

November 9, 2023

President Yoon Suk-yeol

CC. Prime Minister Han Duck-soo
Foreign Minister Park Jin
Unification Minister Kim Yung-ho
Justice Minister Han Dong-hoon
National Defense Minister Shin Won-sik

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 during the state visits to the United Kingdom on November 20-23, 2023 and to the Netherlands on December 12-13, 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 state visits to the United Kingdom on November 20-23, 2023 and to the Netherlands on December 12-13, 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 during the state visits to the United Kingdom on November 20-23 and to the Netherlands on December 12-13.

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

¹ Park Mi-young, "President Yoon to tour the four nations of the US, the UK, France and the Netherlands in Nov-Dec", Newsis (Nov 8, 2023), https://newsis.com/view/?id=NISX20231108_0002513969&cid=10301&pID=10300

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>

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

In the Spirit of Camp David: Joint Statement on August 18, 2023, the leaders of South Korea, the United States and Japan jointly "commit[ted] to strengthening cooperation to promote respect for human rights in the DPRK and reaffirm[ed] a shared commitment to the immediate resolution of the issues of abductees, detainees, and unrepatriated prisoners of war".⁵

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".⁶

During the state visits to the United Kingdom on November 20-23 and to the Netherlands on December 12-13, 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".⁷ 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.⁸ 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.⁹ 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".¹⁰ No such marked improvement of treatment in North Korea has yet to take place.

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 The Spirit of Camp David: Joint Statement of Japan, the Republic of Korea, and the United States (August 18, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/18/the-spirit-of-camp-david-joint-statement-of-japan-the-republic-of-korea-and-the-united-states>

⁶ 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>

⁷ 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>

⁸ Id., paras. 380-434.

⁹ Id., paras. 435-477.

¹⁰ Id., para. 1221 (a).

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”.¹¹ 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”.¹²

When a UNHCR (UN High Commissioner for Refugees) assessment mission to the China/North Korea border revealed the presence of some North Korean refugees among the undocumented North Korean population in China in May 1999, the Chinese government reprimanded UNHCR for the results of the mission and refused to permit UNHCR’s formal involvement with the population.¹³ The UNHCR classified these North Korean escapees as refugees on account of the politically discriminatory food distribution policies in North Korea.¹⁴

During his visit to China in March 2006, then-UN High Commissioner for Refugees António Guterres in his own words had “very intense, frank and meaningful discussions” with the Chinese officials about North Koreans in China some of whom are in need of protection as “refugees sur-place” because of the “risk of deportation back to their countries of origin [that] is associated with the risk of persecution in those areas covered by the 1951 Refugee Convention”.¹⁵ In May 2013, then-High Commissioner Guterres publicly “expressed grave concern” over the safety and security of nine North Koreans who were reportedly deported from Laos to China.¹⁶

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 for North Korean escapees. Various countries have made similar recommendations to China during its Universal Periodic Reviews (UPRs).

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, on August 23, 2021, the UN human rights experts 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”.¹⁷ The letter also referred to

¹¹ Id., paras. 1098-1114.

¹² Id., para. 1197.

¹³ U.S. Committee for Refugees World Refugee Survey 2000 – China (1 June 2000), <https://www.refworld.org/docid/3ae6a8cc4.html> ; Ko Seung-il, “UNHCR recognizes some of North Korean escapees as refugees”, Yonhap News 1999.10.14, <https://n.news.naver.com/mnews/article/001/0004479815?sid=100> ; Korea Herald “Seoul reacts cautiously to U.N. move on North Korean refugees in China”, 1999.10.15, <https://n.news.naver.com/mnews/article/044/0000012041?sid=104>

¹⁴ Roberta Cohen, “Can the UN Secretary-General Help the 2,000 North Koreans Detained in China? With every reason to believe North Koreans would face persecution and torture back home, the U.N. must take a stronger stance on China’s repatriation of North Korean refugees” (July 5, 2023), <https://thediplomat.com/2023/07/can-the-un-secretary-general-help-the-2000-north-koreans-detained-in-china> (“Indeed, Guterres would do well to reveal that UNHCR staff, when allowed access to the China-North Korea border in the mid 1990s, classified starving North Koreans as refugees, because they were subject to North Korea’s politically discriminatory food distribution policies.

¹⁵ António Guterres, “Statement to media by Mr. António Guterres, United Nations High Commissioner for Refugees, on the conclusion of his Mission to the People’s Republic of China, Beijing, 23 March 2006” (23 March 2006), <https://www.unhcr.org/publications/statement-media-mr-antonio-guterres-united-nations-high-commissioner-refugees>

¹⁶ UNHCR, “UNHCR chief calls on states to respect non-refoulement after North Koreans deported from Laos” (30 May 2013), <https://www.unhcr.org/news/news-releases/unhcr-chief-calls-states-respect-non-refoulement-after-north-koreans-deported>

¹⁷ 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).

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”.

On 18 July 2023, the UN human rights experts sent another letter to China concerning the alleged arbitrary detention of at least 2,000 North Korean escapees, approximately 70 percent whom are women, and their risk of refoulement to North Korea which may put them at risk of serious human rights violations, including arbitrary detention, torture, enforced disappearance and extrajudicial killings.¹⁸

On September 21, 2023, as North Korea appeared to be moving to lift its border restrictions, human rights NGOs concerned about the widely expected resumption of forcible repatriation of North Korean detainees in China around the 19th Asian Games in Hangzhou, China (23 September to 8 October 2023) sent an open letter to Chinese President Xi Jinping calling for a legal status for North Korean escapees and the stopping of their deportations back to North Korea.¹⁹

However, it was reported that China repatriated at least 500 North Korean detainees on the night of October 9, 2023, the day after the closing of the Hangzhou Asian Games.²⁰ The UN human rights experts also expressed alarm at the reported repatriations and called upon China to “respect the principle of non-refoulement guaranteed under international law”.²¹ They added that: “Hundreds of individuals reportedly remain in detention facing the same fate”.

During the state visits to the United Kingdom on November 20-23 and to the Netherlands on December 12-13, we ask you to discuss and condemn China’s forcible repatriation of North Korean escapees, urge China to respect the principle of non-refoulement and establish the refugee status determination system and call upon the international community, including the United Nations, to pay greater attention to the issue.

Thank you.

Sincerely,

Signature organizations and individuals (as of November 9, 2023)

Kim Kyu Li (elder sister of Kim Cheol-ok who was repatriated by China to North Korea on October 9, 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)

Committee for Human Rights in North Korea (HRNK)

HanVoice

¹⁸ Joint allegation letter to China by Matthew Gillett, Vice-Chair on Communications of the Working Group on Arbitrary Detention; Elizabeth Salmon, Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea; Aua Baldé, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Felipe González Morales, Special Rapporteur on the human rights of migrants; Reem Alsalem, Special Rapporteur on violence against women and girls, its causes and consequences; Dorothy Estrada-Tanck, Chair-Rapporteur of the Working Group on discrimination against women and girls, JAL CHN 9/2023, 18 July 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28210> (accessed September 5, 2023).

¹⁹ Open Joint Letter to President Xi Jinping re: China’s Forcible Repatriation of North Korean Refugees (September 21, 2023), <https://www.hrw.org/news/2023/09/21/letter-human-rights-watch-president-xi-jinping> (accessed November 7, 2023).

²⁰ Human Rights Watch (HRW), “China Forcibly Returns More than 500 to North Korea: Returnees, Mostly Women, Face Torture, Sexual Abuse, Forced Labor” (October 12, 2023), <https://www.hrw.org/news/2023/10/12/china-forcibly-returns-more-500-north-korea> (accessed November 7, 2023).

²¹ OHCHR, “China must not forcibly repatriate North Korean escapees: UN experts” (17 October 2023), <https://www.ohchr.org/en/press-releases/2023/10/china-must-not-forcibly-repatriate-north-korean-escapees-un-experts> (accessed November 7, 2023).

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