

Mandates of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; the Working Group on Arbitrary Detention; 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; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

6 November 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; Working Group on Arbitrary Detention; 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; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 55/21, 51/8, 54/14, 53/4, 51/15, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the execution of two women and the life-imprisonment of nine women who were forcibly repatriated by China to the Democratic People's Republic of Korea.

According to the information received:

On 31 August in 2024, a public trial was held of 11 women who were forcibly repatriated from China in the Sunam district of Chongjin city, North Hamgyong Province.

At the public trial, the North Hamgyong Provincial Court sentenced Ms. [REDACTED] (43 years old) and Ms. [REDACTED] (39 years old) to death on charges of human trafficking of escapees from the Democratic People's Republic of Korea who reside in China to the Republic of Korea, operating adult entertainment establishments, prostitution and "insulting the dignity of people". These two women were reportedly forcibly repatriated to the Democratic People's Republic of Korea from China during the large-scale repatriation of individuals from the Democratic People's Republic of Korea in October 2023 (See PRK 2/2024). The other nine women were sentenced to life imprisonment for allegedly being involved in trafficking in China.

After the trial, these eleven women were reportedly taken away in a convoy by the provincial Ministry of People's Security. Ms. [REDACTED] and Ms. [REDACTED] were reportedly executed on the same day they were sentenced to death. The fate and whereabouts of the other nine women are not known.

It is worth recalling that the legislation of the Democratic People's Republic of Korea which has been applied to this case has a number of shortcomings. For example, contrary to international human rights law, article 63 of the Criminal

Law of the Democratic People's Republic of Korea provides that a citizen who defects to a foreign country is in betrayal of the State, and that those who commit such a traitorous act such as betraying in secret shall be committed to more than five years of reform through labour. The law further states that in case of an extremely grave crime, the person concerned shall be given the penalty of reform through labour for an indefinite period or even the death penalty, as well as the penalty of confiscation of property.

Moreover, the definition of "treason to State" or "crimes against the Nation" in the Criminal Law of the Democratic People's Republic of Korea are vague, overly broad, and violate the principles of legality, necessity and proportionality. For instance, article 64 of the Criminal Law prescribes that in serious cases, the crime of insulting the dignity of the Democratic People's Republic of Korea for anti-State purposes shall be punished by life-long reform through labour or death penalty and confiscation of property. However, the acts of insulting the dignity of the State are not well defined. The Human Rights Committee, in its concluding observations in 2001, expressed concern that the political offences carrying the death penalty are "couched in terms so broad" that the imposition of the death penalty may not be confined to "the most serious crimes" only, as required under article 6.2 of the Covenant. The imposition of death penalty must be strictly limited to the most serious crimes involving intentional killing. We note that charges against these two executed women referred to in the present communication do not fall under this category of serious crimes and the current law may result in an environment where the death penalty is used arbitrarily and indiscriminately.

While we do not wish to prejudge the accuracy of these allegations, we express our concern about the involuntary repatriation in violation of the principles of *non-refoulement* and the subsequent lack of fair trial guarantees, due process and the excessive punishments imposed on eleven women at a public trial and the immediate execution of Ms. [REDACTED] and Ms. [REDACTED] without the possibility of appeal and for offenses that do not meet the "most-serious crimes" threshold as required under international law when the death penalty is imposed. We wish to recall that individuals from the Democratic People's Republic of Korea have the right to freedom of movement, including that of leaving the country. As such, exercising that right should not be criminalized.

We are also concerned about the situation of the other nine women who are sentenced to life-imprisonment and whose fate and whereabouts are currently unknown. None of them was allegedly granted due process and fair trial guarantees. Some elements of fair trial standards are contained in the legal system of the Democratic People's Republic of Korea. Accounts of escapees have, however, suggested that these standards are rarely adhered to.

The United Nations human rights mechanisms, including the special procedures experts have repeatedly expressed concerns that women escapees are highly vulnerable to sex and labour trafficking when escaping to China (see [PRK 1/2024](#)). As such, the individuals concerned in this communication are likely to be victims of trafficking. According to information received, one of the executed women was allegedly trafficked and sold to an adult entertainment establishment while escaping to China. We strongly urge your Excellency's Government to protect these women as victims of trafficking.

Also, we are gravely concerned about the fact that the fate and whereabouts of the nine women reportedly sentenced to life-imprisonment are currently unknown, thus making them victims of enforced disappearance. It is well documented that women are facing torture, cruel, inhuman and degrading treatment and conditions in detention facilities, including in *kwanliso* (political prison camps). They are reportedly often subjected to torture and ill-treatment, forced labour and gender-based violence, including sexual violence, and are deprived of food and necessities.

Detainees in *kwanliso* are denied access to communication with their families, and their families are not informed of their fate or whereabouts. We highlight that States have an obligation to promptly provide accurate information on the detention of persons deprived of liberty and on their place or places of detention, including transfers, to their family members, to their counsel or to any other persons having a legitimate interest in the information. These allegations of enforced disappearances are highly traumatic on their families and local communities, who also bear the brunt of the enforced disappearance of their loved ones. Enforced disappearance causes irreparable damage due to disruption of social and cultural life, and this has a special weight on women and children who endured the disintegration of their family structures, and their social exclusion.

We wish to reiterate that State authorities are thus obliged to take all necessary measures to effectively protect the rights of the persons deprived of their liberty, as they automatically assume responsibility for their lives, physical integrity, and wellbeing. We recall that, under international law, the failure or refusal to acknowledge a deprivation of liberty by State agents or persons or groups of persons acting with their authorization, support, and acquiescence, constitute enforced disappearance, irrespective of the duration of the deprivation of liberty or the type of concealment concerned.

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 the legal grounds for the execution of two women and life-imprisonment of nine women and how this is compliant with international human rights law.
3. Please provide detailed information on the fate and whereabouts of the nine women allegedly sentenced to life-imprisonment.
4. Please explain how the right to a fair trial and due process guarantees was ensured for these eleven women including their access to a lawyer of their choice and the right to appeal, and in the case of the death

penalty to seek pardon.

5. Please provide information about how the Democratic People's Republic of Korea guarantees that families of all detainees particularly in *kwanliso* are informed of their fate and whereabouts and are allowed to communicate with their family members.
6. Please provide information about how the Democratic People's Republic of Korea provides rights protection and care to victims of trafficking. Also provide details of the number of criminal cases on trafficking and court decisions on these cases.
7. Please provide information about the number of people who were repatriated from China, including details on those who were forcibly repatriated, since last year with gender breakdown and their current whereabouts.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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 prevent any irreparable damage to the life and personal integrity of the nine women reportedly sentenced to life-imprisonment, 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, after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. Similarly, the cases referred to in this communication do not preclude their consideration under the humanitarian procedure of the Working Group on Enforced or Involuntary Disappearances. The Government is required to respond separately to the allegation letter and the specific procedures of each Working Group.

Please be informed that a copy of this letter has also been sent to the People's Republic of China.

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

Elizabeth Salmón
Special Rapporteur on the situation of human rights in the Democratic People's
Republic of Korea

Ganna Yudkivska
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Tomoya Obokata
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Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Laura Nyirinkindi
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we wish to express serious concern about the reported arrest and detention of the abovementioned individuals. We would like to draw the attention of your Excellency's Government to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), acceded to by the DPRK on 14 September 1981. We would like to refer to articles 3, 6, 7, 9, 10, 14, and 16 of the ICCPR, read alone or in conjunction with article 2.3, which guarantee the right to life; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person; the right to a trial within a reasonable time, to challenge the legality of the detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing; the right to be treated with humanity and with respect for the inherent dignity of the human person; the right to be recognized as a person before the law; and the right to an effective remedy.

We would like to bring to the attention of your Excellency's Government that the right to freedom of movement encompasses the right to leave the country of his or her own, as provided in article 12(2) of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Democratic People's Republic of Korea on 14 September 1981. The Human Rights Committee has consistently stressed that any restrictions permitted under article 12(3) must not nullify the principle of freedom of movement and are governed by the requirement of necessity provided for in article 12, paragraph 3, and by the need for consistency with the other rights recognized in the Covenant (CCPR/C/21/Rev.1/Add.9).

We would also like to bring to the attention of your Excellency's Government article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. Moreover, article 6 of the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), ratified by your Excellency's Government on 27 February 2001, states in article 6 that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women." Also, article 2(b) of the Convention obligates States parties to provide appropriate and effective remedies to women whose rights under the Convention have been violated. Victims of trafficking have the rights to a special status and a right of special assistance and protection measures provided by the State, including access to information on their rights, information regarding their availability to medical psychological, social and legal services and safe and appropriate accommodations (paras. 39-41).

Article 6(2) of ICCPR provides that "[i]n countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes This penalty can only be carried out pursuant to a final judgement rendered by a competent court." The Human Rights Committee clarifies in its general comment No. 36 that "[the] term "the most serious crimes" must be read restrictively and pertain only to crimes of extreme gravity, involving intentional killing. Crimes not

resulting directly and intentionally in death..., although serious in nature, can never justify, within the framework of article 6, the imposition of the death penalty”.

Furthermore, the Human Rights Committee has found that “violation of the fair trial guarantees provided for in article 14 of the Covenant in proceedings resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and in violation of article 6 of the Covenant” (CCPR/C/GC/36, para. 41). This includes, amongst others the lack of an effective right of appeal (ibid).

Further, the Human Rights Committee, in its general comment No. 36, underscores the requirement of States parties “to allow individuals sentenced to death to seek pardon or commutation, to ensure that amnesties, pardons and commutations can be granted to them in appropriate circumstances, and to ensure that sentences are not carried out before requests for pardon or commutation have been meaningfully considered and conclusively decided upon according to applicable procedures” (CCPR/C/GC/36, para. 47).

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 refer to the provisions in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), acceded to by the Democratic People’s Republic of Korea on 27 February 2001, which calls on States to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation. Article 2 of the Convention also calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. In addition, the CEDAW Committee general recommendation No. 19 (1992) on violence against women defines gender-based violence as “violence that is directed against a woman because she is a woman or that affects women disproportionately, [including] acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.” Furthermore, in general recommendation No. 35 (2017) on gender-based violence against women updating the general recommendation No. 19 (1992), the CEDAW Committee clarifies that the due diligence obligation underpins the Convention as a whole and that States parties will be held responsible, should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women (CEDAW/C/GC/35).

We further wish to draw your attention to the report of the Working Group on discrimination against women and girls, which highlights the devastating consequences deprivation of liberty can have on women's lives and the heightened risk of human rights violations women face in detention (A/HRC/41/33). The Working Group noted that "deprivation of liberty ... puts [women] at risk of torture, violence and abuse, unsafe and unsanitary conditions, lack of access to health services and further marginalization," and "cuts women off from educational and economic opportunities, from their families and friends, and from the possibility of making their own choices and directing the course of their lives as they see fit" (para. 74). The Working Group also recognized that "State authorities detain and confine women in the service of their own cause," such as combatting terrorism and promoting national security, and it has recommended States to refrain from "instrumentaliz[ing] women's deprivation of liberty for the purposes of pursuing government aims" (para. 82(b)).

We also wish to refer to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (resolution 65/229, annex). The Bangkok Rules provide that effective measures shall be taken to ensure that women prisoners' dignity and respect, including during personal searches (rule 19-20). The rules moreover state that women prisoners who report abuse shall be provided immediate protection, support and counselling, and their claims shall be investigated by competent and independent authorities, with full respect for the principle of confidentiality (rule 25). In particular, women prisoners who have been subjected to sexual abuse shall receive appropriate medical advice and counselling and shall be provided with the requisite physical and mental health care, support and legal aid. Furthermore, women prisoners' contact with their families and legal representatives "shall be encouraged and facilitated by all reasonable means" (rule 26).

According to the Human Rights Committee, while the ICCPR does not explicitly use the term "enforced disappearance", it constitutes a unique and integrated series of acts and omissions representing a grave threat to life and a continuing violation of various rights recognized in the ICCPR. The deprivation of liberty, followed by a refusal to acknowledge that deprivation of liberty or by concealment of the fate of the disappeared person, in effect removes that person from the protection of the law and places his or her life at serious and constant risk, for which the State is accountable. For the disappeared person, it thus results in a violation of article 6 (right to life), article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment), article 9 (liberty and security of person) and article 16 (right to recognition as a person before the law), read alone and in conjunction with article 2(3). As regards the family, the enforced disappearance constitutes a violation of article 7, read alone and in conjunction with article 2(3) of the ICCPR. The Committee also observed that the failure to respect the procedural guarantees found in article 9(3) and (4), designed *inter alia* to prevent disappearances, could also result in a violation of article 6 (CCPR/C/GC/36).

In this regard, we reiterate that the prohibition of enforced disappearance has attained the status of *jus cogens*. In this regard, we wish to recall that the [United Nations Declaration on the Protection of All Persons from Enforced Disappearances](#) establishes that "all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4), no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6).

Furthermore, no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7), and the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances (article 9).

Additionally, the Working Group on Enforced or Involuntary Disappearances [has noted](#) the increasing practice of forced returns by States in violation of article 8 of the Declaration. It further underlined the importance of preventing human rights violations by ensuring procedural safeguards upon detention and during the first hours of deprivation of liberty, including immediate registration, judicial oversight of the detention, prompt notification of family members, and the availability of a defence lawyer of one's choice. Moreover, articles 9 to 12 of the Declaration further spell out the rights of detained persons to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty. Access by competent national authorities to all places of detention must be ensured and any deprivation of liberty be held in officially recognized places of detention. Detainees have the right to be released also in a manner permitting verification of whether their human rights have been fully ensured. Article 13 further stipulates that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.

The Declaration also establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14), and that the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts (article 16); not benefit from any amnesty law (article 18); and the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

We also wish to recall that the [Guiding Principles for the Search for the Disappeared](#) of the United Nations Committee on Enforced Disappearances establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); and be interrelated with the criminal investigation (principle 13).

In its [General Comment](#) on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms.

Similarly, in its [General Comment](#) on women and enforced Disappearances, the Working Group also noted that States have an obligation to recognize the particular types of harm women suffer based on their gender and the resulting

psychological damage and social stigma as well as the disruption of family structures. The Working Group observes that transnational transfers embody a denial of justice insofar as individuals are deprived of liberty in the form of secret detention and are removed from the protection of the law. They are, as such, deprived of the rights to an effective remedy and fair trial, in denial of the presumption of innocence. In addition, the individuals concerned are unable to challenge the lawfulness of their detention, denied access to legal representation, and often induced to forced confession of guilt under duress. We recalls that such practices can also facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment under certain circumstances.

In its [report](#) on standards and public policies for an effective investigation of enforced disappearances, the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received.