

APPG on North Korea

Inquiry into Human Rights Violations in North Korea 2014-2020/1

This is a report of the All-Party Parliamentary Group for North Korea. This is not an official publication of the House of Commons or the House of Lords. It has not been approved by either House or its committees. All-Party Parliamentary Groups are informal groups of Members of both Houses with a common interest in particular issues. The views expressed in this report are those of the group.

July 2021

About

The All-Party Parliamentary Group (APPG) on North Korea was established to formulate solutions that promote and support human rights, democracy and security in the Democratic People's Republic of Korea (DPRK); to establish relations with the exiled North Korean community to foster understanding of the DPRK and the challenges which face its people; and to explore meaningful relations between the parliaments of the UK and the DPRK.

The APPG on North Korea members who worked on the report include:

Fiona Bruce MP

Lord Alton of Liverpool

APPG's Work

Over the years, the APPG has been engaging the UK Parliament and Government on human rights violations in North Korea, including:

- Participating in an international conference on gender-based violence and women's rights in North Korea.
- Organising an international symposium on North Korean human rights (in partnership with the National Human Rights Commission of Korea)
- Organising several sessions where North Korean refugees from South Korea and the UK provided testimonies on issues such as religious freedom violations, sexual violence, persecution of persons with disabilities, and the denial of the right to freedom of information.
- Organising hearings with experts from institutions such as Chatham House and RUSI, and former ambassadors to North Korea.
- Organising meetings with North Korean Ministry of Foreign Affairs and embassy officials.
- Organising debates and questions on many areas of human rights in North Korea.

The purpose of the APPG on North Korea is to formulate solutions that promote and support human rights, democracy and security in the DPRK; to establish relations with the exiled North Korean community to foster understanding of the DPRK and the challenges which face its people; and to explore meaningful relations between the parliaments of the UK and the DPRK.

The current Officers of the APPG are Fiona Bruce MP, Lord Alton of Liverpool, Sir Geoffrey Clifton-Brown MP, Catherine West MP, Lord German, Viscount Waverley and Sir Jeffrey Donaldson MP. However, many other Parliamentarians support the work of the APPG, including Andrew Selous MP and Baroness Cox.

The APPG on North Korea is a very active group which has met several times a year for the past decade, including with members of the diaspora now living in the UK. Whilst these meetings are too numerous to catalogue here, a notable recent meeting, in 2019, was an evening of presentations on the current state of human rights of North Korean women and girls in China - this included moving personal testimonies from several women including 'Tongil Moms.'

CSW, a human rights organisation focused on the human right to freedom of religion or belief, has provided the secretariat for the APPG on North Korea since March 2020. During that time, various experts have presented their research to the APPG. In June 2020 Dr Sarah A. Son from the School of East Asian Studies at the University of Sheffield presented her work on transitional justice in DPRK and South Korea.

In August 2020, the British Ambassador to DPRK, Colin Crooks met with the APPG, a representative from Human Rights Watch, Timothy Cho – an escapee from North Korea who interned in Fiona Bruce’s Parliamentary office 2018/19, and Arnold Fang, a researcher on human rights and international development. During this meeting, they discussed human rights issues in the DPRK and the impact of Covid-19.

In December 2020, Justice Michael Kirby spoke to the APPG in his capacity as former Chair of the Commission of Inquiry of the UN Human Rights Council. This formed the first meeting of the APPG’s Inquiry sessions which resulted in this report. The APPG is indebted to Justice Kirby for his engagement.

In January 2021, the APPG met (virtually) with Ambassador Colin Crooks again, alongside Lord Ahmad of Wimbledon, the FCDO Minister for Human Rights and South Asia and the Commonwealth.

The Officers of the APPG express their appreciation to all those who continue to engage with their work.

Executive summary

The APPG on North Korea conducted an inquiry into the human rights violations in the Democratic People's Republic of Korea (DPRK) between 2014 and 2020/1 (the Inquiry). The purpose of this inquiry was to gather evidence of human rights violations between 2014 and 2020/1, to map the atrocities, and to identify the needed responses. The Inquiry consisted of desktop research, open public consultation, and oral hearings. It builds on the work of previous reports on North Korea's human rights situation, particularly the UN's 2014 Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (the UN Commission of Inquiry), and renews calls for action.

Key Findings

The findings of the Inquiry suggest that, despite the Commission of Inquiry's 2014 report shedding light on the nature and severity of the atrocities, and its several recommendations for the UN and States, the situation of human rights in the DPRK has not improved, and the recommendations have not been implemented seven years later, with some minor exceptions. The Inquiry members have seen evidence of DPRK officials being involved in:

- murder and killings;
- torture, inhuman or degrading treatment or punishment;
- sexual and gender-based violence, including rape and sexual violence, sex trafficking, forced abortions and infanticide;
- modern day slavery;
- persecution based on religion or belief; and much more.

The atrocities amount to crimes against humanity. However, there are reasons to believe that some of the atrocities reach the threshold of genocide, particularly in relation to three groups:

- Christians;
- half-Chinese children; and
- the 'hostile' group.

Key Recommendations

The report's key recommendations for the UK Government are noted below:

Engagement on Human Rights

- The UK Government must actively engage on human rights questions using all available avenues, whether directly, via the UN, or working with other States (especially South Korea) to ensure that all people in DPRK are guaranteed all human rights, including the right to freedom of religion or belief as affirmed in Article 18 of the Universal Declaration of Human Rights (UDHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR);¹
- The UK Government must work with the new US administration and other like-minded states to push for renewed attention on the situation at the UN Security Council, increasing the frequency of meetings, and giving serious consideration to testing implicit Chinese and

¹ Open Doors submission

Russian veto threats by presenting a Chapter VII resolution on targeted sanctions and/or International Criminal Court (ICC) referral²;

- The UK, but also other States, must raise, prioritise and address human rights violations in North Korea at all international and regional fora³;
- The UK Government must revisit the UN Commission of Inquiry recommendation to establish a ‘human rights contact group’ for the DPRK in order to ensure a regular dedicated forum for engagement between concerned states and provide support for human rights initiatives⁴;
- The UK Government must engage and cooperate with a wide range of stakeholders, including the R2P Group of Friends, R2P Focal Point Network, and International Atrocity Prevention Working Group to work towards addressing the issue of international crimes in the DPRK⁵;
- To address the issue of forced labour of North Korean workers overseas, the UK and other States must identify whether there are any North Korean workers employed in their countries, and examine the conditions of their work to identify whether there is a risk of forced labour. Where North Korean workers are subject to forced labour, they should be provided with assistance and the option of granting them refugee status must be considered;
- The UK and other States must work together to address the issue of human trafficking for forced marriage and sex slavery, especially to China; and consider ways to provide assistance to these women, especially women who become pregnant after sexual relations with Chinese men;
- The UK must work together with the South Korean Government to open a diplomatic dialogue with the Chinese Ambassador regarding the situation with North Korean escapees currently in detention centres in China;
- The UK must continue to work to promote and support human rights and democracy in North Korea, including the right to freedom of information as enshrined in Article 19 of the Universal Declaration of Human Rights.

Addressing the Atrocities

Suppression of further atrocities

- The UK Government must encourage the suppression of all violations of fundamental rights; including by ‘ceasing using the Songbun classification system to discriminate against and persecute individuals categorised as “hostile”, such as Christians, and ensure their basic rights are respected; immediately stop tracking, arbitrarily arresting, using torture and other inhumane or degrading treatment, and arbitrarily executing Christians.’⁶;
- The UK must engage the UN in relation to steps that can be taken at the UN to engage the DPRK to prevent further atrocities;

² Written submission by Ben Willis.

³ Open Doors submission

⁴ Written submission by Ben Willis.

⁵ Written submission by Ben Willis

⁶ Open Doors submission

- The UK must work with other States to ensure North Korean acceptance of early and complete denuclearisation.
- The UK must assess the three cases of possible genocidal atrocities, namely, against Christians, half-Chinese children and the ‘hostile’ groups, and identify actions to be taken in accordance with the duty to prevent under the Genocide Convention.

Prevention of further atrocities: Early warning and risk assessment

- The UK Government must review existing tools used to identify the emerging risk of mass atrocities, including the Cabinet Office-led ‘Countries at Risk of Instability’ process, Foreign, Commonwealth and Development Office (FCDO) Stability Monitor, and cross-government Joint Analysis of Conflict and Stability,⁷ and consider adopting other frameworks for mass atrocity analysis. ‘The government must clarify whether these tools capture the risk of further potential crimes against humanity associated with the threats facing *kwanliso* inmates, the unreliability of food supply in the DPRK, and the working and living conditions of overseas labourers’⁸;
- The government must consider further multi-year ODA-funded FCDO projects that provide opportunity for DPRK officials and other representatives to be exposed to alternative perspectives;
- ‘The UK government must consider providing substantial multi-year funding for the monitoring, documentation, investigative, and prosecutorial work being undertaken by the Office of the High Commissioner for Human Rights (OHCHR) Seoul Office and DPRK Accountability Project’.⁹

Humanitarian Assistance

- The UK must work with other States and international bodies to ensure comprehensive humanitarian assistance to all those affected by atrocity crimes in the DPRK and also all those suffering from the consequences of the dire economic situation (especially as exacerbated by Covid-19);
- The UK must work with other States to provide North Korean survivors of atrocities with adequate assistance in countries outside of the DPRK where they are currently present;
- North Korean survivors of sex trafficking, sexual violence, and rape must be provided with assistance in the country where they are found, and be given adequate protection and assistance, including asylum where applicable.

Justice and Accountability

Investigations

- The UK must work with other States to ensure that the evidence of the atrocities in North Korea is preserved for future prosecutions. This could be achieved, for example, by establishing a mechanism akin to the International, Impartial and Independent Mechanism (IIIM);

⁷ Written submission by Ben Willis

⁸ Written submission by Ben Willis

⁹ Written submission by Ben Willis

- The UK must work with other States on ensuring that the investigative bodies have access to all relevant information, including by ensuring access to the DPRK;
- The UK must develop a comprehensive UK National Security Council contingency planning strategy for the Korean peninsula – e.g., including the protection of evidence sites in the event of sudden regime collapse, especially as there will be attempts to destroy evidence of the crimes committed, especially in the kwanliso camps.

Accountability

- The UK must review the options for accountability for crimes in the DPRK, including the option of the UN Security Council referral to the ICC, or the UN Security Council establishing an ad-hoc tribunal, or States exercising their universal jurisdiction to prosecute crimes committed in the DPRK;
- The UK must assess the three cases of possible genocidal atrocities, namely, against Christians, half-Chinese children and the ‘hostile’ groups, and identify actions to be taken in accordance with the duty to punish under the Genocide Convention;
- The UK must consider an action before the International Court of Justice (ICJ) against the DPRK for breaches of the Geneva Convention.

Truth and Reconciliation

- The UK must work with other States and survivors to ensure transitional justice, truth and reconciliation.

Sanctions

- The UK must make the best use of their Sanctions Regime to target individual perpetrators¹⁰;
- The UK must work with other States to ensure greater coordination on Magnitsky sanctions against DPRK individuals and entities;
- The UK must work on a process to implement the re-purposing of frozen assets for the benefit of North Korean survivors of gross violations of international human rights law or serious violations of international humanitarian law.

¹⁰ Written submission by Ben Willis

Foreword by The Honourable Michael Kirby AC CMG (Chair of the UN HRC'S Commission of Inquiry 2013-2014)

The UN COI on North Korea

On 21 March 2013, the UN Human Rights Council established a Commission of Inquiry (COI) on Human Rights in the Democratic People's Republic of Korea (DPRK/North Korea). I was appointed the chair of the COI. The other members were Mr Marzuki Darusman (Indonesia) and Ms Sonja Biserko (Serbia). The mandate of the COI comprised 9 heads of investigation. The COI commenced work immediately, with its first meeting in Geneva starting 1 July 2013. It decided on a new and transparent methodology which included the conduct of public hearings; invitations to global media; uploading transcript and filmed testimony online; invitations to civil society, academics and experts and many witnesses who claimed to have been victims of abuses of their human rights. If nothing else were done, the public hearings gave these victims the opportunity to speak truth to power. Their testimony stands as a challenge to, and indictment of, DPRK and its leadership group. DPRK ignored invitations to participate in the hearings or to respond to the draft report, sent to the Supreme Leader (Chairman Kim Jong-un) immediately before its delivery to the UN Human Rights Council.

The COI report comprised nearly 400 pages of detailed evidence, findings, conclusions and recommendations. It comprised a unanimous, closely reasoned and easily understood condemnation of shocking human rights violations by each of the 9 heads of inquiry as assigned to the COI by the HRC. The COI concluded, in words that rang around the world and were reproduced in all forms of media except in DPRK. In that State access to the Internet is prohibited, save for the supporters of the Kim regime. The report said: "Systematic, widespread and gross human rights violations have been, and are being, committed by DPRK, its institutions and officials. In many instances the violations of human rights found by the Commission constitute crimes against humanity. These are not mere excesses of the State; they are essential components of a political system that has moved far from the ideals on which it claims to be founded. The gravity, scale and nature of these violations revealed a State that does not have any parallel in the contemporary world. Political scientists... have categorised this type of political organisation as a totalitarian State: A State that does not content itself with ensuring the authoritarian rule of a small group of people, but seeks to dominate every aspect of its citizens' lives and terrorises them from within."

The COI report, in part because of its methodology, created a sensation in United Nations circles when it was delivered to the HRC on 17 March 2014. See: A/HRC/25/CRP.1. It was accepted by the HRC with an unusually large majority of affirmative votes. As recommended by the COI, the report was transmitted to the General Assembly of the United Nations, with a further recommendation that it be transmitted, exceptionally, to the Security Council. An attempt by a procedural motion sponsored by Cuba to delay these moves, ostensibly to allow DPRK to mend its ways, was defeated. By a procedural motion, not subject under the UN Charter to the veto of Permanent Members, a majority of the Security Council agreed to place the issues of human rights in DPRK on the agenda of the Security Council, to be reviewed each December. There, the report and the

issues of human rights that it raised, remain for consideration by the highest organ of the United Nations. The United Kingdom, China, France, the Russian Federation and the United States of America are, under the Charter, the permanent members (P5) of the Security Council. As such, they have special powers and privileges; but also the responsibilities and obligations that come with such powers and privileges: to safeguard international peace and security, uphold universal human rights, and justice in the world. Unfortunately, in part because of neglect by the United Nations and its organs, the main features of the human rights abuses disclosed in the COI report remain today, exactly as they were when the COI reported.

Most of the countries of the United Nations have turned away from the issues revealed in the COI report. After all, there are many urgent and important challenges facing our world at the present time. These include the COVID 19 pandemic; addressing global climate change; and responding to the particular problems of nuclear weapons proliferation and missile delivery systems. The last mentioned problem is the other side of the coin of the challenge of DPRK to the United Nations, its members and peace in the world. North Korea has developed a dangerous armoury of reportedly more than 30 nuclear warheads, together with remarkable missile delivery systems that imperil the planet. It is the combination of nuclear weapons and missiles, together with the grave abuses of human rights identified in the COI report, that present the acute challenge that DPRK presents to the global community. Some developments have occurred since the publication of the COI report. But in most countries that report has been pushed to one side as too difficult and unpromising for political action. It is to the credit of the Parliament of the United Kingdom and its APPG that the issues of human rights in DPRK remain on its active agenda. I thank the APPG sincerely for its continuing and close attention to the details drawn to global attention by the COI report of 2014.

Follow up to the COI Report

A number of steps have been taken that, in various ways, constitute responses by the international community to the urgent issues of crimes against humanity identified in the COI report:

- The widespread coverage of the COI report in the international media has left a strong media trail on the Internet and elsewhere, detailing the shocking abuses of human rights that remain unrepaired;
- The mandate holder for human rights scrutiny of the situation in DPRK (Special Rapporteur Tomas Ojea Quintana) has continued his painstaking work, including by an appearance before the APPG on 12 March 2021;
- The HRC accepted and followed up the recommendation of the COI and established a “field office” of the UNHCHR in Seoul, ROK. It has continued to receive and record evidence given to it by escapees from DPRK;
- Although the Special Rapporteur (like the COI itself) has not been permitted access to DPRK, one mandate holder of ‘special procedures’ (on People with Disabilities) has been permitted to enter and inspect conditions in DPRK;
- DPRK has undergone the procedure of Universal Periodic Review (UPR) on 2 occasions, with a third review due in 2024. There is some evidence of an increased willingness to acknowledge and address human rights concerns;
- Mostly because of the deep concern over DPRK's development of a nuclear arsenal, the Security Council has imposed serious sanctions designed to encourage denuclearisation: itself a serious human rights challenge of DPRK;

- Particular countries, including Germany, during its service as a non-permanent Member of the Security Council, have collected support from other states to demand attention by DPRK to human rights issues, including as stated by the COI;
- There is some evidence of increasing access by nonprivileged citizens in DPRK to the Internet and news of the world's perspectives of its abysmal human rights record. This includes an increase in broadcasts by BBC and VOI.

However, there have also been a number of clear failures by the UN and the international community in following up the crimes against humanity drawn to attention in the COI report:

- The failure of the Security Council, as the COI recommended, to refer the case of DPRK and its crimes against humanity to a prosecutor of the International Criminal Court or other body to investigate and make findings on such charges;
- The refusal of DPRK to take steps towards denuclearisation; and instead the conduct of underground nuclear weapons tests; missile launches; and continued maintenance of the 4th or 5th largest military force in the world;
- The failure of the 6 Nations talks to resume and to grapple with the common issues of nuclear disarmament and human rights improvement, which the COI declared were interconnected objectives for effective global strategy;
- The initial threats of President Donald Trump to subject DPRK to destructive force if it continued to threaten the United States and its allies, subjecting “rocket man” to dangerous risks of international violence;
- After engagement by President Trump and Chairman Kim at Singapore, Hanoi and the DMZ, the breakdown of such talks and the failure of both sides to recognise the interconnected issues of weapons and human rights;
- After original engagement between Chairman Kim and President Moon Jae-in (ROK), the breakdown in such talks and the destruction by DPRK of the ROK facility in Kaesong, created so as to improve inter-Korean engagement;
- The return of serious problems of famine and food shortages in DPRK, which were described in detail in the COI report and which followed the abandonment of the former command economy of earlier times; and
- The failure of ROK twice to participate in the annual resolution of the HRC/GA on human rights in DPRK; and the enactment by President Moon of new laws to punish distribution of leaflet information on DPRK from ROK.

Contributions by the APPG

Against this background of achievements and failures in the international community, what is the value of the report of the APPG and the initiatives in the United Kingdom Parliament to revive attention to the COI report?

The most important contribution of the APPG has been to keep the issues of DPRK alive and on the agenda of the international community, the United Nations, academic observers of DPRK and other personnel. It would be desirable for the work of APPG to become better known in the international community. The report, research and investigations by the secretariat to the APPG are excellent and highly professional. It would be desirable and useful if this investigation, and the interest it demonstrates in the United Kingdom, were made the subject of feature articles in Western media and documentaries on the BBC and other media outlets. The one strategy that

DPRK has always pursued is that of the so-called “Hermit Kingdom”. This was the strategy DPRK adopted in relation to the COI itself and also to the UN Secretary General and Security Council. Transparency and international attention are the antidote to isolation and non-cooperation. That is why the initiative of the APPG, and its continuance, are so admirable and desirable.

Although there was hope in some quarters that the unconventional initiatives of President Trump might, by reason of their surprising and unexpected features, produce new developments and possibly secure a “deal” as President Trump had promised, reflection with cold realism over the initiatives of his Administration led ultimately to general disappointment. The peace initiatives broke up without any breakthrough. There was no well thought through Marshall plan to tempt DPRK from its isolation. There was not even a detailed proposal on the table of Trump hotels and golf courses. The whole strategy was chaotic and disorganised. President Trump continuously failed even to mention the issues of human rights in his dealings with DPRK, although ignoring these issues gave little promise of a regime in DPRK that could be trusted to engage its people in a bold initiative towards peace and security, and improvement of human rights.

The election of President Joseph Biden as President of the United States in 2020 necessarily turns a significant page. He has repeatedly mentioned the issues of human rights in DPRK and the principles of the United Nations that must be the foundation of a lasting peace that is worth the paper it is written on. A return to engagement with the United States State Department and the appointment of Secretary of State Antony Blinken, provides the opportunity for a much more principled and predictable approach to dealings with DPRK both on security and human rights concerns. Moreover, it is likely that there would be more traditional engagement in negotiation with DPRK. Traditionally, international diplomacy commences at the outer perimeter of national relationships and seeks to find manageable bite-sized issues upon which agreement might be first reached. In a number of neglected sections of the COI report, attention was paid to just such issues, involving sporting contacts; restoration of postal and transport services; expansion of contacts between family members in DPRK and ROK. Steps of this kind might commence the procedure of winning confidence and building relationships. The decision of President Trump to jump directly into seeking a “deal” on the elimination of nuclear-weapons did not follow orthodox techniques of diplomacy. Starting with reunions of long divided families could be a useful step that might lay the ground for eventual progress on more difficult issues such as nuclear weapons, missile systems and crimes against humanity. On the other hand, DPRK has been repeatedly difficult over negotiations over family contacts, knowing that they are especially prized in ROK. Nothing is easy in negotiations with DPRK. But so far, they have not been given any reasonable opportunity to succeed. The APPG might turn its attention to what could be suggested to the Biden Administration and United States friends, as a possible ways to open up dialogue again and to build confidence between the two halves of the Korean Peninsula.

The APPG has laid emphasis on a number of topics that involve newer and more up-to-date evidence than was available to the COI: these include (a) issues of human trafficking; modern slavery; sexual disadvantage where urgent action is required; (b) issues involving forced labour and overseas engagements of large-scale temporary migration for sale; (c) alleged persecution of religious minorities and ethnic groups including Chinese or half Chinese children born to relationships of Korean escapees in China where the children lack documentation essential to schooling and other rights. Each of these would be highly contentious, not only in DPRK but also in China itself. Because it is itself sensitive on internal human rights issues, China may be difficult to engage in addressing the above topics or other topics of “internal human rights” of DPRK. However, the ultimate solution to the issues of DPRK will almost certainly require engagement

with China. The APPG should give close attention to these questions and to new issues that were not dealt with in the COI report of 2014, because the evidence was not then available.

One of the greatest challenges facing the achievement of action on the COI report and on human rights in DPRK is the shift in position concerning human rights in DPRK, adopted by the Moon Administration in ROK. President Moon's Administration does not now have a long interval to run. Although the COI made many attempts to engage with the then opposition parties in ROK, these were largely unsuccessful. The introduction of criminal laws to punish citizens of ROK who use leaflets and other means to spread knowledge within DPRK concerning the serious human rights situation in DPRK, constitutes an important new development in the equation of getting real progress between the two Korean governments. It would be highly desirable to open lines of communication about the long-term strategies of ROK concerning the dire situation of human rights of ethnic Koreans in DPRK. Of course, this is a sensitive issue and ROK is a friendly and democratic country that regularly changes its political administration. Nonetheless, the APPG is comprised of members who themselves reflect different political parties and viewpoints. If anybody could explore such issues in ROK, competently and sensitively, it is likely to be a body that is made up of members who are themselves party politicians, but who have come together in an all-party group because of the commitment of all to the principles of universal human rights. The APPG would serve the international community well if they could explore and open up contact with the differing political parties in ROK, so as to lay emphasis upon the common entitlement of all humanity to the universal rights expressed in the UDHR and UN human rights treaties. An outreach to the political parties in ROK, if handled with great sensitivity and respect, could possibly find means to a common ground that has so far eluded diplomats, officials, academics, UN officeholders, and other like well-meaning people.

With admiration and respect for the APPG and with thanks to its members and secretariat for keeping the flame of human rights alive in Korea,

Michael Kirby
20 July 2021, Sydney

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Abbreviations

COI – Commission of Inquiry

DPRK – Democratic People’s Republic of Korea

ICC – International Criminal Court

ICCPR – International Covenant on Civil and Political Rights

ICJ - International Court of Justice

ROK – Republic of Korea

UPR – Universal Periodic Review

List of foreign terms

guryujang - MSS (Ministry of Social Security) detention centres for non-political and Christian prisoners, and MNS (Ministry of National Security) interrogation/detention facilities for Christian and political prisoners.

jipkyulso - shorter-term labour/detention facilities

kuryujang - interrogation/detention facilities

kwanliso - political prison camps

kyohwaso - forced labour re-education camps

rodongdanryundae - mobile labour brigades/labour detention centres

songbun – system of ascribed social status

I. Introduction

In 2013, the UN Human Rights Council established the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (later referred to as the UN Commission of Inquiry)¹¹ and tasked it with investigating the systematic, widespread and grave violations of human rights in the country.¹² After extensive investigation the Commission of Inquiry, led by Justice Kirby, published its report concluding findings of violations of the freedoms of thought, expression and religion; discrimination on the basis of State-assigned social class, gender and disability; violations of the freedom of movement and residence, including the freedom to leave one's own country; violations of the right to food and related aspects of the right to life; arbitrary detention, torture, executions, enforced disappearance and political prison camps; and enforced disappearance of persons from other countries, including through abduction. It concluded that:

Systematic, widespread and gross human rights violations have been, and are being, committed by the Democratic People's Republic of Korea, its institutions and officials. In many instances, the violations of human rights found by the Commission constitute crimes against humanity. These are not mere excesses of the state. They are essential components of a political system that has moved far from the ideals on which it claims to be founded. The gravity, scale and nature of these violations reveal a state that does not have any parallel in the contemporary world.¹³

Due to the severity of the atrocities, the UN Commission of Inquiry recommended that, among others, those most responsible for the acts should be brought to account, whether by way of a UN Security Council referral to the International Criminal Court (ICC) or the UN Security Council establishing an ad-hoc tribunal.¹⁴ These steps have not been taken and the atrocities remain unaddressed.

While states and the international community have not followed up on the findings and recommendations in the report, over the subsequent years, further information on human rights violations has come to light. Among other violations, the evidence suggests that since 2014:

- DPRK officials committed several acts conducive of extermination involving mass killings and imposing conditions within the political prisons extremely likely and often designed to cause the death of persons within the prison population;
- DPRK officials committed numerous acts of murder in North Korean political prisons through execution and other means;
- DPRK officials committed acts of sexual violence in the form of forced abortions and rape in the political prison camps and detention centres;
- DPRK officials committed the crime against humanity of enslavement;

¹¹ UN Human Rights Council, 'Situation of human rights in the Democratic People's Republic of Korea', 9 April 2013, A/HRC/RES/22/13. Available at: https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_res_22_13.pdf.

¹² Ibid., 5.

¹³ UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, 1211.

¹⁴ Ibid., 1218.

- DPRK officials were involved in the use of torture and other inhumane acts, forcible transfer, enforced disappearance, imprisonment, persecution (political persecution, persecution based on religion or belief, and/or ethnicity and severe deprivation of fundamental rights).

These atrocities require an urgent response. The UK and other States are legally required, in accordance with their international law obligations enshrined in treaties they are parties to, to take all available measures to prevent violations of international law, to suppress the ongoing violations, and to work towards bringing those responsible to justice. The UK must play its part, and also effectively engage in addressing the violations in the DPRK.

Methodology

The APPG on North Korea conducted an inquiry into the human rights violations in the country between 2014 and 2020/1 (the Inquiry), namely, any developments since the Commission of Inquiry report of 2014.

The Inquiry aimed to:

- map the recent human rights violations in North Korea, and since the launch of the Commission of Inquiry report in 2014;
- identify recommendations for the UK government on how to engage on the issue.

The Inquiry was Co-Chaired by Fiona Bruce MP and Lord Alton of Liverpool, and led by David Burrowes (Inquiry Lead). Furthermore, the following provided assistance to the inquiry: Dr Ewelina Ochab - Inquiry Lead Advisor; Timothy Cho - Inquiry Clerk; Joanne Moore/Marguerite Ohan - Inquiry Secretariat. The Inquiry would like to thank a number of experts who provided feedback and comments on the report, including Ben Willis, Timothy Cho and Ben Rogers.

The Inquiry consisted of a desktop research, open public consultation, and oral hearings.

The Inquiry team conducted desktop research into the existing reports on human rights violations between 2014 and 2020/1 and literature commenting on such violations.

A public consultation, open from 22 September until 31 October 2020, was published on the website of the APPG on North Korea. The Inquiry team reached out to several NGOs and experts asking them to engage with the consultation.

The Inquiry conducted 7 hearing with experts:

- 16 December 2020 – Justice Kirby;
- 3 February 2021 – ROK National Assembly members Thae Yong-ho and Ji Sung-Ho;
- 3 February 2021 – [name redacted];
- 10 February 2021 - Ms. Suyeon Yoo and Ms. Hae Ju Kang, Korea Future Initiative;
- 2 March 2021- Ethan Hee-Seok Shin, Transitional Justice Working Group;
- 12 March 2021- Amanda Oh, Rosa Park, and Greg Scarlatoiu, the Committee for Human Rights in North Korea;

- 16 March 2021 – Tomás Ojea Quintana, UN Special Rapporteur on North Korea, and Madoka Saji, Human Rights Officer, OHCHR.

II. Background

The following section provides an overview of the findings and recommendations of the UN Commission of Inquiry's 2014 report and their implementation, or lack thereof. This section makes a clear case as to why it was necessary for the APPG on North Korea to conduct this inquiry.

Findings of the 2014 Report

In 2014, the UN Commission of Inquiry led by Justice Michael Kirby published its findings and found that crimes against humanity have been perpetrated in the DPRK, 'pursuant to policies established at the highest level of the state. These crimes against humanity are on-going, because the policies, institutions and patterns of impunity that lie at their root remain in place.'¹⁵ It concluded that:

Persons detained in political prison camps (*kwanliso*) and other prison camps, those who try to flee the country, adherents to the Christian religion and others considered to introduce subversive influences are subjected to crimes against humanity. This occurs as part of a **systematic and widespread attack** of the state against anyone who is considered to pose a threat to the political system and leadership of the [DPRK]. The foregoing attack is embedded in the larger patterns of politically motivated human rights violations experienced by the general population, including the discriminatory system of classification based on *songbun*. In addition, **crimes against humanity have been committed against starving populations.** These crimes are sourced in decisions and policies violating the universal human right to food. They were taken for purposes of sustaining the present political system, in full awareness that they would exacerbate starvation and contribute to related deaths. Many of the policies that gave rise to crimes against humanity continue to be in place, including the deliberate failure to provide reliable data on the humanitarian situation in the Democratic People's Republic of Korea, denial of free and unimpeded international humanitarian access to populations in need, and discriminatory spending and food distribution. Finally, **crimes against humanity have been, and are still being, committed against persons from the Republic of Korea, Japan and other countries who were systematically abducted or denied repatriation to gain labour and other skills for the [DPRK].** These persons are victims of ongoing crimes of enforced disappearance. Officials who fail to acknowledge their deprivation of liberty or fail to provide available information about their fate and whereabouts may also incur criminal responsibility, even if they did not themselves participate in the original abduction or denial of repatriation.¹⁶

The UN Commission of Inquiry further concluded that:

¹⁵ UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, 1160 ff.

¹⁶ UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, 1160 ff.

In the DPRK, **international crimes appear to be intrinsic to the fabric of the state.** The system is pitiless, pervasive and with few equivalents in modern international affairs. The fact that such enormous crimes could be going on for such a long time is an affront to universal human rights. These crimes must cease immediately. It is the duty of the DPRK and, failing that, the responsibility of the international community to ensure that this is done without delay.¹⁷

Apart from the categorisation of the atrocities within the international crime framework, it is crucial to consider the groups of victims, to enable a victim-centred approach in the responses. The section below considers the different victims groups as analysed by Ben Willis, Associate Lecturer with the School of Law, Criminology, and Government at the University of Plymouth and a PhD Researcher with the European Centre for the Responsibility to Protect at the University of Leeds.

The Victims

The UN Commission of Inquiry identified six victim groups:

The first group [of victims], [**inmates of political prison camps**], relates to the entirety of the *kwanliso* system – the estimated 80,000 to 120,000 inmates of Camps 14 (Kaechon), 15 (Yodok), 16 (Hwasong), and 25 (Chongjin). It is unclear whether the number of inmates has increased substantially in recent years, although there are suggestions that the four camps now hold closer to 160,000 people.¹⁸ Due to the wide-ranging nature of the violations that characterise the *kwanliso* system, the [Commission of Inquiry] alleged that inmates of these four camps are variously subject to the crimes against humanity of imprisonment, enforced disappearance, persecution, extermination, murder, enslavement, torture, and rape and other forms of sexual violence.¹⁹

The second group, [**inmates of the ordinary prison system, in particular political prisoners among them**], encompasses the entire population of the *kyohwaso* ordinary prison camps and elements of the various short-term forced labour detention facilities operating across the DPRK – including the *rodongdanryundae* labour training camps, *kyoyangso* labour reform centres, and *jipkyulso* holding centres. Abuses variously involve the crimes against humanity of

¹⁷ UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, 1164.

¹⁸ While the CoI listed four camps in its 2014 report, that number may no longer be accurate – there is some dispute over the status of two further potential *kwanliso* camps.

- KINU and HRNK both suggest that the partially decommissioned and relocated Camp 18 (Bukchang) is still in operation. See e.g. the 2020 KINU white paper (p.498-501).
- HRNK also suggest that a sixth camp may be in operation at Ch'omabong Restricted Area. See Bermudez Jr et al.

¹⁹ The 2017 report of the IBA War Crimes Committee Inquiry on Crimes against Humanity in North Korea Political Prisons (led by Navi Pillay, Thomas Buergenthal, and Mark Brian Harmon) found that violations in the camps also amounted to the further crimes against humanity of forcible transfer of populations and other inhumane acts. See: <https://www.ibanet.org/IBA-War-Crimes-Committee---Inquiry-on-Crimes-Against-Humanity-in.aspx>.

imprisonment, forcible transfer, extermination, murder, enslavement, torture, and rape and other forms of sexual violence.²⁰

The third group, [religious believers and others considered to introduce subversive influences], relates to persons within the broader population who are considered to have introduced ‘politically or ideologically subversive influences’ into the country, and are subject to the crimes of imprisonment, torture, murder, and persecution. This consists of two sub-groups – (a) religious believers, primarily Christians, who operate outside the remaining state-controlled religious institutions (see also allegations of genocide, below); and (b) persons who engage in unauthorised contact with Republic of Korea (ROK) citizens, or who watch or circulate foreign programming or broadcasting.

The fourth group, [persons who try to flee the country], concerns persons trying to flee the DPRK who are variously subject to the crimes against humanity of imprisonment, enforced disappearance, torture, murder, rape and other forms of sexual violence. There are three primary sub-groups here – (a) persons caught inside the DPRK while attempting to escape; (b) escapees forcibly repatriated by Chinese state operatives; and (c) escapees abducted from Chinese territory by DPRK state operatives. The latter two sub-groups are notable for the extraterritorial dimension of alleged DPRK violations and the potential complicity of the Chinese state. [Commission of Inquiry] chair Michael Kirby explicitly raised this issue of the conduct of relevant Chinese officials that ‘could amount to the aiding and abetting crimes against humanity’ in a letter to the Chinese government in December 2013 (although it should be noted that this phrasing was not used in the principal findings or recommendations of the final report).²¹

The fifth group, [persons from other countries who became victims of international abductions and enforced disappearances], abductees subject to the crime against humanity of enforced disappearance, also possesses an extraterritorial dimension. This is a relatively heterogeneous category, comprising seven sub-groups – (a) the abduction of an estimated 96,000 ROK civilians during the Korean War; (b) the denial of repatriation of an estimated 50,000 ROK prisoners of war at the end of the Korean War; (c) the abduction of an estimated 4,000 ROK citizens between 1955 and 1992; (d) the enforced disappearance of an estimated 93,000 ethnic Koreans and Japanese nationals who migrated to the DPRK from Japan between 1959 and 1984; (e) the abduction of at least 100 Japanese nationals,

²⁰ The COI listed seven *kyohwaso* as definitively being in operation at the time (Camps No. 1, 4, 6, 9, 11, 12, and 22) and noted that less information was available on six other *kyohwaso* that were reported to exist (Chonma, Yongdam, and Camps No. 2, 3, 7, and 88). See the detailed COI report at pp.247-248. The 2019 KINU *White Paper on Human Rights in North Korea* (pp.93-99) lists a total of nineteen *kyohwaso* currently operating in the DPRK. Available at <http://www.kinu.or.kr/pyxis-api/1/digital-files/3e5a0ac0-4316-46ed-b95c-4143628e68f8>

²¹ The contents of the letter are discussed in the detailed COI report within its section on individual criminal accountability (paragraph 1197 at pp.360). The letter itself is contained in an annex to the summary version of the report, whose main text does not discuss its contents regarding the aiding and abetting of crimes against humanity.

mostly on Japanese territory, in the 1970s and 1980s; (f) the abduction of dozens of women of various other nationalities, on the territory of numerous states, in the late 1970s; and (g) the abduction of dozens of primarily Chinese and ROK nationals on Chinese territory from the 1990s to the present.²²

The sixth and final victim group identified by the [UN Commission of Inquiry] as subject to crimes against humanity is the only one of the six groups that does not relate to ongoing crimes, [**starving populations**]. This encompasses the famine period of the mid-1990s, which led to an estimated 600,000 to 1 million deaths and inflicted significant physical and mental harm on further millions. This was determined by the [Commission of Inquiry] to variously constitute the crimes against humanity of extermination, murder, and other inhumane acts, as a result of DPRK officials ‘implementing actions, decisions and policies known to have led to mass starvation, death by starvation and serious mental and physical injury’. The COI argued that while starvation may not have been the *objective* of state policy, it was ‘sufficient’ that senior officials were ‘fully aware of the direct causal relationship between the State policy and the harm done’.²³

The analysis of the groups of victims is relevant for the purposes of the analysis of the different crimes perpetrated in the DPRK. This will be discussed in the subsequent section dealing with the issue of genocide.

²² It should be noted that that while the overwhelming majority of these abductions were initially committed decades ago, and many of the victims have since died, the COI nonetheless considered the substantial number of unresolved cases to be continuous crimes, ‘which will only come to an end when the fate and whereabouts of the victims has been fully disclosed’. See the detailed COI report at pp.349. The issue is discussed further below in relation to recent Article 15 communications submitted to the ICC Office of the Prosecutor.

²³ Ben Willis, Submission to the APPG on North Korea, December 2020.

The UN Commission of Inquiry Recommendations

In view of the severity of the atrocities, the UN Commission of Inquiry recommended that those most responsible for the acts should be brought to account. The UN Commission of Inquiry stated that:

the international community must discharge its responsibility to protect by pursuing a multi-faceted strategy that combines strong accountability measures targeting those most responsible for crimes against humanity, reinforced human rights engagement with the authorities of the [DPRK] and support for incremental change based on people-to-people dialogue and an agenda for inter-Korean reconciliation.²⁴

Among others, the UN Commission of Inquiry recommended the international community and the UN to take steps to ensure accountability to the identified atrocities including:

(a) The Security Council should **refer the situation** in the [DPRK] **to the International Criminal Court** for action in accordance with that court's jurisdiction. The Security Council should also adopt **targeted sanctions** against those who appear to be most responsible for crimes against humanity. In the light of the dire social and economic situation of the general population, the Commission does not support sanctions imposed by the Security Council or introduced bilaterally that are targeted against the population or the economy as a whole.

(b) The General Assembly and the Human Rights Council should **extend the country-specific human rights monitoring and reporting mechanisms** on the [DPRK] that pre-date the establishment of the Commission. These include the periodic reports of the Secretary-General and the High Commissioner for Human Rights, as well as the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea. Such mechanisms should be mandated to focus on ensuring accountability, in particular for crimes against humanity, and should report on the implementation of the Commission's recommendations.

(c) The United Nations High Commissioner for Human Rights, with full support from the Human Rights Council and the General Assembly, should **establish a structure to help to ensure accountability** for human rights violations in the Democratic People's Republic of Korea, in particular where such violations amount to crimes against humanity. The structure should build on the collection of evidence and documentation work of the Commission, and further expand its database. It should be field-based, supported by adequate personnel deployed to the region so as to enjoy sustained access to victims and witnesses. In addition to informing the work of human rights reporting mechanisms and serving as a secure archive for

²⁴ UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, 1210.

information provided by relevant stakeholders, the work of such a structure should facilitate United Nations efforts to prosecute, or otherwise render accountable, those most responsible for crimes against humanity.²⁵

Implementation of the Recommendations?

Seven years after the launch of the 2014 report, the majority of the recommendations remain unfulfilled. This section considers some of the progress made in implementing a few of the recommendations and emphasises where the work remains to be done.

In March 2014, the UN Human Rights Council commended the work of the Commission on Inquiry in its resolution on North Korea's human rights.²⁶ The Human Rights Council urged the UN General Assembly to 'submit the report of the commission of inquiry to the Security Council for its consideration and appropriate action in order that those responsible for human rights violations, including those that may amount to crimes against humanity, are held to account, including through consideration of referral of the situation in the DPRK to the appropriate international criminal justice mechanism, and consideration of the scope for effective targeted sanctions against those who appear to be most responsible for crimes against humanity, taking into account the relevant conclusions and recommendations of the commission of inquiry.'²⁷

In December 2014, the UN General Assembly adopted Resolution 69/188.²⁸ The UN General Assembly called upon the UN Security Council '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 scope for effective targeted sanctions against those who appear to be most responsible for acts that the commission has said may constitute crimes against humanity.'²⁹

On 23 December 2014, the UN Security Council took up the situation in North Korea. Reportedly, 'North Korea, with the support of China and Russia, sought to derail the Security Council consideration of the North's human rights.'³⁰ The UN Security Council further considered the situation in several meetings over the next few years. This new agenda item was hard-won, relatively controversial, and highly significant – and the same difficulties which characterised

²⁵ UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, 1225.

²⁶ UN HRC, Resolution 25/25. Available at: http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_res_25_25.pdf. The resolution was adopted by 30 to 6, with 11 abstentions. In favour: Argentina, Austria, Benin, Botswana, Brazil, Burkina Faso, Chile, Costa Rica, Côte d'Ivoire, Czech Republic, Estonia, France, Germany, Ireland, Italy, Japan, Kazakhstan, Maldives, Mexico, Montenegro, Morocco, Peru, Philippines, Republic of Korea, Romania, Sierra Leone, the former Yugoslav Republic of Macedonia, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America. Against: China, Cuba, Pakistan, Russian Federation, Venezuela (Bolivarian Republic of), Viet Nam. Abstaining: Algeria, Congo, Ethiopia, Gabon, India, Indonesia, Kenya, Kuwait, Namibia, Saudi Arabia, South Africa.

²⁷ Ibid., 7.

²⁸ UN General Assembly Resolution 69/188. Available at: <https://undocs.org/en/A/RES/69/188>.

²⁹ Ibid., 8.

³⁰ Robert R. King, 'Fifth Anniversary of the Landmark Report of the UN Commission of Inquiry on North Korean Human Rights' CSIS (21 February 2019). Available at: <https://www.csis.org/analysis/fifth-anniversary-landmark-report-un-commission-inquiry-north-korean-human-rights>

formal discussions in 2014-2017 will re-emerge if/when the Biden administration recommits to US support for the agenda item. Further engagement included:

- There was an initial Arria formula meeting in April 2014;
- Formal meetings were subsequently held in December 2014, December 2015, December 2016, and December 2017;
- These meetings in 2014-17 were all subject to procedural votes at the request of the Chinese representative (a ‘principled objection’ as it was entirely clear beforehand that they would lose);
- Attempts to hold a formal meeting in December 2018 failed due to lack of the required nine procedural votes in favour;
- Attempts in December 2019 again failed due to lack of votes.
- A notable development since then is the closed meeting of the UN Security Council held in December 2020 under ‘any other business’– and which produced a joint statement from eight members of the UN Security Council.³¹

The UN Security Council discussions are extremely helpful for maintaining the visibility of the issue, but building support for sufficient procedural votes to hold a formal meeting, let alone obtain a potential outcome document – even a presidential statement or a Chapter VI or Chapter VII resolution – will require substantial (re)building of support among the UN Security Council membership.

There are also differing schools of thought on a Chinese veto (or Chinese-Russian double veto) of any Chapter VII resolution:

- Michael Kirby, for example, takes the view that a veto should not be assumed (due to Chinese reputational concerns and other national interests) and that a resolution may actually pass;
- International human rights lawyer Jared Genser and others suggest that passage is unlikely - but that a vetoed resolution would nonetheless serve as a useful exercise in ‘naming and shaming’ - requiring China and others to go on the record in justifying their positions.³²

Following up on the 2014 report, in its Resolution 25/25, the UN Human Rights Council requested OHCHR establish a field-based structure for monitoring and documenting human rights violations in the DPRK.³³ The field-based structure was to ‘strengthen monitoring and documentation of the situation of human rights in the [DPRK], to ensure accountability, to enhance engagement and capacity-building with the Governments of all States concerned, civil society and other stakeholders, and to maintain visibility of the situation of human rights in the [DPRK], including through sustained communications, advocacy and outreach initiatives.’³⁴ The field office,

³¹ The number of parties to the statement suggest that supporters fell short of the required nine votes in favour of a procedural motion to hold a formal meeting under the dedicated DPRK human rights agenda item.

³² Comments from Ben Willis.

³³ UN Human Rights Council Resolution 25/25, ‘Situation of human rights in the Democratic People’s Republic of Korea.’ UN Doc A/HRC/RES/25/25.

³⁴ *Ibid.*, 10.

established in Seoul, opened several months later and became the focal point for information on human rights violations.

In 2016, the UN Human Rights Council, in its Resolution 31/18, requested the High Commissioner to appoint a group of independent experts to engage with the question of accountability,³⁵ including to ‘(a) To explore appropriate approaches to seek accountability for human rights violations in the [DPRK], in particular where such violations amount to crimes against humanity, as found by the Commission of Inquiry; (b) To recommend practical mechanisms of accountability to secure truth and justice for the victims of possible crimes against humanity in the [DPRK], including the International Criminal Court.’³⁶

The group of independent experts recommended the adoption of a comprehensive approach to accountability, including the rights to truth, justice, reparations and guarantees of non-recurrence.³⁷ This included a recommendation to refer the situation to the International Criminal Court, creation of an ad hoc tribunal for the [DPRK], and prosecution of crimes by Member States through the principle of universal jurisdiction.³⁸

Following the report of the group of independent experts, the UN Human Rights Council asked to enhance its capacities, including the Seoul office, with a three-prong mandate, which was to set up an information and evidence repository on any alleged crimes against humanity that been committed by the DPRK, legal accountability to analyse information collected from an accountability perspective, and to try to identify possible strategies that could be used by future accountability mechanisms.

According to experts, there was a lack of a political will for an ICC referral or creation of ad-hoc tribunal, given the geopolitics. While there is little support for an ICC referral, there is currently even less support for an ad hoc tribunal in the short term – even though it is arguably the better option in the long term.³⁹ There is a broader question of whether an ad hoc tribunal is the most appropriate long-term mechanism for ensuring criminal accountability in the DPRK. An ICC referral may be more immediately useful for its deterrent effect – but given the temporal and personal scope of the crimes, an ad hoc (or hybrid) tribunal will be required to deal with the large number of perpetrators and the pre-Rome Statute time span of the crimes:

- in relation to the 1990s famines;
- in relation to the abductions issue and the question of whether or not abductions are ‘ongoing’ crimes.⁴⁰

³⁵ UN Human Rights Council Resolution 31/18, ‘Situation of human rights in the Democratic People’s Republic of Korea.’ UN Doc A/HRC/RES/31/18.

³⁶ Ibid., 11.

³⁷ UN Human Rights Council report, ‘Report of the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea.’ UN Doc A/HRC/34/66/Add.1.

³⁸ Ibid.

³⁹ See also: <https://ecr2p.leeds.ac.uk/from-progress-to-paralysis-north-korean-human-rights-at-the-un-security-council/>.

⁴⁰ Comments from Ben Willis. The Office of the Prosecutor appears to have taken the position that they are not (contrary to the view of e.g., the UN Commission of Inquiry), and it holds that the entire abduction issue falls outside of the Court’s temporal scope.

Discussion of the ICC and ad hoc tribunals may neglect the views of DPRK citizens themselves on future transitional justice issues.⁴¹ However, they should be pursued as the prospects of pursuing or securing justice in the DPRK are bleak.

There was also no appetite to set up a large-scale independent mechanism. This is why the accountability team was established. The accountability team is very small and has limited resources. It is primarily based within the field-based structure located in Seoul, and has no access to the DPRK. Within this, there are two international lawyers with an international criminal background, an expert in Korean law, and a legal interpreter. In Geneva, there is an expert in criminal law and an information management officer who is an expert in e-discovery software who configures the repository of all information. The teams have been working for four years, and have been fully operational for the last three years. The majority of their work has been to collect and analyse information received from recent arrivals in South Korea from North Korea, focusing on where the evidence is strongest.

In January 2021, the UN High Commissioner for Human Rights published a report on Promoting accountability in the DPRK, concluding that:

68. Analysis of available information continues to confirm that there are reasonable grounds to believe that crimes against humanity have been committed and may be ongoing in the [DPRK]. OHCHR reiterates that there is no statute of limitations for crimes against humanity, and that those responsible for past and ongoing crimes should be held accountable. A lasting peace on the Korean Peninsula can be achieved only if such violations end and the rights of victims to truth, justice, reparations and guarantees of non-recurrence are fulfilled.

69. **To achieve those aims, prosecution of the alleged international crimes committed in the [DPRK] must remain a priority, whether through referral of the situation to the International Criminal Court or the establishment of an ad hoc tribunal or other comparable mechanism. At the same time, it is imperative to ensure that information continues to be collected and preserved to support accountability strategies at all levels. That includes domestic processes that may be based on extraterritorial or universal jurisdiction, as well as possible future international accountability processes.** Collecting, analysing and preserving information will also continue to be useful in support of complementary, non-judicial measures towards the realization of the rights of victims, such as developing a historical record, memorialization, reparation and truth-telling exercises.

⁴¹ See for example, Sarah Son. <https://www.tandfonline.com/doi/full/10.1080/10357823.2020.1734536>

70. While a small number of victims and their families in Japan, the Republic of Korea and the United States of America have sought justice in national courts, those initiatives are, to date, limited in scope and hampered by the lack of cooperation from the [DPRK]. **A referral to the International Criminal Court or the creation of an ad hoc tribunal or other comparable mechanism would provide a complementary avenue for accountability, ensuring that those most responsible for human rights violations that may amount to crimes against humanity can be held to account at the international level.** Any such approach would stand to benefit from the groundwork being carried out by OHCHR, in particular with respect to information-gathering, documentation and awareness-raising.

71. The decision of the Human Rights Council to strengthen the capacity of OHCHR, including its field-based structure in Seoul, by providing resources for a dedicated accountability team allows the Office to undertake significant preparatory work toward accountability for serious human rights violations perpetrated in the [DPRK], including where they amount to crimes under international law. The accountability team comprises experts in international criminal law and information and evidence management, and requires modest resources. The additional resources have allowed OHCHR to make significant progress in documenting and storing information about suspected crimes against humanity and other serious violations of human rights, in establishing and populating the information and evidence repository, and in analysing the information that has been gathered from international criminal law perspectives.

72. The Human Rights Council should continue to strengthen its support for the accountability work of OHCHR. In addition to present staffing levels in Seoul and Geneva, additional dedicated experts in international criminal law, legal interpretation and information management would enable fuller delivery on the mandate to strengthen monitoring, documentation and analysis in relation to relevant criminal law perspectives.⁴²

Commenting on the progress made on implementing the UN Commission of Inquiry's recommendations since the launch of the report, in an oral hearing, Justice Kirby explained that:

The witness testimonies [to the UN Commission of Inquiry] spoke truth to power in the United Nations and in the world and that gathered a lot of interest. It resulted in votes in the United Nations Human Rights Council, in the General Assembly and ultimately referring the matter to the Security Council which were extremely strong votes and they indicated deep concern in the United Nations system for what we had revealed. There were some countries that could generally be expected to be

⁴² Report of the United Nations High Commissioner for Human Rights, 'Promoting accountability in the Democratic People's Republic of Korea.' (11 January 2021) UN Doc A/HRC/46/52.

hostile to, or not supporting the report, but they were a very small number, no more than 20 and they were the usual countries each time: Russian Federation, Cuba, People's Republic of China, Venezuela, Laos and other countries that were hostile to human rights investigations. That was the span of differences.

But the fact that the General Assembly received it, and the General Assembly accepted our recommendation and referred our report to the Security Council and the fact the Security Council accepted that referral put it on its agenda, and it is still on the agenda at the Security Council which is very unusual in the United Nations system.

That is where things stood when President Trump initiated quite a different strategy having started his presidency with strong attacks on North Korea, in calling Kim Jong-un 'little rocket man'. He very soon afterwards formed the view that he should make an attempt at discussion to get a deal, this is what he said he would try to do, and he went ahead and met the Supreme Leader in Singapore, and again in Hanoi. That was not a successful meeting in Hanoi, they met informally in the demilitarised zone, and in none of those [meetings] did he [Trump] ever refer to human rights.

It was the view of the Commission of Inquiry that certainly the issues of nuclear weapons and the dangers of nuclear weapons are major concerns of the international community and they include concerns of a human rights character. But there will be no peace on the Korean peninsula so long as the international community does not deal with the issues of human rights.⁴³

Justice Kirby expressed hope for the future:

I believe with the change of administration in the United States, this is a very timely report and I hope it will lead onto closer co-operation between the United Kingdom, United States and other countries and the possibility of that happening was illustrated by a very strong statement that was issued by Germany only a week ago in the Security Council. Germany had the support of Belgium, Estonia, France, UK, US, Japan and the Dominican Republic in making a strong appeal for revival of concern and interest in human rights.⁴⁴ It is a wonderful thing to have lived long enough to see Germany taking such important and strong stand on human rights and they took the lead in this statement and it deserves support. (...)

I believe that with the advent of the Biden administration the relationship which has existed in the past until quite recently, constructive relationship, of like-minded, like-thinking support, particularly between the United Kingdom and United States

⁴³ Oral Hearing with Justice Kirby, 16 December 2020.

⁴⁴ Available at: <https://new-york-un.diplo.de/un-en/news-corner/-/2426506>.

will be revived. I mean my own recollection was many times visiting the State Department in Washington, meeting the very brilliant, thoughtful, informed, and experienced people who served in that Department. And unfortunately, Mr Trump took the view that they were part of the Washington swamp and didn't really utilise them to the extent that could and should have been done. (...)

My hope is that Mr Biden, who has had a lot of experience dealing with international law will understand and be briefed that the only language which North Korea believes, and pays attention to, and is worried and fearful of, is the language of the United Nations Security Council requirements. Those resolutions have to be defended and kept in place and hopefully enhanced with proper humanitarian exceptions in order to impose pressure on North Korea, they do not pay attention to language, reason, the United Declaration of Human Rights.⁴⁵

While some of the recommendations have been implemented, it is crucial to emphasise that seven years later, the majority of recommendations remains unimplemented. This is highly concerning because of the findings of international crimes in the DPRK, their nature and scale, and the fact that they continue unabated until this day.

The DPRK's Response to the 2014 Report

The DPRK regime responded to the 2014 report by denouncing it and followed up with a propaganda campaign showing DPRK in a positive light.⁴⁶ The regime further took a few steps to improve the appearance of human rights in DPRK, including the situation of persons with disabilities. According to Robert R. King, Senior Adviser at the Centre for Strategic and International Studies: 'The outstanding work of the [UN Commission of Inquiry] has been a major step forward in pushing North Korea in the right direction on human rights - though clearly there is a long way yet to go.'⁴⁷

David Hawk offers particularly useful analysis of the DPRK's short-term response to the UN Commission of Inquiry report through the course of mid/late 2014 – in particular, its diplomatic 'counter-offensive.'⁴⁸ The DPRK's diplomatic counter-offensive in 2014 was a substantial effort, but largely ended when the UN General Assembly passed resolution 69/188 endorsing the UN Commission of Inquiry findings and recommendations – including ICC referral, which was a particular focus of DPRK's concerns.

⁴⁵ Oral Hearing with Justice Kirby, 16 December 2020.

⁴⁶ KCNA, 'UN Human Rights Council's "Resolution on Human Rights" against DPRK Rejected by DPRK FM Spokesman' Korean Central News Agency (12 October 2014); KCNA, 'S. Korean Regime Denounced for Trying to Fabricate "Human Rights Resolution" against DPRK' Korean Central News Agency (12 October 2014).

⁴⁷ Ibid.

⁴⁸ David Hawk (2014) 'North Korea's Response to the UN Commission of Inquiry (COI) Report on the Situation of Human Rights in the Democratic People's Republic of Korea' in Jong-Chul Park and Jeong-Ho Roh (eds) Law and Policy on Korean Unification: Analysis and Implications. KINU: Seoul. Available at <https://repo.kinu.or.kr/bitstream/2015.oak/2378/1/0001471379.pdf>.

The DPRK's long-term response to the UN Commission of Inquiry could be characterised as the following:

- Continued non-recognition of the country-specific mandate of the Special Rapporteur on the DPRK;
- Minimal acceptance of training, technical cooperation, and capacity building from OHCHR;
- Continued engagement with the UPR process;
- Continued engagement with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), and Convention on the Rights of Persons with Disabilities (CRPD) reporting mechanisms;
- Continued lack of engagement with the ICCPR and International Covenant on Economic, Social and Cultural Rights (ICESCR) reporting mechanisms.⁴⁹

In essence, this can be seen as a pattern of tactical concessions by the DPRK ruling elite on issues that are viewed as less threatening to the regime - in the hope that this will assuage external critics and ward off further scrutiny. This is not to discount that a number of DPRK officials may genuinely care about improving the status of disability rights etc.⁵⁰

As ROK National Assembly member Ji Seong-Ho stated: 'The [UN Commission of Inquiry] report's greatest meaning lies in the fact that it is the UN's first official report on the DPRK human rights condition. I also participated as a witness during its creation. After the report was published, the DPRK regime denied everything. They criticised it as a foreign conspiracy to defame and destroy the Supreme Leader and the Republic. Meanwhile, at the same time, some changes took place within. It was unclear whether the change continued, but there was a clear change.'⁵¹

In 2019, the UN Special Rapporteur on the situation of human rights in the [DPRK] indicated that:

While summit diplomacy and other interactions have progressed, the human rights situation on the ground remains mostly unchanged and continues to be of extremely serious concern. The Special Rapporteur continues to receive reports of the existence of political prison camps, where people are being sent without due process. Torture and ill-treatment reportedly remain widespread and systematic in detention facilities. The surveillance and close monitoring of the population, as well as severe restrictions on their basic freedoms, remains widespread. There are also consistent reports of corruption by State officials, leading to further violations of rights of the most vulnerable individuals and groups in particular. The Special Rapporteur is of the view that the only way to achieve prosperity, peace and economic stability is by embracing and implementing the universal fundamental

⁴⁹ The ICCPR Committee has recently begun work on the DPRK's third reporting cycle after 17 years without a response.

⁵⁰ Comments from Ben Willis.

⁵¹ Written response after oral hearing.

rights and that the participation of the population of the [DPRK] should be a central part of determining the path towards peace and prosperity.⁵²

The Government of the [DPRK] continues to refuse to cooperate with the mandate of the Special Rapporteur. The Government has also denied access to the territory of the Democratic People's Republic of Korea.

A similar conclusion was made in 2020 in a note by the UN Secretary-General:

The human rights situation in the [DPRK] remains extremely serious and shows no sign of improvement or progress in advancing justice and accountability for human rights violations. Transparency, participation and human rights reforms are the key to peace negotiations and the realization of sustainable peace, which is intended to benefit and improve the lives of the people and is supported by the population on the Korean Peninsula.⁵³

⁵² UN HRC, Situation of human rights in the Democratic People's Republic of Korea, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (30 May 2019) UN Doc. A/HRC/40/66, 3. See <https://undocs.org/A/HRC/40/66>.

⁵³ UN GA, Situation of human rights in the Democratic People's Republic of Korea, Note by the Secretary-General (14 October 2020) UN Doc A/75/388, 4. Available at: <https://undocs.org/A/75/388>.

III. Human Rights Violations since 2014

Despite some small positive progress in implementing the UN Commission of Inquiry report recommendations, the evidence suggests that the atrocities continue.

Over the subsequent years since the UN Commission of Inquiry report, there have been several other UN and civil society reports that need to be considered here as they are based on significant amounts of research and evidence not available to the Inquiry members. Ultimately, the Inquiry does not aim to replicate any such research, but consolidate it, add to it where possible, and identify recommendations specific to the UK.

As ROK National Assembly member Tae Yong Ho emphasised during an oral hearing:

In Kim Jong-un's era, the human rights situation in North Korea is getting worse. His frequent replacement and purging of the elites have created an unpredictable atmosphere in the North Korean administration. Moreover, when it is compared to Kim Jong-il's little reaction to external criticism of North Korean human rights, Kim Jong-un receives and reacts to it very sensitively. In order to respond to the UN's universal human rights reviews, he formed a team from each ministry, and by developing testing nuclear weapons and missiles so that the world's attention is now turned from human rights to security issues.⁵⁴

Madoka Saji, Human Rights Officer from the Office of the UN High Commissioner for Human Rights, said in an oral hearing:

We have access to interview escapees who have just arrived [in South Korea]. And within that we also have some privilege to select who we want to interview. We pre-survey everybody... I think we have escapees who left DPRK as recent as 2019. The challenge last year was, as you know, because of the COVID preventative measures, only over 220 escapees arrived in South Korea, as opposed to over 1000 people per year. Our interviews are also affected. And most of them were already in China for several years. (...) We have enough evidence to believe that there are reasonable grounds to believe that imprisonment, torture and slavery continue. It doesn't mean that other crimes are not continuing. But we didn't have enough information to conclude that. For example, we didn't have any new information about political prison camp [recently] because no one was released from prison camp or no one could talk to us for various reasons. There are challenges there. But in terms of changes, there were few occasions that people say that after these UN reports, treatment in law, at least by police officers in detention centers, talk about human rights because they were pulled to do so and there's some improvement in treatment. (...) I think torture and mistreatment are continuing. And overall, I don't think there are any improvement, sign of improvement in human situations. And in terms of economic and social rights, because of sanctions, maybe most of you

⁵⁴ Oral hearing, Tae Yong Ho MP.

know, but also the current COVID-19 preventative measures. We are extremely worried about ordinary people's access to economic and social rights, basic economic social rights because many of them were running on the trade with China. But now they don't have any means.⁵⁵

The Committee for Human Rights in North Korea suggested that seven trends have developed defining the human rights situation in the DPRK under Kim Jong-un's control:

1. An intensive crackdown on escape from the DPRK;
2. A restructuring of the prison camp system;
3. A disproportionate repression of women by the DPRK;
4. An aggressive purge of senior officials;
5. An increased restriction on information flow;
6. Targeting of North Korean escapees;
7. Eliminating 'anti-Reactionary thoughts.'⁵⁶

This section considers some of the evidence of human rights violations since 2014, taking into account the available evidence, and mapping violations.

⁵⁵ Oral hearing, MS, 16 March 2021.

⁵⁶ Oral hearing, Committee for Human Rights in North Korea

1. Significant Reports since 2014

1.1. Universal Periodic Reviews (UPRs)

The DPRK was reviewed by the UPR twice, in 2014 and 2019.⁵⁷ The next review is due in May 2024. The plethora of human rights issues discussed during these two reviews are not repeated here. The below identifies some of the findings of the UPR process on the issue of justice and accountability in the DPRK. The 2019 UPR found, among others, that:

39. **The group of independent experts on accountability had no information indicating that viable options for accountability existed or had been used in the country.** It recommended that the Government reform its criminal justice legislation and rule of law institutions, including its judiciary and law enforcement and corrections systems, in line with international human rights norms and standards and in furtherance of its commitments made during the second cycle of the universal periodic review to fight impunity for human rights violations.

40. The Secretary-General recommended that the Government take the measures necessary to address the findings and recommendations of the commission of inquiry and the group of independent experts on accountability, and **engage with the international community towards their implementation.**

41. The General Assembly strongly urged the Government to protect its inhabitants, to address the issue of impunity and to ensure that those responsible for crimes involving violations of human rights were brought to justice before an independent judiciary.

42. The United Nations High Commissioner for Human Rights recommended that the Government ensure that **victims of crimes against humanity and their families were provided with adequate, prompt and effective reparation and remedies,** including telling them the truth about the violations concerned.

43. According to the Secretary-General, the right to a fair and independent trial was not guaranteed, and, in some cases, former detainees described having had only a brief meeting with a lawyer prior to their trial. Corruption was reportedly rampant in the criminal justice system, with former detainees reporting having paid bribes to secure a less severe sentence.

44. The Secretary-General found that cases were reportedly also submitted to the People's Safety Committee under the local branch of the Workers' Party of Korea. The Committee would reportedly make a decision on a suspect's guilt or innocence, and on the type of punishment that should be imposed, taking into consideration

⁵⁷ UPR, DPRK. Available at: https://www.upr-info.org/sites/default/files/document/corea_republica_popular_democratica_de/sesion_33_-_mayo_2019/a_hrc_wg.6_33_prk_2_e.pdf.

different factors, including a suspect's family background, and that cases were then sent for indictment and trial.

45. The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea expressed his concern about the practice of guilt by association, under which associates and relatives of a person punished for a political or ideological crime were also at risk of retaliation, either by being sent to prison camps or by being executed.⁵⁸

1.2. Other UN Reports

The situation in the DPRK has been discussed in several UN reports, including thematic reports and treaty obligations reports,⁵⁹ including by CEDAW, CRC and others. However, the DPRK engagement with the Special Rapporteur and the ICCPR, ICESCR, CRC, CEDAW, and CRPD mechanisms varied. On this engagement, Ben Willis commented that:

Engagement via the core international human rights treaties

The DPRK's renewed engagement with various human rights treaty monitoring mechanisms has formed part of its broader post-[UN Commission of Inquiry] diplomatic offensive. While these opportunities should be seized, there is an obvious note of caution that treaty ratification, and participation in reporting cycles, is not, in and of itself, a substantive indicator of behavioural change. In some cases, treaty commitments may even correlate with worsening human rights records, providing a 'low cost' symbolic opportunity for repressive states to boast of their adherence to international standards with no accompanying shift in practice. This is particularly true for those states in which domestic interest groups lack the ability to mobilise successfully, and political elites can assume that the reputational benefits of ratification outweigh the costs of subsequent international criticism.⁶⁰

The DPRK has to date ratified five of the nine core international human rights treaties – including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in September 1981, the International Convention on the Rights of the Child (CRC) in September 1990, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in February 2001. **It has yet to ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International**

⁵⁸ UN HRC, Compilation on the Democratic People's Republic of Korea Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/33/PRK/2, 2 February 2019.

⁵⁹ See for example: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=47.

⁶⁰ On the limits of treaty effectiveness, see in particular Emilie Hafner-Burton and Kiyoteru Tsutsui (2007) 'Justice Lost! The Failure of International Human Rights Law To Matter Where Needed Most', *Journal of Peace Research*, Vol. 44(4), pp.407-425, available open access at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2701376

Convention on the Protection of the Rights of All Migrant Workers (ICMW), or the International Convention for the Protection of All Persons from Enforced Disappearance (CPED).⁶¹

After inconsistent early engagement, however, the DPRK did not engage with any of the respective treaty monitoring bodies between 2009 and 2016. Despite a limited shift in position since 2016, it is particularly notable that the DPRK still has not engaged with the ICCPR Human Rights Committee since the completion of its second reporting cycle in 2001 (which was itself thirteen years overdue), and has not engaged with the ICESCR Committee on Economic, Social, and Cultural Rights since the completion of its second reporting cycle in 2003 (which was ten years overdue at the time).⁶²

The DPRK did not engage with the CEDAW Committee after the completion of its first reporting cycle in July 2005 until submitting its overdue second, third, and fourth (combined) periodic reports in April 2016, following which it then underwent review in November 2017. Although praised for a number of legislative reforms, during their meeting with the CEDAW Committee in 2017, DPRK officials responded in rote fashion to questions about the [Commission of Inquiry]’s documentation of the widespread exploitation of women and children, the forcible repatriation of women from China, and related practice of forced abortions, by repeating its claim that these were ‘unsubstantiated’ and ‘politically motivated’ allegations.⁶³

The DPRK did not engage with the CRC Committee after the completion of its overdue third and fourth (combined) reporting cycle in March 2009 until submitting its overdue fifth periodic report in May 2016 (although it did ratify the Optional Protocol to the CRC in November 2014), following which it then underwent review in September 2017. As with its CEDAW participation, during their meeting with CRC Committee in 2017, DPRK officials denied the existence of the discriminatory

⁶¹ It is worth noting that while the DPRK has not adopted national criminal laws against atrocity crimes – although it is hardly unique in this respect – it is also a state party to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the 1968 Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity, having acceded in 1989 and 1984 respectively.

⁶² The DPRK submitted its national report for the ICCPR second cycle in May 2000 rather than October 1987, and its national report for the ICESCR second cycle in April 2002 rather than June 1992. It should be noted that the DPRK had also attempted to withdraw from the ICCPR in August 1997 in response to a resolution adopted by the UN Sub-commission on Prevention of Discrimination and Protection of Minorities, which had criticised its overdue reporting. The UN Secretariat replied in an aide-mémoire stating that as the ICCPR does not contain any such unilateral provision, withdrawal was only possible if all state parties to the ICCPR agreed to this. The notification and aide-mémoire are available at <https://treaties.un.org/doc/Publication/CN/1997/CN.467.1997-Eng.pdf>

⁶³ See the exchanges in the summary record of the meeting, available at <https://undocs.org/CEDAW/C/SR.1554>. See also the 2016 state party report for the CEDAW at <https://undocs.org/CEDAW/C/PRK/2-4> and the concluding observations of the Committee in late 2017 at <https://undocs.org/CEDAW/C/PRK/CO/2-4>. At the time of writing, the DPRK has yet to submit its written response to the recommendations contained in paragraphs 12 (a), 12 (b), 38, and 46 (a) of the concluding observations, as requested by November 2019.

songbun system, claimed there to be no forced child labour in the country, and denied allegations of the use of torture by state security personnel.⁶⁴

The DPRK has also signed the Convention on the Rights of Persons with Disabilities (CRPD) in July 2013 and ratified it in December 2016 (the CRPD is one of the more recent core international human rights treaties and did not open for signature until March 2007). As noted, this represents another element of the DPRK's broader engagement with disability rights in recent years (see also below regarding the establishment of a National Committee for the Protection of Persons with Disabilities). The DPRK submitted its initial state party report to the CRPD Committee in December 2018 as part of its ongoing first review cycle.⁶⁵

Engagement via the Universal Periodic Review mechanism

As with its more recent treaty body participation, there has also been much comment on the DPRK's relatively consistent engagement with the UPR since 2014. The DPRK itself has repeatedly used the UPR as an opportunity to reiterate its position that it 'highly value[s] dialogue and cooperation for the promotion and protection of human rights, in particular through the universal periodic review mechanism'. Its overall engagement with the UPR certainly demonstrates this – submitting its national reports on time in 2009, 2014, and 2019, attending the interactive review meetings, and – at least through the second and third cycles – accepting a number of peer recommendations (even if these are rarely implemented in practice). This is partly a function of the increased pressure brought about by post-[Commission of Inquiry] scrutiny. As with its treaty commitments, however, this also speaks to the limitations of the UPR with regard to states that are unwilling to adopt reforms. The opportunity is instead used to demonstrate their apparent willingness to participate in the UN human rights machinery and, with the UPR in particular, promote their own distinct human rights narrative.⁶⁶

In terms of their participation, it is also worth recalling that the DPRK was the only UN member state that failed to accept a single recommendation made during its first review cycle in 2009. Of the 167 recommendations received during its interactive review in December 2009, the DPRK initially rejected 50 as not enjoying their support, and committed to further considering the remaining 117 recommendations and to provide responses 'in due time'.⁶⁷ At the subsequent

⁶⁴ See the exchanges in the summary record of the meeting, available at <https://undocs.org/CRC/C/SR.2237>. See also the 2016 state party report for the CRC at <https://undocs.org/CRC/C/PRK/5> and the concluding observations of the Committee in late 2017 at <https://undocs.org/CRC/C/PRK/CO/5>

⁶⁵ The DPRK state party report for the CRPD is available at <https://undocs.org/CRPD/C/PRK/1>

⁶⁶ On this point, see in particular Jonathan T. Chow (2018) 'North Korea's participation in the Universal Periodic Review of Human Rights', *Australian Journal of International Affairs*, Vol. 71(2), pp.146-163. For broader discussion of the UPR, see Pilar Elizalde (2019) 'A horizontal pathway to impact? An assessment of the Universal Periodic Review at 10'. In: Alison Brysk and Michael Stohl (eds.) *Contesting Human Rights: Norms, Institutions and Practice*. Edward Elgar Publishing Ltd: Cheltenham, pp.83-106.

⁶⁷ See the August 2009 DPRK national report at <https://undocs.org/A/HRC/WG.6/6/PRK/1> and the December 2009 report of the UPR working group at <https://undocs.org/A/HRC/13/13>

March 2010 meeting on the adoption of the outcome of the review, it remained entirely unclear which of the 117 recommendations had been accepted by the DPRK and which had been rejected. The resulting outcome adoption was entirely inconclusive on this point, with a number of member states arguing that the DPRK had therefore failed to cooperate with the Council and should be subject to appropriate sanction (although this was not pursued further).⁶⁸

The DPRK eventually issued a response to the 2009 UPR recommendations four years later – again, a clear product of the increased scrutiny that followed the release of the [Commission of Inquiry] report. In an April 2014 annex to the national UPR report submitted for its forthcoming second cycle review, the DPRK restated that it had initially ‘rejected 50 recommendations on the ground’ in 2009 as they ‘seriously distorted the reality of and slandered the country’. The DPRK also claimed that after ‘serious consideration’ and ‘broad national consultation’ on the remaining 117 recommendations made by other states in 2009, they had accepted 81 of these, partially accepted 6, noted 15, and rejected 15.⁶⁹

The DPRK engaged more responsively towards its second UPR review cycle in 2014. This has been claimed by a number of member states and commentators as demonstrating the value of a more cooperative approach to improving the human rights situation in the country. Of the 268 recommendations received during its interactive review in May 2014, the DPRK initially rejected 83 as not enjoying their support and committed to further considering the remaining 185 recommendations. Prior to the subsequent adoption of the outcome of the review in September 2014, the DPRK announced that it had accepted 113 of these recommendations, partially accepted 4, noted 58, and rejected 10.⁷⁰

Although the 2014 UPR cycle therefore provided a number of entry points for further dialogue, it is important to recognise that the DPRK nonetheless rejected all 22 recommendations relating to the political prison camps and all of the 35 recommendations relating to accountability for crimes against humanity, ratification of the Rome Statute and cooperation with the ICC, and implementation of the [Commission of Inquiry] recommendations. The DPRK also continued to reject cooperation with the UN special procedures mandate holders.

⁶⁸ See in particular the comments by France and Norway (pp.170-176) at <https://undocs.org/A/HRC/13/56>. The DPRK’s responses in 2009, 2014, and 2019 have repeatedly not followed accepted UPR practice - states under review are supposed to indicate only which recommendations ‘enjoy their support’ and ‘take note’ of all other recommendations.

⁶⁹ See the separate Annex at http://lib.ohchr.org/HRBodies/UPR/Documents/Session19/KP/A_HRC_WG.6_19_PRK_1_DemocraticPeoplesRepublic_of_Korea_Annex_E.doc. The DPRK had submitted its second national UPR report in January 2014.

⁷⁰ See the January 2014 DPRK national report at <https://undocs.org/en/A/HRC/WG.6/19/PRK/1>, the May 2014 report of the UPR working group at <https://undocs.org/A/HRC/27/10> and the September 2014 DPRK response at <https://undocs.org/A/HRC/27/10/Add.1>

The DPRK's third UPR cycle in 2019 followed a similar pattern. It was also characterised by a diminished focus by other states on those violations potentially amounting to crimes against humanity – evidence of the growing loss of post-[Commission of Inquiry] momentum among the international community at large. Of the 268 recommendations received during its interactive review in May 2019, the DPRK initially rejected 63 as not enjoying their support, and committed to further considering the remaining 199 recommendations. Prior to the subsequent adoption of the outcome of the review in September 2019, the DPRK accepted 132 of these recommendations, noted 56, and rejected 11.⁷¹ However, the DPRK again rejected all 15 recommendations relating to the political prison camps system and the 9 recommendations relating to criminal accountability, the ICC, and the [Commission of Inquiry]. The DPRK again continued to reject cooperation with the special procedures mandate holders.⁷²

1.3. Civil Society Reports

Over the years, there have been several initiatives from civil society that sought to shed light on the situation in North Korea and called for action. Among others, in 2017, three internationally renowned judges, Navanethem Pillay, Thomas Buergenthal and Mark B Harmon, under the auspices of the International Bar Association's War Crimes Committee, conducted an 'Inquiry on Crimes Against Humanity in North Korean Political Prisons' that focused on evidence of crimes against humanity committed in North Korea's political prisons.⁷³

In 2019, the International Bar Association's War Crimes Committee, its North American Office, and the Committee for Human Rights in North Korea conducted an inquiry on crimes against humanity in North Korean detention centres. The inquiry was an unofficial one and was intended to follow on from the UN Commission of Inquiry. The inquiry was to focus on the alleged mass atrocities perpetrated in North Korean detention centres, including the treatment of individuals held in detention centres, and the physical and organisational structure of North Korean detention centres.

Other reports include thematic reports by Human Rights Watch, Amnesty International, Transitional Justice Working Group, Christian Solidarity Worldwide (CSW), Open Doors, Korea Future Initiative, and many more. Their findings are discussed in this report.

⁷¹ See the February 2019 DPRK national report at <https://undocs.org/en/A/HRC/WG.6/33/PRK/1>, the May 2019 report of the UPR working group at <https://undocs.org/A/HRC/42/10> and the September 2019 response of the DPRK at <https://undocs.org/A/HRC/42/10/Add.1>. The third cycle of the UPR is notable for being one of the few occasions on which the DPRK has accepted the offer of technical cooperation from OHCHR. In May 2019, members of the DPRK delegation attended a human rights workshop held in Geneva that had been organised by OHCHR.

⁷² Written submission from Ben Willis.

⁷³ Navanethem 'Navi' Pillay, Thomas Buergenthal and Mark B Harmon, 'Inquiry on Crimes Against Humanity in North Korean Political Prisons' (IBA, 2017). Available at: <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=8ae0f29d-4283-4151-a573-a66b2c1ab480>.

2. Mapping Human Rights Violations since 2014

In an oral hearing with the inquiry members, the UN Special Rapporteur on North Korea confirmed that based on the evidence available today, three crimes could be proven in court: false imprisonment, the crime of torture, and the crime of slavery. Other crimes may require further evidence to withstand court scrutiny. However, they should not be disregarded.

This section considers the atrocities under seven headings: murder and killings, torture and other inhumane acts, sexual and gender-based violence, modern-day slavery, religious persecution, and other.

2.1. Murder and killings

The North Korean criminal law prescribes the death penalty for severe crimes, including terrorism, treason, manufacturing/trafficking/distribution of narcotics, and premeditated murder. However, this does not mean that all killings discussed in this section are the result of the death penalty and are ‘carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.’⁷⁴ Indeed, according to the US State Department, not all executions are, as prescribed by law, for the most severe crimes. Indeed:

One defector said he witnessed the public execution of a man who shared South Korean movies in Hyesan, Ryanggang Province, in 2014. Two others said they saw the execution of another Hyesan man on the same charges and the killing of an estimated 20 South Hwanghae Province residents for drug dealing and distributing South Korean videos in 2017. Testimonies also stated executions were carried out for possession of Bibles, circulating antiregime propaganda material, and superstitious activities. KINU noted, however, that public executions might have become less frequent in recent years.⁷⁵

The KINU 2020 report stated that:

In the 2019 survey, cases have been collected where executions were carried out for crimes such as narcotics trading, the watching and distribution of South Korean recordings, and violent crimes including homicide and rape. In addition, although the specific grounds of the sentences have not been confirmed, **there were cases where the death penalty was carried out due to charges of carrying the Bible, distributing propaganda leaflets, and engaging in acts of superstition.** While it is difficult to determine whether such collected cases fall under the category of

⁷⁴ UN, Safeguards guaranteeing protection of the rights of those facing the death penalty. Approved by Economic and Social Council resolution 1984/50 of 25 May 1984. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx>.

⁷⁵ US State Department, Human Rights Report 2020. North Korea. Available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/north-korea/>.

extrajudicial, summary, or arbitrary execution, the broad scope of charges for capital punishment in North Korean criminal law and frequent executions may constitute violation of the duties of the States Parties stipulated in the ICCPR. However, it appears that compared to the past, the number of public executions has been decreasing and that less residents are mobilized to execution sites. Still, it is not clear whether the actual number of public executions has decreased or the number of non-public executions or secret summary executions has increased.⁷⁶

One of the best examples of killings that would not fall within the purview of capital punishment is the case of the assassination of Kim Jong-nam on 13 February 2017 at Kuala Lumpur International Airport, Malaysia.⁷⁷ However, such assassinations are not the most common type of murder and killings perpetrated in the DPRK.

Murder and killings as perpetrated in the DPRK take various forms. The 2017 IBA Report identified the following manifestations of the crime:

- deliberate starvation, malnutrition and overwork are extremely common, resulting in the deaths of countless prisoners;
 - at one prison camp, 1,500–2,000 prisoners, mostly children, are believed to have died each year from malnutrition, while many other prisoners were beaten to death for failing to meet production quotas;
 - starving prisoners are regularly executed when caught scavenging for food;
 - at one prison camp, starving prisoners who were found digging up edible plants on a mountainside were shot to death;
 - at another camp, a witness saw a fellow inmate executed for stealing potatoes, while in a separate camp a witness described the execution of numerous prisoners caught scavenging for leftover food in prison guards' quarters;
 - a prisoner was beaten to death for hiding stolen corn in his mouth;
- public executions by firing squads or other means are common, especially for prisoners caught attempting to escape;
- the existence of mass graves is well documented, including detailed descriptions of mass burial sites at or near prison camps, as well as testimony about bodies being “dumped” on mountainsides near prison camps;
- an undisclosed location near a prison camp was regularly used for nighttime executions, with gunshots clearly audible.⁷⁸

In the 2021 joint submission to the UN, FIDH and NKDB identified that:

⁷⁶ Korea Institute for National Unification, ‘White Paper on Human Rights in North Korea’ (2020) 15. Available at: <https://www.kinu.or.kr/pyxis-api/1/digital-files/0217f31a-0405-4171-8c17-eb38de070a81>. (Later cited as KINU 2020 report).

⁷⁷ Hannah Ellis-Petersen and Benjamin Haas, ‘How North Korea got away with the assassination of Kim Jong-nam’ The Guardian (1 April 2019). Available at: <https://www.theguardian.com/world/2019/apr/01/how-north-korea-got-away-with-the-assassination-of-kim-jong-nam>.

⁷⁸ IBA 2017 Report, 6-7.

The NKDB Unified Human Rights Database has recorded **1,479 cases of public executions that took place between 2000 and 2020**. Another serious violation of the ICCPR is the DPRK's ongoing use of extrajudicial killings. DPRK authorities continue to **secretly execute people without a trial at detention facilities**. The NKDB Unified Human Rights Database has recorded **443 cases of secret executions that took place between 2000 and 2020**. Secret executions are mostly held in interrogation or detention facilities run by the State Security Department and the People's Security Department for political crimes, including attempting to defect to the Republic of Korea, and religious activities. The fact that secret executions are held inside detention facilities during interrogation indicates that a sentence was not rendered by a court.⁷⁹

In their oral submission, the Committee for Human Rights in North Korea (HRNK) testified that:

According to a think tank affiliated with the Republic of Korea's National Intelligence Agency, the Institute for National Security Strategy, **Kim Jong-un had purged or executed 340 officials as of December 2016**. On February 22, 2019, the North Korea Strategy Center released a report on the topic of high-level purges in the DPRK, stating that the **DPRK had executed 421 officials and purged an additional 38 officials**. It stated, "in the case of the given testimony the official's entire family was executed." Witness testimony regarding the execution of two former officers of the DPRK National Defense Commission named Ri Ryong-ha and Jang Soo-gil reveals: "It looked as though they had been beaten and lost their minds. They had lumps of iron stuffed in their mouth so they couldn't speak during the torture."⁸⁰

Many of them are public, used as a means to punishing the victim but also sending a strong message to others. Commenting on the issue of killings, the US State Department's Human Rights Report 2020 stated:

A 2016 survey found that 64 per cent of defectors had witnessed public executions. **Defectors reported going to public executions on school field trips**. The 2019 edition of the *White Paper on Human Rights in North Korea*, a report based on interviews with recent escapees and published annually by the Korea Institute for National Unification (KINU), a South Korean government-affiliated think tank, reported that testimonies recounted continued public and secret executions.⁸¹

⁷⁹ Joint submission for the adoption of the List of Issues, 4 January 2021. Available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PRK/INT_CCPR_ICS_PRK_43937_E.pdf.

⁸⁰ Oral hearing, Committee for Human Rights in North Korea

⁸¹ US State Department, Human Rights Report 2020. North Korea. Available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/north-korea/>.

However, many of the killings continue to be hidden from the public eye, and especially from the international community. In 2019, the Transitional Justice Working Group, a non-governmental organisation, published a report entitled ‘Mapping the Fate of the Dead: Killings and Burials in North Korea’⁸² based on research conducted between 2015 and 2019 that mapped and documented state-sanctioned killing sites, sites where the dead are disposed of by the state and official locations which may contain documents or other evidence related to these events. The project used satellite imagery to assist with 610 interviews with North Korean escapees to geolocate these sites.

The project has documented 323 reports of sites of state-sanctioned killings accompanied by their geolocations. The offences that resulted in the death penalty include ‘murder or attempted murder, stealing copper, human trafficking, stealing cows and other forms of property, and economic crimes’ with ‘property crimes were cited most often, followed by violent crime, political crimes, human trafficking and economic crimes.’⁸³ However, the authors of the report challenged the charges because of the lack of the rule of law in North Korea. The project further found 318 reports of public execution sites, including river banks, open spaces and fields, market places, hills/mountains, sports grounds and school grounds, with 19 cases where more than 10 people were executed at once. Reportedly, ‘brief “trials” almost always occur on the spot immediately before a public execution, where charges are stated and a sentence given without legal counsel for the accused, who very often appears “half dead” when brought to the site by the authorities.’⁸⁴

The project recorded 25 sites where dead bodies have been disposed of by the state, with seven of these sites reportedly containing more than two bodies. It further recorded ‘20 reports of deaths in detention that were not executions, and a small number of secret killings for particularly serious crimes.’⁸⁵

2.2. Torture, Inhuman or Degrading Treatment or Punishment

Torture, inhuman or degrading treatment or punishment continue to be widely used on prisoners but also the wider population. As the Committee for Human Rights in North Korea (HRNK) testified before the Inquiry, such acts are perpetrated not only in ‘gulags’, also known as political penal-labour colonies or political prison camps (*kwan-li-so*), but also in ‘forced labour re-education camps (*kyo-hwa-so*) and short-term detention facilities, which are run by the Correctional Education Bureau (also called the Correctional Bureau or the Prison Bureau) of the Ministry of People’s Security (MPS), ... interrogation/detention facilities (*ku-ryu-jang*), shorter-term labour/detention facilities (*jip-kyul-so*), and mobile labour brigades/labour detention centres (*ro-dong-dan-ryeon-dae*).’⁸⁶

The 2021 Report of the United Nations High Commissioner for Human Rights (OHCHR) indicated that:

⁸² Transitional Justice Working Group, ‘Mapping the Fate of the Dead: Killings and Burials in North Korea’ (2019). Available at: <https://en.tjwg.org/wp-content/uploads/2019/07/2019-Report-Mapping-the-Fate-of-the-Dead-Killings-and-Burials-in-North-Korea.pdf>.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Oral submission Committee for Human Rights in North Korea

51.OHCHR continued to receive consistent and credible accounts of the systematic infliction of severe physical and mental pain or suffering upon detainees, through the infliction of **beatings, stress positions and starvation in places of detention**. Such information reconfirms the findings of the commission of inquiry and indicates that the crime against humanity of torture continues to take place in the ordinary prison system.

52.Nearly all of the persons interviewed by OHCHR who had experienced detention by the Ministry of State Security and/or the Ministry of People’s Security described having been **beaten during interrogations and as punishment for minor infractions**. One interviewee saw a woman kicked across a room and severely beaten by officers for hiding “a few peppers” because the prison food tasted bad.

53.One interviewee who served a sentence in a kyohwaso from 2014 to 2016 was told by guards that they were “doing prisoners a favour” by beating them, as the alternative would have been an extended sentence. One guard told the interviewee that he did not want to beat prisoners, but had to follow orders and would be demoted if prisoners tried to run away, so he agreed to be less harsh if they did not try to flee.⁸⁷

In the 2021 joint submission to the UN, FIDH and NKDB stated that:

Methods of torture include **sleep deprivation or being forced to maintain one position for a prolonged period of time**. The NKDB Unified Human Rights Database has recorded **4,100 cases of torture** that took place within all detention facilities (State Security Department and People’s Security Department interrogation facilities, prisons, political prison camps, labour training camps and police holding camps) in the country between 2000 and 2020.⁸⁸

In October 2020, Human Rights Watch reported on the inhumane conditions in detention. In one of the testimonies, Heo Yun Mi, who was detained and interrogated in one of the detention facilities, described the abuse as follows:

The detention and interrogation facility had the cells on the first floor and the investigation rooms on the second floor. I don’t know the exact number of cells they had, but I saw seven: two for men, three for women and two for individual detention.... The cell I was detained in had around 20 detainees and was around 30 square meters. It had iron bars in the front towards a corridor and a small door in the back. The toilet was in the back left and there was a running water hose, which was connected to the toilet and we could use after using the toilet, although we

⁸⁷ Report of the United Nations High Commissioner for Human Rights, ‘Promoting accountability in the Democratic People’s Republic of Korea’ (11 January 2021) UN Doc A/HRC/46/52. [emphasis added]

⁸⁸ Joint submission for the adoption of the List of Issues, 4 January 2021. Available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PRK/INT_CCPR_ICS_PRK_43937_E.pdf.

couldn't use a lot of water. There were many times when there was no running water, so we'd fill up a water tank ... The toilet was a squatting toilet made with old ceramic, that was not clean like here. There was no partition.

I don't know what happened when women had their period.... The cell detainee chief was in charge of the toilet paper and gave us small pieces. The amount is limited and we couldn't use a lot, maybe they used toilet paper during their period.... I wasn't able to wash my hair, but detainees who stayed long didn't wash their hair either. There was some soap, but no shampoo. I wasn't able to change clothes. Detainees who stayed there long could have relatives send new clothes sometimes. There is no way to do laundry.... [It was winter, but] we had 5 blankets for 20 detainees. There was a heater that burned wood in the corridor, but none in the cells. There were a lot of people and I didn't see anybody with frostbite.

We were able to wash with the running water, using a small plastic pot. We also used that pot for cleaning [the cell]. We were allowed to wash our faces every day, but there were people who wouldn't wash their faces for over one or two months. Those who knew they would be sent to a political prison camp or ordinary prison camp didn't care about washing their faces. The water was cold, there wasn't hot water. We also brushed our teeth. There was a collective bowl with toothbrushes, and they'd give it to us at the washing time, we'd pick a random toothbrush and give it back [to the guards] immediately. There wasn't any toothpaste but they gave us salt.

We woke up at 5 a.m., washed ourselves, brushed our teeth, and cleaned the cell, then had breakfast at 6 a.m. They gave us the same for breakfast, lunch, and dinner, a cob of corn and soup with some wild greens and salt. Those who had been caught for longer, or who may later be sent to ordinary prison camp, political prison camp [or had severe sentences] also received some tofu, and more corn than others. This was to prevent them from dying or because they were going to suffer too much there, so they gave them more food.⁸⁹

This is not an isolated case. Similar findings were presented by IBA in its 2017 report. The 2017 IBA report listed some of the methods of torture and other inhumane acts, including:

- the bodies of some prisoners who died as a result of forced labour or torture were thrown into the cells of prisoners in solitary confinement and later strung on barbed-wire fences where they were eaten by crows;
- one witness described **a torture chamber with blood and flesh on the walls and decaying corpses of past victims** placed in the chamber in order to instil fear in the next prisoner;

⁸⁹ Human Rights Watch, "Worth Less Than an Animal" Abuses and Due Process Violations in Pretrial Detention in North Korea' (October 2020). Available at: https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north#_ftn176.

- psychological abuse in political prisons is pervasive, with gruesome acts, including executions, carried out in plain view of fellow prisoners in order to terrorise them; and
- torture is a routine feature of life in political prisons, with a 2014 report by Amnesty International concluding that “North Korea’s prison camps are very possibly home to some of the most appalling torture in the world.”⁹⁰

2.3. Sexual and Gender-Based Violence

The issue of sexual and gender-based violence is considered under four subheadings: rape and sexual violence in political prisons and detention centres, sex trafficking to China, forced abortions and infanticide, and other.

Rape and Sexual Violence in Political Prison Camps and Detention Centres

The evidence available suggests that rape and sexual violence are common occurrences in political prison camps and detention centres. For example, in October 2020, Human Rights Watch reported that:

Some female detainees reported that they experienced or observed sexual violence, including rape in detention and interrogation facilities. Interviewees said that agents from the **police, secret police, and the prosecutor’s office**, most in charge of their personal interrogation, **touched their faces and their bodies, including their breasts and hips, either through their clothes or by putting their hands inside their clothes**. They said they were powerless to resist because their fate was in the hands of these men. (...)

Kim Sun Young said a *bowiseong* interrogator in charge of her case at the detention and interrogation facility **raped her, while another police officer sexually assaulted her by touching her body over and underneath her clothes while interrogating her**. She said her fate was in their hands and she was powerless to resist.⁹¹

The 2017 IBA report cited several witnesses giving accounts of sexual abuse they suffered, including:

290. Kim Su-jong testified that his mother was raped by Officer Paik at Camp 18. His mother was so ashamed she took her own life. He also testified that the rape of teenage girls at Camp 18 and their subsequent decision to commit suicide out of shame was so common that guards were deployed to the Daedonggang River into which prisoners had been jumping in order to thwart such suicide attempts.

291. A22, a former SSD officer, reported that rape was very common in prison camps: “Pretty women among other female prisoners are working in the garment

⁹⁰ IBA 2017 Report, 6-7.

⁹¹ Human Rights Watch, “‘Worth Less Than an Animal’ Abuses and Due Process Violations in Pretrial Detention in North Korea’ (October 2020). Available at: https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north#_ftn176.

factory. The SSA officers can get all the women there if they want. If a woman refuses to accept the demands of SSA officers, the officers make an excuse and easily kill her.”

292. A20, a former prison camp officer in Camp 18, reported that: “[Rape] happened quite often... Party officers and camp officials usually committed rape and they were later criticized at party meetings. Prisoners involved in rapes are subject to legal punishments. But few female victims would appeal. Rapes did occur, but they seldom led to legal disputes.”⁹²

The 2017 IBA report further concluded that the atmosphere of impunity helps the crime to flourish:

294. Although rape is not formally condoned and SSD agents and guards have been ordered not to have sexual engagement with the prisoners, the punishments are typically light for those SSD personnel who are caught. Former prison guard Ahn Myong-chol stated that, while ordinary guards could face punishment for sexual activity with inmates, **higher ranking SSD agents could sexually abuse inmates with impunity as long as the woman did not become pregnant.** Where pregnancy occurred, the official would be dismissed, whilst the pregnant inmate would either be secretly executed or assigned to harsh mining work. In one case, Ahn Myong-chol presented testimony that the commander of his unit raped and impregnated a prisoner. **When the woman gave birth, she was taken to the punishment block, and her newborn baby was fed to prison guard dogs.** Ahn Myongchol records another young woman being raped by a guard and subsequently sent to the punishment block. He noted that the young woman was tortured and “reassigned to harsh labour in a coal mine, where she lost both of her legs in an accident.”⁹³

The 2017 IBA report cited evidence of ‘**a prisoner [that] was raped by a security officer, after which the officer stuck a wooden stick inside her vagina and beat her lower body, resulting in her death within a week of the rape**’ and also of ‘rape of teenage girls and their subsequent attempts to commit suicide by jumping in the Daedonggang River were so common that prison guards were deployed to the river to thwart them.’⁹⁴

Sex Trafficking to China

The dire situation of North Korean citizens has been abused by traffickers who prey on the misery of those wishing to escape. The escapees hand over millions of Korean women to the traffickers. North Korean women are trafficked to China where they are ‘sold to men or sold into sexual slavery and exploitative labour. Victims usually do not seek protection, fearing that they will be arrested’ if returned back to North Korea.

⁹² IBA 2017 report, 290.

⁹³ IBA 2017 report, 294.

⁹⁴ IBA 2017 Report, 6-7.

In their submission to the Inquiry, Open Doors indicated that:

North Korean women and girls are uniquely vulnerable to sex trafficking and the sex trade. Victims are usually trafficked from North Korea on false offers of employment, and later sold as brides or sex slaves into China and other south east Asian countries. Victims are trafficked to the border and then transported to safe houses, brothels, or buyers.⁹⁵

The Committee for Human Rights in North Korea testified that:

North Korean women and girls are also especially vulnerable to being trafficked. Many of their stories reference sexual and gender-based violence (SGBV) while in China at the hands of the trafficker, the Chinese ‘husband,’ or the Chinese husband’s family, and sometimes all three. **A major contributor to North Korean women’s suffering is the Chinese government’s intentional lack of legal options for North Korean escapees to apply for asylum.** In addition, DPRK officials persecute and torture forcibly repatriated North Koreans. For trafficking victims and those on the run, this causes their existence in China to be highly secretive, only known to the trafficker and his buyers, and perhaps some in the villages where the North Korean women and girls live.⁹⁶

Ms Hae Ju Kang, Director of Human Rights and Gender with Korea Future Initiative told the Inquiry:

And although the government of North Korea claims that human trafficking is inconceivable, the trafficking of women and girls into domestic sexual slavery has been practiced since the mid-1990s. The figures are much fewer than those trafficked into China. Interviews spoke of three broad categories of woman who are engaged in such sexual work and slavery.

- Women who were compelled to undertake it out of financial necessity;
- women who supplemented their income, with occasional sex work; and
- women who were trapped into sexual slavery, most of whom are like the homeless children.

Although the exact scale of women and girls trafficked in China for forced marriage, prostitution and cyber-sex, and trafficking, is unavailable to due to the challenges and risks involved in data collection, existing testimonies indicate the ongoing nature of these violations.

North Korean women and girls are trafficked into China through a network of brokers. Sub-brokers, who are based in North Korea, and China-based brokers who employ the sub-brokers or relatives in North Korea to search for girls and

⁹⁵ Open Doors, Submission to the All-Party Parliamentary Group (APPG) on North Korea inquiry into the human rights violations in North Korea between 2014 and 2020, 5.

⁹⁶ Oral hearing, Committee for Human Rights in North Korea.

women who are suitable for this x-rated [industry] and many of these women and girls are approached with false promises of employment. Then they are taken to safe houses or to further buyers, and in the process of traveling physical and sexual violence is commonplace. (...)

Cyber-sex trafficking much like the other forms of sex trade require further investigation. Testimonies from victims and survivors locate cyber-sex trafficking in the north eastern provinces, but also in southern provinces and cities close to the Laos and Vietnamese borders. Victims are combined in large cities. Due to the need for a high-speed internet connection, they tend to live on site with their traffickers and cyber-sex. Of course, smartphones computers webcams access to high-speed internet are all media through which cyber-sex traffickers exploit their victims. One single cyber-sex livestream featuring North Korean girls, nine to 14, can cost upwards of \$60 to \$110, while a live stream featuring North Korean girls and women aged 17 to 24 can cost up to \$90.⁹⁷

She further added that:

In some the intersection of North Korea's patriarchal norms, the erosion of the economy and corrupt totalitarian rule, which resulted with legislation, non-enforcement and impunity create a uniquely dangerous environment for women and girls within an already dire landscape for human rights. And despite the increasing economic power of woman in recent years due to the shift in women's roles as breadwinners and primary actors in the black market, their secondary social status and the gendered harms persist. Many female exiles spoke that North Korea women don't realise what they've experienced sexual violence until they arrive in South Korea. (...)

What enables these industries to continue, if not thrive, is the push and pull factor from China and North Korea. Given that North Korea punish victims of trafficking, the threat of refoulement by the Chinese government puts women and girls at risk of sexual exploitation and violence. The gender imbalance in China where men outnumber women, the profitability of the sex trade for traffickers, the non-enforcement of illicit activities by Chinese law enforcement and sometimes the complicity of Chinese police officers are factors that increase the demand for the purchase and sale of North Korean female bodies.⁹⁸

In May 2019, Korea Future Initiative published its report about the situation of North Korean women in China. It identified that tens of thousands of North Korean women and girls were trafficked into China and sold into the sex trade, subjected to systematic rape, sexual slavery, sexual abuse, prostitution, cybersex trafficking, forced marriage and forced pregnancy. The report suggested that

⁹⁷ Oral Hearing on 10 February 2021. KFI has been focusing on gender-based violence since 2017.

⁹⁸ Oral Hearing on 10 February 2021.

while North Korean women and girls are uniquely vulnerable to sex trafficking, it is the demand for sex slaves in China that is fuelling the exploitation and abuse of North Korean women and girls. The report identifies that ‘an estimated 60% of female North Korean refugees in China are trafficked into the sex trade. Of that number, close to 50% are forced into prostitution, over 30% sold into forced marriage, and 15% pressed into cybersex.’ According to the report, the North Korean women and girls fleeing the North Korean regime, are ‘passed through the hands of traffickers, brokers, and criminal organisations before being pulled into China’s sex trade, where they are exploited and used by men until their bodies are depleted.’

One of the survivors interviewed for the Korea Future Initiative’s report, Park Jihyun, so described her story:

Trafficked into China, I was deceived by a broker and sold into marriage for ¥5000 Chinese Yuan. **I spent six years as a slave. I gave birth to a son. I was arrested by Chinese police. And I was repatriated to North Korea.** For the ‘crime’ of being trafficked and sold, the Government of North Korea incarcerated me in a camp where I was forced to endure acts that will haunt me for the rest of my life.⁹⁹

Another interviewed victim recalled:

I was sold [to a brothel] with six other North Korean women at a hotel. We were not given much food and were treated badly (...) After eight months, half of us were sold again. The broker did bad things to me. When I arrived [at the new brothel] I had bruises on my body.¹⁰⁰

Reportedly, cybersex trafficking, namely, ‘the recruitment and transportation of victims and their live-streamed rape, sexual abuse, and sexual exploitation by traffickers, some of whom operate under the instructions of a paying online audience’ is becoming more common. Girls as young as 9 years are ‘forced to perform graphic sex acts and are sexually assaulted in front of webcams which are live-streamed to a paying global audience, many of whom are believed to be South Korean men.’ The live-stream featuring a North Korean girl between 9 and 14 years of age can cost between \$60-\$110, more than that of any older women and girl.

Another woman testified:

We only had one room where we slept and ate. It was small. The windows were always closed so nobody could see us and it became very hot (...) If we fell asleep when we were waiting [for online clients], [the trafficker’s wife] was

⁹⁹ Korea Future Initiative, ‘Persecuting Faith: Documenting religious freedom violations in North Korea. Volume I’ (2020). Available at: https://static1.squarespace.com/static/5dc1aed040fe330ac04da331/t/5fa21696f982403f01aa5f36/1604458198105/Persecuting_Faith_Eng.pdf.

¹⁰⁰ Ibid.

told and she would stab us repeatedly with a sewing needle. She used a sewing needle so the marks would not show on the camera.¹⁰¹

The 2021 UN report stated that:

43. (...) Many of the people who cross the northern frontier in order to trade are married women, since they are not assigned full-time work by the State, but increasingly bear the burden of generating income for their families. Women are also more at risk than men of being trafficked into neighbouring States for the purposes of forced marriage and sexual or labour exploitation. In addition, most interviewees both originate from and were imprisoned in locations in two provinces along the northern border. That is, in all probability, due to travel restrictions within the Democratic People's Republic of Korea, which make it difficult for people living in other regions to travel to border areas.¹⁰²

The practice of forced marriage, which is omnipresent in China, also affects North Korean women who 'continue to be bought, raped, exploited, and enslaved by Chinese husbands.'

In their submission to the inquiry, Open Doors explained the difficulties women face if caught and repatriated to the DPRK:

Sexual violence and rape are common during these journeys, and if the victims are not sold immediately, they are confined in safe houses and subjected to rape and gangrape. Some of these trafficked women and girls meet churches and missionaries and convert to Christianity. Women and girls who are caught and forcibly repatriated to North Korea are initially held in a pre-trial detention centre run by the Ministry of State Security, where their identity is determined before they are searched and interrogated. (...)

If the Ministry of State Security finds out that the victims had any contacts with Christians or converted to Christianity while in China, victims are considered political prisoners and sent to a political prison camp. Christian women and girls or women and girls who have been in contact with Christians during their time away are therefore condemned to an even worse fate.¹⁰³

Forced abortions and infanticide

However, repatriation is not the worst that awaits North Korean women on return to the DPRK. The Committee for Human Rights in North Korea testified before the inquiry members that:

¹⁰¹ Ibid.

¹⁰² Report of the United Nations High Commissioner for Human Rights, 'Promoting accountability in the Democratic People's Republic of Korea' (11 January 2021) UN Doc A/HRC/46/52.

¹⁰³ Open Doors, Submission to the All-Party Parliamentary Group (APPG) on North Korea inquiry into the human rights violations in North Korea between 2014 and 2020, 5.

North Korean officials treat women who are forcibly repatriated especially harshly. **Women who are pregnant with half-Chinese babies are seen as “impure.”** Many women do not disclose that they have half-Chinese children in China for fear that they will be subjected to more beatings and interrogation, as having a family in China signals to DPRK officials that the woman either stayed for a longer period in China or intended to. **DPRK officials commonly use racial slurs while forcibly aborting these women’s babies or committing infanticide. The DPRK officials also put the women back in their prison cells without adequate medical treatment.**¹⁰⁴

Ms Hae Ju Kang, Director of Human Rights and Gender with Korea Future Initiative told the Inquiry: In detention centres, verbal sexual harassment, invasive body cavity searches, and forced abortion and sterilisation were all noted. A woman and girls have been trafficked from China especially were vulnerable to sexual abuse. Even if they had been trafficked unknowingly, they'd be penalised for committing illegal border crossing. **Women who are impregnated in the process would have to undergo forced abortion and sterilisation.**¹⁰⁵

In March 2021, US State Department reported on the issue of coercion in population control stating that:

NGOs and defectors reported state security officials subjected women to forced abortions for political purposes, to cover up human rights abuses and rape in particular, and to “protect” ethnic purity, and not population control. KINU’s white paper for 2019 stated that officials had in some cases prohibited live births in prison and ordered forced abortions as recently as 2013. (...) **Detainees reported being sent for forced abortions as recently as 2015 and that prison officials sought to force abortion through beatings and hard labour. Cases of infanticide were also reported.**¹⁰⁶

In 2020, UN OHCHR published its report ‘I still feel the pain...’ which shed light on human rights violations against women more broadly.¹⁰⁷ On the issue of forced abortions and infanticide, it indicated that:

Former detainees reported that detainees who had become pregnant would be denied the special protection provided for in international and national law, and

¹⁰⁴ Oral hearing, Committee for Human Rights in North Korea.

¹⁰⁵ Oral Hearing on 10 February 2021. Korea has been focusing on gender-based violence since 2017. We published in 2018 highlights the prevalence of sexual violence in North Korea and our second report published in 2019 documented testimonies of sexual exploitation in China.

¹⁰⁶ US State Department, Human Rights Report 2020. North Korea. Available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/north-korea/>.

¹⁰⁷ UN OHCHR, “I still feel pain...” Human rights violations against women detained... in the Democratic People’s Republic of Korea (2020). Available at: https://www.ohchr.org/Documents/Countries/KP/HR_Violations_against_Women_DPRK_EN.pdf.

that **they were at risk of being forced to undergo abortions during the pre-trial detention stage.**¹⁰⁸

They cited the following cases of such practice:

“I suffered no violence but the other woman had become pregnant in China so the guards knew that her baby had Chinese blood. This was an issue as the local laws prevented any North Korean woman from giving birth to a mixed-race baby. The doctor in the MPS centre told her to get an abortion despite the fact that she wanted to keep the baby. She was eventually forced to have an abortion and sent to a kyohwaso... My MPS contact told me the decision to order the abortion and send her to a kyohwaso was made by the MPS in ***** county but didn’t know anything more. The law regarding forced abortion for foreign conceptions requires that the decision must be made after discussion with head of the County level MPS.” (2015, MPS jipkyulso)

“Another woman—whose name is *****—was eight months pregnant. She, along with me and other women, was brought to a military hospital. She got an injection, which was supposed to kill the foetus for miscarriage. However, the foetus did not come out; and so she went through an abortion operation I heard. After the abortion, she was promptly returned to the holding centre without medical treatment. No medicine or prescription was provided. She took rest for about five days in a cell, and then was mobilized for labour (2014, jipkyulso).¹⁰⁹

Such forced abortions were not limited to the practice of medical abortions. Former detainees reported that prison officials would sometimes seek to cause abortions through beatings or hard labour.¹¹⁰

The KINU 2020 report calls the DPRK’s practice of forced abortions the most serious human rights violation against women conducted by North Korean authorities.¹¹¹ As they clarify, **‘Such forced sterilizations and abortions have a malicious impact on women’s physical and mental health and infringe upon the women’s right to decide the number and age difference among their children.’**¹¹²

Following international criticism of cases where **North Korean women impregnated in China were forcibly repatriated and forced to undergo abortion or cases where newborns were neglected to the point of death, some regions in North Korea have authorised the birth of these babies, who were to be given to their Chinese fathers.** However, there are testimonies in which testifiers witnessed

¹⁰⁸ Ibid., 24.

¹⁰⁹ Ibid., 66.

¹¹⁰ Ibid., 25.

¹¹¹ KINU 2020 report, 420.

¹¹² Ibid., 420.

or heard that women who stayed in China and were forcibly repatriated to North Korea while pregnant with the baby of a Chinese man had to go through a forced abortion in the repatriation process.¹¹³

Similar accounts were noted in the 2017 IBA report:

284. While many forced abortions on pregnant women repatriated from China occur during detainment in detention centers, if a pregnancy goes undetected during a political prisoner’s time in the detention center, a forced abortion will then be carried out in a political prison once the prisoner has been transferred.

285. There is extensive evidence that female prisoners who were forcibly repatriated from China and who were impregnated in China were either forced to have an abortion or faced threats that their baby would be killed at birth, as it was assumed the father might be Chinese. Women who were impregnated by Chinese men were “routinely punished and their babies killed, accompanied by racial slurs and refusal to accept children who were part Han Chinese.” This resulted in countless abortions at detention facilities, with some prisoners sent thereafter to political prison camps...

287. In cases where pregnancy went undetected in a detention center or was detected but left unaddressed (e.g., by paying a bribe or other means), abortions would later be carried out in political prisons through various ways. One witness was sent to Camp 18 while pregnant and, near the end of her pregnancy, was kicked by a guard until she went into premature labor. The guards beat her until she let go of her baby and when she regained consciousness, she found her baby in a pile of corpses.

288. Unauthorized pregnancies that occur within the camps are also forcibly aborted. One prisoner from Camp 15 witnessed two cases where “women who became pregnant without authorization were forced to have an abortion.” One of the two cases of forced abortion included an injection causing premature delivery late in the pregnancy term. The prisoner was required to help the pregnant women deliver the dead fetus.

289. Some rape victims would self-induce an abortion for fear they would be killed if their pregnancy were discovered. Methods of abortion included eating dirt and poisoning oneself by eating boiled peony flower roots. Additionally, some rape victims induced abortions by inserting a rubber tube into the vagina, which was described as feeling as if “something is piercing deep inside the [pregnant] woman’s belly.”¹¹⁴

¹¹³ Ibid., 421.

¹¹⁴ IBA 2017 report, 70.

The 2017 IBA report cited evidence of:

- four pregnant women were executed for protesting the fact guards forced them to run down a mountain in a failed effort to induce miscarriages;
- twelve prisoners were shot and killed in the commotion that ensued after the execution of the four pregnant women referenced immediately above;
- a former prison guard witnessed a prisoner’s newborn baby, most likely fathered by a high-ranking official, fed to guard dogs and killed;
- female prisoners suspected of being impregnated by non-Korean men (namely Chinese men) are subjected to especially harsh treatment, with one witness describing a prisoner being injected with a labour-inducing drug and having to watch as a guard suffocated her newborn to death with a wet towel;
- a former North Korean army nurse testified that she saw multiple abortions performed by injecting Ravenol (a motor oil) into the wombs of pregnant women and that babies born three to four months premature were “wrapped in newspapers and put in a bucket until buried” behind the detention centre;¹¹⁵
- an abortion was induced by three men standing on a wooden plank placed on a pregnant prisoner’s stomach;
- another witness lost consciousness after enduring a beating designed to trigger premature labour, with prison officials killing her baby before she could regain consciousness;
- rape victims who feared being killed after becoming pregnant self-induced abortions by eating dirt and poisoning themselves with flower roots;
- other rape victims self-induced abortions by inserting a rubber tube in their vaginas.¹¹⁶

Other

Another example of inhumane treatment of women is the issue of ‘uterus examinations.’ Defined by the KINU 2020 report as ‘examination... conducted during the body search process to find money, secret letters or secret documents.’¹¹⁷ According to them, ‘a substantial number of female North Korean defectors who have experienced forcible repatriation testified that they received such an examination at the MSS detention centers (guryujang) and MSS holding centers (jipkyulso).’¹¹⁸

While this section does not discuss the issue of, for example, domestic violence and other concerning treatment of women, it is noted that such acts occur at concerning levels in the DPRK. Ms Hae Ju Kang, Director of Human Rights and Gender with Korea Future Initiative told the inquiry:

Intimate partner sexual violence including marital rape was found to be the most common form of sexual violence in North Korea, based on KFI research in 2018. Marital rape is not perceived as a crime in North Korea. It's justified by

¹¹⁵ IBA 2017 Report, 6-7.

¹¹⁶ IBA 2017 Report, 6-7.

¹¹⁷ KINU 2020 report, 422.

¹¹⁸ Ibid.

patriarchal norms concerning male sexuality and is considered an issue to be resolved within the household. (...) Also, we've had many testimonies about female students being sexually abused by predatory teachers in middle and high school. North Korea has repeatedly stated that there's no sexual harassment issue in the workplace, but women are vulnerable to sexual violence in male-dominated industries like factories, processing plants and mines. Verbal sexual harassment and fondling were said to be quite common. And moreover, women who engage in unofficial economic activities... are vulnerable to sexual exploitation by officials who demand sexual favours in exchange for false travel documents or for bypassing officials at checkpoints.¹¹⁹

She further added:

The domestic laws extensively guarantee gender equality. These are the laws that guarantee gender equality and protect children and punish offenders and support victims. **But the laws are insufficient, poorly enforced and easily circumnavigated by men with power and the reduction of penalties for these crimes, previously two years of correctional labour, and now reduced to a year is indicative of the weak legislation regarding sexual violence.**¹²⁰

In terms of other needed responses, Ms Hae Ju Kang emphasised that:

Our testimonies indicate a gap regarding the mental health services offered to survivors in South Korea, but also to female North Korean asylum seekers and refugees living in the UK, and some systems are in place. But more long-term mental health care tailored to the cultural, economic and social needs of North Koreans is urgently needed. So are truth and memory projects identifying and holding perpetrators to count prosecution. They are all necessary. But without the participation of survivors these critical human rights issues will never be understood thoroughly for accountability and justice. In order for survivors to be embedded in transitional justice and international accountability mechanisms, they have to be supported. (...)

Advocacy on human rights issues often overlooks core issues affecting North Korean women. And it's only by addressing the low level of female involvement in North Korean human rights advocacy that these critical human rights issues will be raised. And it is North Korean women who must be provided with opportunities to use their experience to design and implement solutions that can advance human rights in North Korea. So this project has three elements. So number one baseline data collection. In order to fill a knowledge gap, our project lead has conducted an

¹¹⁹ Oral Hearing on 10 February 2021. Korea has been focusing on gender-based violence since 2017. We published in 2018 highlights the prevalence of sexual violence in North Korea and our second report published in 2019 documented testimonies of sexual exploitation in China.

¹²⁰ Oral Hearing on 10 February 2021.

attitudinal survey of 100 North Korean women aged between 19 and 34, and the barriers to female leadership and engagement and the results will be gathered alongside area expert interviews to build a general picture of the trajectory of North Korean human rights and situate gender related advocacy within it. And all of these activities will culminate in forums where emerging young female leaders and established female leaders will discuss topics, these topics with an audience of female North Korean youth. And this would start an important conversation and create a space for capacity building and networking.¹²¹

For further information, see for example, the reports produced by CEDAW.

2.4. Modern-day slavery

State-sponsored modern-day slavery of North Koreans is a signature crime of the DPRK, both in the territory of the DPRK and outside. As National Assembly member Ji Seong-Ho indicated: ‘Another main area of concern for me is the human trafficking of the DPRK defectors in China. I am committed to addressing this issue. During my time as a human rights activist, I have rescued about 500 defectors in China, and I am well-aware of the situation where North Korean women are sold to human trafficking. I have called on the ROK ambassador to China and requested him to make a greater effort in rescuing the defectors in China during the National Assembly audit.’¹²²

In early 2021, Daily NK reported that ‘North Korean authorities plan to dispatch up to 10,000 workers to Russia starting in early March.’¹²³

In February 2021, media reported that: ‘North Korea has stepped up its use of forced labour from prison camps to mine coal for export so it can procure cash for its nuclear weapons programme in defiance of United Nations sanctions, according to a human rights group.’¹²⁴

The January 2021 OHCHR report confirmed that forced labour continues to be a significant issue now as it was before. According to the report:

63. Many interviewees described being subjected to hard labour in rodongdanryondae by an administrative process without trial. Others were subjected to forced labour in kyohwaso after patently unfair trials. Many were sentenced for “crimes” that consisted of exercising fundamental human rights, such as leaving one’s own country or receiving information from other countries.

64. Interviewees described **forced labour including construction work, farming, logging, mining and similar forms of heavy manual labour**. One interviewee

¹²¹ Oral Hearing on 10 February 2021.

¹²² Written submission after the oral hearing.

¹²³ Jang Seul Gi, ‘North Korea to dispatch up to 10,000 workers to Russia from March’ Daily NK. Available at: <https://www.dailynk.com/english/north-korea-dispatch-10000-workers-russia-march/>.

¹²⁴ The Straits Times, ‘North Korea using prison labour to defy sanctions, rights group says’ (26 February 2021). Available at: <https://www.straitstimes.com/asia/east-asia/north-korea-using-prison-labour-to-defy-sanctions-rights-group-says>.

served a sentence in a kyohwaso in 2014 and was forced to work in agriculture. She described how human beings were used as beasts of burden: “There was no machine, so seven or eight of us dragged the cart that cows normally pull.” **Forced labour also included manufacturing such as knitting, metal fabrication and making false eyelashes and clasps for necklaces.** Interviewees were also outsourced to work at State-run enterprises in charge of earning foreign currency and at private homes, including those of Ministry of State Security and Ministry of People’s Security officials.¹²⁵

In November 2020, the Guardian reported that ‘The British government has sourced PPE from factories in China where hundreds of North Korean women have been secretly working in conditions of modern slavery.’¹²⁶ The report suggested that ‘sources indicate that the North Korean workers in PPE factories in Dandong have about 70% of their wages seized by the North Korean state.’¹²⁷

According to the Global Slavery Index 2018, 1 in 10 people live in modern-day slavery in North Korea,¹²⁸ ‘The country with the highest estimated prevalence is North Korea. In North Korea, one in 10 people are in modern slavery with the clear majority forced to work by the state. As a UN Commission of Inquiry has observed, violations of human rights in North Korea are not mere excesses of the state, they are an essential component of the political system.’

The IBA 2017 report found that:

- in order to satisfy production quotas, inmates – including teenagers – were forced to perform fifteen to sixteen hours of hard labour per day;
- one witness was forced to perform hard labour (carrying logs) when he was nine years old;
- at one mine in particular, prisoners were forced to work 20 hours per day, with a witness testifying that approximately 200 prisoners died each year at that mine alone;
- a soldier supervising a forced labour site at a political prison rolled a log down a steep mountainside, killing ten prisoners as they were carrying logs up the mountain.¹²⁹

The issue of modern-day slavery of North Koreans has been subject to UN focus. In 2015, the UN reported that thousands of North Koreans are being sent to work abroad in conditions that can be classified as forced labour.¹³⁰ As a result, in 2017, UN Security Council passed a resolution

¹²⁵ Report of the United Nations High Commissioner for Human Rights, ‘Promoting accountability in the Democratic People’s Republic of Korea’ (11 January 2021) UN Doc A/HRC/46/52.

¹²⁶ Pete Pattison and Annie Kelly, ‘UK sourced PPE from factories secretly using North Korean slave labour’ The Guardian (20 November 2020). Available at: <https://www.theguardian.com/global-development/2020/nov/20/uk-sourced-ppe-from-factories-secretly-using-north-korean-slave-labour>.

¹²⁷ Ibid.

¹²⁸ Global Slavery Index 2018, North Korea. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/north-korea/>.

¹²⁹ IBA 2017 Report, 6-7.

¹³⁰ Edith M. Lederer, ‘UN investigator: North Koreans doing forced labor abroad’ AP (29 October 2015). Available at: <https://apnews.com/article/bf932a1906df432da1ce2d00d4e70bd8>.

prohibiting UN Member States from issuing new or renewed work permits to North Korean workers and required UN Member States to repatriate them, unless in certain exceptions, back to DPRK by 22 December 2019. As reported by the US State Department, despite the UN Security Council resolution, at the end of 2019:

tens of thousands of North Korean citizens continued to work overseas, primarily in Russia and China. Workers were also reportedly present during 2019 in the following countries: Algeria, Angola, Bangladesh, Cambodia, Equatorial Guinea, Ethiopia, Guinea, Italy, Kyrgyzstan, Laos, Malaysia, Mali, Mongolia, Mozambique, Nepal, Nigeria, Oman, Poland, Qatar, Republic of the Congo, Senegal, Tanzania, Thailand, the United Arab Emirates, Vietnam, Zambia, and Zimbabwe. Many of these countries subsequently repatriated most or all North Korean workers during the year. However, reports suggested several countries either had not taken action or had resumed issuing work authorizations or other documentation, allowing North Koreans to continue working overseas, in violation of UN Security Council resolutions. Russia reportedly issued more than five times as many tourist and study visas to DPRK residents as it did during the previous year, strongly suggesting that these visas are being used as a workaround for workers. Russian statistics showed that nearly 7,000 North Korean citizens arrived in Russia during the first quarter of 2020. Of these, 753 registered with Russian migration authorities as workers, 1,975 as students, and approximately 3,000 as tourists—a multi-fold increase in the number of North Korean students and tourists from the previous year. Similarly, there have been numerous reports that factories in China are employing new or existing North Korean workers.¹³¹

It is noteworthy that the issue of forced labour overseas has been subject to (limited) ICC focus. There have been some debates whether this constituted the crime against humanity of enslavement (and/or imprisonment) taking place on the territory of Rome Statute parties – which would then enable the Office of the Prosecutor to launch an investigation without the need for UN Security Council referral of the situation. In 2017, an unknown party submitted Article 15 communications to the ICC that was deemed by the Office of the Prosecutor to be sufficiently serious as to ‘warrant further analysis’ – although the Office of the Prosecutor ultimately dismissed the situation as beyond its subject matter jurisdiction.¹³²

2.5. Persecution Based on Religion or Belief

Persecution based on religion or belief is a significant issue in DPRK. The issue is particularly visible in the case of Christians; however, collecting the evidence is a significant challenge due to North Korea’s complete isolation and blockade from both inside and outside. Nonetheless, based on the

¹³¹ US State Department, 2020 Trafficking in Persons Report: North Korea. Available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/north-korea/>.

¹³² OTP, Report on Preliminary Examination (2019) 11. See: <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>.

available evidence, organisations such as Open Doors, in its World Watch List, has long been listing North Korea as the most dangerous place in the world to be a Christian.¹³³

There is no reliable statistical data on religious demographics in North Korea. Open Doors estimates:

the number of Christians is 400,000 but could be as high as 500,000. WCD data (accessed February 2020) lists the number of Buddhists at 390,000. The categories “Ethno-religionist” and “Other” (which includes Chinese folk, New religionist, Sikh, Spiritist, Taoist, Confucianist, Jain, Shintoist and Zoroastrian) are listed at over 3 million each.¹³⁴

Open Doors, in their submission to the inquiry, commented on the nature of religious freedom in North Korea stating that:

Religion in North Korea translates to the personality cult surrounding the leaders’ family. Citizens have to attend weekly information meetings and self-criticism sessions and memorize more than 100 pages of ideological material, including documents, poems and songs which all praise the morals and majesty of the Kims. Reportedly, approximately 100,000 Juche “research centres” exist throughout the country.

Even pre-school children are indoctrinated at an early stage. Changes in the education of North Korea’s pre-schoolers were announced in August 2020 and lessons about the greatness of the leaders, especially Kim Jong Un, have now been extended to 90 minutes daily.

There are still followers of Buddhism and Confucianism in the country, although worshipping the leaders in theory leaves no room for any other religion. However, these religions belong to the cultural mindset, adherents can live their faith without anyone noticing and these religions are thus tolerated. Christianity, on the other hand, is seen as a dangerous foreign religion which must be combatted aggressively. There is consequently no room for Christians in North Korea, and they must live their lives in utmost secrecy. Reports of Church leaders meeting freely often serve propaganda purposes so to purport a notion of religious freedom to an outside world. The reality: gathering in large groups is impossible for Christians and it is life-threatening to be even recognized as being a Christian.¹³⁵

¹³³ See also: CSW, ‘Total Denial’ (2016). Available at: <https://www.csw.org.uk/2016/09/22/report/3263/article.htm>; CSW, ‘Movies, Markets and Mass Surveillance’ (2018). Available at: <https://www.csw.org.uk/2018/05/02/feature/3947/article.htm>.

¹³⁴ Open Doors, Submission to the All-Party Parliamentary Group (APPG) on North Korea inquiry into the human rights violations in North Korea between 2014 and 2020, 5.

¹³⁵ *Ibid.*, 5-6.

Persecution based on religion or belief in North Korea is not a new allegation. However, despite the issue being raised at the UN with the DPRK supporting several UPR recommendations pertaining to protecting the right to freedom of religion or belief during the 2014 and the 2019 UPRs, the situation has not improved. Furthermore, as the evidence discussed in this section suggests, the situation appears to have deteriorated.

In its submission to the inquiry, Open Doors emphasised that:

Freedom of religion or belief, freedom of assembly and freedom of expression are non-existent in North Korea. No ideology or religion can exist apart from “Juche” and “Kimilsungism”. Christianity is considered as a serious threat to state’s loyalty and to the power of the leader, and it is therefore ferociously oppressed. Apart from 4 state-sponsored churches existing in Pyongyang –claimed to be a mere show for external visitors –any manifestation of religious beliefs is prohibited. Due to the country’s isolation and lack of access, it is difficult to verify figures, but Open Doors estimates that there are between 300,000 and 500,000 Christians in North Korea. It is almost impossible for Christians to gather for worship, and if some dare to, it must be done in utmost secrecy.

Hopes that the recent engagement between North Korea and the US would bring improvements to human rights violations in North Korea were met with disappointment. Human rights issues were not part of the agenda of such meetings and no concrete actions followed so far.

Our research shows that if North Korean Christians are discovered -no matter if they are heirs of the Christian communities from before the Korean War or if they found Christian faith in other ways (e.g., during the great famine in the 1990s which caused tens of thousands of citizens to seek help in China, often finding it in Chinese churches) –not only are they deported to labour camps as political criminals or even killed on the spot, their families will share their fate as well. Christians do not have any freedoms in society; meeting other Christians to worship is almost impossible and if some dare to, it must be done in utmost secrecy. The churches shown to visitors in Pyongyang serve mere propaganda purposes.¹³⁶

Being a Christian in North Korea is considered a political crime. If the North Korean Government discovers that someone is a Christian, they may be deported to a political prison camp (kwanliso), and there incarcerated, forced to do hard labour, or be arbitrarily executed. In the past, the entire family of the accused would be sent to a prison camp by “guilt of association”, and such cases still occur, although they are less frequent. The North Korean Government continues to deny the existence of

¹³⁶ Open Doors, Submission to the All-Party Parliamentary Group (APPG) on North Korea inquiry into the human rights violations in North Korea between 2014 and 2020, 3.

political prison camps despite the undeniable evidence collected by international stakeholders.¹³⁷

Ms Suyeon Yoo, Director of Human Rights Investigations for Korea Future Initiative told the inquiry, presenting findings of their extensive research:¹³⁸

Our findings demonstrate that the North Korean citizens have experienced extreme violence specifically on the account of their religious beliefs. We documented that Freedom of Religion or Belief (FoRB) adherence or association of the victim was not seen incidental to the documented violations.

For the first phase of our project, we conducted 117 interviews, and we've identified 273 victims of religious freedom violations. Among these 273 victims, 215 were adherents to Christianity and 56 adherents to shamanism, with ages ranging from three years old to over 80 years old. Women and girls accounted for nearly 60% of all documented cases. We identified 55 individual perpetrators, the names of 34 perpetrators were retained with additional identifying information such as rank, location, physical description or associated organization.

We have also identified 85 locations. Of these locations, 10 were in China and 75 were in North Korea. Organizations associated with religious freedom violations were North Korea's Minister of State Security, Minister of People Security Border, Korean People's Army Workers Party of Korea and China's Ministry of Public Security.

Our investigation found that Christianity and shamanism had the largest presence among all documentary respondents on the ground in North Korea. They experience Christianity largely through the ethnically Korean Chinese, Korean and American missionaries along the border sites. Shamanism is found to be widespread. Some of the respondents noted that older shamanism is officially illegal and officially banned. But even public officials are engaging in shamanistic rituals such as fortune-telling or exorcisms.

Article 68 of the North Korean Constitution officially allows that the government of North Korea allows religious freedom. But our investigation found otherwise. We sourced legal texts from inside North Korea, obtaining the commentaries of the 2018 Constitution and 2018 Criminal Code, both of which were published by the Workers Party for legal practitioners. The socialist constitution commentary, which was published by the Workers Party Publishing House, informs those legal practitioners that North Koreans do not believe in any religion because they believe in the *juche* ideology.

¹³⁷ Ibid., 3.

¹³⁸ Oral Hearing 10 February 2021.

In relation to Christianity, the commentary states that American imperialists have used religion as a tool to invade North Korea in the past and today.

The Criminal Code contains similar messages. It defines shamanism as a crime of superstition.

We documented many cases of unfair trial itself as a human rights violation, where religious adherents face harsh sentences for simply practicing their allegiance.

The number of victims who were documented Christians who experienced violations was greater than the number of documented shamanistic adherents in the first phase of our investigation. And there could be many reasons but fundamentally because Christianity is perceived as a political crime in North Korea. Christianity, through our investigation was documented as being far more open, being far more of an organized form of belief than shamanism. For another reason, maybe because shamanism is perceived to be tied to normative beliefs, customs and histories, it is therefore less seen as a threat to the legitimacy of the region.

We spoke to respondents who observed that the parties who fully support superstitious acts including shamanism have strengthened in recent years, and one respondent who escaped in 2019 said there was a great frequency of entry release announcements in lectures in late 2018 or early 2019.

These organizations or institutions that are related to religious freedom violations in our findings show that the Ministry of State Security plays a central role in monitoring activities and individuals related to Christianity, and the Ministry of People Security takes precedence over shamanistic cases.

The most common type of violations that we documented were arbitrary arrests, arbitrary detention, arbitrary imprisonment and arbitrary interrogation. There were cases where individuals suspected of religious practice were abducted from China by informants, and respondents describe differences in the way perpetrating organizations respond to Christianity and shamanism. Respondents were educated to hate feared Christianity. And most of the respondents mentioned a chapter in their elementary textbook, which described an American missionary who marks a child's forehead to punish the child for picking an apple from the missionary's apple tree.

People charged with superstitious acts more likely have their charges announced during their public trials or executions, but Christianity was raised just to prevent any interest. And people suspected of adherence, or encounters with Christianity are arrested in the middle of the night with the entire family by the Ministry of Security.

A few respondents noted that **people suspected of Christianity were cordoned off to separate cells, in some cases, especially monitored by the guards, and documented Christians experienced more serious forms of torture.**

On top of the basic conditions of incarceration in North Korea, like physical assault, verbal abuse for extended periods is common. They were put in solitary confinement and subjected to extreme forms of torture such as water torture, electric sea torture or being hung upside down.

And these violations were most common in border regions, as you can see on the side of the border between China in North Korea, are the most common documented facilities where these violations have occurred.

And it was documented that a person charged with serious crimes, which according to our respondent is how Christianity is perceived, will be eventually transferred to a border or prison. It was documented their assent to labour training centres or long-term re-education camp depending on the duration and the number of people involved and the ability of the charging individuals to pay bribes.

Citizens have experienced extreme violence based on their religion or belief.

We seek to inform international communities and also steer our work towards accountability and justice for victims.¹³⁹

In November 2020, Database Centre for North Korean Human Rights (NKDB) published their annual White Paper on Religious Freedom in North Korea. This research incorporates a survey on religious persecution between 2007 and 2020. During this time, NKDB collected information from 1,234 people and recorded 1,411 cases of religious persecution. As NKDP submitted to the UN in 2021:

Through surveys with defectors who arrived in the Republic of Korea between 2007 and December 2019 and other sources, NKDB has recorded 1,411 cases that amounted, or were directly related to, violations of the right to freedom of religion or belief by the DPRK authorities, including 126 killings and 94 disappearances. Individuals who have been found to have contacts with religious persons in China or attempting to bring religious items into the country, may be subject to severe punishment upon interrogation. The most lenient punishment appears to be a sentence in a labour training camp, while the most severe is detention in a political prison camp. In January 2015, Canadian Pastor Lim Hyeon-soo was arrested and sentenced to a life of hard labour on charges of using religion to undermine the government.¹⁴⁰

¹³⁹ Oral hearing, KFI.

¹⁴⁰ Joint submission for the adoption of the List of Issues, 4 January 2021. Available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PRK/INT_CCPR_ICS_PRK_43937_E.pdf.

In October 2020, Korea Future Initiative published the results of its extensive research into the issue of religious persecution in North Korea, including 117 interviews with survivors, witnesses, and perpetrators.¹⁴¹ In total, 273 victims of religious freedom violations were identified, alongside 54 individual perpetrators. Korea Future Initiative identified the names of 34 perpetrators from within North Korea's Ministry of State Security, Ministry of People's Security, Border Security Command, Korean People's Army, Workers' Party of Korea, and China's Ministry of Public Security.

Among the 273 interviewed victims (215 Christians, 56 adherents of shamanism, and two of other religions or beliefs) they faced a variety of charges for their religious manifestations, including: '149 charges of religious practice; 110 charges of religious activities in China; 78 charges of possessing religious items; 77 charges of contact with religious persons; 72 charges of attending places of worship; and 22 charges of sharing religious beliefs.'¹⁴²

Among the reported abuses spanning from 1990 to 2019, Korea Future Initiative documented '244 incidents of arbitrary arrest; 195 incidents of arbitrary detention; 125 incidents of arbitrary imprisonment; 111 incidents of arbitrary interrogation; 79 incidents of refoulement; 36 incidents of punishment of family members; 36 incidents of torture or sustained physical assault; 32 incidents of sexual violence; 20 incidents of execution; and 19 incidents of public trial or resident exposure meetings.'¹⁴³

Some of the interviewed victims recalled some of the atrocities they or others have faced because of their religion or belief:

They tilt a person's neck backwards. They mix the red pepper powder into a water kettle and pour the water into the nostrils. At first, they hold you tightly by tying you from the back. As you sneeze and cough [...] you tell false statements about things you have never done [...] Among the pretrial examiners, there is one person I remember.¹⁴⁴

It was really bad in 2019. There were many others who were arrested on the allegation of superstitious acts. Kim Jong-un is trying to cut the roots of all religious acts. **He ordered that all ideologies be rooted out. This message was spread by the people's unit and through lectures.**¹⁴⁵

The announcement said that anyone who engaged in superstitious acts would be arrested, and whoever heavily engaged in superstitious acts would be sent to a

¹⁴¹ Korea Future Initiative, 'Persecuting Faith: Documenting religious freedom violations in North Korea' (Korea Future Initiative: London, 2020).

¹⁴² Ibid., 8

¹⁴³ Ibid., 8-9.

¹⁴⁴ Ibid., 60.

¹⁴⁵ Ibid., 69.

long-term re-education camp. If the case was serious, the accused would be shot. We all shook in fear.¹⁴⁶

The KINU 2020 report indicated that ‘most religious people are categorised as anti-state and counter-revolutionary hostile elements and subjected to persecution, and Christians in particular are purged because the Christian religion is regarded as a tool for imperialist invasion.’¹⁴⁷ Furthermore, ‘all defectors consistently testified that practicing religion on a personal level is harshly persecuted. The fundamental reason for North Korea’s difficulty in guaranteeing freedom of religion stems from the belief that religion is a means of foreign encroachment and inflicts harm on North Korea’s social disciplines as mentioned in its Constitution.’¹⁴⁸ Some of the examples include:

Foreign Christians who visited North Korea testified that they witnessed the door of the church being closed on Easter Sunday when they visited without prior consultation. Many foreign visitors said that church activities seemed to be staged.¹⁴⁹

A North Korean defector testified that two women were executed for spreading Christianity and another woman received a public trial and was executed for distributing anti-regime leaflets in Gilseongpo Port, North Hwanghae Province, in 2015.¹⁵⁰

In some cases, people are regarded as political criminals and sent to detention centers (guryujang) or executed simply for possessing the Bible.¹⁵¹

A North Korean defector [anonymised] who defected in 2019 testified that he/she witnessed two people being publicly executed for possession of the Bible in Pyeongseong, South Pyeongan Province, in 2018.¹⁵²

A North Korean defector [anonymized] who defected in 2018 testified that people were punished as political criminals even for their personal religious life without attempting to spread Christianity.¹⁵³

In 2018, the testifier witnessed the public execution of two people for spreading Christianity in Gilseongpo Port, North Hwanghae Province. The

¹⁴⁶ Ibid., 71.

¹⁴⁷ KINU 2020 report, 203. Available at: <https://www.kinu.or.kr/pyxis-api/1/digital-files/0217f31a-0405-4171-8c17-eb38de070a81>.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid., 56.

¹⁵¹ Ibid., 201.

¹⁵² Ibid.

¹⁵³ Ibid.

public trials and public executions were conducted together, and the host of the political criminal trials was the MSS.¹⁵⁴

In April 2018, a cousin of the testifier was caught by the MSS for receiving Bibles from China and distributing them to people for missionary work and was sent to a political prison camp (kwanliso).¹⁵⁵

The testifier first learned about religion through the MSS interrogation process. When repatriated to North Korea and undergoing MSS interrogation, there were many cases of arrest related to “Christianity.”¹⁵⁶ The 2017 IBA report identified that the Democratic People’s Republic of Korea has been perpetrating religious persecution. It states that ‘Christians are heavily persecuted and receive especially harsh treatment in prison camps, with one former prison guard testifying that “Christians were reactionaries and there were lots of instructions... to wipe out the seed of reactionaries;” multiple witnesses watched prisoners tortured and killed on account of their religious affiliation.’¹⁵⁷

Similar evidence was identified in the 2017 IBA report. Further information on atrocities based on religion or belief, as perpetrated against Christians, is discussed in Section 3 below.

2.6. Other

Despite the narrow focus of the inquiry, several organizations sent evidence of human rights violations that do not readily map onto those sought. However, they are considered here briefly for the purpose of covering the available evidence fully.

i. The Rights of Persons with Disabilities

It is notable that the DPRK signed and ratified the CRPD in 2013 and 2016 respectively, and is currently undergoing its first reporting cycle – a particular opportunity for UK engagement over the short to medium term.

In May 2017, in an unprecedented move, the DPRK hosted a visit to Pyongyang and Pongchon by then UN Special Rapporteur on the Rights of persons with disabilities Catalina Devandas Aguilar. This visit included meetings with various senior government officials, including the DPRK Ambassador for Human Rights, Ri Hung Sik, and national and provincial associations. However, the DPRK did not allow visits to mental health facilities or meetings with the Central Court and other ministries. Despite the limitations, this was the only in-country visit over a period of decades by a special procedures mandate holder.

¹⁵⁴ Ibid., 205.

¹⁵⁵ Ibid., 205.

¹⁵⁶ Ibid., 205.

¹⁵⁷ IBA 2017 Report, 6-7.

The December 2017 end-of-visit report concluded that there were ‘several shortcomings, which prevent persons with disabilities from gaining access to education and services on an equal basis with others and from exercising their legal capacity, and which pose barriers to accessibility.’¹⁵⁸

The 2020 KINU report states that ‘the government seems to provide almost no support for residents who are unable to engage in economic activities for a long time due to illness or disability. It was found that there is no separate support even for those registered for social security.’¹⁵⁹

ii. Violation of the Right to Freedom of Movement

The right to freedom of movement of the DPRK citizens is severely restricted, internally between provinces but also outside of the country.

In the 2021 joint submission to the UN, FIDH and NKDB identified that:

The government strictly prohibits its citizens from leaving the country. As a result, citizens usually have no other choice but to illegally cross the border, mostly into China. Those who have illegally travelled to China are considered to be political criminals and face severe punishments, including torture, inhumane treatment, and imprisonment. In 2012, the DPRK amended its Criminal Procedure Law to include that capital punishment can be imposed as a statutory punishment for crimes against the state, including leaving the country, a fundamental right that is guaranteed under the ICCPR. Those who are suspected to have crossed the border with the goal of going to the Republic of Korea receive stricter punishments. (...) Those caught *en route* to the Republic of Korea are given harsher punishments and sent to political prison camps. The most severe punishments are given to the brokers who help DPRK citizens to cross the border. DPRK authorities paint brokers as perpetrators of human trafficking who are subject to public and secret executions in an attempt to deter citizens from leaving the country. In response to the COVID-19 pandemic, DPRK authorities have tightened security along the border with China and have established and enforced a policy that allows its soldiers to shoot at intruders along the border. On September 22, 2020, the DPRK military fatally shot a Republic of Korea official as he swam into DPRK waters despite the fact that he was not exhibiting any imminent threat.¹⁶⁰

iii. Violations of the Right to Freedom of Expression and Information Freedom of Expression

While Article 67 of the North Korean Constitution guarantees the freedom of the press and publication, however, Articles 10, 63, 81, and 85 may be read as to restrict the right to freedom of

¹⁵⁸ UN HRC, Report of the Special Rapporteur on the rights of persons with disabilities on her visit to the Democratic People’s Republic of Korea (December 2017), UN Doc. A/HRC/37/56/Add.1. Available at: <https://undocs.org/A/HRC/37/56/Add.1>.

¹⁵⁹ KINU 2020 report, 374.

¹⁶⁰ Joint submission for the adoption of the List of Issues, 4 January 2021. Available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/PRK/INT_CCPR_ICS_PRK_43937_E.pdf.

expression where they refer to ‘ideological unification’, ‘collectivism of one for all, all for one’, or ‘devotedly advocat[ing] the ... ideological unification and solidarity of the people.’

Empirical reality suggests that freedom of expression is virtually non-existent, especially of political speech. ‘Expressions of political opinion that differ from those of the North Korean authorities; negative reference to the family of Kim Il Sung, Kim Jong Il, and Kim Jong Un; and positive reference to South Korea are all prohibited.’¹⁶¹

Newspapers and broadcasting are strictly regulated and controlled. ‘All newspapers in North Korea are mouthpieces for the Party and Cabinet. They are official media published by various state-sponsored culture and arts propaganda organizations. They are written and published under the administrative guidance of the Newspaper Department of the Publication Division of the Cabinet and simultaneously, are under the supervision of the Newspaper Department of the Propaganda and Agitation Division.’¹⁶²

Freedom of Information

Freedom of information, a subcategory of freedom of expression, refers to freedom to seek, receive and impart information and ideas of all kinds, as stipulated in Article 19.2 of the ICCPR. As empirical reality suggests, ‘North Korean people cannot freely access external information and are punished if they are found to have received and/or imparted information and ideas (including video recordings) not authorized by the North Korean authorities.’¹⁶³

The Committee for Human Rights in North Korea told the inquiry that:

The DPRK counters foreign information through the use of technology and propaganda as well as judicial and extrajudicial punishment. The report’s findings include the following:

- a. Increasingly, the regime is turning to digital tools to fight modern technology, including subverting open technology, such as Android, to serve its means.
- b. While attitudes towards foreign content may be changing at the local level, especially in provinces far from Pyongyang, the State is far from giving up control over what North Koreans watch and listen to.
- c. The North Korean system remains firmly in control of people’s lives, and the regime appears to understand that it risks losing a propaganda battle.
- d. The North Korean regime has proven over time to be adept at countering the flow of information into the country. While each new technology or innovation

¹⁶¹ Korea Institute for National Unification, ‘White Paper on Human Rights in North Korea’ (2020) 212. Available at: <https://www.kinu.or.kr/pyxis-api/1/digital-files/0217f31a-0405-4171-8c17-eb38de070a81>.

¹⁶² KINU 2020 report, 213.

¹⁶³ KINU 2020 report, 218.

represents a new chance to provide people with greater access to information, continuing development and innovation will be essential to stay a step ahead of the DPRK.¹⁶⁴

Among others, in 2016, a BBC correspondent and his team were expelled from North Korea because of their reporting on the situation in DPRK.¹⁶⁵

iv. Discrimination Based on the Songbun Social Classification System

As the Committee for Human Rights in North Korea testified, the socio-economic caste system in North Korea means discrimination based on the classification of the group. This, in turn, translates into human rights violations affecting every aspect of their lives:

North Korea's songbun system discriminates against all North Koreans within 51 subclassifications and three main classifications: loyal, wavering, and hostile. It is a socio-economic caste system that impacts all walks of life, all people, and affects everything and anything to do with access to education, jobs, and services. This system is the root cause of many subsequent human rights abuses that range from restriction on the right to liberty of movement to a denial of access to healthcare (ICESCR, Art. 12). The DPRK places those most loyal to the regime in Pyongyang or other major urban centers, while those deemed to be in the hostile class are banished to the outer provinces such as North Hamgyong Province, where there is just very limited, if any, access to services, including basic healthcare. The majority of North Korean escapees are from this particular province. Falling in songbun status can be swift, but moving up can be tremendously difficult.¹⁶⁶

The issue is further discussed in Section 3.3. below.

v. Covid-19 Impact on the situation in DPRK

The Covid-19 pandemic exacerbated and added to the already severe human rights violations in the country. Because of that, several states called upon the DPRK to stop abusing the pandemic to crack down on human rights:

The DPRK is using the global pandemic to crack down further on the human rights of its own people. We are deeply disturbed by a reported uptick in executions related to COVID-19, as well as strict controls on movement in and around the capital. The government's decision to prioritize its weapons programs over the needs of its people and their isolation from the international community, is inevitably worsening the impacts of the pandemic on the North Korean population. (...) The DPRK government diverts resources away from its people to its illicit

¹⁶⁴ Oral hearing, Committee for Human Rights in North Korea

¹⁶⁵ Will Ripley, Tim Schwarz and Euan McKirdy, 'BBC correspondent Rupert Wingfield-Hayes, team expelled from North Korea' CNN (10 May 2016). Available at: <https://edition.cnn.com/2016/05/09/asia/bbc-correspondent-expelled-north-korea/index.html>

¹⁶⁶ Oral hearing, Committee for Human Rights in North Korea

ballistic missile and nuclear programs. Indeed, the DPRK's human rights violations, including forced labour, underwrite these programs. In order to ensure international peace and security, it is imperative that the DPRK shall abandon all nuclear weapons, its ballistic missile programs and its existing nuclear and other weapons of mass destruction programs in a complete, verifiable and irreversible manner in accordance with relevant Security Council resolutions. The failure to respect human rights is also part and parcel to the DPRK's hostile policies towards its neighbours, including the issue of international abductions of Japanese and other citizens. We strongly urge the DPRK to resolve all issues related to these abductees at the earliest possible date, in particular their immediate return.¹⁶⁷

In April 2021, the Daily NK reported on an increase of North Korean escapees in Chinese detention centres, while North Korea refuses to extradite them to prevent the spread of Covid-19. Particularly, North China detention facilities are fully occupied by North Korean escapee prisoners. The source says that all these North Korean prisoners have escaped for economic and political reasons and were arrested during their stay in China. As Daily NK reports:

Detention facilities for North Korean defectors caught in China are reportedly at full capacity. According to a source, arrests of North Korean defectors have increased as more North Koreans cross the border due to economic difficulties at home. However, North Korean authorities have refused to abide by China's request to extradite the defectors to their home country in the name of COVID-19 prevention.¹⁶⁸

North Korea has installed several surveillance cameras and electric fences along the border to prevent people's defection. Moreover, to prevent the spread of Covid-19, the regime ordered soldiers to open fire if they see anyone entering the border area without permission. However, this has not stopped North Korean people crossing the border into China.

3. Crimes against Humanity and Genocide

The 2014 report classified the atrocities perpetrated in the DPRK as crimes against humanity. The report considers the issue of genocide stating that 'In the case of the DPRK's political prison camps, extermination has been based principally on imputed political opinion and state-assigned social class. Such grounds are not included in the contemporary definition of genocide under international law.'¹⁶⁹ The report considered such atrocities to be 'politicide.'¹⁷⁰ However, the atrocities targeting certain groups may fall within the purview of Article II of the UN Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention).

¹⁶⁷ Permanent Mission of France, 'The DPRK is using the global pandemic to crack down further on the human rights of its own people' (11 December 2020). Available at: <https://onu.delegfrance.org/the-dprk-is-using-the-global-pandemic-to-crack-down-further-on-the-human-rights>.

¹⁶⁸ See: <https://www.dailynk.com/english/detention-facilities-dandong-full-defectors/>.

¹⁶⁹ 2014 Report, 1157.

¹⁷⁰ Ibid., 1158.

Only a few months after the launch of the UN Commission of Inquiry Report, Hogan Lovells published its independent legal opinion on the findings of the UN Commission of Inquiry¹⁷¹ building upon the argument that the atrocities against specific groups in DPRK amount to genocide.

To fall within the purview of Article II of the Genocide Convention, the following elements would have to be proven:

- i) The victims would have to be members of a protected group, namely, of a national, ethnic, racial or religious group;
- ii) They would have to be subjected to certain acts as listed in Article II;
- iii) The acts would have to be perpetrated with the specific intent to destroy the protected group, in whole or in part.

Hogan Lovells concluded that there were ‘good arguments that the targeting by DPRK State-controlled officials of groups classified by the DPRK as being in the hostile class, Christians, and children of Chinese heritage with the intent to destroy such groups could be found to amount to genocide if the necessary further investigation is carried out.’¹⁷² These are considered below. Some of the evidence from previous sections is purposely repeated here.

3.1. The Targeting of Christians

This has been briefly considered in the 2014 report. The 2014 report commented that:

The Commission established, based on the Democratic People’s Republic of Korea’s own figures, that the proportion of religious adherents among the DPRK’s population, who were mainly Christians, Chondoists and Buddhists, dropped from close to 24 per cent in 1950 to 0.016 per cent in 2002. The Commission also received information about purges targeting religious believers in the 1950s and 1960s. However, the Commission was not in a position to gather enough information to make a determination as to whether the authorities at the time sought to repress organised religion by extremely violent means or whether they were driven by the intent to physically annihilate the followers of particular religions as a group. This is a subject that would require thorough historical research that is difficult or impossible to undertake without access to the relevant archives of the DPRK.¹⁷³

While the 2014 UN Commission of Inquiry report recommended further historic analysis to enable the findings of genocide against religious groups, the Inquiry considers that the evidence of religious persecution from recent years, in itself, may provide a basis for the finding of genocide against religious groups, and specifically, Christians.

Hogan Lovells noted that Christians in the DPRK clearly fall within the definition of a protected group, as a religious group.

¹⁷¹ Hogan Lovells, ‘Crimes Against Humanity’ (May 2014).

¹⁷² Ibid., 61.

¹⁷³ Ibid., 1159.

Among the elements of the legal definition of genocide, it would be the element of the specific intent that would require further attention. While it may be difficult to find clear statements suggesting such specific intent to destroy these religious groups, this specific intent may be inferred from the acts targeting religious communities.

In relation to the genocidal methods, Hogan Lovells concluded that ‘the available evidence suggests that Christians may have been killed [Article II a], caused to suffer serious bodily or mental harm [Article II b], or deliberately subjected to conditions of life calculated to cause their physical destruction [Article II c].’¹⁷⁴

In addition to the UN Commission of Inquiry report, they considered the evidence from the Collins report. For example, the Collins report indicated that ‘**every religious believer is regarded as being an enemy of the state, a hostile and impure element, an agent of the United States (if they are Christian), and a counter-revolutionary for whom only discrimination, punishment, isolation, and even execution are the proper forms of treatment by the regime.**’¹⁷⁵

The situation has not improved since the damning legal opinion. On the contrary, evidence suggests that the targeting is ever-growing.

The Committee for Human Rights in North Korea testified that:

In the DPRK, **anyone suspected of being a Christian, of having a Christian family member, of associating with Christians, or even of just being exposed to the Christian faith is harshly punished.** When North Korean escapees are arrested in China and forcibly repatriated to North Korea, in direct violation of China’s obligations under the 1951 UN Refugee Convention and 1967 Protocol Relating to the Status of Refugees, **they are aggressively interrogated, beaten, and tortured.** (...)

As a result, North Korean religious believers, or those accused of affiliation with religion, are persecuted by the Kim regime. Religious-based persecution in the DPRK constitutes a crime against humanity. HRNK interviews with former prisoners have revealed multiple occasions of **prisoners suspected of believing in or practicing religion being treated more harshly in detention, subjected to longer interrogation and torture techniques, and disappeared extrajudicially to political prison camps.**¹⁷⁶

¹⁷⁴ Ibid., 58.

¹⁷⁵ Robert Collins, Committee for Human Rights in North Korea, *Marked for Life: Songbun – North Korea's Social Classification System* (6 June 2012) 78.

¹⁷⁶ Oral hearing, Committee for Human Rights in North Korea

As mentioned above, Ms Suyeon Yoo, Director of Human Rights Investigations for Korea Future Initiative told the inquiry that the situation of Christians is remarkably different from others:¹⁷⁷

The number of victims of documented Christians who experienced violations was greater than the number of documented shamanistic adherents in the first phase of our investigation. And there could be many reasons but fundamentally because Christianity is perceived as a political crime in North Korea.

Christianity, through our investigation was documented as being far more open, being far more of an organised form of belief than shamanism. In another reason, maybe because shamanism is perceived to be tied to normative beliefs, customs and histories and is therefore last seen as a threat to the legitimacy of the region.

These organisations or institutions that are related to religious freedom violations in our findings show that the Ministry of State Security plays a central role in monitoring activities and individuals related to Christianity and the Ministry of People's Security takes precedence over shamanistic cases. (...)

Respondents were educated to hate feared Christianity. And most of the respondents mentioned a chapter in their elementary textbook, which described American missionary who marks a child's forehead to punish the child for picking up an apple from the missionary's apple tree. (...)

People suspected of adherence, or encounters with Christianity or arrested in the middle of the night with the entire family by the Ministry of Security.

A few respondents noted that people suspected of Christianity were cordoned off to separate cells, in some cases, especially monitored by the guards, and documented Christians experienced more serious forms of torture.

On top of the basic conditions of incarceration in North Korea, like physical assault, verbal abuse for extended periods is common. **They were put in solitary confinement and subjected to extreme forms of torture such as water torture, electric sea torture or being hung upside down. (...)**

And it was documented that a person charged with serious crimes, which according to our respondent is how Christianity is perceived, will be eventually transferred to a border or prison. It was documented they are sent to labour training centres or long-term re-education camp depending on the duration and the number of people involved and the ability of the charging individuals to pay bribes.¹⁷⁸

¹⁷⁷ Oral Hearing 10 February 2021.

¹⁷⁸ Oral hearing, KFI.

The 2017 IBA report identified that ‘Christians are heavily persecuted and receive especially harsh treatment in prison camps, with one former prison guard testifying that “Christians were reactionaries and there were lots of instructions... to wipe out the seed of reactionaries”. Multiple witnesses watched prisoners tortured and killed on account of their religious affiliation.’¹⁷⁹ According to the evidence gathered:

313. Multiple witnesses testified to watching prisoners in the political prison camps being tortured and murdered for their religious affiliation. Kim Ha-neul witnessed the murder of Oh Seong-hwa for her religious affiliation. Also, Kim Tae-jin testified to seeing seven people being tortured at Camp 15 for participating in Christian meetings. Further, a former guard at numerous political prison camps stated that “[t]here was an abundance of references to Christian groups for the purposes of annihilation . . . Christians were reactionaries and there were lots of instructions and mottos to wipe out the seed of reactionaries.”

314. Witnesses testified to seeing Christians (or those suspected of being Christians) incarcerated in specific zones within the prison camp at which prisoners were subjected to more severe deprivation. Kim Eun-cheol testified that he witnessed five people accused of reading the Bible being sent to the total control zone or executed at Camp 15. Mr. A testified that his sister was imprisoned in Camp 15 in part because she practiced Christianity before being caught and repatriated back to the DPRK. She was never heard from again.

315. These reports are consistent with the testimony of a former high-level official, who described the DPRK policy of sending those who attempted to reach South Korea using Christian channels to political prison camps, while those using other channels might be sent to ordinary prisons.¹⁸⁰

Commenting on the intent to destroy Christians in whole or in part, Hogan Lovells indicated that they have not seen any recent statement from the DPRK authorities expressly demonstrating the specific intent, although they acknowledged the existence of reported statements on the issue.¹⁸¹

¹⁷⁹ IBA 2017 Report, 6-7.

¹⁸⁰ IBA 2017 report, 75-76.

¹⁸¹ For example:

‘Through court trials, we have executed all Protestant and Catholic church cadre members and sentenced all other vicious religious elements to heavy punishment. The repentants have been given work, but non-repentants have been sent to concentration camps. The guidelines for dealing with religious believers are clearly set out in our Party’s public security policy. You need only follow it. Silly old religionists need to die in order for their bad habits to be corrected. In which case, we must mercilessly eradicate them.’ (Christian Solidarity Worldwide, ‘North Korea: A case to answer - A call to act’ (2007) 64)

‘The genocide definition fits the policy towards Christians one hundred per cent. **There was a special instruction from the political leadership that all religions are social evil. There was an abundance of references to Christian groups for the purposes of annihilation.** There were speeches, texts, instructions, textbooks and pamphlets covering this. Religion is seen to be like opium and has to be wiped out. When I was on duty, I saw many Christians. One is meant to worship only the political leaders and any other worship was a deviation from loyalty to the regime. When North Koreans hear about God, they think they are talking about Kim Il-Sung. All North Koreans have this confusion. If anyone embraces

They concluded that if some of the alleged statements were ‘found to be true, that would show that the DPRK had pursued a deliberate policy of targeting and persecuting Christians for the purposes of the Genocide Convention.’¹⁸²

They explained that ‘the fact that the number of persons declaring to be religious followers in the DPRK is said to have dropped so dramatically cannot be said, of itself, to establish an intentional extermination of Christians by the DPRK authorities, particularly given the possible repercussions for those known by the authorities to practice a religion. However, the drop is significant enough to suggest that the DPRK may have committed harmful acts that are specifically targeted at Christians.’¹⁸³

According to KFI, ‘Under the Kim Jong-il and Kim Jong-un regimes, the government is more aware of international opinion/pressure, meaning that the more literal wordings are delivered in internal propaganda sessions. Shamanism is often termed ‘superstition’ and Christianity will fall under ‘anti-Socialist acts.’

KFI is documenting the atrocities month on month conducting approx. 30 interviews of recently escaped North Koreans each month. According to them, ‘there has been a real shift to cracking down on shamanism and its adherents since 2014 in particular. It falls primarily under the Ministry of People Security (MPS) to uncover and prosecute the practice of shamanism. However, the Ministry of State Security (MSS) also began to handle shamanistic cases following party directives (cited in our report) to crack down on “superstitious activities”.’ KFI has documented recent executions of shamanistic adherents across the country. They added that ‘the status of FoRB violations of Christians in North Korea remains at a very high level. [KFI] documented executions of families, detention in political prison camps, arbitrary arrest and detention, etc., with reasonable frequency. [KFI] also gathers names of perpetrators and maps state organisations at different levels to show that these crimes were part of an organised structure and chain of policy, rather than random incidents.

It is crucial that further research is conducted on the issue.¹⁸⁴

Christianity in North Korea, they are called a crazy guy. No one could understand or imagine someone wanting to become a Christian. It is very unlikely one could find a descendant of a Christian still living. The camp rules were intended to prevent Christian families. Everyone in the camp was prevented from reproducing. If someone had a baby it would be a problem in the whole camp. Christians were reactionaries and there were lots of instructions and mottos to wipe out the seed of reactionaries. The purpose of the camps I was involved in was to kill the prisoners. Instead of killing them by shooting, the intention was to force them to work to the last minute. The intention was to kill, not to extract labour. The purpose was to kill; the method was just different. (Christian Solidarity Worldwide, ‘North Korea: A case to answer - A call to act’ (2007) 64).

¹⁸² Ibid., 59.

¹⁸³ Ibid.

¹⁸⁴ See for example, Peter Lee, *Towards Missiological Understanding of the Persecuted Church in North Korea* (2009).

3.2. Targeting of Children with Chinese Lineage

The issue of targeting of children with Chinese lineage was considered in the 2014 Commission of Inquiry report, though not as a possible case of genocide.¹⁸⁵ As the Inquiry has heard evidence suggesting that trafficked North Korean women who become pregnant with Chinese men would be subjected to forced abortions on return to the DPRK, the issue is considered here along the lines of genocide. The issue has been considered in the legal analysis of Hogan Lovells as well.

The allegations of forced abortions and even infanticide of children of North Korean mothers and Chinese fathers may suggest targeting of a racial group. Hogan Lovells concluded that ‘Although figures for the number of infanticides and abortions are not available, there are strong suggestions that no half-Chinese children are permitted to live. As such, there are grounds to suggest that the second element for genocide may be satisfied in relation to children and infants of Chinese descent.’¹⁸⁶ More evidence from recent years is discussed in Section 2.3. above.

Commenting on the issue of the specific intent to destroy, Hogan Lovells indicated that ‘although there is no express statement of intent, the circumstances of the infanticides and forced abortions that are carried out are suggestive of a pattern of purposeful action. This is particularly the case in respect of the number of witness testimonies in relation to forced abortions and also in relation to the underlying belief in a "pure Korean race"’.¹⁸⁷

3.3. The Targeting of the ‘Hostile Group’

Hogan Lovells considered the targeting of the ‘hostile’ group against the elements of the legal definition of genocide. The hostile group means here a social class that is ‘judged as being disloyal, with "anti-party and anti-revolutionary forces"’. **The [Commission of Inquiry’s] Report finds that religious people are themselves included in the hostile class under the songbun system.** Persons in this class are discriminated against in terms of employment, military service, education, food, housing, medical care and opportunity.¹⁸⁸ Hogan Lovells argued that ‘although members of the hostile class cannot be objectively distinguished from members of the other classes in the songbun system based on race, nationality or religion, there is at least an argument that the hostile class could be treated as a separate ethnic group based on subjective factors, including their identification as such by DPRK authorities (which has become entrenched), the victims’ awareness of their songbun status (to the extent that they are aware of it), and the permanent and relatively stable status of the "hostile" classification, which is inherited for generations.’¹⁸⁹

Hogan Lovells concluded that ‘there appear to be grounds for establishing that members of the hostile class are exposed to conditions of life calculated to physically destroy them [Article IIc]. This

¹⁸⁵ ‘There is a widespread prevalence of forced abortion and infanticide against repatriated mothers and their children, in contravention of domestic and international laws. Forced abortion occurs when a woman who wants to carry her pregnancy to full term is required to terminate it against her will. Infanticide is generally defined as a mother or other person killing an infant soon after birth. This only appears to have occurred when attempts to abort the pregnancy of a woman repatriated from China failed, or could [not] be conducted because the woman was at an advanced stage in her pregnancy and the baby was born alive.’ (See: 424).

¹⁸⁶ Ibid., 61.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid., 51.

¹⁸⁹ Ibid., 52.

is achieved through a variety of means, ranging from internment in prison camps and infliction of harm to those in such prison camps, as well denial of access to things that are vital to support life, including food.¹⁹⁰

Concerning the issue of intent to destroy in whole or in part, Hogan Lovells conclude that ‘there are at least indicators of a deliberate policy targeting the hostile class with a view to destroying it in whole or in part. (...) In light of the context in which the abuses (...) have taken place, the ongoing nature, magnitude and seriousness of the crimes committed, and the fact that they were specifically targeted to members of the hostile class, it is our view that there may be a good case for establishing the mens rea¹⁹¹ required for genocide.’¹⁹²

¹⁹⁰ Ibid., 54.

¹⁹¹ Mental state, element of the crime.

¹⁹² Ibid., 57.

IV. Avenues for Engagement

There are several avenues for engagement that need to be considered by the UK, other States, and international bodies. The UN Special Rapporteur on North Korea emphasised that it is ‘very important to continue to remind that human rights agenda, whether it is through the accountability, or whether it is through pursuit of engagement. I believe that engagement is important, investment in engagement, it is as important as accountability.’¹⁹³

The UK – Directly

The UK has a privileged position in the world’s order because of its permanent seat at the UN Security Council. As such, the UK can and should play a pro-active role at the UN Security Council by calling for investigations and accountability for human rights violations, and especially, international crimes.

In a meeting with the Inquiry team, the FCDO confirmed that:

- Through Karen Pierce, British Ambassador to the USA, the UK Government has been engaging with the transitional team.
- The UK Government is very clear in international engagements that the UK remains live to issues in DPRK.
- The UK remains focused on ensuring human rights assistance meets those most in need.

The APPG on North Korea welcomes the engagement of the FCDO and asks it to consider the recommendations in this report.

Her Majesty’s Ambassador to the DPRK Colin Crooks informed the APPG:

- the UK’s Embassy in Pyongyang had to temporarily close at the end of May 2020 following the COVID lockdown measures.
- Following the Covid lockdown measures, many other embassies and international organisations have left the DPRK.
- The UK’s Embassy in Pyongyang is yet to reopen.

In response to a Written Parliamentary Question (WPQ), Lord Ahmad indicated that:

The UK has deep concerns about the appalling human rights situation in the DPRK including as documented in the 2014 UN Commission of Inquiry Report, and has responded to recommendations made by that report. Since the Report's publication, we have maintained a high level of engagement at the UN on the situation and we continue to press for annual debate on the DPRK's human rights issues in the UN Security Council. We continue to raise our concerns directly with the DPRK government, including with the DPRK's Ambassador in London. We also support the annual Human Rights Council resolution on human rights in North

¹⁹³ Oral hearing, Special Rapporteur, 16 March 2021.

Korea which stresses the importance of following up recommendations from the Report and provides the basis for further work on a credible framework for accountability for human rights violations in the country.¹⁹⁴

In response to another WPQ Lord Ahmad clarified that the UK has engaged with the recommendations in the 2014 report:

Since the Report's publication, we have maintained a high level of engagement at the UN on the situation and we continue to press for annual debate on the DPRK's human rights issues in the UN Security Council. We continue to raise our concerns directly with the DPRK government. We also support the annual Human Rights Council resolution on human rights in North Korea which stresses the importance of following up recommendations from the Report and provides the basis for further work on a credible framework for accountability for human rights violations in the country.¹⁹⁵

On the issue of accountability, Lord Ahmad responded that:

The UK is clear there must be no impunity for the most serious international crimes. The international community has a responsibility to respond to human rights violations in North Korea and the UK continues to press for annual debate in the UN Security Council on the DPRK human rights issues. North Korea is not a State Party to the International Criminal Court (ICC), so a referral of the situation in the DPRK could be made only by the UN Security Council in this instance. We welcome and support the annual Human Rights Council resolution on human rights in North Korea which stresses the importance of following up recommendations from the 2014 UN Commission of Inquiry Report on Human Rights in the DPRK, and provides the basis for further work on a credible framework for accountability for human rights violations in the country.¹⁹⁶

Lord Ahmad confirmed that the following are the UK's priorities in relation to DPRK:

Working to support our allies and partners, the UK is committed to securing a peaceful settlement on the Korean Peninsula, and to achieving the complete, verifiable, irreversible dismantlement of North Korea's illegal nuclear and weapons programmes. We are committed to upholding the rules-based international system and securing an end to all other illegal activities by the regime. Underlining the UK's position as a force for good, we stand up for the victims of human rights violations by the regime and are focused on the humanitarian situation following over a year of Covid-related restrictions. Following the imposition of Covid restrictions we had

¹⁹⁴ UIN HL13727, tabled on 1 March 2021.

¹⁹⁵ UIN HL13726, tabled on 1 March 2021.

¹⁹⁶ UIN HL13728, tabled on 1 March 2021.

to withdraw all diplomatic staff from our Embassy in Pyongyang on 27 May 2020, but look forward to re-opening the Embassy as soon as it is possible and safe to do so.¹⁹⁷

Among other avenues for engagement, Hogan Lovell recommended the UK to take steps towards financing reparations for survivors of crimes against humanity, including to:

- [conduct] detailed review and publication of a report on the value of assets that have been frozen by the OSFI pursuant to the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019, to be updated on a quarterly basis; and
- [establish] a working party group to consider recommendations for a process to implement the re-purposing of frozen assets for the benefit of survivors of gross violations of international human rights law or serious violations of international humanitarian law.¹⁹⁸

The UK via the UN

The current UN mechanisms on North Korea enable the UN to collect and monitor data of human rights abuses in the DPRK. However, they may not be enough to ensure progress with accountability.

To assist with accountability, it is important to expand on the existing mechanisms and ensure that they have the necessary mandate and resources to collect and preserve evidence of the atrocities for future prosecutions (a task that the mechanisms do not currently engage with). The mechanism could follow the models of the International, Impartial and Independent Mechanism (IIIM) to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes in Syrian Arab Republic under International Law Committed since 2011 and the Independent Investigative Mechanism for Myanmar (IIMM).

Apart from ensuring the collection of evidence in a form that would be accepted by courts, it is crucial to explore the options of international criminal justice. This is where the UN Security Council would play an important role, whether by way of referring the situation to the ICC or establishing an ad-hoc tribunal. While currently these steps are unlikely to happen, the UN Special Rapporteur on North Korea emphasised: ‘the UN Security Council bears responsibility for its inaction against the continuation of crimes against humanity.’¹⁹⁹ The issue has to be re-considered. If, for example, it is possible to argue that the crimes against religious groups amount to genocide, it would be possible to bring an action against the DPRK before the ICJ for breaches of the Geneva Convention, or against some of the P5 states that fail to prevent the genocide in the identified cases.

Furthermore, as Special Rapporteur Ojea Quintana has recently re-emphasised, the UN Security Council referral to the ICC is not the only means of pursuing state responsibility or individual

¹⁹⁷ UIN HL13724, tabled on 1 March 2021.

¹⁹⁸ Hogan Lovell, written submission.

¹⁹⁹ Oral hearing, Special Rapporteur, 16 March 2021.

criminal accountability – there is potential for prosecution under the principle of universal jurisdiction, and the initiation of proceedings at the International Court of Justice.

The UK government and other states could engage in behind-the-scenes diplomacy with allies about the use of such avenues. In particular, the UK should also be engaging with the ROK, US, EU, and regional Asian allies about the long-term arrangements for an ad hoc international tribunal to ensure comprehensive post-Kim accountability. This could also be part of increased UK support for the ongoing work of the OHCHR Accountability Project in collecting evidence and developing prosecution strategies.

Greater Cooperation with South Korea

South Korea, as the nearest neighbour to the DPRK, can and must play an important role in engaging DPRK. As National Assembly member Tae Yong Ho stated:

We must use the superior cultural and economic power of South Korea and the power of liberal democratic influence.

South Korean democratic cultural content must continue to inflow into North Korea. But when it comes to humanitarian aid, we should not treat it politically, and actively help them. In particular, food aid should be provided to infants, pregnant women, the vulnerable, and even prisoners in the gulags. However, if the excessive demands of North Korea could undermine South Korean democratic functions then must say no means the constitutional democratic society must show them how to listen to public opinions. In doing so, we can indirectly inform the North Korean authorities about democracy and also, prevent their excessive demands.

Promises as if South Korea's democratic system can quickly meet the unacceptable demands of North Korean authorities will have a negative impact on long-term inter-Korean relations.

If the South Korean government faces public opinion and opposition from the opposition party, it may be difficult to meet North Korea's demands in the end. Then, North Korean officials who reported their willingness to accept South Korean authorities could face punishment by the North Korean authorities and the failure experiences mean it creates distrust.²⁰⁰

He further recommended:

In the way to improve North Korean human rights issues and change the DPRK should approach like a football game. In a football game, it says that there are over a thousand scoring routes. Managers and coaches need planned strategies, and

²⁰⁰ Oral hearing, Tae Yong Ho MP.

players must communicate in real-time means on the pitch, and solve the game most efficiently. Approaches to North Korean elites and grassroots need to be in a different way, and that is a diverse route. For instance, in the past, the UK had brought North Korean officials to educate them through human rights roundtable dialogue, technology cooperation, and started broadcasting the BBC Korean Radio into North Korea.²⁰¹

Right now, when the North Korean nuclear issues arise, the international community just focuses on solving nuclear matters. However, it is important to perceive North Korea's nuclear issues and human rights as interrelated and so strategically approach them. For example, there are suspicions that the North Korean authorities mobilised prisoners of political prison camps to build a nuclear test site in Punggye-ri. The issue of nuclear radiation exposure of these people around the Punggye-ri region must also be raised by the international community. All these people need to be tested for radiation exposure and available for treatment. The cost of developing nuclear weapons and missiles can solve the food shortage of North Korean people. Thus, North Korean nuclear programmes and human rights should not be considered as separate issues.²⁰²

²⁰¹ Oral hearing, Tae Yong Ho MP.

²⁰² Oral hearing, Tae Yong Ho MP.

V. Recommendations

Engagement on Human Rights

- The UK Government must actively engage on human rights questions using all available avenues, whether directly, via the UN, or working with other States (and especially South Korea) to ensure that all people in DPRK must be guaranteed all human rights, including the right to freedom of religion or belief as affirmed in Article 18 of the UDHR and Article 18 of the ICCPR.²⁰³
- ‘The UK Government must work with the new US administration and other like-minded states to push for renewed attention on the situation at the UN Security Council, increasing the frequency of meetings, and giving serious consideration to testing implicit Chinese and Russian veto threats by presenting a Chapter VII resolution on targeted sanctions and/or ICC referral’.²⁰⁴
- The UK, but also other States, must raise, prioritise and address human rights violations in North Korea at all international and regional fora.²⁰⁵
- The UK Government must revisit the UN Commission of Inquiry recommendation to establish a ‘human rights contact group’ for the DPRK in order to ensure a regular dedicated forum for engagement between concerned states and provide support for human rights initiatives.²⁰⁶
- The UK Government must engage and cooperate with a wide range of state holders, including the R2P Group of Friends, R2P Focal Point Network, and International Atrocity Prevention Working Group to work towards addressing the issue of international crimes in the DPRK.²⁰⁷
- To address the issue of forced labour of North Korean workers overseas, the UK and other States must identify whether there are any North Korean workers employed in their countries, and examine the conditions of their work to identify whether there is a risk of forced labour. Where North Korean workers are subject to forced labour, they should be provided with assistance and the option of granting them refugee status must be considered.
- The UK and other States must work together to address the issue of human trafficking for forced marriage and sex slavery, especially to China; and consider ways to provide assistance to these women, especially women who become pregnant after sexual relations with Chinese men.
- The UK must work together with the South Korean Government to open a diplomatic dialogue with the Chinese Ambassador regarding the situation with North Korean escapees currently in detention centres in China.
- The UK must continue to work to promote and support human rights and democracy in North Korea, including the right to freedom of information as enshrined in Article 19 of the Universal Declaration of Human Rights.

²⁰³ Open Doors submission

²⁰⁴ Written submission by Ben Willis.

²⁰⁵ Open Doors submission

²⁰⁶ Written submission by Ben Willis.

²⁰⁷ Written submission by Ben Willis

Addressing the Atrocities

Suppression of further atrocities

- The UK Government must encourage the suppression of all violations of fundamental rights; including by ‘ceasing using the Songbun classification system to discriminate against and persecute individuals categorised as “hostile”, such as Christians, and ensure their basic rights are respected; immediately stop tracking, arbitrarily arresting, using torture and other inhumane or degrading treatment, and arbitrarily executing Christians.’²⁰⁸
- The UK must engage the UN in relation to steps that can be taken at the UN to engage the DPRK to prevent further atrocities;
- The UK must work with other States to ensure North Korean acceptance of early and complete denuclearisation.
- The UK must assess the three cases of possible genocidal atrocities, namely, against Christians, half-Chinese children and the ‘hostile’ groups and identify actions to be taken in accordance with the duty to prevent under the Genocide Convention.

Prevention of further atrocities: Early warning and risk assessment

- The UK Government must review existing tools used to identify the emerging risk of mass atrocities, including the Cabinet Office-led ‘Countries at Risk of Instability’ process, FCDO Stability Monitor, and cross-government Joint Analysis of Conflict and Stability,²⁰⁹ and consider adopting other frameworks for mass atrocity analysis. ‘The government [must] clarify whether these tools capture the risk of further potential crimes against humanity associated with the threats facing *kwanliso* inmates, the unreliability of food supply in the DPRK, and the working and living conditions of overseas labourers’²¹⁰
- The government [must] consider further multi-year ODA-funded FCDO projects that provide opportunity for DPRK officials and other representatives to be exposed to alternative perspectives.
- ‘The UK government [must] consider providing substantial multi-year funding for the monitoring, documentation, investigative, and prosecutorial work being undertaken by the OHCHR Seoul Office and DPRK Accountability Project’.²¹¹

Humanitarian Assistance

- The UK must work with other States and international bodies to ensure comprehensive humanitarian assistance to all those affected by atrocity crimes in the DPRK but also all those suffering from the consequences of the dire economic situation (especially as exacerbated by Covid-19).
- The UK must work with other States to provide the North Korean survivors of atrocities with adequate assistance in countries outside of the DPRK where they are currently present.
- North Korean survivors of sex trafficking, sexual violence, and rape must be provided with assistance in the country where they are found, and be given adequate protection and assistance, including asylum where applicable.

²⁰⁸ Open Doors submission

²⁰⁹ Written submission by Ben Willis

²¹⁰ Written submission by Ben Willis

²¹¹ Written submission by Ben Willis

Justice and Accountability

Investigations

- The UK must work with other States to ensure that the evidence of the atrocities in North Korea is preserved for future prosecutions. This could be achieved, for example, by establishing a mechanism akin to the IIIM.
- The UK must work with other States on ensuring that the investigative bodies have access to all relevant information, including, by ensuring access to the DPRK.
- The UK must develop a comprehensive UK National Security Council contingency planning strategy for the Korean peninsula – e.g. including the protection of evidence sites in the event of sudden regime collapse as there will be attempts to destroy evidence of the crimes committed, especially in the kwanliso camps.

Accountability

- The UK must review the options for accountability for crimes in the DPRK, including the option of the UN Security Council referral to the ICC or the UN Security Council establishing an ad-hoc tribunal; or States exercising their universal jurisdiction to prosecute crimes committed in the DPRK.
- The UK must assess the three cases of possible genocidal atrocities, namely, against Christians, half-Chinese children and the ‘hostile’ groups, and identify actions to be taken in accordance with the duty to punish under the Genocide Convention.
- The UK must consider an action before the ICJ against DPRK for breaches of the Geneva Convention.

Truth and Reconciliation

- The UK must work with other States and survivors to ensure transitional justice, truth and reconciliation.

Sanctions

- The UK must make the best of their Sanctions Regime to target individual perpetrators.²¹²
- The UK must work with other States to ensure greater coordination on Magnitsky sanctions against DPRK individuals and entities among the UK and its allies.
- The UK must work on a process to implement the re-purposing of frozen assets for the benefit of North Korean survivors of gross violations of international human rights law or serious violations of international humanitarian law.

²¹² Written submission by Ben Willis

Appendix A: Interview with Justice Kirby (further comments)

The witness testimonies [to the UN Commission of Inquiry] spoke truth to power in the United Nations and in the world and that gathered a lot of interest. It resulted in votes in the United Nations Human Rights Council, in the General Assembly and ultimately referring the matter to the Security Council which were extremely strong votes and they indicated deep concern in the United Nations system for what we had revealed. There were some countries that could generally be expected to be hostile to, or not supporting the report, but they were a very small number, no more than 20 and they were the usual countries each time: Russian Federation, Cuba, People's Republic of China, Venezuela, Laos and other countries that were hostile to human rights investigations. That was the span of differences.

But the fact that the General Assembly received it, and the General Assembly accepted our recommendation and referred our report to the Security Council and the fact the Security Council accepted that referral put it on its agenda, and it is still on the agenda at the Security Council which is very unusual in the United Nations system.

That is where things stood when President Trump initiated quite a different strategy having started his presidency with strong attacks on North Korea, in calling Kim Jong-un 'little rocket man'. He very soon afterwards formed the view that he should make an attempt at discussion to get a deal, this is what he said he would try to do, and he went ahead and met the Supreme Leader in Singapore, and again in Hanoi. That was not a successful meeting in Hanoi, they met informally in the de-militarised zone, and in none of those [meetings] did he [Trump] ever refer to human rights.

It was the view of the Commission of Inquiry that certainly the issues of nuclear weapons and the dangers of nuclear weapons are major concerns of the international community and they include concerns of a human rights character. But there will be no peace on the Korean peninsula so long as the international community does not deal with the issues of human rights...

I believe with the change of administration in the United States, this is a very timely report and I hope it will lead onto closer co-operation between the United Kingdom, United States and other countries and the possibility of that happening was illustrated by a very strong statement that was issued by Germany only a week ago in the Security Council. Germany had the support of Belgium, Estonia, France, UK, US, Japan and the Dominican Republic in making a strong appeal for revival of concern and interest in human rights. If that statement is not available to the Group, I will make it available to them. It is a wonderful thing to have lived long enough to see Germany taking such an important and strong stand on human rights and they took the lead in this statement and it deserves support. (...)

I believe that with the advent of the Biden administration the relationship which has existed in the past until quite recently, constructive relationship, of like-minded, like-thinking support, particularly between the United Kingdom and the United States will be revived. I mean my own recollection was many times visiting the State Department in Washington, meeting the very brilliant, thoughtful, informed, and experienced people who served in that Department. And

unfortunately, Mr Trump took the view that they were part of the Washington swamp and didn't really utilise them to the extent that could and should have been done.

At the time he took his initiative of seeking to have a meeting, I thought well so long as he adheres to the principles it may well be that his unconventional way of going about things might actually deliver some good outcomes. But, when one analyses it, he went in and did not seem to be well prepared or pursue the strategy of dealing with the security issues in the way that had been done, with insistence on a permanent and irreversible removal of nuclear weapons and the net result is that with the failure of his strategy but with the expansion of the nuclear weapons and missiles we are actually in a worse position and that position has been increased in its horror by the withdrawal of the US from a number of non-proliferation treaties, which I think your APPG should keep its eye on.

This issue of North Korea unfortunately has to be considered very much in the context of nuclear proliferation, which doesn't get as much attention in the international and political communities as it should. It is a truly urgent issue because of its existential threat to humanity. What is going to happen? I think we have to wait and see how the Biden administration works out. By all appearances, it seems to be he has formed an administration that seems to be not extreme in any way. It seems to be seeking to get back to a policy-oriented and well-informed agenda for peace and for human rights. If that is so, then that is ready made for the influence and co-operation and support and assistance of the United Kingdom which has such a strong record for international human rights, certainly in recent years and under governments of different political persuasions. I would be reasonably optimistic. Some people would say being optimistic in the case of North Korea is an error in naivety, and it may well be, but that will be proved to be so. President Obama, famously said, quoting Lincoln, that the arc of history bends towards liberty and human rights.

If we can increase the knowledge of the people of North Korea through technology and international media about how uniquely isolated their country is. They are fed constantly day by day a diet of misinformation and a lot of evidence of violence and cruelty. I think the BBC did revive the Korean programme, I hope that is continuing and I think the [All-Party Parliamentary Group] would do well to consider giving support to the BBC's Korean language programme, because although there are jammers and interference, the Korean people are amongst the most brilliant people in digital technology. It has been demonstrated in South Korea, by the development of the iPhones and digital equipment, and it has been demonstrated in North Korea, sadly, by the development in isolation of nuclear weapons and missile delivery systems. It is fair to say that nobody expected North Korea to develop its missile delivery systems as quickly as it has done. It has been done because they have had the talent to do it, and therefore, if you can get messages of information and news into North Korea, that will be very important for freedom and human rights in North Korea, and that is no doubt why the government of DPRK have sought to stop that information including information about the report of the COI getting into North Korea. So, if you could turn your mind how to get that into North Korea, bearing in mind the laws in South Korea, but those in South Korea won't really affect what can happen in international communications, that is a line that should be addressed, and I hope the All-Party Parliamentary Group will address it.

If I look back on the conduct of the Commission of Inquiry there are very many things of which I am proud, and in particular the public hearings, the involvement and use of the detainees and escapees and I think that was a very good strategy and should be used more often by the United Nations. Napoleon had a great number of benefits in his law-making and codification and so on. But open, transparent administration was not one of the strong suits of the late emperor. Our system is much more open, it goes back to Medieval times in England of being more transparent and insisting that the courts were more transparent. I thought our doing it that way was very good but one area of failure, looking back on it, I would say, was our failure to engage with the then opposition in South Korea, it wasn't through lack of effort, invitations or trying, it was difficult to get them to come to our events. I think there was an ideological division. I have met President Kim Dae-jung, a very great man and a great fighter for liberty and human rights. He was on the opposition side and worked for the opening up of the so-called sunshine policy and so on. But we tried to reach out and to get them on board and participate, but North Korea, like Australia, plays its politics very hard. I'm sure in the UK everyone is much more cosy and friendly. In North Korea it is very hard ball, so we didn't really succeed. The price of it now is that a lot of the issues that we were pursuing are currently, for a time, out of favour in South Korea. But it may be with the new administration in the US, with the historic long-term association with South Korea and the US that might be going to break and change in South Korea – I am hoping that will happen and that will open possibilities.

Politicians everywhere are realists, and they will face the reality of the major superpower taking a new direction and I would hope that will lead to a greater engagement of South Korea on human rights. After all President Moon Jae-in was a considerable human rights lawyer, he had a record of fighting for workers' rights and other rights, so I hope that will happen and lead to a revival. They will be working in a new paradigm where the script of the drama is being significantly presented by the United States, and I believe they will adjust to the new situation and that will provide opportunities respectful of humanitarian assistance, respectful of economic, social and cultural rights not just civil and political rights, but nonetheless, if countries like the United Kingdom, France and Germany, are nuanced in dealing with the concerns of South Korea ... When I would go there even in the period of the Park administration, they would all say to me you must understand that our relatives are on the other side of the border, our families are there, we have not been able to see our grandparents or uncles, that in itself is a shameful and shocking breach of human rights. So, I can understand the anxiety to try a new gesture, but it didn't make any progress and the plain fact needs to be stated that the only progress that has ever been made when dealing with North Korea is made by the imposition of pressure by United Nations sanctions. Sanctions imposed with the support of all of the Permanent Five because of the deep concern about the security issues and the possibility of large numbers fleeing from North Korea to escape.

My hope is that Mr Biden, who has had a lot of experience dealing with international law will understand and be briefed that the only language which North Korea believes, and pays attention to, and is worried and fearful of, is the language of the United Nations Security Council requirements. Those resolutions have to be defended and kept in place and hopefully enhanced with proper humanitarian exceptions in order to impose pressure on North Korea. They do not pay attention to language, reason, the United Declaration of Human Rights. They go along and pretend to be human rights observant, but they are not observant because observing those human rights

would possibly endanger their political existence. These are the realities of North Korea. I hope the United Kingdom, which is a member of the Permanent Five, will responsibly use its power in the United Nations Security Council which it tends to deploy very sensibly and rationally, and it will do so in a way that supports freedom and human rights in North Korea by imposing pressure on the administration in North Korea, which is unpopular with the people of North Korea because they can't enjoy the products they see in the smuggled programmes coming from South Korea.

I think you may find there are commonalities between China, Russia and other countries that indicate that there will be a point where they will require action to be taken. That point will be reached when they see it as in their interests and the interests of their people to protect them from the danger of nuclear weapons and the haemorrhage into their countries of large numbers of people seeking to escape from DPRK. Remember always that Russia and Chinese representatives agreed to sanctions. They agreed to and imposed sanctions. Until about the time of President Trump's move, substantially, according to The Economist which is a source of very reliable information on the China/North Korea border, the result was that sanctions were enforced and increased. I think it should not be given away, I believe if the matter goes back to the Security Council, rational minds will come to bear on what on earth they can do because the bottom line is if we cannot contain the great dangers of the horrible concoction of nuclear weapons and grim and violent abuse of human rights in the case of North Korea, then it will be a major challenge in many other states that I won't mention. [Lost connection] That will go before the Constitutional Court of the Republic of Korea which is a very strong court. Remember that is the court that unanimously removed Park Geun-hye, the last President before Moon Jae-in. It is a strong court of independent judges and it is a convention in the international judicial circles that you don't move into other judge's territory before they've had a chance to deal with the matters themselves, although I am watching it with great anxiety of course.