of Korea.<sup>35</sup>

### **Families as victims**

17. The Special Rapporteur wishes to reiterate that enforced disappearances have resulted in thousands of families being separated without knowing the fate and whereabouts of their loved ones. Families of those forcibly disappeared reside in the Republic of Korea, Japan, the United States and other countries. Escapees from the Democratic People’s Republic of Korea who made a traumatic journey to come and settle in the Republic of Korea and other countries are also suffering because they are unable to contact and communicate with their families easily owing to the Government’s restrictions and fear of retaliation against their families back home. The prolonged state of tension and recent further militarization and disengagement between the Democratic People’s Republic of Korea and the relevant States have

<sup>32</sup> Database Centre for North Korean Human Rights, “2023 Economic and social integration of North Korean escapees in South Korea”, English summary, 2023, p. 14.

<sup>33</sup> Ibid.

<sup>34</sup> Database Centre for North Korean Human Rights, “2023 Economic and Social Integration of North Korean Defectors”, 2023 (Korean), p. 74.

<sup>35</sup> Na Yong Han and others, “Predictors of PTSD among North Korean defectors visited psychiatric department of North Korean defectors treatment centre”, *Journal of Korean Neuropsychiatric Association*, vol. 54, No. 1 (2015).

considerable impacts on the prospects for victims to reunite with their loved ones and the return of victims of international abductions and other enforced disappearances, as well as their family's right to know their fate. The last family reunion programmes between the Democratic People's Republic of Korea and the Republic of Korea took place on from 20 to 26 August 2018 in Mount Kumgang based on the Panmunjom Declaration on Peace, Prosperity and Reunification of the Korean Peninsula. According to a survey conducted by a civil society organization, in 2018 46.9 per cent of escapees in the Republic of Korea were in contact with their families, but in 2023, under border shutdowns, stricter surveillance and heavier penalties, only 23.7 per cent of escapees answered that they maintained contact with their relatives and friends inside the Democratic People's Republic of Korea. While 64.3 per cent could send money in 2015, only 20 per cent of respondents said they were able to send money to their families in 2023. The commission fee for multiple brokers, approximately 30 per cent on average, appears to have increased as the risk of contacting the families of those living outside of the Democratic People's Republic of Korea has risen owing to heightened surveillance.

## **V. Immediate accountability measures, with a focus on reparations for victims of serious human rights violations: enforced disappearance and torture and other cruel, inhumane and degrading treatment following forced repatriation**

18. The need to provide accountability measures are emphasized in the present section, with a special focus on reparations for victims of human rights violations, in particular enforced disappearance and torture. Such measures will be analysed separately on the basis of actors that can or should implement them.

### **1. Democratic People's Republic of Korea as the primary duty bearer**

19. The Democratic People's Republic of Korea holds several obligations relating to accountability: criminal prosecution, institutional reforms, truth-seeking and, specifically, reparations for human rights violations committed within its jurisdiction, including enforced disappearance and torture and other cruel, inhuman and degrading treatment following forced repatriation. The Democratic People's Republic of Korea is a State party to the International Covenant on Civil and Political Rights, in which the obligation of States to ensure individuals have "accessible and effective remedies" when the rights or freedoms recognized under the Covenant are violated is established in its article 2 (3) ([A/HRC/55/63](#), para. 10). By this provision, States are required to make reparations to such individuals, including through compensation, restitution, rehabilitation and satisfaction measures ([CCPR/C/21/Rev.1/Add.13](#), paras. 15–16). The Human Rights Committee has stated that these obligations "arise notably" with respect to violations of human rights recognized as criminal under either domestic or international law, such as those analysed in the present report.<sup>36</sup>

20. In the case of enforced disappearance, the Human Rights Committee has remarked that States must conduct effective and speedy inquiries to determine the fate and whereabouts of the disappeared and implement prompt and effective

<sup>36</sup> Enforced disappearances violate articles 6, 7, 9 and 16 of the International Covenant on Civil and Political Rights. Meanwhile, torture and cruel, inhuman and degrading treatment violate article 7 of the Covenant.

procedures to investigate cases of disappearances by independent and impartial bodies. In addition, it has stated that States should “ensure that victims of enforced disappearance and their relatives are informed about the outcome of the investigation and are provided with full reparation”<sup>37</sup> and that “[u]nder no circumstances should families of victims of enforced disappearance be obliged to declare them dead in order to be eligible for reparation”.<sup>38</sup> In turn, regarding torture and other cruel, inhuman and degrading treatment, the Committee has indicated that the right to file complaints against these acts should be recognized in domestic legislation and competent authorities must investigate them promptly and impartially to ensure an effective remedy.<sup>39</sup>

21. The International Convention for the Protection of All Persons from Enforced Disappearance and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment also include stipulations on accountability obligations for these two violations. It should be noted that, according to the Working Group on Enforced or Involuntary Disappearances, the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance are based “to a great extent” on those of the Declaration on the Protection of all Persons from Enforced Disappearance, which “largely reflects customary international law binding on all States” (A/HRC/51/31/Add.3, para. 76). In its article 19, victims’ right to obtain redress and adequate compensation, including the means for as complete rehabilitation as possible, is recognized.<sup>40</sup> Although the Democratic People’s Republic of Korea has yet to accede to these treaties, their provisions<sup>41</sup> and the interpretations<sup>42</sup> made by their corresponding treaty bodies are persuasive in determining the measures that the Democratic People’s Republic of Korea must take to ensure reparations for these violations as required pursuant to the treaties to which it is a State Party. Furthermore, the prohibition of torture and other cruel, inhuman and degrading treatment, underlying the Convention against Torture, is considered customary international law and *jus cogens* in relation to torture.<sup>43</sup> Failing to fulfil accountability obligations would also undermine “the spirit and purpose of the entire normative edifice” derived from the prohibition of torture (A/76/168, para. 10).

22. Undoubtedly, the Democratic People’s Republic of Korea is the primary duty bearer to ensure the right to effective remedies and reparations to victims of enforced disappearance and acts of torture and other cruel, inhuman and degrading treatment inflicted upon forced repatriation within its jurisdiction. Notwithstanding the communications sent to the Democratic People’s Republic of Korea by the Working Group on Enforced or Involuntary Disappearances and joint allegation letters sent by the Special Rapporteur and other mandate holders, the Government has persistently failed to provide substantive replies or information regarding the fate and whereabouts of the abductees with respect to the serious allegations of grave and systematic enforced disappearances in the country, and the continuing practice of

<sup>37</sup> Human Rights Committee, general comment No. 36 (2018), para. 58.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid., general comment No. 20 (1992), para. 14.

<sup>40</sup> Article 19, reads, “The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation”.

<sup>41</sup> In the case of the International Convention for the Protection of All Persons from Enforced Disappearance, relevant provisions include articles 3, 12.1, 12.2, 24.3 and 24.4. In the case of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States, in line with article 14, are required to ensure that victims of torture obtain redress.

<sup>42</sup> See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Committee against Torture, general comment No. 3 (2012), paras. 1–2; and A/HRC/45/13/Add.3.

<sup>43</sup> Committee against Torture, general comment No. 2 (2007), para. 1.

forced repatriations of nationals (A/HRC/54/22, para. 72). As noted previously, the Special Rapporteur considers that the human rights violations committed in and by the Democratic People's Republic of Korea occur within an entrenched culture of impunity for perpetrators that involves its highest authorities (A/HRC/55/63, para. 15). The findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea revealed that the crimes against humanity perpetrated within its jurisdiction were executed in accordance with policies established at the highest levels of the State, with the security and justice apparatus playing a key role in legitimizing those human rights violations (A/HRC/25/CRP.1, para. 1167). The Special Rapporteur is therefore of the view that, without profound institutional reforms, any domestic accountability measures that are intended to repair victims are currently insufficient.

## 2. Other States

23. The two cases of serious human rights violations discussed in the present report involve a significant number of victims residing in other States, such as in the Republic of Korea, Japan and the United States. When considering accountability mechanisms outside the Democratic People's Republic of Korea, it is crucial to explore potential avenues within these States. Given the seriousness of the violations and the ongoing harm suffered by victims, combined with the unwillingness and inability of the primary duty bearer to meet its duties (see A/69/518), the Special Rapporteur believes that it is incumbent upon other States, such as the ones hosting victims, to fulfil their right to reparations.

24. In this regard, States are encouraged to establish mechanisms to provide reparations to victims of serious violations of human rights committed by the Democratic People's Republic of Korea. This stance is grounded on three premises. First, it takes into account the obligations held by States under international human rights law towards these victims. Second, it represents a victim-centred proposal that prioritizes the urgent need to address the harm suffered by victims of violations of international human rights law.<sup>44</sup> This does not deny or diminish the responsibility of the primary duty bearer, the Democratic People's Republic of Korea, for such crimes; rather, it recognizes that victims' needs cannot wait any longer or depend on establishing the perpetrator's liability. Lastly, it aligns with good practices adopted by various States and the international community in contributing to initiatives aimed at providing reparations for victims of serious human rights violations.

### States' obligations under international human rights law

25. As OHCHR<sup>45</sup> and other actors<sup>46</sup> have documented, torture and enforced disappearance attributed to the Democratic People's Republic of Korea have inflicted serious mental and/or physical harm on victims and their relatives, affecting the mental and physical health of victims. The States that exercise jurisdiction over persons affected by these serious violations can arguably foresee that their mental and/or physical health can deteriorate if they lack comprehensive rehabilitation support. Given the serious harm inflicted on victims relating to their right to health, rehabilitation is the reparation form that redresses it most directly.<sup>47</sup> It is indicated in

<sup>44</sup> See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, section VIII.

<sup>45</sup> See OHCHR, *These Wounds Do Not Heal*.

<sup>46</sup> See, among others, A/HRC/25/63.

<sup>47</sup> See Juan-Pablo Perez-Leon-Acevedo, "Realizing the right to health for victims of international crimes. The case of medical rehabilitation reparations ordered by international courts", *Groningen Journal of International Law*, vol. 3, No. 2 (2015).

principle 21 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law that “[r]ehabilitation should include medical and psychological care as well as legal and social services”.

26. States hosting victims of human rights violations attributed to the Democratic People’s Republic of Korea have international obligations to respect, protect and guarantee the human rights of everyone within their jurisdiction, arising from international human rights treaties and other instruments. In addition, they have a due diligence duty to address the foreseeable deterioration in the health of individuals whose integrity has been seriously affected.

27. In this regard, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to which the Republic of Korea, Japan, the United States and other States hosting escapees from the Democratic People’s Republic of Korea are States parties, prescribe the duty “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant” (International Covenant on Civil and Political Rights, art. 2 (1)) and “to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (International Covenant on Economic, Social and Cultural Rights, art. 2 (2)). Under article 12 of the International Covenant on Economic, Social and Cultural Rights, States “recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (para. 1) and shall adopt the steps necessary for the “creation of conditions which would assure to all medical service and medical attention in the event of sickness” (para. 2 (d)).

28. In turn, due diligence concerns a standard of State conduct that is necessary to comply with the State’s obligation to protect human rights,<sup>48</sup> including against wrongful acts not directly attributable to that State.<sup>49</sup> For this reason, the authorities are called upon to adopt reasonable measures to prevent foreseeable risks,<sup>50</sup> while due diligence is also intended to prevent future violations.<sup>51</sup> Altogether, a State is given a margin of discretion about how to implement its due diligence duty towards human rights protection, provided that State measures are adopted in good faith.

29. It should also be noted that the vast majority of States hosting escapees from the Democratic People’s Republic of Korea are State parties to the Convention against Torture. Accordingly, they are bounded by article 14 (1) of the Convention, in which it is indicated that “Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate

<sup>48</sup> See [E/CN.4/2006/61](#), para. 14; International Law Association, “ILA study group on due diligence in international law: first report”, 7 March 2014, 14; and Björnstjern Baade, “Due diligence and the duty to protect human rights”, in *Due Diligence in the International Legal Order*, Heike Krieger, Anne Peters and Leonhard Kreuzer, eds. (Oxford University Press, 2020), p. 92.

<sup>49</sup> Human Rights Committee, general comment No. 36 (2018), paras. 7 and 21; [A/47/38](#) (1992), para. 9; General Assembly resolution [48/104](#) (1993), art. 4 (c); Human Rights Committee, general comment No. 31 (2004), para. 8; African Commission on Human and Peoples’ Rights, *Noah Kazingachire and Others v. Zimbabwe*, Application No. 295/04, Decision of 2 May 2012, paras. 133–134; and Baade, “Due diligence and the duty to protect human rights”, p. 92.

<sup>50</sup> See European Court of Human Rights, *Osman v. the United Kingdom*, Application 23452/94, Judgment, 28 October 1998, para. 116; Inter-American Court of Human Rights, *Velásquez-Rodríguez v. Honduras*, Judgment, 29 July 1988, para. 172; and Felix E. Torres, “Economic and social rights, reparations and the aftermath of widespread violence: the African human rights system and beyond”, *Human Rights Law Review*, vol. 21, No. 4 (December 2021), pp. 935 and 939.

<sup>51</sup> Inter-American Court of Human Rights, *Velásquez-Rodríguez v. Honduras*, para. 172; Baade, “Due diligence and the duty to protect human rights”, p. 92.

compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation". According to this provision, the duty of State parties to provide victims of torture and other cruel, inhuman and degrading treatment with fair and adequate compensation and full rehabilitation must be ensured, regardless of whether the acts of torture were committed within its territory. Article 14 was, in fact, intended to provide a procedure for victims and their families to recover reparations from torture committed abroad.<sup>52</sup> As stated by the Committee against Torture, this "is not limited to victims who were harmed in the territory of the State party or by or against nationals of the State party".<sup>53</sup> Moreover, in article 14 (2) of the Convention, it is stated that "Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law". Following this, it should be interpreted that, given the seriousness of this human right violation, State parties to the Convention should offer the victims whom they host in their territories the means to obtain compensation and full rehabilitation, even if the acts of torture were not committed under their jurisdiction or by their nationals. This is the case of victims of torture upon repatriation committed by the Democratic People's Republic of Korea. As affirmed by the Committee, "this is particularly important when a victim is unable to exercise the rights guaranteed under article 14 in the territory where the violation took place".<sup>54</sup> Rehabilitation should be holistic and include medical and psychological care, as well as legal and social services.<sup>55</sup> It should be intended to restore, as far as possible, a victim's "independence, physical, mental, social and vocational ability; and full inclusion and participation in society".<sup>56</sup> The State concerned can provide direct rehabilitative services or can fund private medical, legal and other facilities, including those administered by civil society organizations.<sup>57</sup>

### Victim-centred approach

30. The Special Rapporteur has previously emphasized that accountability for human rights violations must go beyond establishing individual criminal responsibility (A/HRC/55/63, para. 9). This understanding calls for a paradigm shift from focusing solely on a traditional retributive justice approach to a restorative one. It encourages States to prioritize a victim's right to reparation without making it contingent upon establishing the perpetrator's liability. This is particularly necessary considering that the party obliged to provide reparations is, in practice, unwilling to do so, leaving victims in a higher state of vulnerability. States hosting victims should adopt a victim-centred approach that addresses each victim's needs through domestic programmes aimed at substantively restoring their dignity and repairing the damage suffered as a consequence of such serious violations.

31. Guaranteeing a victim's right to reparation by States that are not responsible for the violations is also supported by the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. It is indicated in principle 16, for instance, that "States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations". This provision provides a basis for States hosting victims to contribute or facilitate

<sup>52</sup> Christopher Keith Hall, "The duty of States Parties to the Convention against Torture to provide procedures permitting victims to recover reparations for torture committed abroad", *European Journal of International Law*, vol. 18, No. 5 (2007).

<sup>53</sup> Committee against Torture, general comment No. 3 (2012), para. 22.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid., para. 11.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid., para. 15.



material reparations to victims of serious human rights violations committed by the Democratic People's Republic of Korea.

32. Adopting a victim-centred perspective in addressing reparations should consider the following. First, the definition of victims must be understood in a broad sense: (a) those who individually or collectively suffered physical, mental, emotional or material harm stemming from serious violations of international law; and (b) the direct victim's immediate family or dependants and persons who suffered harm when assisting victims in distress or preventing victimization.<sup>58</sup> The status of the victim should be respected regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.<sup>59</sup> Second, in defining the scope of reparation beneficiaries, discrimination based on any ground is inadmissible.<sup>60</sup> Third, programmes should be gender-sensitive and consider the race, ethnic, religious or Indigenous background, social or migration status, sexuality, age or disability of the victim or victims.<sup>61</sup> Fourth, such programmes should be designed and implemented in consultation with victims and their representatives (A/76/168, para. 71). Fifth, different types of harm or losses inflicted should be recognized. Acts of torture and other cruel, inhuman and degrading treatment, for instance, can cause serious and often long-term physical injury, but they can also leave no physical signs while resulting in enduring psychological suffering. Overall, States are encouraged to adopt a victim-centred approach to advance programmes that contribute to repairing victims of grave violations committed by the Democratic People's Republic of Korea. Moreover, the design and implementation of such initiatives must be tailored to the victim's particular needs.

### Good practices

33. States hosting a significant number of victims of enforced disappearance, torture and other cruel, inhuman and degrading treatment following forced repatriation have taken or are currently discussing initiatives that contribute to repairing the harm suffered by victims. The Special Rapporteur wishes to acknowledge some of these practices to explore opportunities for improvement.

34. In the Republic of Korea, the Government provides escapees with support services and benefits in the areas of protection, education, employment, accommodation, medical care and other basic needs.<sup>62</sup> Although these services contribute to restoring and repairing the harm suffered by victims, there is a concern regarding the lack of participation of victims in designing these support programmes, resulting in, for instance, a lack of support in some critical areas such as psychosocial health. Escapees have often experienced anxiety, depression, post-traumatic stress disorder and other mental health issues, which makes their integration more challenging (see A/HRC/52/65). It is encouraging that recently the Government of the Republic of Korea has strengthened support for mental health care, establishing a mental health-care centre in different regions. Institutions providing settlement support for escapees have also reportedly involved some escapees in their

<sup>58</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, principle 8.

<sup>59</sup> Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex, para. 2).

<sup>60</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, principle 25.

<sup>61</sup> OHCHR, *These Wounds Do Not Heal*, p. 50; and A/HRC/55/63, para. 44.

<sup>62</sup> Republic of Korea, Democratic People's Republic of Korea Refugees Protection and Settlement Support Act, Act No. 16223 of 15 January 2019, available at 국가법령정보센터 | 영문법령 > 본문 - 북한이탈주민의 보호 및 정착지원에 관한 법률 ([law.go.kr](http://law.go.kr)).

policymaking process. It should be reiterated that rehabilitative measures must be comprehensive, including psychological care and legal and social services provision.<sup>63</sup>

35. On 22 June 2021, a Special Act on Compensation for Human Rights Violations in the Democratic People's Republic of Korea was presented to the Foreign Affairs and Unification Committee of the National Assembly of the Republic of Korea for discussion.<sup>64</sup> The draft bill was aimed at providing a basis and means for escapees to claim compensation for physical and mental harm caused by human rights violations such as forced labour, unpaid wages and torture while living in the Democratic People's Republic of Korea. The draft bill also proposed the establishment of a fund for the victims of Democratic People's Republic of Korea human rights violations to raise financial resources for compensation. No action was taken, and the bill was invalidated, but the Special Rapporteur sees this as an example of a positive initiative aimed at ensuring the right to reparation of escapees living in the Republic of Korea. The Special Rapporteur encourages lawmakers to re-explore a legal framework that enables victims of torture to enjoy their right to reparation, including compensation and as full rehabilitation as possible.<sup>65</sup>

36. The Special Rapporteur recognizes that the Republic of Korea has pioneered transitional justice policy innovations, in particular truth commissions. The Republic of Korea has many truth commissions that are not restricted to a specific time period. The latest truth commission was the Truth and Reconciliation Commission of the Republic of Korea launched on 1 December 2005 pursuant to the Framework Act on Clearing up Past Incidents for Truth and Reconciliation (Law No. 7542), which concluded its mandate in 2010, but was reopened in 2020 to continue investigations into historic human rights violations.<sup>66</sup> In December 2022, activists representing over 20 victims filed a request for the Commission to investigate the "Paradise on Earth" resettlement programme,<sup>67</sup> leading to the opening of an investigation in November 2023. On 6 August 2024, the Commission acknowledged that human rights violations were committed in relation to the resettlement programme and urged the Democratic People's Republic of Korea to issue an official apology, confirm the status – both life and death – of the repatriated individuals and guarantee their freedom of movement. While the Commission cannot award compensation, it can assist in bringing to light victims' experiences, from which future court cases or victim-centred measures can benefit.

37. Moreover, the Special Rapporteur acknowledges the significant role played by the courts in the Republic of Korea in supporting victims' claims for reparations. In 2020, a court held the Democratic People's Republic of Korea accountable for the forced detention and enslavement of two Korean prisoners of war and ordered the Democratic People's Republic of Korea and its President, Kim Jong Un, to pay each victim 21 million won. However, the victims have not yet been able to collect the monetary award. In March 2024, five victims filed a lawsuit against the Democratic People's Republic of Korea for its role in the "Paradise on Earth" campaign. The claimants seek 100 million won each to compensate for psychological harm resulting

<sup>63</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation, principle 21; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14 (1); International Convention for the Protection of All Persons from Enforced Disappearance, art. 24 (5) (b); and OHCHR, *These Wounds Do Not Heal*, para. 80 and p. 51.

<sup>64</sup> See 의안정보시스템 ([assembly.go.kr](http://assembly.go.kr)).

<sup>65</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2.1; and Committee against Torture, general comment No. 3 (2012), para. 20.

<sup>66</sup> National Archives of the Republic of Korea (2017) *Truth and Reconciliation Commission of the Republic of Korea [진실 화해를 위한 과거사정리위원회]*, available at [www.jinsil.go.kr/en](http://www.jinsil.go.kr/en); and Truth and Reconciliation Commission of the Republic of Korea, 2006 annual report [2006 조사보고서].

<sup>67</sup> "Paradise on Earth" was a programme launched by the Government of the Democratic People's Republic of Korea to promote the "return" of ethnic Koreans on false promises. It lasted from 1959 to 1984 and resulted in the migration of 93,340 people to the Democratic People's Republic of Korea, mostly from Japan.



from their forcible detention and other human rights violations committed in the Democratic People's Republic of Korea. Nonetheless, there is no legal framework that foresees compensation for all victims, including Korean War victims (A/HRC/55/63, para. 50; and A/HRC/54/24/Add.1, paras. 32 and 38).

38. Japan also has a significant number of victims of human rights violations committed by the Democratic People's Republic of Korea in the country, and some international crimes such as abductions have taken place on its territory. In 2002, Japan enacted the Act on Aid to Persons Abducted by Democratic People's Republic of Korea Authorities and Other Relevant Persons, in which is stipulated the provision of support, including financial support, to abductees once they are returned to Japan. Nonetheless, such financial support is not available to abductees' families who are still searching for their abducted family members. The Government of Japan has also established the Headquarters for the Abduction Issue, and its secretariat provides support to the families concerned, including sharing relevant information and assistance for participation in various public awareness activities. The Special Rapporteur shares the view of the Working Group on Enforced or Involuntary Disappearances that States should provide relatives that participate in the investigative process with adequate financial support to facilitate such involvement (A/HRC/45/13/Add.3, para. 62). Moreover, under the International Convention for the Protection of All Persons from Enforced Disappearance, to which Japan is a State party, families of forcibly disappeared persons are considered victims and therefore have the same rights, including the right to reparation.<sup>68</sup> With regard to seeking compensation in Japan, five victims of the "Paradise on Earth" filed a civil lawsuit against the Democratic People's Republic of Korea before Japanese courts in 2018, each claiming 100 million yen in compensation for damages.<sup>69</sup> On 30 October 2023, the Tokyo High Court found that the misleading predeparture propaganda and later post-migration human rights abuses by the Democratic People's Republic of Korea were a single continuous act, namely the claimants were no longer time-barred, and the entire continuous act fell within the Court's jurisdiction because the deceptive propaganda was rendered in Japan. The case has been sent back to the district court.

39. The Special Rapporteur also underscores the efforts made by countries to enact domestic legislation that enables victims to initiate civil proceedings within their jurisdiction and seek accountability for human rights violations committed by the Democratic People's Republic of Korea. For instance, in the United States, the Torture Victim Protection Act (1991)<sup>70</sup> enables civil claims by citizens and non-citizens of the United States against individuals "who, under actual or apparent authority, or colour of law, of any foreign nation" subject an individual to torture or extrajudicial killing. Despite having a legal framework to initiate civil proceedings against the Democratic People's Republic of Korea to claim compensation for such crimes, there are obstacles to achieving this in practice, such as immunities granted to Heads of State.

40. Finally, States that are not liable for breaches of international law, such as crimes against humanity, and have no victims residing within their jurisdictions could also provide reparations. The Special Rapporteur wishes to recognize the commendable practices of third States that have funded initiatives to realize the rights of victims and their families through the provision of reparations and assistance. The Trust Fund for Victims at the International Criminal Court, for instance, has received over 53 million euro from 51 States parties and private individuals since 2004 so that

<sup>68</sup> Na Yong Han and others, "Predictors of PTSD among North Korean defectors visited psychiatric department of North Korean defectors treatment centre".

<sup>69</sup> One of the plaintiffs, Ishikawa Manabu, passed away in February 2024.

<sup>70</sup> United States of America, Torture Victim Protection Act, Public Law No. 102-256, 106 Stat. 73 (12 March 1992).

victims of international crimes can benefit from individual and collective reparations. Likewise, several States funded reparation projects approved by the Extraordinary Chambers in the Court of Cambodia in favour of the victims of the Democratic Kampuchea regime from 1975 to 1979.

### 3. International community and/or the United Nations

41. The Special Rapporteur is of the view that the international community and/or the United Nations should cooperate in supporting reparations for victims of enforced disappearances, torture and other cruel, inhuman and degrading treatment perpetrated following forced repatriation to the Democratic People's Republic of Korea. First, a fundamental basis for reparative actions to be taken by the international community is its responsibility to protect the population of the Democratic People's Republic of Korea from crimes against humanity, given the State's manifest failure to do so. The collective responsibility to protect populations from crimes against humanity implies a responsibility to redress the harm caused by the internationally unlawful acts committed against them. Reparations as a means to redress this harm, in particular through guarantees of non-repetition, can be interpreted as part of an obligation to prevent the further commission of these serious violations of international law.

42. Second, under international law, States should cooperate to bring an end through lawful means to serious breaches of obligations under peremptory norms of general international law,<sup>71</sup> such as the above-mentioned human rights violations attributed to the Democratic People's Republic of Korea. As recognized in principle 22 (a) of the Basic Principles and Guidelines on the Right to a Remedy and Reparation, implementing effective measures aimed at the cessation of continuing violations is considered a measurement of satisfaction. All States have a positive duty to cooperate to end serious breaches and their consequences.<sup>72</sup> Such cooperation can be and has been organized within an international organization's framework, especially through the United Nations, although non-institutionalized cooperation is also an option. Indeed, cooperation through or within the United Nations or international organizations has been "often the only way of providing an effective remedy".<sup>73</sup> In any event, what is expected "is a joint and coordinated effort by all States to counteract the effects of these breaches", which in turn requires "political will to enforce international law".<sup>74</sup> Therefore, the international community should, inter alia, cooperate with the United Nations agencies and bodies working to put an end to these human rights violations.

43. Third, the 172 States parties to the International Covenant on Economic, Social and Cultural Rights should contribute through funding or other means, such as technical assistance, to rehabilitative reparation mechanisms to ensure the right to health of those victimized by the Democratic People's Republic of Korea and their families. In article 2 (1) of the Covenant, a State party is obliged to take steps, through "international assistance and co-operation, especially economic and technical, to the maximum of its available resources", while in article 23 "the furnishing of technical assistance" is recognized among several forms of international action to fulfil the Covenant, namely the right to health (see [E/1990/23](#)). Obligations under the right to health require States to take action not only concerning individuals under their

<sup>71</sup> Responsibility of States for Internationally Wrongful Acts, art. 41 (1). See also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 136, para. 160; and James Crawford, *State Responsibility* (Cambridge, Cambridge University Press, 2013), p. 389.

<sup>72</sup> Responsibility of States for Internationally Wrongful Acts, commentary on art. 41 (see [A/56/10](#)).

<sup>73</sup> Ibid.

<sup>74</sup> James Crawford, *State Responsibility*, p. 389.

jurisdiction but also beyond. To fulfil the right to health of victims of the Democratic People's Republic of Korea through rehabilitative reparations, States parties to the Covenant are obliged to adopt measures to the maximum of their available resources, including resources available within a country and also from the international community through international cooperation and assistance.

44. Overall, based on previous comparative experiences, cooperation from the international community for reparations for victims of the Democratic People's Republic of Korea can be implemented through the United Nations under mechanisms that are similar to the following ones. First, the United Nations Voluntary Fund for Victims of Torture, established in 1981 by the General Assembly, provides help to victims and their families to "rebuild their lives and to seek redress for the human rights violations they have suffered".<sup>75</sup> For example, the North Korean Human Rights Database Center provides psychological counselling and other support such as covering medical bills and offering educational experiences to the victims of torture by the Democratic People's Republic of Korea funded by the Voluntary Fund. The Center has utilized this mechanism since 2014, enabling it to provide essential resources to aid escapees in their journey towards healing and adapting in the Republic of Korea. The Special Rapporteur encourages the international community to increase its support to the Voluntary Fund in order to enhance and expand the reach of these services.

45. Drawing inspiration from the Independent Institution on Missing Persons in the Syrian Arab Republic, established by the General Assembly in June 2023 (resolution [77/301](#), para. 2), the international community could launch an initiative to determine the fate and whereabouts of victims forcibly disappeared by the Democratic People's Republic of Korea. Alternatively, following the principles of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory,<sup>76</sup> institutionalized registers could be created to support reparation programmes or claims by victims of the Democratic People's Republic of Korea and their families.

## VI. Conclusion

46. While people in the Democratic People's Republic of Korea continue to face human rights violations and severe restrictions, many victims living outside the country, including those affected by enforced disappearance and torture, continue to suffer from uncertainty about the fate of their loved ones, trauma from torture and other cruel, inhuman and degrading treatment, and the inability to communicate with their separated family members. Accountability measures should be ensured as everyone has the right to a remedy when their human rights are violated. The Democratic People's Republic of Korea is required to provide reparations to such individuals, including through compensation, restitution, rehabilitation and satisfaction measures. Other States, in particular those hosting victims, also have the responsibility to provide reparations, given the seriousness of the violations and the ongoing harm suffered by victims. Many victims are within other States' jurisdiction and their right to reparation can be guaranteed directly by the host countries and the international community. The Special Rapporteur appreciates that most of the host countries have programmes to support escapees and other victims of human rights violations committed by the Democratic People's Republic of Korea. However, she would like to reiterate that those victims need to be consulted on how to better fulfil

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<sup>75</sup> See [www.ohchr.org/en/about-us/funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture](http://www.ohchr.org/en/about-us/funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture).

<sup>76</sup> Established by the General Assembly in 2006.

their rights and should have a chance to participate in processes that affect them. Rehabilitation that includes medical and psychological care as well as legal and social services should be developed, aiming to restore victims' full abilities and enable their inclusion and participation in society. The Special Rapporteur believes that the participation of victims in developing rehabilitation programmes will benefit not only the victims but also the host countries and will ultimately contribute to the improvement of the situation of human rights in the Democratic People's Republic of Korea.

47. The international community and the United Nations at the same time should make joint and coordinated efforts, first to bring an end to serious violations of human rights obligations such as enforced disappearance and torture upon repatriation. Second, they should support reparations for victims of such serious human rights violations. The international community should, inter alia, cooperate with the United Nations agencies and bodies working to halt the forced repatriation of victims from the Democratic People's Republic of Korea. The international community should also consider establishing a mechanism to identify the fate and whereabouts of forcibly disappeared persons and guarantee their immediate and safe return as well as the return of the remains of victims. They should consider international cooperation on providing reparations to victims of torture and other cruel, inhuman and degrading treatment, as well as psychosocial support. The international community should also facilitate the resumption of reunions of separated families and allow safe communication channels as a priority in any negotiations regardless of the political climate.

## VII. Recommendations

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

(a) **Resume diplomatic engagement and grant access to the United Nations agencies and other humanitarian actors to return to the country;**

(b) **Recognize the fundamental right of citizens to leave and enter the country, both in law and in practice, and ensure that those who are repatriated are not subjected to punishment such as torture, enforced disappearance and imprisonment upon repatriation;**

(c) **Ease restrictions on access to information and communication and the freedom of movement;**

(d) **Cooperate with United Nations human rights mechanisms, by regularly reporting on the state of implementation of recommendations issued by treaty bodies, participating in the universal periodic review and inviting thematic special procedures and the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea for a country visit;**

(e) **Provide substantive responses to the United Nations special procedures, in particular on inquiries on the fate and whereabouts of victims of enforced disappearance;**

(f) **Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol and the International Convention for the Protection of All Persons from Enforced Disappearance.**

49. **The Special Rapporteur recommends that other States hosting escapees from the Democratic People's Republic of Korea:**

(a) **Take a victim-centred approach to develop a legal framework and mechanism for providing reparations, including fair and adequate compensation and as full rehabilitation as possible – such as medical and psychological care and legal and social services – to victims of human rights violations, including families of the victims of enforced disappearance and torture committed by the Democratic People's Republic of Korea living under their jurisdiction;**

(b) **Consider establishing a trust fund for victims of serious human rights violations committed by the Democratic People's Republic of Korea;**

(c) **Support civil society organizations, victims and families in their efforts to pursue comprehensive and holistic accountability, including reparations;**

(d) **Prioritize the resumption of the reunion of separated families and the establishment of safe communication channels between them regardless of the political climate;**

(e) **Respect, regardless of migration status, the principle of non-refoulement at all times for people from the Democratic People's Republic of Korea who are at risk of torture, cruel, inhuman or degrading treatment or other irreparable harm upon repatriation.**

50. **The Special Rapporteur recommends that Member States:**

(a) **Consider an institutionalized mechanism for reparation for victims of human rights violations committed by the Democratic People's Republic of Korea, including a mechanism to find the truth about the fate and whereabouts of forcibly disappeared persons and provide reparations to victims of torture and other cruel, inhuman and degrading treatment;**

(b) **Promote international cooperation in providing reparations to victims of torture and other cruel, inhuman and degrading treatment, and in supporting the right to health;**

(c) **Engage constructively with the fourth cycle of the universal periodic review of the Democratic People's Republic of Korea and follow up on the recommendations made during the previous cycles.**

51. **The Special Rapporteur recommends that civil society organizations continue to raise awareness, document human rights violations taking place in the Democratic People's Republic of Korea and advocate for and support the right to reparation of victims of serious human rights violations, including enforced disappearance and torture and other cruel, inhuman and degrading treatment following forced repatriation.**