



General Assembly

Distr.: General
2 August 2019

Original: English

Seventy-fourth session

Item 72 (c) of the provisional agenda*

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

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

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution [73/180](#) on the situation of human rights in the Democratic People's Republic of Korea. It provides an overview of the human rights situation in the country from September 2018 to July 2019 and the Government's engagement with the United Nations in that regard.

* [A/74/150](#).



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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution [73/180](#) on the situation of human rights in the Democratic People's Republic of Korea and provides an update on the human rights situation in the country since September 2018, when the Secretary-General reported to the Assembly at its seventy-third session (see [A/73/308](#)). It is focused on the rights to life, liberty and security of the person, and the right to a fair trial; the right to freedom of movement; the rights to freedom of expression, access to information, and freedom of association and peaceful assembly, and democratic rights; the issues of international abductions and separated families; and the right to an adequate standard of living.

II. Political context

2. Following the inter-Korean summits in April and May 2018, a third summit was held from 18 to 20 September 2018 in Pyongyang. The outcome declaration included a commitment to normalize the Kaesong industrial complex and the Mount Kumgang tourism project and to discuss the formation of a “west coast joint special economic zone” and an “east coast joint special tourism zone”. There was agreement to “strengthen humanitarian cooperation to fundamentally resolve the issue of separated families”, including through the opening of a “permanent facility” for family reunion meetings in the Kumgang area “at an early date” and to give priority to “resolving the issue of video reunions and exchange of video messages between the separated families”.¹

3. In the joint declaration, the Democratic People's Republic of Korea made a commitment to “permanently dismantle the Dongchang-ri missile engine test site and launch platform under the observation of experts from relevant countries”, and expressed its willingness to “continue to take additional measures”, such as the “permanent dismantlement of the nuclear facilities in Yongbyon” as the United States of America takes “corresponding measures”. Furthermore, the two sides agreed to “cooperate closely in the process of pursuing complete denuclearization of the Korean Peninsula”.

4. A summit between the leaders of the Democratic People's Republic of Korea and the United States was held on 27 and 28 February 2019 in Hanoi, which ended with no agreement. The President of the Republic of Korea, Moon Jae-in, subsequently reiterated his goal of continuing reconciliation efforts on the Korean Peninsula.

5. From 7 to 10 January and in June 2019, the Democratic People's Republic of Korea and China held their fourth and fifth summits since March 2018. China reiterated its support for the denuclearization of the Korean Peninsula, the establishment of a peace regime and the resolving of issues through talks.

6. On 25 April, the first summit since 2011 was held between the Democratic People's Republic of Korea and the Russian Federation in Vladivostok, Russian Federation, with discussions focused on the establishment of peace and security on the Korean Peninsula and in the wider region, denuclearization, sanctions and economic cooperation.

¹ The declaration is available at <https://english1.president.go.kr/BriefingSpeeches/Briefings/322>.

III. Overview of the situation of human rights in the Democratic People's Republic of Korea

A. Rights to life, liberty and security of the person, and right to a fair trial

7. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) received and analysed accounts of escapees who had been detained in the Democratic People's Republic of Korea. The vast majority of persons interviewed by OHCHR were women who had escaped the country through the northern land border, in particular from Ryanggang and North Hamgyong Provinces. The accounts included allegations of gross violations of the rights to life, liberty and security of the person perpetrated by officers of the security apparatus of the Democratic People's Republic of Korea.

8. Citizens of the Democratic People's Republic of Korea are arrested and detained for the exercise of their fundamental rights, such as the right to leave their country of origin. Moreover, this deprivation of liberty is carried out without respect for the fundamental procedural guarantees enshrined in articles 9 and 14 of the International Covenant on Civil and Political Rights.² The majority of the cases analysed concern citizens of the Democratic People's Republic of Korea who had crossed the northern land border with China and were subsequently arrested and repatriated.

9. Upon repatriation, they are taken into custody by officers of the Ministry of State Security and held in detention centres (*kuryujang*) for periods ranging from a few days to several months. Officials of the Ministry interrogate the inmates to investigate whether, while abroad, they contacted people from the Republic of Korea, met with Christian groups or engaged in other purported anti-State activities. Those who officials consider have been involved in such activities remain in the custody of the Ministry, which conducts further investigations and proceedings that may lead to the accused being sent to a political prison camp (*kwanliso*) run by the Ministry. If there are no indications of anti-State conduct, detainees are usually handed over to officers of the Ministry of People's Security for further investigation.

10. Direct information from people sentenced to political prison camps is scarce, but available accounts indicate that the entire process, including sentencing, is carried out without judicial oversight. OHCHR has received numerous and consistent first-hand accounts from people detained by the Ministry of State Security who were subsequently transferred into the custody of the Ministry of People's Security and eventually sentenced to prison or labour camps. The following paragraphs provide a summary of the accounts received in relation to different detention centres in Ryanggang and North Hamgyong Provinces.

11. Once in the custody of the Ministry of State Security, detainees are held in the pretrial detention centres of the Ministry. Upon arrival, men and women are separated. They are made to undress and are subjected to invasive body searches. For example, guards make the detainees squat repeatedly to look for concealed money or other items in body cavities. Detainees are then interrogated, often every day for several days and, sometimes, up to one month or longer. Severe beatings, including with clubs and metal rods, and abuse causing serious physical and mental harm are a common occurrence during interrogations and throughout the detention period. Reports received by OHCHR include cases of sexual violence by prison

² The Democratic People's Republic of Korea acceded to the Covenant on 14 September 1981.

officials against female detainees, including during invasive body searches. There is no system for the prisoners to report such violence.

12. According to accounts received, detainees who are found not to have been engaged in anti-State conduct are transferred to pretrial detention centres run by the Ministry of People's Security, where conditions can be extremely harsh. Detention can last from a few days to several months. Interviewees often report severe beatings during interrogations causing grievous bodily harm. Cells are overcrowded and the space is insufficient to lie down. Former detainees report extremely unsanitary conditions and insufficient food, resulting in malnourishment, illness and occasionally death of detainees. As in the detention centres of the Ministry of State Security, prison guards in the centres of the Ministry of People's Security make the detainees sit or kneel all day, allowing them to stretch their limbs for two minutes or less every hour. Moving without permission can result in personal or collective physical punishment. OHCHR has also received reports of sexual assault against female detainees by guards or officers.

13. During the entire pretrial period, detainees are not brought before a court to decide on the lawfulness of detention and are provided no access to legal counsel. It is recalled that, under the International Covenant on Civil and Political Rights, "anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful" and everyone must "have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing".³ Accounts reveal that detainees are simply informed of their prison sentences at the end of the investigation, in particular in cases in which the accused is sentenced to up to six months in a short-term labour camp (*rodongdanryondae*). In the labour camps, prisoners carry out heavy manual labour for up to 12 hours a day, and there are reports of frequent incidents causing injuries and even death. Prisoners are given insufficient food, although relatives are sometimes allowed to bring food to their detained family members. Malnutrition is reportedly widespread.

14. When trials are held (for detainees who are found not to have been engaged in anti-State conduct), witness accounts reveal that proceedings are, with very few exceptions, little more than a formality. People are not able to choose their defence counsel, and access to a lawyer is limited to presence at trial but with the lawyer presenting no defence. There are no reported acquittals and, according to witness accounts documented by OHCHR, the accused are generally sentenced to two to five years imprisonment in an ordinary prison (*kyohwaso*) run by the Ministry of People's Security.

15. OHCHR received accounts from persons who had been detained in the ordinary prisons, for example in Jongori prison, located in North Hamgyong Province. According to some accounts, there may be 3,000 male and female detainees in the prison. Malnourishment is widespread and there are multiple reports of deaths as a result of starvation. Illnesses such as tuberculosis, hepatitis, typhoid and pleurisy are reportedly rife, and little to no medical care is provided. Numerous interviewees reported severe beatings by prison guards, sometimes resulting in the death of prisoners. Prisoners are forced to work long hours under the watch of

³ Article 9 (3) of the Covenant stipulates that it shall not be the general rule that persons awaiting trial shall be detained in custody. See also general comment No. 35 (2014) on liberty and security of person of the Human Rights Committee (CCPR/C/GC/35, para. 38). The Committee has consistently held that pretrial detention should be the exception; see, for example, Communication No. 526/1993, Michael and Brian Hill v. Spain (Views adopted on 2 April 1997, fifty-ninth session) (A/52/40 (vol. II), annex VI.B, para. 12.3).

armed guards. Accidents are frequent, and there are multiple reports of prisoners dying as a result of work-related accidents. There are reports of public executions of prisoners who tried to escape or steal or who committed other offences while detained. There are also reports of prisoners placed in solitary confinement and dying as a result.

16. The arbitrary arrests, beatings, forced labour, executions and other forms of mistreatment and abuse perpetrated by officers in the detention centres and prisons of the two ministries appear to be carried out in a widespread and systematic manner.

17. People held in political prison camps, ordinary prisons and holding cells (*jipkyulso*) are all subject to forced labour in dangerous conditions, without the adequate food, access to medical care and living conditions necessary to meet international standards.

18. Accounts documented by OHCHR also reveal the prevalence of corruption in the country's penal system.⁴ Bribes can be paid to avoid arrest and detention, to mitigate or avoid prison sentences, to avoid beatings, to ameliorate the harshness of the forced labour and to secure family visits. OHCHR has also received reports of detainee exploitation that goes beyond extortion of money, involving sexual violence, including rape.

19. Reports of the continued existence of large political prison camps remain of grave concern. The Government continues to deny the existence of such camps. No former inmates of the camps are known to have left the Democratic People's Republic of Korea during the reporting period.

20. As at May 2019, six citizens of the Republic of Korea remained detained in the Democratic People's Republic of Korea.

B. Right to freedom of movement

21. The Government of the Democratic People's Republic of Korea continued to impose strict restrictions on freedom of movement for both internal and external travel. It is recalled that the right to freedom of movement is recognized under article 12 of the International Covenant on Civil and Political Rights, which provides that such freedom "shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant". Citizens are required to obtain permission to travel within the country, and violations can result in punishments including forced labour.

22. The exercise of the right to leave and enter one's country continued to be strictly controlled. The Government criminalizes the act of crossing the border irregularly and charges some who undertake such crossings with "treason against the State". In spite of such risks, in 2018, 1,137 citizens of the Democratic People's Republic of Korea, including 969 women (85 per cent), successfully reached the Republic of Korea.⁵ OHCHR received information about individuals who had irregularly crossed the northern border and were repatriated and who, upon return,

⁴ See OHCHR, "The price is rights: the violation of the right to an adequate standard of living in the Democratic People's Republic of Korea", May 2019.

⁵ Republic of Korea, Ministry of Unification, "Policy on North Korean defectors" (accessed on 20 June 2019).

were subjected to arbitrary detention and unfair trial, torture, sexual harassment and other forms of ill-treatment.

23. Several States, as well as OHCHR and the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, continue to express concern that, if forcibly returned, escapees face a significant risk of human rights violations, including torture, stating that their return would violate the principle of non-refoulement. The arrest on 28 April 2019 of seven escapees from the Democratic People's Republic of Korea, including a 9-year-old girl, in Liaoning Province, China, continues to be under discussion between China and relevant parties.

24. It is also necessary for the Democratic People's Republic of Korea to consider ways to address the exploitation of persons wishing to leave the country, which may have the effect of further impairing the freedom to leave the country.⁶ The vast majority of people crossing the border relied on "brokers" who, in many cases, were traffickers. Many individuals who arrived in the Republic of Korea reportedly owed brokers millions of Korean won, having agreed to pay the debt upon the receipt of the settlement benefits provided by the Government of the Republic of Korea.

25. In interviews conducted by OHCHR, it was confirmed that many women who leave the Democratic People's Republic of Korea continue to be trafficked across the northern land border with 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 and repatriated to the Democratic People's Republic of Korea if they become known to the authorities. Those who are repatriated are at risk of serious human rights violations while in detention in the Democratic People's Republic of Korea (see paras. 8–18 above).

C. Rights to freedom of expression, access to information, freedom of association and peaceful assembly, and democratic rights

26. Pursuant to its obligations under the International Covenant on Civil and Political Rights, the Democratic People's Republic of Korea must respect the rights to freedom of expression, access to information and freedom of association and peaceful assembly. According to witness accounts received by OHCHR, those who criticize the authorities remain at risk of imprisonment in ordinary or political prisons. That risk, combined with an expansive system of surveillance and informants, has led to widespread self-censorship in speech, writing and artistic expression.

27. Although article 67 of the Constitution guarantees the rights to freedom of speech, the press, assembly, demonstration and association, in practice, those rights are not respected by the Government, in spite of its international legal obligations, including those established under articles 19, 21 and 22 of the International Covenant on Civil and Political Rights.

28. The Government, through its Propaganda and Agitation Department, attempts to control all information available to the people. It continues to prevent any independent broadcast, print or online media from emerging, and public expression is strictly controlled by the State. Consequently, all forms of media convey the Government's ideology and policies, aimed at strengthening the people's loyalty and preventing challenges to its power. All foreign journalists are subject to tight

⁶ For more information on abuse at the hands of third parties and the related human rights obligations of the State, see OHCHR, "The price is rights", pp. 24–25 and 33–34.

controls, including in relation to their freedom of movement and ability to speak in private to nationals of the Democratic People's Republic of Korea.

29. No freedom of expression is allowed through private publication. Under the 1975 Publication Act, revised in 1995 and 1999, citizens have the right to freely engage in writing and creative activities, but such activities are limited under article 2 to those "safeguarding and promoting great Socialist projects based on a revolutionary tradition of publication", and the circulation of "any reactionary ideas, culture and lifestyles" is prohibited under article 47. Any free expression through publication is effectively outlawed in the Criminal Code: article 214 thereof provides for up to one year of "disciplining through labour" for those who violate the publication laws. Article 62 stipulates that "a person who performs propaganda and agitation with a view to opposing the State" can be sentenced to up to 10 years of correctional labour, and article 211 provides for up to one year of correctional labour for those "making or spreading false rumours that might discredit the State".

30. Control over access to information remains absolute, and punishments are imposed on those found to have received or to possess material not authorized by the authorities, in particular information from the Republic of Korea. Under articles 183 and 184 of the Criminal Code, punishments are imposed, through correctional labour, on persons who import, manufacture, disseminate, listen to or reproduce "pictures, photographs, books, video recordings or any other type of electronic medium which deals with a degenerate, pornographic and indecent subject". Article 185 provides for a sentence of up to five years of correctional labour for anyone who "without any purpose to oppose the State, listens to the enemy's broadcasts systematically, gathers, keeps or disseminates materials or goods sent in or spread by the enemy". Those provisions are enforced through inspection groups composed of officials of the Ministry of People's Security, the Ministry of State Security, the prosecutor's office and the Workers' Party of Korea, as well as a separate organization known as "Group 109".⁷ However, discreet viewing of foreign music and film is reportedly spreading, with bribes paid to State officials enabling people to escape punishment.

31. Mobile phone usage is increasing, although international calls and the receipt of external information is strictly controlled. Article 222 of the Criminal Code stipulates that a person who "violates regulations relating to international communications" will be disciplined through forced labour for up to two years. Jamming technology and mobile phone surveillance technology are used by the Ministry of State Security to enact the provision. Bribery is a means by which persons, including brokers and traffickers who make calls abroad, can subvert the provision.

32. Internet access is limited to high-ranking State officials and other designated persons. The Korea Computer Centre filters the information made available to users. A tightly controlled and regulated "intranet" is reportedly available to a slightly larger group of users, including selected research institutions and some Government employees.

33. With regard to the right to peaceful assembly, the only public assembly allowed consists of government-led meetings and crowd mobilization. Article 209

⁷ "Group 109" is a censorship body of the Democratic People's Republic of Korea established in 2004 to censor foreign media, publications, radio and DVDs. The number "109" stands for the date, October 9, on which the order to control foreign media and publications was issued. The body is organized into regional censorship groups, and officers are dispatched from various organizations, such as the Propaganda Department of the Workers' Party of Korea, the courts, the Ministry of State Security and the Ministry of People's Security.

of the Criminal Code states that “persons who offer resistance in a group” to the State will be punished by up to one year of correctional labour.

34. Regarding freedom of association, there are no civil society organizations that can offer alternative views or criticism of the Government. Instead, nationals of the Democratic People’s Republic of Korea are required to join organizations that facilitate the State’s control over the population, including through mass mobilization. The organizations include the Children’s Union, the Kimilsungist-Kimjongilist Youth League, the General Federation of Trade Unions, the Agricultural Workers’ Union and the Democratic Women’s Union, which are all closely linked to the Workers’ Party of Korea. The State also uses compulsory self-criticism sessions and political education as a means of control. However, control over citizens’ lives through “life review sessions” and political education is reportedly weakening, as the payment of bribes is enabling people to avoid such sessions.

35. On 10 March, 687 persons were elected to the fourteenth Supreme People’s Assembly in a general election, with a voter turnout of 99.99 per cent.⁸ However, the public was obliged to vote for pre-approved candidates.

D. International abductions and separated families

36. As agreed in the Panmunjom Declaration on Peace, Prosperity and Reunification of the Korean Peninsula, the first family reunion event in three years was held on 20 August 2018. A total of 833 people, including a 101-year-old man, from the Democratic People’s Republic of Korea and the Republic of Korea met with their family members from whom they had been separated since the Korean War. Since reunion events started in 2000, only 20,761 of the 133,299 applicants who have registered to meet their family members have been able to participate. Moreover, about 65 per cent of the separated family members who are still alive are in their eighties or older, highlighting the urgency with which this long-standing issue needs to be resolved.⁹

37. At the inter-Korean summit in Pyongyang in September 2018, the Democratic People’s Republic of Korea and the Republic of Korea agreed to open a permanent facility for family reunion meetings in the Mount Kungang area and to resolve, as a matter of priority, the issue of video meetings and exchange of video messages among the separated families. The Republic of Korea has completed the purchase of the equipment for video messaging to be sent to the Democratic People’s Republic of Korea and started renovation of the 13 video reunion centres. The centres have not been used since 2007, when the two countries held their last video reunion event. Given the advanced ages of those affected, OHCHR and the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea have repeatedly urged both sides to allow permanent contact between separated families, including through meetings, regular written correspondence, telephone communications and video messaging.

38. At its 116th session, the Working Group on Enforced or Involuntary Disappearances transmitted 12 newly reported cases to the Democratic People’s Republic of Korea; the Working Group transmitted 16 cases at its 117th session and 14 cases at its 118th session. As at 22 May 2019, there were 275 outstanding cases

⁸ KCNA Watch, “Report on results of election of deputies to SPA issued”, 13 March 2019. Available at <https://kcnawatch.org/newstream/1552459584-11602048/report-on-results-of-election-of-deputies-to-spa-issued/>.

⁹ Data taken from the Integrated Information System for Separated Families, Ministry of Unification, Republic of Korea, as at 30 April 2019.

transmitted to the Government by the Working Group. Since 1980, the year the Working Group was established, no cases have been clarified. In its 116th and 117th session reports, the Working Group noted that it continues to be disappointed regarding the standard replies provided by the Government. On 22 May 2015, the Working Group requested an invitation to visit the country. No response from the Government has yet been received, in spite of multiple reminders sent.

39. No progress has been made in establishing the fate of 516 individuals from the Republic of Korea who the Republic of Korea considers were abducted after the Korean War. The fate of 12 Japanese nationals who were abducted in the 1970s and 1980s also remains unresolved. The Government of Japan continues to seek a resolution to the abductions at bilateral summit talks and during ministerial-level meetings with China, the Republic of Korea, the Russian Federation and the United States. The United States reportedly raised the abductions issue with the Democratic People's Republic of Korea at the Hanoi summit in February 2019. The Prime Minister of Japan, Shinzo Abe, has publicly expressed his willingness to hold a summit with the Democratic People's Republic of Korea without conditions, with the aim of resolving the abductions issue.

E. Right to an adequate standard of living

40. In his New Year's address on 1 January 2019 and his address to the Supreme People's Assembly on 12 April, the leader of the Democratic People's Republic of Korea, Kim Jong Un, emphasized the importance of improving people's standard of living and tackling corruption.¹⁰ However, the Government of the Democratic People's Republic of Korea should make further efforts to fulfil its international human rights obligations to uphold the right to an adequate standard of living, including by taking steps, to the maximum of its available resources, to progressively realize that right.

41. According to United Nations entities operating in the country, in 2019 around 10.9 million people, over 43 per cent of the total population, are undernourished. Needs also persist in health, water, sanitation and hygiene. The Global Hunger Index, which had declined from 40.3 per cent in 2000 to 28.2 per cent in 2017 (classified as "serious"), climbed to 34.0 per cent in 2018, indicating a deterioration of the situation. The population consumes 25 per cent less protein and 30 per cent less fat per person than is required for a healthy life. The current production of foods of animal origin is inadequate to have any meaningful impact on efforts to combat malnutrition. In a sample of four cooperative farms with 2,472 households and an estimated population of 9,888, total livestock products produced in 2014 amounted to 21,700 kg, which translates to an availability of just 2.19 kg per year per capita (6 g per day). Almost 10 million people do not have access to safe drinking water and 16 per cent of people do not have access to basic sanitation facilities, increasing the risk of disease and malnutrition.

42. The recent downturn in agricultural production has increased food insecurity. According to the Joint Rapid Food Security Assessment report of May 2019 of the Food and Agriculture Organization of the United Nations and the World Food Programme, the 2018 aggregate food crop production is estimated to be below average, at 4.9 million tons, 12 per cent below the near-average level of the previous year and the lowest level since the 2008/09 season. An estimated 10.1 million people are food insecure and in urgent need of food assistance. Cereal

¹⁰ The New Year's address is available at www.herald.co.zw/full-text-of-dprk-supreme-leader-kim-jong-un-new-year-address/, and the speech to the Supreme People's Assembly is available at www.nkeconwatch.com/2019/04/14/kim-jong-uns-speech-at-the-spa-in-april-2019/.

import requirements in the 2018/19 marketing year (November 2018–October 2019) are estimated at 1.59 million tons. With commercial imports officially planned at 200,000 tons and food assistance (already received or pledged) set at about 21,200 tons, the uncovered deficit for the full marketing year is estimated at an elevated level of about 1.36 million tons.

43. In this context, the Government needs to take further measures to fulfil its human rights obligations in relation to people's right to an adequate standard of living, including under the International Covenant on Economic, Social and Cultural Rights.¹¹ In relation to the right to food, with chronic food insecurity continuing nearly 25 years after a devastating famine during which up to 1 million people died,¹² the Government continues to fail to introduce the legislative, policy and institutional reforms needed to address the situation.¹³ The situation appears to be linked to the continuing mismanagement and misspending of State funds, including a continuing disproportionate amount of the country's financial and human resources being directed towards the military at the expense of the general welfare of the people, as highlighted in the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea in relation to the Government's response to the mid-1990s famine (A/HRC/25/CRP.1, paras. 588–599 and 637–649).

44. There are concerns that the Government continues to pursue discriminatory practices in relation to the realization of people's economic and social rights. It is recalled that article 2 (2) of the International Covenant on Economic, Social and Cultural Rights provides that "the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". According to United Nations entities operating inside the country, major disparities continue to exist between provinces and between rural and urban areas; for example, 32 per cent of children in rural Ryanggang Province suffer from stunting, compared with 10 per cent in Pyongyang. In Pyongbuk Province, only 14.8 per cent of children aged 6 to 23 months receive the minimum acceptable diet, compared with 54.3 per cent in Pyongyang. In rural areas, 24.4 per cent of children are stunted, compared with 15.6 per cent in urban areas. A total of 56 per cent of persons in rural areas do not have access to safely managed drinking water, compared with 29 per cent in urban areas. In Pyongyang, 97 per cent of people have access to basic sanitation, compared with 69 per cent in South Hwanghae Province. Those circumstances have a serious impact on other rights, including the right to health.

45. There continues to be a dearth of relevant data provided by the Government on the extent to which legally binding obligations concerning economic and social rights are being upheld, which is compounded by the restrictions on country access for the international community to assess and monitor the situation. The lack of data and the restrictions also hinder the ability of the international community to provide adequate and targeted humanitarian assistance. In addition, the situation inhibits the

¹¹ The clauses on the progressive realization of rights, including the right to food, under article 2 of the Covenant are also found in article 4 of the Convention on the Rights of the Child and article 4 (2) of the Convention on the Rights of Persons with Disabilities. As the Democratic People's Republic of Korea is a State party to the three treaties, it is legally bound by those obligations under international law. See also Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations (E/1991/23-E/C.12/1990/8, annex III, para. 10) and general comment No. 14 (2000) on the right to the highest attainable standard of health (E/C.12/2000/4, paras. 43–49).

¹² Stephan Haggard and Marcus Noland, *Famine in North Korea: Markets, Aid, and Reform* (New York, Columbia University Press, 2007), pp. 73–76. See also Hazel Smith, *North Korea: Markets and Military Rule* (Cambridge, Cambridge University Press, 2015), p. 148.

¹³ OHCHR, "The price is rights", pp. 12, 15 and 16.

people's own coping mechanisms, as it prevents them from seeing, for example, the true level of food insecurity, which would reveal to them the need to seek alternative sources, including the use of rudimentary markets.

46. Monitoring by OHCHR reveals that the Government is failing to support the development of small-market activity as an alternative to the inadequate system of public distribution of basic necessities, including food and household essentials. Some sources estimate that about three quarters of the population now depend partly or solely on private-market activity to survive.¹⁴ People buying and selling in the informal sector remain exposed to arbitrary arrest, detention and prosecution owing to a broadly worded Criminal Code and the absence of the rule of law and due process guarantees.

47. Through its monitoring, OHCHR has highlighted that endemic corruption is a further consequence of the exposure of people to arrest and prosecution for engaging in commercial activities, to the overall detriment of human rights. Activities associated with individual coping behaviours to secure an adequate standard of living, namely, travelling within the country and across borders, seeking employment across the border, communicating across borders, attaining goods from outside the country and engaging in commercial work inside the country, are all effectively criminalized, and people who engage in such activities are thereby susceptible to extortion by State officials. Consequently, the realization of rights regarded as universal and inalienable under international law, that is, the rights to liberty, freedom of movement and work, instead has become contingent on the ability to pay bribes to State officials and brokers.¹⁵

IV. Cooperation between the United Nations and the Government concerning the human rights situation in the Democratic People's Republic of Korea

A. Cooperation with United Nations intergovernmental bodies and treaty bodies

48. The Democratic People's Republic of Korea continued to engage in the universal periodic review mechanism of the Human Rights Council. Its record was examined for the third time, on 9 May 2019, by the Working Group on the Universal Periodic Review. The review was based on the national report of the Government (A/HRC/WG.6/33/PRK/1), the compilation of information on the Democratic People's Republic of Korea contained in United Nations documents (A/HRC/WG.6/33/PRK/2) and the summary of stakeholders' submissions (A/HRC/WG.6/33/PRK/3). The Government received 262 recommendations from 87 delegations. It has initially rejected 63 recommendations, including those relating to cooperation with the Special Rapporteur, discrimination based on the social class system (*songbun*), forced labour, political prison camps and torture and ill-treatment. While information was received from international civil society organizations, no civil society organizations from within the Democratic People's Republic of Korea submitted reports. On 14 May, the Working Group adopted the recommendations made to the Democratic People's Republic of Korea. The final outcome report, which will reflect the position of the Government on all recommendations, will be adopted by the Human Rights Council at its forty-second regular session, to be held from 9 to 27 September 2019.

¹⁴ Jieun Baek, "The opening of the North Korean mind", *Foreign Affairs*, January/February 2017.

¹⁵ For further information, see OHCHR, "The price is rights".

49. The Democratic People's Republic of Korea rejected all cooperation pursuant to Human Rights Council resolution 25/25, including with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea. No standing invitation has been issued to special procedures mandate holders, and only one mandate holder has ever conducted an official country visit (the Special Rapporteur on the rights of persons with disabilities visited the country from 3 to 8 May 2017).

50. In its resolutions 2407 (2018) and 2464 (2019), the Security Council decided to extend the mandate of the Panel of Experts on the Democratic People's Republic of Korea to assist with the implementation of Council sanctions against the country.¹⁶ In its resolution 73/180, the General Assembly condemned the long-standing and ongoing systematic, widespread and gross violations of human rights in and by the Democratic People's Republic of Korea, including those which the commission of inquiry has said may amount to crimes against humanity, and the continuing impunity for such violations. In its resolution 40/20, the Human Rights Council urged the Government to take immediate steps to end its crimes and human rights violations. The Council also decided to extend for one year the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea.

51. In December 2018, the Government submitted its initial report on the implementation of the Convention on the Rights of Persons with Disabilities. Its third periodic report to the Committee on Economic, Social and Cultural Rights has been overdue since 30 June 2008, and its third periodic report to the Human Rights Committee has been overdue since 1 January 2004.

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

52. Pursuant to Human Rights Council resolution 25/25, the OHCHR field-based structure in Seoul continued to conduct monitoring, documentation, capacity-building and outreach activities. In this context, it engaged with Governments, civil society actors, individuals who had left the Democratic People's Republic of Korea, United Nations entities and humanitarian workers operating in the country and other stakeholders. The Democratic People's Republic of Korea rejected the resolution in principle and all cooperation pursuant to it, including with the OHCHR field-based structure.

53. During the reporting period, the field-based structure in Seoul continued to gather individual testimonies and to corroborate information on allegations of human rights violations. As at May 2019, it had interviewed more than 330 individuals who had left the country. According to the Ministry of Unification of the Republic of Korea, 32,706 escapees from the Democratic People's Republic of Korea have been recorded as having entered the Republic of Korea since records began, 5,186 having entered since 2015, the year that the structure in Seoul was established.¹⁷

54. On 28 May 2019, OHCHR released a report entitled "The price is rights: the violation of the right to an adequate standard of living in the Democratic People's Republic of Korea". In the report, OHCHR analyses the Government's failure to protect the economic rights of its people on two fronts: in the provision of basic needs through State institutions and in ensuring a safe environment in which people

¹⁶ The Panel will submit its final report no later than 6 March 2020.

¹⁷ Republic of Korea, "Policy on North Korean defectors" (accessed on 20 June 2019).

can access those needs through their own endeavours to produce, buy and sell goods. OHCHR highlights the pervasiveness of corruption, as people are forced to bribe State officials to avoid arbitrary arrest, detention and prosecution as they strive to satisfy life's basic necessities through the use of rudimentary markets.

55. From 13 to 16 May 2019, OHCHR and the Department of Political and Peacebuilding Affairs organized a workshop in Geneva for members of the universal periodic review delegation of the Democratic People's Republic of Korea. The workshop provided an overview of OHCHR and the United Nations human rights system, with a focus on the implementation of recommendations from special procedures mandate holders, treaty bodies and the universal periodic review. Sessions were held on reporting to the Committee on Economic, Social and Cultural Rights, issues of migration, and the rights of persons with disabilities. Participants also observed a State party review by the Committee on the Rights of the Child.

56. On 22 March 2019, the Human Rights Council decided to continue to strengthen, for a period of two years, the capacity of OHCHR to work on accountability, and encouraged States, international and regional organizations, civil society organizations and other stakeholders to cooperate with accountability efforts, especially those of OHCHR, to ensure that crimes against humanity that might have been committed in the Democratic People's Republic of Korea did not remain unpunished (resolution 40/20).

57. During the reporting period, in line with Human Rights Council resolution 34/24, and within the limits of resources approved by the General Assembly, OHCHR continued to take steps towards implementing the recommendations of the group of independent experts on accountability for human rights violations in the Democratic People's Republic of Korea. On 7 March 2019, OHCHR submitted a report to the Council on the work carried out in furtherance of resolution 34/24 (A/HRC/40/36). An electronic database has been established and work is under way to store information gathered by OHCHR, the commission of inquiry and civil society organizations. In its analysis of that information, OHCHR confirmed the findings of the commission of inquiry that there were reasonable grounds to believe that crimes against humanity had been committed and continued to be committed in the Democratic People's Republic of Korea pursuant to policies formulated at the highest levels and implemented by local political and administrative authorities. OHCHR stressed the challenge of gaining access to evidentiary material to enable the identification of those who might be responsible for those crimes. In the report, OHCHR concluded that some progress had been made in furthering accountability for crimes possibly committed in the Democratic People's Republic of Korea, but that significant work was still required to fully meet the objectives set by the Council in its resolution 34/24, and to contribute to the eventual realization of justice for victims.

C. United Nations entities operating in the Democratic People's Republic of Korea

58. Entities of the United Nations system continue to operate in the Democratic People's Republic of Korea under significant constraints imposed by the Government. Making independent contact with the local population and conducting consultations with beneficiaries during the programming process remain challenging for the United Nations entities and their partners in terms of their efforts to develop and implement a needs-based and human rights-based approach to their humanitarian programmes. While field access continues to depend on authorizations by the Government and is often linked to operational presence, access and

monitoring conditions have improved in recent years following ongoing engagement between United Nations entities and the Government to allow for the adequate implementation of humanitarian activities. International staff of humanitarian agencies can currently access all 11 provinces, primarily in places where operations have been established. International and national staff consistently monitor projects and interview beneficiaries. In 2018, 1,855 project site visits were conducted over 854 days of monitoring by United Nations humanitarian agencies and international non-governmental organizations, covering all provinces in the country.¹⁸ Target beneficiaries are determined by operational agencies, in consultation with their relevant line ministry counterparts. However, there is still considerable room for improvement in terms of access for international organizations to carry out independent needs assessments, including in areas with no operational presence.

59. The lowest funding level in 10 years was recorded in 2018, with a funding gap of 76 per cent. The appeal to improve the humanitarian situation in the Democratic People's Republic of Korea is among the lowest funded in the world, constraining the humanitarian operations in the country even further.

60. As in 2018, sanctions imposed on the country, while not intended to affect humanitarian assistance, generated serious, unintended consequences and had a major impact on life-saving humanitarian programmes owing to disruptions to the banking channel, the breakdown of supply chains, delays in the transportation of vital goods into the country and a steady decline in donor funding. The issuance of Implementation Assistance Notice No. 7, in August 2018, was a critical step towards expediting exemption requests for humanitarian operations, although delays continue. Transportation costs and lead times have continued to increase, and humanitarian agencies are struggling to procure sufficient supplies from vendors. The challenges presented by the collapsed banking channel have not been solved, which hampers the implementation of humanitarian activities in the country.

V. Conclusions

61. The primary duty bearer in relation to the human rights situation in the Democratic People's Republic of Korea is the Government. As identified by the commission of inquiry, the Government needs to introduce profound legal, policy and institutional reforms to meet its obligations under international law with regard to economic, civil, social, cultural and political rights.

62. The Secretary-General welcomes the steps taken by the Government to engage with United Nations treaty bodies, to participate in the universal periodic review of the Human Rights Council and to engage with OHCHR in May 2019 and encourages the Government to build on that cooperation through the development of technical assistance programmes following a country visit.

63. The Secretary-General recalls that human rights are one of the three pillars of the United Nations, alongside peace and security, and development. He highlights the need for the international community to better integrate human rights concerns into ongoing efforts concerning the Democratic People's Republic of Korea.

64. The Secretary-General welcomes the continued efforts within the United Nations to follow up on the findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea. He encourages Member

¹⁸ Humanitarian country team and partners, "2019 DPR Korea: needs and priorities", March 2019.

States to continue their work in the competent United Nations bodies to ensure the full implementation of the recommendations of the commission of inquiry and the group of independent experts on accountability. He highlights that justice and accountability must be considered a critical component of the search for sustainable peace and security on the Korean Peninsula.

65. The Secretary-General reiterates the full support of the United Nations system for the continued efforts of the parties to establish new relations towards sustainable peace, security and the complete and verifiable denuclearization of the Korean Peninsula.

VI. Recommendations¹⁹

66. The Secretary-General recommends that the Government of the Democratic People's Republic of Korea:

(a) Comply with its obligations arising from international human rights law, including customary international law and the five core human rights treaties ratified by the State, and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto;

(b) Implement the recommendations made by the United Nations human rights mechanisms, namely, the universal periodic review, the special procedures mandate holders and the treaty bodies, and, to that end, increase engagement with those mechanisms and OHCHR and submit overdue reports to the treaty bodies, including its third periodic report to the Committee on Economic, Social and Cultural Rights;

(c) Take steps to enable the implementation of agreements established during the inter-Korean summits of 2018, in accordance with international human rights standards, including labour standards;

(d) Begin constructive engagement with the OHCHR field-based structure in the region, including in capacity development and technical assistance programmes;

(e) Enable OHCHR to fulfil its monitoring and protection mandate by providing country access, and provide relevant mandated organizations with access to places of detention in the country;

(f) Begin constructive engagement with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, including through the offer of an invitation for an official country visit, and allow additional thematic special rapporteurs to undertake official country visits;

(g) Take necessary measures to address the findings and recommendations of the commission of inquiry, of the group of independent experts on accountability and of OHCHR, as contained in its report on promoting accountability in the country ([A/HRC/40/36](#));

(h) Release all political prisoners, immediately address arbitrary detention cases in accordance with applicable international human rights law, and urgently take steps to ensure that trial proceedings abide by international standards;

¹⁹ Recommendations made in previous reports of the Secretary-General remain valid.

(i) Engage in dialogue with relevant United Nations entities on the situation of persons forcibly returned to the Democratic People's Republic of Korea to ensure that their human rights are upheld in accordance with international standards;

(j) Ensure the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, in a way that is both economically and physically accessible;

(k) Clarify, to the satisfaction of affected families, the history and fate of persons abducted from Japan, the Republic of Korea and other countries;

(l) Take the steps necessary, in collaboration with the Republic of Korea, to resolve the issue of family separation as a matter of priority and ensure that permanent mechanisms are in place for relatives of both countries to enable them to remain in touch and have periodic reunifications, keeping in mind that such reunion events should become routine and include many more people, including affected Koreans worldwide;

(m) Provide free and unimpeded access to United Nations entities and humanitarian agencies throughout the territory of the Democratic People's Republic of Korea, as well as access to critical data, so as to enable them to adequately and independently assess needs, respond to those needs and monitor programmes.

67. The Secretary-General recommends that the international community:

(a) Consider appropriate follow-up action to the report of the commission of inquiry, in accordance with Human Rights Council resolutions 25/25, 28/22, 31/18, 34/24, 37/28 and 40/20 and General Assembly resolutions 69/188, 70/172, 71/202, 72/188 and 73/180;

(b) Consider appropriate follow-up action to the report of the group of independent experts on accountability, in accordance with Human Rights Council resolutions 34/24, 37/28 and 40/20;

(c) In line with efforts to counter trafficking in persons, extend protection to citizens of the Democratic People's Republic of Korea who have crossed international borders irregularly (many of whom are female victims of trafficking), and take steps to ensure that they are protected and not repatriated;

(d) Provide adequate and sustainable funding for humanitarian assistance, especially food and medicine, with a view to improving humanitarian conditions and the human rights situation in the country;

(e) Take further steps to minimize the unintended adverse humanitarian consequences of sanctions imposed on the Democratic People's Republic of Korea, including in relation to humanitarian assistance, taking into account general comment No. 8 (1997) on the relationship between economic sanctions and respect for economic, social and cultural rights of the Committee on Economic, Social and Cultural Rights (E/C.12/1997/8).