

September 12, 2023

President Yoon Suk-yeol

CC. Prime Minister Han Duck-soo
Minister of Foreign Affairs Park Jin
Minister of Unification Kim Yung-ho
Minister of Justice Han Dong-hoon
Minister of National Defense Lee Jong-sup

Re: Discussion of the issues of South Korean POWs, abductees and detainees in North Korea as well as China's forcible repatriation of North Korean refugees in the keynote address during the general debate of the 78th UN General Assembly on September 20, 2023

Dear President Yoon Suk-yeol,

We ask that you publicly urge the resolution of the issues of South Korean POWs, abductees and detainees in North Korea and reform of China's policy and practice of forcible repatriation of North Korean refugees in the keynote address during the general debate of the 78th UN General Assembly on September 20, 2023.¹

1. The issues of South Korean POWs, abductees and detainees in North Korea

For the past 70 years, North Korea has refused to repatriate an estimated 50,000 South Korean POWs (prisoners of war) and 100,000 civilian abductees in clear violation of the 1953 Armistice Agreement as well as the 1949 Geneva Conventions relative to the Treatment of Prisoners of War and relative to the Protection of Civilian Persons in Time of War. Even after 1953, North Korea has denied the repatriation of at least 516 South Korean POWs and civilian abductees including from the Vietnam War and the 1970 seizure of the ROK Navy broadcast ship I-2, over 60 seizures of fishing vessels in 1955-1987 and the 1969 Korean Air Lines YS-11 hijacking. Recently, North Korea continues to detain at least 6 South Korean citizens (Kim Kuk-gi, Choi Chun-gil; Kim Jeong-wook; Kim Won-ho, Ko Hyon-chol and another individual whose name is not known).

We urge South Korea to demonstrate the shared values of advancing human rights, democracy, the rule of law and accountability by addressing the issues of South Korean POWs, abductees (including Japanese and other foreign nationals) and detainees in North Korea in the keynote address during the general debate of the 78th UN General Assembly on September 20, 2023.

We note that in the Phnom Penh Statement of November 13, 2022, you "reaffirm[ed] a shared commitment to the immediate resolution of the abductions issue" with US President Biden and Japanese Prime Minister Kishida while the latter two "also express[ed] their support for the immediate release of the ROK citizens detained in the DPRK".²

This was followed by a joint statement by 31 states at the United Nations on December 9, 2022 which expressed "concern with the human rights situation of citizens of the Republic of Korea detained in the DPRK, abductions and enforced disappearances of Japanese and Republic of Korea citizens, and other nationals who are kept against their will in the DPRK, and unrepatriated prisoners of war" and strongly urged "the DPRK to resolve all outstanding issues with detainees, abductees, and disappeared and immediately return them to their homes".³

In the Leaders' Joint Statement in Commemoration of the 70th Anniversary of the Alliance between the United States of America and the Republic of Korea of April 26, 2023, South Korea and the United States stated that they "will strengthen

¹ Adla Massoud, "UNGA 2023: Schedule of which nations are speaking and when", The National (Sep 06, 2023), <https://www.thenationalnews.com/world/2023/09/05/unga-2023-schedule-of-which-nations-are-speaking-and-when>

² Phnom Penh Statement on US – Japan – Republic of Korea Trilateral Partnership for the Indo-Pacific (November 13, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/13/phnom-penh-statement-on-trilateral-partnership-for-the-indo-pacific>

³ Joint Statement Delivered by Ambassador Linda Thomas-Greenfield on the Human Rights Situation in the Democratic People's Republic of Korea (December 9, 2022), <https://usun.usmission.gov/joint-statement-delivered-by-ambassador-linda-thomas-greenfield-on-the-human-rights-situation-in-the-democratic-peoples-republic-of-korea>

cooperation to promote human rights in the DPRK as well as to resolve the issues of abductions, detainees, and unrepatriated prisoners of war”.⁴

However, it is important to maintain a consistent message on these issues. At the UN Security Council’s Arria-formula meeting on the situation of human rights in the DPRK on March 17, 2023, South Korea made no mention of them. Likewise, they were absent in the joint statement with Canadian Prime Minister Trudeau on May 17, 2023 despite both countries committing to strengthen cooperation “to protect and promote human rights in North Korea, seek accountability, and improve the living conditions of the North Korean people”.⁵

During the general debate of the 78th UN General Assembly on September 20 and other international meetings, we urge you to continue to discuss these issues and to lead the international diplomatic efforts afterwards to resolve immediately all issues related to all POWs, abductees and detainees, in particular the realization of their immediate return and accountability, including the repatriation of the remains of the deceased persons.

In this regard, we note that past diplomatic efforts have resulted in the release of the last three US citizens (Kim Dong Chul, Tony Kim and Kim Hak Song) detained in North Korea on May 9, 2018 and North Korea’s commitment to recovering US POW/MIA remains including the immediate repatriation of those already identified in the joint statement following the Singapore US-North Korean summit on June 12, 2018.

2. China’s policy and practice of forcible repatriation of North Korean refugees

The UN Commission of Inquiry on human rights in the DPRK (DPRK COI) found that: “The gravity, scale and nature of [systematic, widespread and gross human rights violations in North Korea] reveal a state that does not have any parallel in the contemporary world”.⁶ According to the DPRK COI, North Koreans who flee their country can be subjected to torture, sexual and gender-based violence, arbitrary detention, enforced disappearance and even execution and forced abortion and infanticide upon their forcible repatriation.⁷ However, China, which is a party to the UN Refugee Convention and Protocol and Torture Convention that codify the principle of non-refoulement as well as the Palermo Protocol on trafficking, continues to arbitrarily detain and forcibly repatriate North Korean escapees.⁸ The DPRK COI recommended “China and other States” to “respect the principle of non-refoulement” and “abstain from forcibly repatriating any persons to the Democratic People’s Republic of Korea, unless the treatment there, as verified by international human rights monitors, markedly improves”.⁹ No such marked improvement of treatment in North Korea has yet to take place.

According to the DPRK COI, “crimes against humanity have been and, are still being committed, against persons who try to flee the DPRK, including against persons forcibly repatriated from China”.¹⁰ On 16 December 2013, the DPRK COI wrote a letter to Beijing, “in which it summarized its concerns relating to China’s policy and practice of forced repatriation of DPRK citizens [including] particular concern about Chinese officials providing specific information on such persons to DPRK authorities” and urged Beijing to “caution relevant officials that such conduct could amount to the aiding and abetting of crimes against humanity where repatriations and information exchanges are specifically directed towards or have the purpose of facilitating the commission of crimes against humanity in the DPRK”.¹¹

However, China’s policy and practice of forced repatriation of North Korean refugees have continued since then. During the height of the Covid-19 pandemic, the Special Rapporteur on the situation of human rights in the Democratic People’s

⁴ Leaders’ Joint Statement in Commemoration of the 70th Anniversary of the Alliance between the United States of America and the Republic of Korea (April 26, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/26/leaders-joint-statement-in-commemoration-of-the-70th-anniversary-of-the-alliance-between-the-united-states-of-america-and-the-republic-of-korea>

⁵ Leaders’ Joint Statement in Commemoration of the 60th Anniversary of Diplomatic Relations Between the Republic of Korea and Canada: Stronger Together for the Next 60 years (May 17, 2023), <https://www.pm.gc.ca/en/news/statements/2023/05/17/leaders-joint-statement-commemoration-60th-anniversary-diplomatic>

⁶ Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea (7 February 2014), A/HRC/25/CRP.1, para. 1211, <https://undocs.org/A/HRC/25/CRP.1>

⁷ Id., paras. 380-434.

⁸ Id., paras. 435-477.

⁹ Id., para. 1221 (a).

¹⁰ Id., paras. 1098-1114.

¹¹ Id., para. 1197.

Republic of Korea; the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a letter to Beijing bringing to its attention information concerning “the arrest, detention and threat of repatriation of at least 1,170 individuals of the Democratic People’s Republic of Korea (DPRK) in China, who have been arrested and detained for over a year since the borders between the DPRK and China were shut in January 2020 due to COVID-19 concerns”.¹² The letter also referred to information that “on 14 July 2021, [the Chinese government] repatriated over 50 individuals of the DPRK who had been detained over a year in Shenyang”.

At a conference entitled “Actions to Tackle Forced Repatriation of North Korean Escapees in China” held in Seoul on September 7, 2023, James Heenan, the Representative of OHCHR Seoul, stated that: “Credible reports suggest a large number of North Koreans have been reportedly detained by Chinese authorities last three years but whom the DPRK would not accept back into the country due to the border closure and other COVID-19 prevention measures. As the DPRK begins to reopen its borders, these individuals could be repatriated at any time. For those that do not wish to return, the repatriation would be forcible”.¹³

The UN special procedures, including the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and the Working Group on Enforced or Involuntary Disappearances (WGEID), and treaty bodies, especially the Committee against Torture (CAT) and Committee on the Elimination of Discrimination against Women (CEDAW), have repeatedly called upon China to respect the principle of non-refoulement with respect to North Korean escapees. Various countries have made the same recommendations to China during its Universal Periodic Reviews (UPRs).

South Korea must use the opportunity presented by general debate of the 78th UN General Assembly on September 20 to urge China to end the arbitrary detention and forcible repatriation of North Korean escapees and to implement the procedure for the individualized determination of the refugee status.

The issue is particularly urgent as North Korea may lift the self-imposed COVID border lockdown ahead of the 2023 Hangzhou Asian Games (September 23 to October 8) which will enable the resumption of the forcible repatriation of reportedly as many as 2,000 North Koreans detained as “illegal migrants” in China.¹⁴

Thank you.

Sincerely,

Signature organizations and individuals (as of September 12, 2023)

Kim Jeong-sam (elder brother of missionary Kim Jeong-wook who has been held in detention in North Korea since 2013)

Citizens’ Alliance for North Korean Human Rights (NKHR)

HanVoice

Improving North Korean Human Rights Center

¹² Joint allegation letter to China by Tomás Ojea Quintana, Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea; Miriam Estrada-Castillo, Vice-Chair of the Working Group on Arbitrary Detention; and Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, JAL CHN 8/2021, August 23, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26571> (accessed September 5, 2023).

¹³ Ha Chae-rim, “UN Human Rights Office Head Says “North Korean escapees in danger of torture if repatriated to North Korea; China should not forcibly repatriate” [유엔인권사무소장 “탈북민 북송시 고문위험…中, 강제송환 안돼”]”, Yonhap News, September 7, 2023 [in Korean], <https://www.yna.co.kr/view/AKR20230907054551504> (accessed September 10, 2023).

¹⁴ Report of the UN Special Rapporteur on the situation of human rights in the DPRK to the General Assembly (13 October 2022), A/77/522, para. 9 (“The Special Rapporteur has received information that as many as 2,000 escapees from the Democratic People’s Republic of Korea are currently detained in China as “illegal migrants” and are at risk of being repatriated to their country once the border reopens.”), <https://undocs.org/A/77/522>

Justice for North Korea

Korean War POW Family Association

Mulmangcho

No Chain

North Korea Strategy Center (NKSC)

Save North Korea

Stepping Stone

THINK

Transitional Justice Working Group (TJWG)