



Human Rights Watch Submission on Progress in Accountability Work on North Korea for the Special Rapporteur's Report to the 55th Human Rights Council Session

January 24, 2024

Dear Elizabeth Salmon,

Human Rights Watch welcomes the opportunity to provide an overview of our efforts to advance accountability for serious human rights violations, particularly crimes against humanity, in the Democratic People's Republic of Korea (DPRK, North Korea). Additionally, this submission outlines our intended steps for further advancing accountability measures, including our key recommendations to the United Nations Human Rights Council, the Office of the UN High Commissioner for Human Rights (OHCHR), and the Special Rapporteur:

- At its 55th session, the Human Rights Council should request that the High Commissioner for Human Rights provide a comprehensive update on the human rights situation in the DPRK since 2014, with the support of a senior expert in collaboration with the Special Rapporteur to assist in the preparation, launch, and follow-up advocacy of the comprehensive report. This report would be crucial to fill the existing information gap, highlighting the voice of victims of rights abuses committed during Kim Jong Un's rule.
- The OHCHR should continue to prioritize its work on criminal accountability for serious crimes in the DPRK, which includes strengthening monitoring and documentation, filling its evidence repository, assessing information and testimonies, and developing prosecutorial strategies to be used in any future accountability process. UN member states should support and adequately resource this important tool to advance accountability for serious crimes in North Korea.
- The Special Rapporteur and the High Commissioner for Human Rights should continue to consult with civil society organizations on future potential avenues for accountability for serious crimes in North Korea, including through universal jurisdiction.

Despite some important efforts made over the years to foster criminal accountability for serious crimes in North Korea, as outlined below, impunity still prevails. More needs to be done to ensure that those responsible are brought to justice. We believe that in the current context these recommendations provide useful steps in that direction.

- 1. What concrete measures have you taken to advance accountability for serious human rights violations, including crimes against humanity, in the Democratic People's Republic of Korea?**

Human Rights Watch has actively engaged in research, advocacy, and outreach to address human rights violations in North Korea. These measures include documenting serious abuses in news releases and reports, providing media commentary, conducting advocacy with the DPRK and concerned governments, such as the Republic of Korea (South Korea), Japan, the United States, and the European Union and its members states, including Romania, France, and Germany, and UN bodies, coordinating with civil society. These measures have shed light on the severity of the situation and advocating for accountability for human rights violations committed in North Korea.

Until the mid-1990s, there was little information available about the situation inside North Korea and the oppressive system used by the government to control the population. As North Koreans started illegally crossing into China to escape starvation due to a famine, Human Rights Watch began working on North Korea.

Human Rights Watch has sent the North Korean government [letters](#) asking Kim Jong Un to [protect human rights](#) in the country and engaged in the [Universal Period Review](#) and UN treaty body procedures, including the [Committee on the Elimination of Discrimination against Women](#) and the [Committee on the Rights of the Child](#). Human Rights Watch has also regularly called on other governments to engage in diplomatic efforts with North Korea, address human rights in its engagement, and make offers of monitored aid, when needed.

At the same time, Human Rights Watch has taken steps to advance accountability for serious human rights violations through international mechanisms and engagement with UN member states.

Human Rights Watch [strongly advocated](#) for the [establishment](#) of the 2013 [Commission of Inquiry](#) (COI) on the situation of human rights in North Korea. Human Rights Watch worked with then UN Special Rapporteur Marzuki Darusman, who supported the creation of a COI in his [reports](#), diplomats in Geneva, and government officials in capitals, including [Tokyo](#), Seoul, [Washington](#), and the [European Union](#), as well as civil society organizations such as the Citizens' Alliance for North Korean Human Rights, the former Open North Korea, and the [International Coalition to Stop Crimes Against Humanity in North Korea](#), to establish a COI on North Korea.

Human Rights Watch then supported the [COI](#), chaired by Australian Justice Michael Kirby, with connections to civil society organizations and victim groups, and assisted the organization of public hearings around the globe.

- At the Human Rights Council, we advocated for stronger resolutions on North Korea, which paved the way for: the opening of the OHCHR's Seoul field office, which became operational in June 2015, "to ensure accountability, to provide the Special Rapporteur with increased support, to enhance the engagement and capacity-building of the Governments of all States concerned, civil society and other stakeholders and to maintain the visibility of the situation of human rights in the Democratic People's Republic of Korea, including through sustained communications, advocacy and outreach initiatives";
- the appointment of a group of independent experts to explore ways to seek accountability for rights abuses in North Korea, in March 2016; and

- the allocation of additional resources to support OHCHR’s work on criminal accountability for serious crimes. In March 2017, the Human Rights Council allocated additional resources to “strengthen monitoring and documentation efforts, established a central information and evidence repository, and having experts in legal accountability to assess all information and testimonies with a view to developing possible strategies to be used in any future accountability process.” In late 2017, the High Commissioner appointed a temporary senior expert on accountability to develop future prosecutorial strategies.

Since late 2019, Human Rights Watch identified the need to continue to strengthen OHCHR’s work on criminal accountability for serious crimes in North Korea. We have continued to advocate for the [mandate](#) of the North Korea accountability project to be [updated](#) to be aligned with other accountability mechanisms and “having legal experts collect, consolidate, preserve, and analyze evidence of the most serious international crimes and violations of international law consistent with international law standards, with a view to cooperating and sharing information and facilitating fair and independent criminal proceedings in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes,” and for the Human Rights Council to support and adequately resource the OHCHR’s accountability work on the DPRK.

In 2021, we started asking the Human Rights Council to support the addition of an expert [on financial forensics and human rights](#), and a Korean-speaking outreach officer to more effectively engage with civil society, which led to the addition of a Korean-speaking outreach officer in OHCHR’s Seoul office.

We also asked the OHCHR to analyze South Korean criminal law and procedure to identify opportunities and possible limitations, with the aim of devising a strategy to investigate and prosecute crimes committed in North Korea in the future.

In 2022, under new President Yoon Seok-yeol, Human Rights Watch urged the South Korean government to improve and update the methodology and quality of its evidence gathering at the Ministry of Unification’s North Korean Human Rights Records Center, so it can support potential future criminal prosecutions based on materials held by the North Korea Human Rights Archive at the Ministry of Justice. At the same time, Human Rights Watch, together with other civil society organizations, started exploring future avenues for international justice and human rights accountability for crimes committed in North Korea.

Since early 2023, Human Rights Watch has been asking the Human Rights Council to commemorate the 10th anniversary of the COI by requesting the High Commissioner for Human Rights to prepare a comprehensive report, with the support of a senior expert, that provides an update on the most serious human rights violations in North Korea identified in and since the COI.

Beginning in 2014, we also asked the [UN Security Council](#) to refer the situation of North Korea to the International Criminal Court (ICC) and discuss such possible referral in open debates at the council, as well as the threat of North Korea’s rights violations to international peace and security. As the focus shifted in 2018 to engagement with North Korea under then South Korean President Moon Jae-in and then US President Donald Trump, Human Rights Watch pressed for continued attention to the human rights situation in the country and the need for accountability. Since mid-2022, we have been calling on the UN Security Council to resume formal discussions on North Korean human rights as a threat to international peace

and security, which led to an Arria-formula meeting on North Korean human rights in March 2023, and an open formal discussion at the council in August 2023.

Since 2019, Human Rights Watch has been supporting closed-door efforts to bridge divides between human rights, security, aid, and development sectors, to build trust among them to improve information sharing and ensure that all engagement with North Korea addresses human rights.

Since late 2022, Human Rights Watch has been supporting HanVoice's initiative to create an intermediary fund to provide sustainable and diverse funding to civil society organizations working to promote human rights in North Korea.

2. What steps are you intending to take to further advance the accountability measures for serious human rights violations in the Democratic People's Republic of Korea?

Human Rights Watch is committed to addressing the persistent human rights violations in North Korea, and our main priority is strengthening work to foster criminal accountability for serious crimes. Sustained advocacy, diplomatic pressure, and international collaboration is crucial to bring about meaningful change and accountability for the victims of human rights violations in North Korea.

The groundbreaking 2014 COI report significantly advanced the understanding of the human rights situation in the DPRK and galvanized many governments and stakeholders to take measures to address the horrific abuses described in the report and pursue justice. However, currently, there is a crucial information gap on the overall human rights situation in North Korea since the COI report, and no comprehensive and authoritative UN document has been published highlighting the voices of the victims of rights abuses committed under Kim Jong Un's leadership.

This year marks the 10th anniversary of the COI report and offers an opportunity to advance criminal accountability efforts. There are supportive governments in South Korea and the US, and committed actors, such as yourself, the UN Special Rapporteur; South Korea's ambassador for international cooperation on North Korean human rights, Lee Shin Hwa; the new head of the Seoul office of the OHCHR, James Heenan; and the US special envoy for North Korean human rights, Julie Turner.

We are asking the Human Rights Council in its 55th session to request in the resolution on North Korea for the High Commissioner to prepare a comprehensive report that provides an update on the most serious human rights violations in North Korea since the COI. The report should have the support of a senior expert, appointed by the High Commissioner, to assist in its preparation and launch. The High Commissioner and the senior expert should work in consultation with the UN Special Rapporteur and other relevant UN special procedures mechanisms, victims of abuses and their families, human rights defenders, civil society, and diaspora North Korean communities. We recommend the report address serious human rights violations identified in and since the COI report, and assess any progress made towards the implementation of the COI's recommendations, in particular on accountability for crimes against humanity.

Human Rights Watch will continue to support the OHCHR in prioritizing its work on criminal accountability for serious crimes in the DPRK and urge UN member states to support and adequately resource such work. The OHCHR's North Korea accountability

project is essential to ensure that those responsible for human rights violations are one day held accountable. The evidence repository and analysis of the OHCHR North Korea accountability project will be a crucial asset for any future criminal proceedings for serious crimes committed in North Korea. The work of the OHCHR on criminal accountability for serious crimes in North Korea also increases the cost for the North Korea government to continue committing grave rights violations. The North Korea government was strongly critical of the COI findings and its recommendations, indicating that it is susceptible to the work of the OHCHR on North Korea. Despite its crucial mandate to support justice for serious crimes, the OHCHR office in Seoul has limited funds for its accountability work and as the only international body with a focus on accountability, additional support would enable it to advance this work.

Human Rights Watch will continue asking UN member states to jointly commit to the establishment of an intermediary fund to support civil society organizations working to promote human rights in North Korea with sustainable and diverse funding. Under Kim Jong Un, North Korea has increased its repression with tight border security and movement domestically, crackdowns on informal economic activity, and repression of freedom of expression and reduced access to external information, all ostensibly justified by the government using Covid-19 as a pretext. This has made it extremely difficult for North Korean people to escape the country and for people outside the country to get information from inside North Korea.

As North Korea has become more isolated than ever at multilateral forums and information access has become extremely difficult, the already precarious civil society organizations working on North Korea are facing existential challenges, including lack of diverse and sustainable funding, which lead to difficulties in professionalizing organizations, retaining or recruiting talent, and providing adequate salaries and benefits to staff.

Human Rights Watch will continue to work with other civil society organizations to explore potential avenues for future accountability for serious crimes committed in North Korea.

3. If some of the actions you have been taking are guided by the recommendations made by the UN Commission of Inquiry (COI) on human rights in the Democratic People's Republic of Korea issued in February 2014, please specify which recommendations and explain how they have influenced your work.

Human Rights Watch acknowledges the importance of the recommendations of the 2014 COI report. Our actions and strategy on North Korea, especially on accountability, have been guided by many recommendations outlined in it, throughout this last decade.

Our recommendation to create an intermediary fund is based on consultations with dozens of civil society organizations, as well as the COI's call to states, foundations and engaged business enterprises to "provide more support for the work of civil society organizations to improve the human rights situation in the Democratic People's Republic of Korea, including efforts to document human rights violations and to broadcast accessible information into each country."

Human Rights Watch has consistently supported the requests of the Human Rights Council for monitoring and reporting of the UN Secretary-General and the High Commissioner for Human Rights, as well as Special Rapporteur mandate, aligned with the COI's recommendations to "extend the country-specific human rights monitoring and reporting

mechanisms on the Democratic People's Republic of Korea that pre-date the establishment of the Commission.”

Based on the recommendation to the Security Council to “refer the situation in the Democratic People's Republic of Korea to the International Criminal Court for action in accordance with that court's jurisdiction,” Human Rights Watch asked council member states to refer the situation of North Korea to the ICC, and, if not possible, to hold discussions at the council on the human rights situation in the country. Human Rights Watch supported the establishment of a field-based “structure to help to ensure accountability for human rights violations in the [DPRK], in particular where such violations amount to crimes against humanity” to “build on the collection of evidence and documentation work of the Commission, and further expand its database,” “informing the work of human rights reporting mechanisms and serving as a secure archive for 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,” which led to the opening of the OHCHR Seoul office in 2015.

The COI asked the Human Rights Council to “ensure that the conclusions and recommendations of the Commission do not pass from the active attention of the international community. Where so much suffering has occurred, and is still occurring, action is the shared responsibility of the entire international community.” This recommendation fed into our call for the Human Rights Council to request the High Commissioner prepare the comprehensive report updating the most serious human rights violations in North Korea in and since the COI, with the support of a senior expert.

Consistent with the COI's call to the UN secretariat and agencies to “urgently adopt and implement a common ‘Rights up Front’ strategy to ensure that all engagement with the Democratic People's Republic of Korea effectively takes into account, and addresses, human rights concerns,” Human Rights Watch has been advocating for the consistent consideration of human rights in any engagements with North Korea, including in relations to weapons development, weapons proliferation, international peace and security, and financial crimes.

We have regularly asked UN member states to offer monitored humanitarian aid to North Korea, in line with the COI's call on governments' not to “use the provision of food and other essential humanitarian assistance to impose economic or political pressure on the Democratic People's Republic of Korea.”

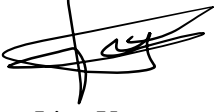
In line with the COI's clarification that it “does not support sanctions imposed by the Security Council or introduced bilaterally that are targeted against the population or the economy as a whole” and in line with former Special Rapporteur Ojea Quintana's call, Human Rights Watch recommends that UN member states support a review of Security Council sanctions on North Korea to evaluate impacts on human rights and delivery of humanitarian aid and other forms of assistance.

Human Rights Watch's collaborative and comprehensive approach to advancing accountability for serious human rights violations in North Korea is aligned with the recommendations of the COI report.

We appreciate your ongoing efforts to monitor and report on the human rights situation in the DPRK. We are always available to work with your office to advance accountability and promote the human rights of the North Korean people.

Thank you for your attention to this important matter.

Best regards,

A handwritten signature in black ink, appearing to be 'Lina Yoon', written over a horizontal line.

Lina Yoon
Senior Korea Researcher
Human Rights Watch