

December 28, 2023

President Yoon Suk-yeol

CC. Prime Minister Han Duck-soo  
Foreign Minister Park Jin  
Unification Minister Kim Yung-ho  
Acting Justice Minister Lee Noh Kong  
National Defense Minister Shin Won-sik

**Re: South Korea's responsibility as a global pivotal state to become a co-penholder of the North Korean human rights resolution to be adopted by the UN Human Rights Council in April 2024 and to strengthen the language therein concerning the issues of South Korean POWs, abductees and detainees in North Korea as well as China's forcible repatriation of North Korean refugees and other issues concerning improvement of human rights and accountability**

Dear President Yoon Suk-yeol,

We urge your government, as a global pivotal state, to become a co-penholder of the North Korean human rights resolution to be adopted by the UN Human Rights Council in April 2024 and to strengthen the language therein concerning the issues of South Korean POWs, abductees and detainees in North Korea as well as China's forcible repatriation of North Korean refugees and other issues concerning improvement of human rights and accountability (see Annex: List of proposed changes to the 2023 HRC DPRK resolution).

### **1. The co-penholdership of the UN Human Rights Council's North Korean human rights resolution**

Since the adoption of a North Korean human rights resolution, drafted solely by the European Union (EU), at the UN Commission on Human Rights, a precursor to the UN Human Rights Council in 2003, the EU and Japan became co-drafters of North Korean human rights resolutions at the UN Human Rights Commission (2005) / Council (since 2008) in 2005-2018 with the former led by Japan and the latter by the EU until the EU again becoming the sole penholder of the UN Human Rights Council and General Assembly's North Korean human rights resolutions since 2019.

For the past 20 years, South Korea has never been a penholder of North Korean human rights resolutions at the UN. Worse yet, South Korea failed to display even the minimum consistency, refusing to even co-sponsor North Korean human rights resolutions from 2019 to early 2022.

On December 22, 2014, as South Korea's 2013-2014 term as a non-permanent member state at the UN Security Council came to a close, then-UN ambassador Oh Joon famously said that "For South Koreans, people in North Korea are not 'just anybodies'". As South Korea again assumes a seat at the UN Security Council for 2024-2025, it is time for South Korea to live up to these words by becoming a co-penholder of the UN Human Rights Council's North Korean human rights resolution as a global pivotal state. Although South Korea is not a member of the UN Human Rights Council, this does not prevent South Korea from becoming a penholder of a UN Human Rights Council resolution.

There are those who say that South Korea's co-penholdership of the North Korean human rights resolution would "politicize" the resolution and create opposition at the UN Human Rights Council. However, even they admit that no country will change their vote because of South Korea's co-penholdership because the evidence of the ongoing grave, widespread and systematic human rights violations in North Korea is indisputable.

Moreover, there are concerns that South Korea will cease to co-draft North Korean human rights resolutions if there is a change of government. But according to the same logic, it would be "consistent" for the incumbent government to continue to not co-sponsor North Korean human rights resolutions since the next government may as well refuse to co-sponsor them. However, if this government makes the co-penholdership an established practice in the next four UN Human Rights Council resolutions until the spring of 2027, it will become politically difficult for any governments to change it.

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

70 years have passed since non-repatriation of an estimated 50,000 South Korean POWs despite the signing of the Korean War Armistice Agreement and 10 years since the first detention of the at least six South Korean citizens by North Korea. We ask your government, as a global pivotal state, to strengthen the language concerning South Korean POWs and detainees in the North Korean human rights resolution proposed by the European Union (EU) and co-sponsored by South Korea at the UN Human Rights Council.

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”.<sup>1</sup>

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”.<sup>2</sup>

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”.<sup>3</sup>

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”.<sup>4</sup>

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”.<sup>5</sup>

The joint statements with UK Prime Minister Sunak on November 22, 2023<sup>6</sup> which included the commitment “to strengthening cooperation aimed at raising awareness of violations and abuses of human rights, and convincing the DPRK

<sup>1</sup> 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>

<sup>2</sup> 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>

<sup>3</sup> 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>

<sup>4</sup> 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>

<sup>5</sup> 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>

<sup>6</sup> The Downing Street Accord: A United Kingdom-Republic of Korea Global Strategic Partnership (November 22, 2023), <https://www.gov.uk/government/publications/the-downing-street-accord-a-united-kingdom-republic-of-korea-global-strategic-partnership>

to respect and observe human rights” and with Dutch Prime Minister Rutte on December 13, 2023<sup>7</sup> which referred to the agreement “to strengthen cooperation to promote human rights in the DPRK” were also silent about the issues of abductees, detainees, and unrepatriated prisoners of war.

In this regard, we call for strengthening the language in preambular paragraph 20 from previous Human Rights Council resolutions 46/17 of 23 March 2021, 49/22 of 1 April 2022 and 52/28 of 4 April 2023 concerning the South Korean POWs (“Noting with concern the allegations of continued violations of the human rights of unrepatriated prisoners of war and their descendants”) by striking “continued” and inserting “continued denial of the right of repatriation under the Geneva Convention relative to the Treatment of Prisoners of War and” and by striking “descendants” and inserting “descendants, in particular forced labour, enslavement, torture, imprisonment, enforced disappearance, execution, discrimination based on the *songbun* system and enforced separation of families”.

With respect to the 6 South Korean detainees (Kim Kuk-gil, Choi Chun-gil; Kim Jeong-wook; Kim Won-ho, Ko Hyon-chol and another individual whose name is not known), we call for replacing “nationals of other countries” in operative paragraph 2(1) (“Providing nationals of other countries detained in the Democratic People’s Republic of Korea with protections”) and “nationals of other States Members” in preambular paragraph 20 (“Noting with concern ... the issue of nationals of other States Members detained in the Democratic People’s Republic of Korea with no information available regarding their health or the conditions of their detention”) in resolution 52/28 of 4 April 2023 with “nationals of the Republic of Korea” or “nationals of other countries/States Members, in particular the Republic of Korea” given that the only known remaining foreign detainees in North Korea are all from South Korea.

We also ask your government to consider ways to specifically mention the names of the known South Korean detainees in the resolution light of the past Human Rights Council resolutions concerning Myanmar, namely resolution 34/22 of 24 March 2017 (“the killings of constitutional legal expert and senior National League for Democracy adviser Ko Ni, in January 2017, land and environmental activist Naw Chit Pan Daing, in November 2016, and journalist Soe Moe Tun, in December 2016”), resolution 37/32 of 23 March 2018 (“the killings of constitutional legal expert and senior National League for Democracy adviser Ko Ni, in January 2017, land and environmental activist Naw Chit Pan Daing, in November 2016, and journalist Soe Moe Tun, in December 2016, the rape and murder of Kachin school teachers Maran Lu Ra and Tangbau Hkawn Nan Tsing in January 2015”; “immediately release journalists Wa Lone and Kyaw Soe Oo”), resolution 39/2 of 27 September 2018 (“Expresses grave concern that the journalists Wa Lone and Kyaw Soe Oo, who were investigating the Inn Dinn killings, have been jailed, prosecuted and sentenced, and calls for their immediate and unconditional release”), resolution 40/29 of 22 March 2019 (“reiterates its call for the immediate and unconditional release of journalists Wa Lone and Kyaw Soe Oo”), resolution 43/26 of 22 June 2020 (“Welcomes the release of journalists Wa Lone and Kyaw Soe Oo”), resolutions 46/21 of 24 March 2021, 49/23 of 1 April 2022 and 52/31 of 4 April 2023 (“Calls for the immediate and unconditional release of President Win Myint, State Counsellor Aung San Suu Kyi and all those who have been arbitrarily detained, charged or arrested on specious grounds during and in the aftermath of 1 February 2021”).

With respect to the abductees, preambular paragraph 19 of resolutions 49/22 of 1 April 2022 and 52/28 of 4 April 2023 refers to “the identical and non-substantive replies by the Democratic People’s Republic of Korea to the numerous communications transmitted by the Working Group on Enforced or Involuntary Disappearances [WGEID]”. In relation to this, North Korea has also repeated “identical and non-substantive replies” to communications transmitted by the UN Working Group on Arbitrary Detention (WGAD), notably in the cases concerning “daughters of Tongyeong” Shin Sook Ja, Oh Hae Won and Oh Kyu Won (opinion no. 4/2012)<sup>8</sup> and 1969 Korean Air Lines YS-11 hijacking abductee Hwang Won (opinion no. 69/2019)<sup>9</sup>. Therefore, we ask that a reference to the WGAD is added in preambular paragraph 19 by replacing “the Working Group on Enforced or Involuntary Disappearances” with “the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention”.

<sup>7</sup> Joint statement between the government of the Republic of Korea and the government of the Kingdom of the Netherlands (December 13, 2023), <https://www.government.nl/documents/diplomatic-statements/2023/12/13/joint-statement-between-the-government-of-the-republic-of-korea-and-the-government-of-the-kingdom-of-the-netherlands>

<sup>8</sup> Opinion No. 4/2012 concerning Shin Sook Ja, Oh Hae Won and Oh Kyu Won (Democratic People’s Republic of Korea), A/HRC/WGAD/2012/4 [Adopted on 2 May 2012], <https://undocs.org/A/HRC/WGAD/2012/4>

<sup>9</sup> Opinion No. 69/2019 concerning Hwang Won (Democratic People’s Republic of Korea), A/HRC/WGAD/2019/69 [Adopted on 20 November 2019], <https://undocs.org/A/HRC/WGAD/2019/69>

### 3. 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”.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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”.<sup>13</sup> 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”.<sup>14</sup> 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”.<sup>15</sup>

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.<sup>16</sup> The UNHCR classified these North Korean escapees as refugees on account of the politically discriminatory food distribution policies in North Korea.<sup>17</sup>

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”.<sup>18</sup> In May 2013,

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<sup>10</sup> 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>

<sup>11</sup> *Id.*, paras. 380-434.

<sup>12</sup> *Id.*, paras. 435-477.

<sup>13</sup> *Id.*, para. 1221 (a).

<sup>14</sup> *Id.*, paras. 1098-1114.

<sup>15</sup> *Id.*, para. 1197.

<sup>16</sup> 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>

<sup>17</sup> 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.

<sup>18</sup> 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>

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.<sup>19</sup>

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”.<sup>20</sup> 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”.

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.<sup>21</sup>

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.<sup>22</sup>

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.<sup>23</sup> 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”.<sup>24</sup> They added that: “Hundreds of individuals reportedly remain in detention facing the same fate”.

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<sup>19</sup> 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>

<sup>20</sup> 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).

<sup>21</sup> 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).

<sup>22</sup> 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).

<sup>23</sup> 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).

<sup>24</sup> 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).

Operative paragraph 6<sup>25</sup> of resolution 52/28 of 4 April 2023 added a reference to “subsequent investigations of the Office of the United Nations High Commissioner for Human Rights” concerning the situation of refugees and asylum seekers returned to the Democratic People’s Republic of Korea and other citizens of the Democratic People’s Republic of Korea who have been repatriated from abroad and obligations under international human rights law, “including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”.

We urge greater protection for North Korean refugees by striking “refuge” and inserting “refuge, to refrain from sharing information about the contacts and conduct of refugees, asylum seekers and other citizens of the Democratic People’s Republic of Korea with the Government of the Democratic People’s Republic of Korea” and by striking “instruments” and inserting “instruments and requests the Secretary-General to provide good office to resolve issues arising from the repatriation of refugees, asylum seekers and other citizens of the Democratic People’s Republic of Korea” in operative paragraph 6.

Operative paragraph 6 also refers to “internment, torture, cruel, inhuman and degrading treatment or punishment, sexual and gender-based violence, enforced disappearance or the death penalty” that repatriated North Korean refugees, asylum seekers and other citizens are subjected to in North Korea. We ask that North Korea’s particularly gruesome practice of forced abortion and infanticide be emphasized by striking “violence” and inserting “violence, including forced abortion and infanticide against repatriated mothers and their children based on gender and racial grounds”.

#### **4. Other issues concerning improvement of human rights and accountability**

We note that “urging the Government of the Democratic People’s Republic of Korea to respond to the list of issues on the initial report of the Democratic People’s Republic of Korea sent by the Committee on the Rights of Persons with Disabilities within the deadline” was added to preambular paragraph 14 of resolution 52/28 of 4 April 2023 and that North Korea submitted its replies on 13 December 2023<sup>26</sup> while still failing to submit its replies to the list of issues prior to reporting (LOIPR) on its third periodic report sent by the Human Rights Committee (HRC).<sup>27</sup> We therefore ask that the following phrase is added at the end of preambular paragraph 18 of the same resolution (“Recognizing the important work of the treaty bodies in monitoring the implementation of international human rights obligations, and emphasizing the need for the Democratic People’s Republic of Korea to comply with its human rights obligations and to ensure regular and timely reporting to the treaty bodies”): “and urging the Government of the Democratic People’s Republic of Korea to respond to the list of issues prior to reporting on its third periodic report sent by the Human Rights Committee”.

Operative paragraph 18(r) of General Assembly resolution 78/218 of 19 December 2023, as well as the General Assembly’s all other North Korean human rights resolutions since resolutions 66/174 of 19 December 2011, “[s]trongly urges the Government of the Democratic People’s Republic of Korea to respect, protect and fulfil all human rights and fundamental freedoms and, in this regard ... [t]o consider ratifying and acceding to the remaining international human rights treaties, which would enable a dialogue with the human rights treaty bodies”. We ask that the Human Rights Council’s resolution also urges ratification of or accession to the remaining human rights treaties.

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<sup>25</sup> “6. Reiterates its deep concern at the findings of the commission of inquiry and subsequent investigations of the Office of the United Nations High Commissioner for Human Rights concerning the situation of refugees and asylum seekers returned to the Democratic People’s Republic of Korea and other citizens of the Democratic People’s Republic of Korea who have been repatriated from abroad and made subject to sanctions, including internment, torture, cruel, inhuman and degrading treatment or punishment, sexual and gender-based violence, enforced disappearance or the death penalty, in this regard strongly urges all States to respect the fundamental principle of non-refoulement, including where the Government of the Democratic People’s Republic of Korea exerts pressure on returning States to effectuate such returns, to treat humanely those who seek refuge and to ensure unhindered access to the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights, with a view to protecting the human rights of those who seek refuge, and once again urges States to comply with their obligations under international human rights law, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention relating to the Status of Refugees and the Protocol thereto, in relation to persons from the Democratic People’s Republic of Korea who are covered by those instruments;”

<sup>26</sup> Reply to List of Issues, CRPD/C/KEN/RQ/1 (13 Dec 2023),

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FC%2FKEN%2FRQ%2F1](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FC%2FKEN%2FRQ%2F1)

<sup>27</sup> List of issues prior to reporting (LoIPR), CCPR/C/PRK/QPR/3 (22 Jun 2021),

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FPRK%2FQPR%2F3](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FPRK%2FQPR%2F3)

In operative paragraph 2(a) of resolution 52/28 of 4 April 2023, with respect to freedom of thought, conscience and religion or belief and the rights to freedom of opinion, expression and association, “reviewing laws, including the Law on Rejecting Reactionary Thought and Culture, and practices suppressing the aforementioned rights” was added. We ask that a reference to the Youth Education Guarantee Law and the Law on Protecting the Pyongyang Cultural Language, two other infamous COVID-era laws suppressing these rights with draconian punishments, is added and that “reviewing” is replaced by “repealing or revising” in operative paragraph 2(a).

Moreover, operative paragraph 1(a) of resolution 52/28 of 4 April 2023, for the first time specifically referred to “the freedom to seek, receive and impart information and ideas of any kind, regardless of frontiers” codified in article 19 (2) of the International Covenant on Civil and Political Rights (ICCPR). We ask that the phrase “either orally, in writing or in print, in the form of art, or through any other media of his or her choice” from article 19 (2) of the ICCPR is also added to paragraph 1(a) to emphasize a variety of media for information dissemination.

Operative paragraph 18(m) of General Assembly resolution 78/218 of 19 December 2023, as well as the General Assembly’s all other North Korean human rights resolutions since resolutions 72/188 of 19 December 2017, “[s]trongly urges the Government of the Democratic People’s Republic of Korea to respect, protect and fulfil all human rights and fundamental freedoms and, in this regard ... [t]o become a member of the International Labour Organization, to enact legislation and adopt practices to comply with international labour standards and to consider ratifying all the relevant conventions, in particular the core labour conventions of the International Labour Organization”. We ask that the Human Rights Council’s resolution also urges the ILO membership, legislation and practice in compliance with international labor standards and ratification of the ILO Core Conventions.

Preambular paragraph 7 of Human Rights Council resolution 52/28 of 4 April 2023, as well the Human Rights Council’s all other North Korean human rights resolutions since resolution 34/24 of 24 March 2017, states that: “Recalling the responsibility of the Democratic People’s Republic of Korea to protect its population from crimes against humanity, and noting that the General Assembly, in its resolution [71/202, 72/188, 73/180, 74/166, 75/190, 76/177, 77/226 or 77/226 respectively], recalled that the commission of inquiry had urged the leadership of the Democratic People’s Republic of Korea to prevent and suppress crimes against humanity and to ensure that perpetrators were prosecuted and brought to justice”. On the 10th anniversary of the COI’s historic report, we urge that the following phrase is added at the end of preambular paragraph 7: “and in this regard inviting the Democratic People’s Republic of Korea to become a party to the Rome Statute of the International Criminal Court or to accept the exercise of jurisdiction of the International Criminal Court, in accordance with article 12 (3) of the Rome Statute, while recalling the authority of the Security Council to refer the situation in the Democratic People’s Republic of Korea to the International Criminal Court”.

It is also important for the Human Rights Council to recognize the progress made in the pursuit of civil claims against the North Korean government in the courts of South Korea, Japan and the United States.<sup>28</sup> We therefore ask that the following paragraph is newly added in the resolution next year: “Welcomes the progress made on accountability efforts through the pursuit of civil claims against the Government of the Democratic People’s Republic of Korea in the proceedings and judgments in the courts of the Republic of Korea, Japan and the United States of America”.

## 5. Conclusion

If a small number of states block these changes the Human Rights Council’s DPRK resolution, South Korea needs to seriously consider opting for its adoption by a vote instead of adoption by consensus. Ten years ago, Human Rights Council resolution 22/13 of 21 March 2013 which decided upon the establishment of the Commission of Inquiry (COI) on human rights in North Korea which confirmed crimes against humanity and other grave human rights violations was advanced with the risk of a vote in mind but was eventually adopted by consensus as no Member State in fact called for a vote.

It seems unlikely that North Korea has made more friends at the UN over the past 10 years. From the human rights perspective, a resolution with substance is more important than a watered-down resolution adopted without a vote.

<sup>28</sup> Promoting accountability in the Democratic People’s Republic of Korea: Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/52/64 (18 January 2023), <https://undocs.org/A/HRC/52/64>

We also ask that your government engage in periodic dialogues with the victims of North Korean human rights violations, including the families of South Korean POWs and abductees, and North Korean human rights NGOs before the tabling of North Korean human rights resolutions at the UN General Assembly and Human Rights Council in the future as one of the ways to realize a victim-centered resolution. This is something that other states have been doing for the past 20 years.

Lastly, to raise the interest in the international community about the POW issue, we call upon your government to publicize the number of South Korean POWs whose identities are known (according to the last publicized statistics in August 2007, 560 alive, 910 dead and 300 missing for a total of 1,770) and the number of families of POWs who escaped from North Korea and entered South Korea as well as to report them to the UN.

Thank you.

Sincerely,

Signature organizations and individuals (as of December 28, 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)

HanVoice

Justice For North Korea

Korean War POW Family Association

Mulmangcho

No Chain

Stepping Stones

THINK

Transitional Justice Working Group (TJWG)