

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL PRK 2/2020

23 June 2020

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 36/6, 35/15, 42/10 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 enforced disappearance of Republic of Korea civilians and prisoners of war following the outbreak of the Korean war on 25 June 1950 as well as individuals abducted following the war including Republic of Korean, Japanese and other nationals.

According to the information received:

The Korean War, between the Democratic People's Republic of Korea (DPRK) and the Republic of Korea (ROK) lasted from 25 June 1950 to 27 July 1953, when the Armistice Agreement was signed. 25 June 2020 marks the 70th anniversary of the outbreak of the War and 27 July marks the 67th anniversary of the signing of the Armistice Agreement.

During the conflict, DPRK forces abducted an estimated 80-100,000 Republic of Korea civilians in a planned operation to acquire skilled laborers and professionals.¹ While 8,343 prisoners of war were returned to the ROK between 1953 and 1954, and 80 had escaped DPRK by 2012, an estimate 50,000 were not repatriated. An estimated 500 of these are believed to be still being held in the DPRK.²

Release and repatriation of prisoners of war and return of displaced civilians was enshrined in article III of the Armistice Agreement. However, it remains to be honored by the DPRK. None of the civilian abductees were assisted to return to the ROK and the DPRK has consistently denied abductions, instead claiming the

¹ Commission of Inquiry on human rights in the DPRK (COI), established by Human Rights Council resolution 22/13 of 21 March 2013, A/HRC/25/CRP.1, a) 1950-1953: abduction of Republic of Korea civilians during the Korean War

² Ibid, (b) 1953: denial of repatriation to prisoners of war from the Korean War

individuals came voluntarily. From the outset, it would appear that the DPRK did not intend to return all prisoners of war under its control but to conceal the existence and whereabouts of the majority of them by transferring them to DPRK units. At the end of the war, many were simply never asked whether they wished to be repatriated while others could not speak truthfully as they witnessed that those who did were subjected to summary execution. After the war they were reportedly sent to work until their death in remote mines, where many workers enslaved in the mines died from accidents and diseases. A similar fate awaited the children of prisoners of war.

Abductions and enforced disappearances also continued after the signing of the Armistice Agreement, including of fishers and individuals abductions by DPRK agents in the ROK or other countries. At least 500 of these individuals are believed to remain disappeared in the DPRK.³ In the 1970s and 1980s, several Japanese nationals were also abducted,⁴ as well as individuals from several other states.⁵

These enforced disappearances have caused immeasurable pain and suffering to the families left in the ROK and elsewhere, 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 of ROK prisoners of war and civilian abductees, as well as abductees from Japan and other nations, in violation of, inter alia, articles 6, 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR), which the DPRK acceded to on 14 September 1981.

We respectfully call on the DPRK Government to provide detailed information about the status of all abductees, 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 316 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, found that the "DPRK authorities have committed and are committing crimes against

³ Ibid, (c) 1955 -1992: Post-war abduction and enforced disappearance of Republic of Korea citizens

⁴ Ibid, (f) 1970s – 1980s: abduction of Japanese nationals

⁵ Ibid (g) Late 1970s: abduction and enforced disappearance of women from other countries

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 the provision of accurate information to families, and to resolve all issues related to all abductees at the earliest possible date, in particular the return of abductees of Japan and the Republic of Korea (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 measures taken to inform families of abductees of their fate and whereabouts, to ensure they can freely exchange phone calls and letters and to ensure their repatriation.
3. Please provide information on any independent investigations undertaken into the alleged abductions and enforced disappearances.
4. 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.

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 would indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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

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

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Tomoya Obokata
Special Rapporteur on contemporary forms of slavery, including its causes and consequences

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 6, 7 and 9 of the ICCPR, which provide for the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the right to liberty and security of person.

We further highlight that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life and that states are required to conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance and introduce prompt and effective procedures to investigate cases of disappearances thoroughly, by independent and impartial bodies (Human Rights Committee, General Comment 36).

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 also like to remind your Excellency's Government that while enforced disappearance is a crime in itself, it may also amount to torture or other cruel, inhuman or degrading treatment or punishment, and is a serious violation of international law. The Committee against Torture⁶ and the Human Rights Committee⁷ have concluded that enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved-ones. The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or

⁶ See, for example, conclusions and recommendations on the second periodic report of Algeria (A/52/44, para. 79), on the initial report of Namibia (A/52/44, para. 247) and on the initial report of Sri Lanka (A/53/44, paras. 249 and 251).

⁷ CCPR/C/50/D/440/1990 (24 March 1994), para. 5.4.

punishment, is an international norm of *jus cogens*, and as reflected inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.