

Statement

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**The Human Rights Situation in the
Democratic People's Republic of Korea (DPRK): 2005-6**

I am honoured to present this summary of my 2006 report for the United Nations (UN), with an update where necessary. My approach has been to invite the DPRK to engage with this mandate as a window of opportunity to improve the situation of human rights in the country. Regrettably, the DPRK has declined to cooperate with me and has not invited me into the country.

While welcoming the fact that the DPRK is a party to various human rights treaties and that it has engaged with the monitoring bodies under those treaties, as well as adopting some key reforms of the domestic law such as its criminal law, there is still a large gap between formal recognition of human rights and substantive implementation of human rights in the country. The situation in the country provides a continuing cause for concern - there are still many transgressions and discrepancies of an egregious nature which require effective redress.

First, with the regard to the rights to food and to life, it can be recalled that the country has been hampered very severely by food shortages since the mid-1990s, mainly due to natural disasters and mismanagement on the part of the authorities. In 2005, the DPRK authorities indicated that they no longer wished to accept (multilateral) food aid from outside the country, channeled through the World Food Programme (WFP), and that they wished to end the presence of foreign humanitarian agencies, particularly those from civil society. Many non-governmental organizations involved in humanitarian aid were asked by the authorities to leave the country.

In early 2006, the WFP sought approval from international donors for its "Protracted Relief and Recovery Operation", targeting food aid for needy groups in the DPRK at a lower level than in previous years. In May 2006, it was reported that the WFP would be able to distribute a limited amount of food aid to 1.9 million of the "most needy" persons, but only to the extent of 75,000 tons of grain a year, as compared with 500,000 per year previously.

There was a further obstacle in July 2006 due to the missiles tests launched by the DPRK. Those tests had a negative impact on the food situation of the country, since they caused various contributors of humanitarian aid to discontinue providing that aid. Concurrently, matters became more complicated due to devastating floods which caused substantial damage and loss of lives in July-August 2006. Due to this

humanitarian crisis, some of the contributors of humanitarian aid changed their position and were willing to resume provision of aid, particularly at the bilateral level. To guarantee food security, there is a need to move towards more sustainable agricultural techniques which are environment-friendly, given that the country suffers from limited arable land and over-exploitation of such land.

Second, there is the question of the right to security of the person, humane treatment, non-discrimination and access to justice. Given the non-democratic and repressive nature of the State, there continue to be many reports of transgressions by the authorities on this front, despite reforms of the Criminal Code and Criminal Procedure Code in 2004.

The judicial system lacks independence and is heavily influenced by the regime in power. The treatment of prisoners, particularly political prisoners, gives rise to a continuing concern, with reports of a wide range of detention centres and prisons with appalling conditions and use of torture, inhuman and degrading treatment, despite a ban on such practices under the country's criminal law.

On another front, the issue of abductions of foreigners carried out by DPRK agents has affected several countries. A number of cases in regard to Japanese nationals abducted by those agents have yet to be resolved and require effective measures and political will, particularly on the part of the DPRK, to ensure that there is peaceful resolution of the issue, coupled with transparency and action against impunity. In 2005, there were reports of other countries affected by abductions carried out by DPRK agents.

Third, there is the issue of freedom of movement, asylum and refugee protection. Throughout 2005-6, there were reports of potential or actual forced return ("refoulement") of nationals from the DPRK who had sought asylum in neighbouring countries - to that country without adequate guarantees of safety. The less lenient approach of some countries of first asylum in South-east Asia also led to an increased influx in other South-east Asian countries.

In regard to the country of origin, while the Constitution of the DPRK provides for freedom of movement of its people, the reality is the contrary since there is rigid control over migration; generally it is not possible to move internally or externally without official permission – there is the impending threat of penal sanctions. While its criminal law was improved in 2004 to reduce sentences on those who leave the country without permission, the menace of punishment facing those who leave without permission and who are then forcibly returned to the country is ever-present and gives rise to potential or actual fear of persecution caused by the authorities.

This is interlinked with the issue of refugee protection, the refugee being understood internationally as a person who has left his/her country of origin for a well-founded fear of persecution. A key principle in international law in this regard is the right of non-refoulement – not to be pushed back to a country/area where a person may fear persecution. While those entitled to refugee status are often those who have left the country of origin with a fear of persecution, even those who did not originally leave the country of origin with a fear of persecution but who later fear persecution (such as

through the threat of punishment if sent back forcibly while in an asylum country) can also be classified as refugees (in technical terms: refugees sur place).

Fourth, with regard to the right to self-determination/political participation, access to information, freedom of expression/belief/opinion, association, conscience and religion, there was no ostensible improvement during the year. The opaque and non-democratic nature of the State militates against the right to self-determination and the need for democracy in the country. Although the advent of technology and globalization has meant that some DPRK nationals have more access to foreign information, there is still no genuine free access to information, since media and related information are State-controlled and it is illegal to listen to foreign radio and TV or to own computers without official permission. Political dissent is repressed, with a pervasive security network and detention camps for political prisoners.

While there are official claims that freedom of religion is allowed, the reality suggests otherwise. The regime's practice is to inculcate religiously upon the people from a young age belief in and total adherence to the past and current political leadership, coupled with massive ideological mobilization akin to cult worship.

I wish to note also that my 2006 report deals with the rights of various groups, including women, children, the elderly and those with disabilities, a vast number of whom are affected negatively by the human rights situation in the country.

My other activities during 2005-6 include the following. I have been sending a number of communications to the DPRK authorities, particularly to request humane treatment of prisoners and leniency for DPRK nationals deported from other countries and returned to the DPRK. To date, the authorities of the country have been uncooperative in regard to these communications.

I also paid a visit to the Republic of Korea (ROK) from 3 to 10 November 2005. I wish to express my thanks to the ROK for the hospitality and open access to all entities that I sought to meet. The purpose of the visit was to assess the impact of the human rights situation in the DPRK ("the North") on the ROK ("the South"). An understanding of the special situation of the Korean peninsula is important. In the aftermath of the Second World War, the peninsula was partitioned into two countries and this "fait accompli" was superimposed on the people of the region. There emerged two States with different political systems. While the system of the DPRK is basically non-democratic, since the late 1980s the ROK has progressed towards a democratic system with a pluralist, multi-party base.

In 1950, the Korean peninsula was mired in a devastating war between the North and the South which ended with intervention from the UN and an armistice between the various parties in 1953, although to date, no peace treaty has been signed. The war and its consequences are still felt today with key implications for human rights.

From another angle, there has been a warming of relations between the DPRK and the ROK, particularly since 2000 with the adoption of the two sides of the "June 15 Joint Declaration in 2000" ("The Sunshine Policy"). There has been a progressive increase of Inter-Korean dialogues and cooperation at various levels, ranging from ministerial meetings to meetings between the Red Cross societies of both sides. The South has

provided aid to the North on many fronts, and joint economic and commercial cooperation has been developed in several fields, such as investment by the South in the Gaesong industrial zone in the North and the promotion of tourism in the Mount Geumgang area in the North, in addition to using the latter as a venue for reuniting families from both sides. Yet, in 2006 relations became strained due to the North's missile launches.

On another front, there have been more than 15 Inter-Korean Ministerial Talks between the DPRK and the ROK, thus providing a platform for promoting cooperation and settling problems. There have also been a number of Inter-Korean Red Cross talks with emphasis on humanitarian projects including family reunions and the fate of persons missing during the Korean war. These events have been bolstered by the convening of the six party talks (ROK, DPRK, United States, China, Russia and Japan) to help resolve the nuclear issue affecting the Korean peninsula. A measure of progress was witnessed in September 2005 when the talks yielded a joint statement – the Joint Statement of the Fourth Round of the Six Party Talks. While the main aim of the six party talks is the denuclearization of the peninsula, it has bearing on the interrelationship between peace, security and human rights and the nexus between the North and the South.

The official human rights position of the South towards the North can be seen from its 2005 Policy of Peace and Prosperity which seeks to promote peace and co-prosperity on the Korean peninsula. In reality, a number of key human rights issues deserve attention, including those missing during and after the Korean War and family reunion, humanitarian and food aid/food security, and reception of asylum-seekers from the North.

In conclusion, the period 2005-6 attests to many transgressions still taking place in the DPRK with negative impact on its citizens and on other countries. The DPRK should thus take the following measures/actions:

- 1. Abide effectively by human rights, particularly by implementing the (four) human rights treaties to which it is a party, in addition to acceding to and implementing the totality of human rights instruments, and accord adequate resources to ensure their implementation, especially to re-allocate military budgets for this purpose;**
- 2. Allow humanitarian agencies to stay in the country to ensure food distribution to the target groups with effective monitoring, and promote sustainable agricultural development to ensure food security;**
- 3. Reform the national law so as not to require travel permits and not to punish those who leave the country without permission;**
- 4. Initiate reform of its prison system under the concept of the Rule of Law, improve the criminal justice system, promote safeguards for the accused, an independent judiciary and access to justice, and abolish sanctions for political dissent;**

5. **Solve the issue of those abducted by DPRK agents by ensuring transparency and accountability, in a peaceful manner, and liberalize its laws, policies and practices to ensure respect for the totality of civil, political, economic, social and cultural rights;**
6. **Address the specific concerns of women, children, the elderly/older persons, and those with disabilities in the DPRK by promoting non-discrimination substantively;**
7. **Direct its law enforcers to respect human rights and ensure capacity-building through training and education in this regard;**
8. **Seek assistance from the Office of the UN High Commissioner for Human Rights for programmes to enhance human rights' promotion and protection;**
9. **Enable the Special Rapporteur and other mechanisms, as appropriate, to visit the country and assist in human rights' promotion and protection; and**
10. **Invite the various human rights monitoring bodies under the (four) treaties to which the country is a party to visit the country consistently to help monitor the situation and follow-up progress in regard to needed reforms, given that the country has been willing to engage with those bodies at a certain level.**

I welcome international support to ensure that these recommendations are implemented effectively. Thank you.