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Submission to the UN Special Rapporteur on the Situation of Human Rights in the DPRK on the progress in accountability for human rights violations in the Democratic People's Republic of Korea for the Special Rapporteur's report to the 55th Human Rights Council session in March 2024

The UN Commission of Inquiry for DPRK (COI), in its February 2014 findings, concluded that crimes against humanity continue "because the policies, institutions, and patterns of impunity that lie at their root remain in place."¹ Citizens' Alliance for North Korean Human Rights (Citizens' Alliance/NKHR) has been working to establish a comprehensive framework outlining these various institutions and individuals connected to such crimes, along with their specific roles and responsibilities. This required that we looked beyond specific thematic human rights violations, on which most human rights organizations focus, and adopt a comprehensive approach outlining the policies and institutions that have led to these violations in the first place and how different structures of the system and individuals involved in it operationalize - and profit from - the widespread and systematic attack on the civilian population.

By redirecting our attention to the state's structures enabling these crimes, we have gained a deeper understanding of the recurring patterns, methodologies and operational strategies employed by DPRK (North Korea). We also recognize the significance of linking these crimes to those who have profited from them, such as the military and security forces, as well as the high-level leadership of the government. Through our investigation, we are actively examining the interconnectivity between these institutions' involvement in crimes against humanity and the related supply chains, business practices, and exports which fund these crimes. The results of this approach are detailed in two documents released by the Citizens' Alliance. The first report sets out the findings of our investigation which uncovered the financial links between the extract industry and intergenerational slavery in mines, military complexes, and political prison camps in North Korea ([*Blood Coal Export from North Korea. Pyramid Scheme of Earnings Maintaining Structures of Power*](#))². The second investigation documents crimes against humanity committed against women enslaved and tortured in detention and the international

¹ *Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, A/HRC/25/CRP, paragraph 1160.

² Citizens' Alliance for North Korean Human Rights. *Blood Coal Export from North Korea. Pyramid Scheme of Earnings Maintaining Structures of Power*, Seoul, January 2020.

supply chain which funds these crimes. ([Written Statement to the U.S. Congressional Executive Commission on China. Hearing on the forced repatriation of North Korean Refugees](#)).³

In the pursuit of justice for victims and accountability for perpetrators of these crimes, it is crucial to prioritize measures that address both judicial and non-judicial forms of accountability. However, in recent years, non-judicial forms such as documentation, truth-seeking and memorialization pursued by victims' organizations, civil society organizations and governmental and intergovernmental institutions have received more attention than judicial mechanisms. All the while, impunity continues.

Citizens' Alliance is committed to implementing the recommendations made by the COI, including strengthening mechanisms for accountability, in particular access to justice for victims of crimes documented through the above-mentioned investigations. However, the challenge lies in ensuring accountability for crimes committed in the DPRK while considering the limitations of the International Criminal Court (ICC).

To address this, and in line with the notion that justice efforts should be close to communities in which the victims live, we have adopted an approach together with the international criminal law expert practitioners of Partners in Justice International (PJI), which focuses on bringing justice for international crimes as close as possible to where the victims live. This means focusing on national jurisdictions; and in particular, the Republic of Korea.

Our approach aligns with the key recommendations of the COI, which recognized that the international community could only hold a limited number of high-level perpetrators accountable. Therefore, the COI emphasized the need for a parallel justice process led by Korean authorities once comprehensive political and institutional reforms were underway in the DPRK. To ensure justice was served, it recommended the establishment of a domestic special prosecutor's office, with international assistance as required, to prosecute those responsible for human rights abuses.⁴

The main focus of the Commission of Inquiry was to examine the justice aspect of the potential transition in the DPRK, considering that the United Nations recognizes both DPRK and the Republic of Korea (South Korea) as separate states. However, it is important to note that according to Article 3 of the Constitution of the Republic of Korea, (and in fact the same provision is in the DPRK constitution) the entirety of the Korean Peninsula, including the territory belonging to DPRK, is considered part of the South Korean state. This provision means that South Korean courts have jurisdiction over both North Koreans and South Koreans,

³ *Written Statement provided by Joanna Hosaniak, Citizens' Alliance for North Korean Human Rights. "Hearing on the forced repatriation of North Korean Refugees from China". U.S. Congressional Commission on China, June 2023.*

⁴ *Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, A/HRC/25/CRP, paragraph 1203.*

including North Korean nationals who have escaped DPRK and are residing in South Korea. Among these individuals are both victims and perpetrators of serious human rights violations.

Furthermore, South Korea, as a signatory of the Rome Statute of the International Criminal Court, allows for the prosecution of international crimes within its own jurisdiction. This is made possible through the Act on Punishment of Crimes under Jurisdiction of the International Criminal Court (Act No. 8719, Dec. 21, 2007, amended by Act No. 10577, Apr. 12, 2011). This Act in Paragraph 3 applies to both Korean nationals and foreigners who commit crimes specified in the Act within the territory of South Korea or abroad. Consequently, the Act can be employed in a range of situations connected to criminal acts committed in the DPRK.

In our 2016 report to the Group of Independent Experts on Accountability for DPRK, attached as an annex to this submission, we discussed pursuing one of these options as Korean-led justice process:

A number of States Parties with dualist systems have domesticated through legislation the international crimes codified in the Rome Statute. These domesticated international crimes can be prosecuted in domestic courts using domestic criminal procedure and rules of evidence. South Korea has the largest population of resettled North Koreans, and in 2007 it enacted the Act on Punishment, Etc. of Crimes under Jurisdiction of the International Criminal Court which punishes crimes “within the jurisdiction of the International Criminal Court”. (...). Any crime provided for in Articles 8 to 14 of the Act, including crimes against humanity and war crimes, which is committed against a citizen of the Republic of Korea on the territory of the DPRK can therefore give rise to a prosecution under this act in the courts of South Korea. This could include cases where South Koreans are held in detention camps in the DPRK for a period after the Act is promulgated after 2007, where that detention amounts to a crime under the Act. Although this provision will apply to a relatively limited number of cases, the prosecution of one case can encourage other cases to be built and litigated. Accompanied by effective outreach, communication, and public information campaigns, the impact of one case can be felt very widely, giving hope to a larger population of survivors and those affected by the atrocities.⁵

To effectively implement ROK national laws which criminalize international crimes including crimes against humanity and war crimes, it is important to establish a community with shared values and objectives. The Citizens’ Alliance for North Korean Human Rights in partnership with Partners in Justice International have been undertaking various initiatives to expand collaboration networks in the Republic of Korea (ROK) by engaging with prosecutors and other lawyers, government institutions, as well as practitioners at all levels who are willing to learn and contribute to accountability efforts in the future. Our approach aims to empower domestic

⁵ Joanna Hosaniak and Daye Gang, *Report on Accountability Strategy for Human Rights Violations in the DPRK*, Seoul: Citizens’ Alliance for North Korean Human Rights, December 2016, p.9.

justice systems that may not have previous experience in handling cases involving grave human rights violations that amount to crimes against humanity. Given the complexity of these crimes, it will take time for these systems to adapt and understand how such cases should be handled within their own jurisdictions. The Republic of Korea has the relevant legislation to handle these cases in their own national courts. As the ROK government has demonstrated its support for international justice globally, it is anticipated that they will be willing to prosecute these crimes in their own national courts. NKHR and PJI are working to support them in doing so.

Accordingly, the main objective of our organization is to develop a comprehensive evidence package for the potential prosecution of crimes against humanity that can be provided to interested jurisdictions who may prosecute these crimes in their national courts. Simultaneously, NKHR and PJI continue to provide support to national practitioners in ROK to share with them the technical skills required to prosecute crimes against humanity. This will enable them to effectively investigate and prosecute such cases in the courts of the Republic of Korea. To achieve this, the Citizens' Alliance for North Korean Human Rights continues collaboration with Partners in Justice International to offer ongoing assistance and impart necessary technical skills and knowledge to the national practitioners involved.

Finally, many North Koreans do not understand that courts can be a means of accountability, rather than just punishment for political crimes, as it was often their experience in DPRK. This lack of understanding can create barriers to equitable participation for North Koreans. Therefore, it is important for Citizens' Alliance and its international legal experts to empower local lawyers who can offer legal advice and representation to victims and witnesses, including those with insider knowledge.

Recommendations:

The Democratic People's Republic of Korea has been able to strengthen its economic profit and weapons program through the utilization of crimes against humanity, such as enslavement, torture, sexual violence, and persecution based on religion, class, and/or political opinion. These crimes are financed by an international supply chain connected to the production sites in which these crimes have been committed – in spite of international sanctions and other efforts to inhibit financial gain by DPRK authorities. By expanding NKHR's investigation to explore in greater depth the financial crimes which fund these mass atrocities, the international community can uncover the individuals and structures within the state responsible for perpetrating crimes against humanity in North Korea, as well as how these crimes are facilitated through the country's economic and security forces system. The international community has yet to conduct a thorough investigation that reveals these connections and perpetrators behind them. Such international investigation would have unique access to information and expertise that non-governmental organizations may not possess.

The Citizens' Alliance for North Korean Human Rights recommends that the President of the UN Human Rights Council appoint a panel of experts. This panel, in collaboration with

the current UN Special Rapporteur on the Situation of Human Rights in DPRK, should examine the institutional framework, individuals involved, and chain of command of the military and security forces in the DPRK (Ministry of State Security, Ministry of People's Safety, Korea People's Army and Second Economic Committee in charge of nuclear and missile weapons program) that are responsible for and profiting from commission of mass atrocities, including sexual violence, and other crimes against humanity. It is important to understand how these forces are able to sustain themselves through their involvement in these crimes and the international supply chain, business and military networks that support them.

Much of the evidence suggests that the same military and security forces responsible for crimes against humanity are also contributing to the production or proliferation of weapons by North Korea, which destabilize various regions in the world. As such, it should be brought to the international stage for discussion. Therefore, we strongly urge that the UN Security Council hold a briefing dedicated to the situation in the DPRK, with a primary focus on the connection between its military and security forces, their international supply chain connected to mining and light industries and crimes against humanity attached to them. Given that many of these crimes are committed against women involving their enslavement and sexual violence while in detention, and the profits derived from women's production are used to fund the expansion of security and military forces, this topic is also particularly relevant within the Women, Peace, and Security framework, which is one of the UN Security Council's top agendas.

This submission is public and may be quoted as required.

For further inquiries related to this submission, please contact:

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