

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 36/6, 40/20 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged continued disappearance of 11 individuals, including **Jeong Gyeong-Suk, Lee Dong-Ki, Jang Ki-Yeong**, and **Choi Jeong-Woong**, after the hijacking of Korean Air Lines flight YS-11 in 1969.

We would like to recall that the alleged enforced disappearance of three of the individuals, Mr. Jeong-Woong Choi (case no. 10003183), Mr. Dong-Ki Lee (case no. 10003184), and Mr. Hwang Won (case no. 10003185), have already been treated under the humanitarian mandate of the Working Group on Enforced or Involuntary Disappearances.

According to the information received:

On 11 December 1969, a domestic flight, Korean Air Lines YS-11, took off from Gangneung Airport in the Republic of Korea at 12.25 p.m. After about 10 minutes, an agent of the Democratic People's Republic of Korea (DPRK), entered the cockpit and forced the pilots at gunpoint to divert the plane to the DPRK. Fighter pilot jets from the DPRK accompanied the plane to land at Yonpo airbase near Hamheung City, South Hamgyeong Province.

The 50 passengers and crew who were on board the flight were blindfolded, escorted by DPRK soldiers onto two buses and put in a waiting room in the airbase. The hijacker was escorted into a black sedan and driven away.

On 13 December 1969, the DPRK's official news agency claimed that the pilots of the plane had willingly landed in DPRK as a protest against the policies of the Government of the Republic of Korea. On 14 December 1969, the crew members and passengers were taken to Pyongyang, separated into three groups and detained in three different hotels (Pyongyang, Daedong, and Duyeon).

From 16 December 1969 onwards, the 50 abductees were interrogated. They were also subjected to “ideological education” or indoctrination, which included visits to a revolutionary museum and galleries. Allegedly, persons who questioned or resisted the ideology were subjected to torture and ill-treatment including being drugged and electrocuted.

On 4 February 1970, the Red Cross of the DPRK sent a cable to the International Committee of the Red Cross, indicating that the DPRK intended to unilaterally return the crew members and passengers “if they so desired”.

On 14 February 1970, the DPRK returned 39 of the 50 passengers to the Republic of Korea at the Joint Security Area (JSA) but refused to repatriate the remaining 11 individuals (4 crew members and 7 passengers) including:

- Jeong Gyeong-Suk (정경숙, 24) of Seoul, flight attendant;
- Lee Dong-Ki (이동기, 49) of Miryang, manager of a printing company;
- Jang Ki-Yeong (장기영, 40) of Uijeongbu, food industry businessman;
- Choi Jeong-Woong (최정웅, 28) of Wonju, Hankook Slate Company employee; and
- Hwang Won (황원, 32) of Gangneung, programme director at Munhwa Broadcasting Corporation (MBC).

It is not clear why these individuals were not returned along with the others, however, they reportedly possessed skill sets at the time exploitable by the DPRK.

On 15 February 1970, the Government of the Republic of Korea organized a press conference, where 10 returnees provided their accounts of the hijacking and captivity.

The DPRK claimed that the eleven remaining crew members and passengers freely chose to stay. On 20 March 1970, a Colonel of the United Nations Command (UNC), who at the time had operational control over the Republic of Korea military forces, proposed independent third party verification of the intentions of the eleven remaining abductees at the 373rd Military Armistice Commission (MAC) meeting. However, this proposal was rejected by the DPRK.

To this date, the DPRK continues to hold the eleven abductees and continues to deny third-party verification of their freely expressed will.

In April 2019, unofficial information was received indicating that Mr. Hwang Won was being held under house arrest in Sariwon, 100 kilometers south of Pyongyang, DPRK. There has been no official confirmation and no information is available in relation to the other 10 individuals.

These enforced disappearances have caused immeasurable pain and suffering to the families left in the Republic of Korea, who are not allowed to communicate or meet with their loved ones by the DPRK authorities.

While we do not wish to prejudge the accuracy of the information received, we express serious concern at the alleged enforced disappearances and the torture and ill-treatment of some of all those originally detained and released and those that continue to be held by your Excellency's Government in violation of, inter alia, articles 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR), which the DPRK acceded to on 14 September 1981.

We welcome the repatriation of 39 of the passengers to the Republic of Korea in 1970, however, we note that it has been more than 50 years since the hijacking of Korean Air Lines, flight YS-11 and since the 11 remaining individuals' disappearance. We are extremely concerned that there has yet to be any confirmed information on their fate and whereabouts. We call on the DPRK to urgently provide information about their status, to allow them to freely communicate with their relatives and to repatriate them as soon as possible.

We further reiterate the concern expressed by the Working Group on Enforced or Involuntary Disappearances, regarding the identical replies received from the DPRK in relation to cases transmitted by the Working Group, note that 275 cases remain outstanding under the Group's humanitarian procedure and highlight that the Working Group has called on the Security Council to consider referring the situation in the Democratic People's Republic of Korea to the International Criminal Court (A/HRC/WGEID/118/1, para. 46, A/HRC/42/40, page 25 and A/HRC/39/46 para. 90 respectively).

We additionally note that in 2014, the Commission of Inquiry on human rights in the DPRK, established by Human Rights Council resolution 22/13 of 21 March 2013, stated that the abduction of a civil airliner and its passengers is a serious violation of international law and reminded that "since 1983, the DPRK is also a State Party to the Convention for the Suppression of Unlawful Seizure of Aircraft, which requires it to facilitate the onwards travel of any passengers aboard a unlawfully seized plane that lands in the DPRK," (A/HRC/25/CRP.1, para. 899). It further found that the "DPRK authorities have committed and are committing crimes against humanity against persons from other countries, namely victims of international abduction and other persons denied repatriation," (A/HRC/25/CRP.1, para. 1138).

The General Assembly and Human Rights Council in their annual resolutions on the DPRK, have also condemned abduction and enforced disappearance of foreigners as a

matter of state policy and urged their immediate return (A/HRC/RES/40/20, paras. 1 (f) and 2 (f) and A/RES/74/166 (preamble and paras. 2 (iii) and 3).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide precise information on the fate or whereabouts of the 11 individuals.
3. Please provide information on measures taken to ensure the 11 individuals can freely exchange phone calls and letters with their family members.
4. Please provide information on any prompt and impartial investigations into the alleged hijacking and any criminal proceedings taken against those responsible, in line with international human rights obligations.
5. Please provide information on any measures which have been taken, or which are foreseen, for the purpose of ensuring all the victims obtain redress for the harm inflicted on them by acts or omissions occurring in or from the jurisdiction of DPRK.
6. Please provide information on any investigations undertaken into the alleged torture and ill-treatment of individuals after their initial abduction in 1969.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be

alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that a copy of this letter has been transmitted to the Government of the Republic of Korea.

Please accept, Excellency, the assurances of our highest consideration.

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Tomás Ojea Quintana
Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer your Excellency's Government to articles 7 and 9 of the ICCPR, which provide for the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the right to liberty and security of person. As an international norm of *jus cogens* states have the obligation to protect the physical and mental integrity of all persons within their jurisdiction and, most notably, to prevent acts or omissions amounting to torture and other cruel, inhuman or degrading treatment or punishment. In this context, we would also like to draw the attention of your Excellency's Government to paragraph 1 of General Assembly Resolution 68/156, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment".

We would also like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, and in particular that no State shall practice, permit or tolerate enforced disappearances (article 2), that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction (article 3) and that accurate information on the detention of individuals deprived of their liberty and their place or places of detention, including transfers, shall be made promptly available to their family members (article 10 (2)). These protections are non-derogable in any circumstances, even if in the context of a threat of war, a state of war, internal political instability or any other public emergency (article 7) and alleged cases should be promptly, thoroughly and impartially investigated (article 13).

We would further like to refer to Convention for the Suppression of Unlawful Seizure of Aircraft, article 9 of which requires states to facilitate the onwards travel of any passengers aboard an unlawfully seized plane. We further refer to the United Nations Security Council Resolution 286 adopted on 9 September 1970 which appeals to State parties concerned with the hijacking of aircrafts to immediately release all passengers and crew and to United Nations General Assembly Resolution 2645 adopted at its 25th session on 25 November 1970 which condemns aerial hijacking and urges states to which a hijacked aircraft was diverted provide for the care and safety of the passengers and crew and enable them to resume their journey.