

REPORT SYNOPSIS AND EXECUTIVE SUMMARY

INQUIRY ON CRIMES AGAINST HUMANITY IN NORTH KOREAN POLITICAL PRISONS

“The gravity, scale, duration and nature of the unspeakable atrocities committed in the country reveal a totalitarian State that does not have any parallel in the contemporary world.”¹

BRIEF SYNOPSIS:

This Inquiry (as defined below) concludes that there is ample evidence to support a finding that crimes against humanity have been – and continue to be – committed on a massive scale in political prisons of the Democratic People’s Republic of Korea (the “DPRK;” “North Korea;” or the “State”). Experts estimate these prisons currently incarcerate 80,000-130,000 prisoners, many of them the children, spouses, parents and other family members of the imprisoned, pursuant to North Korea’s longstanding policy of eliminating the “seed” of three generations of “class enemies.”

This Inquiry finds evidence that ten of the eleven crimes against humanity enumerated in the Rome Statute of the ICC adopted on 17 July 1998 (“Rome Statute”) have been, and continue to be, committed with only the crime of apartheid deemed inapplicable. The ten relevant crimes are: (1) murder; (2) extermination; (3) enslavement; (4) forcible transfer; (5) imprisonment; (6) torture; (7) sexual violence; (8) persecution; (9) enforced disappearances; and (10) other inhumane acts. Based on the evidence presented and reviewed, this Inquiry concludes that there are several classes of individuals who may be subject to prosecution for some or all of the above referenced crimes, including: Kim Jong-un in his capacity as Head of State; members of the Korean Workers’ Party and the State Affairs Commission; and members of the State Security Department, including State Security Department Officers, State Security Department Agents, and Prison Guards, who, together, help administer North Korea’s political prisons. The legal basis for holding the above defendants liable for crimes against humanity may include their participation in a “joint criminal enterprise” or a finding of “command responsibility,” the latter a long-established form of liability under customary international law that holds superiors responsible for the criminal acts of their subordinates.

Recommendations: This Inquiry calls upon the UN to provide the International Criminal Court (“ICC”) or a special international tribunal with jurisdiction to appropriately investigate, punish and remedy the crimes against humanity chronicled by this Inquiry, and further calls on the international community to advocate for the UN to take such action. Other recommendations include a call for: North Korea to dismantle its political prison system; third-party states to exercise universal jurisdiction over regime officials where warranted; targeted sanctions against persons responsible for past or ongoing crimes against humanity in North Korea’s political prisons and beyond; and a ban on the importation of products made with materials or labor from North Korea’s penal system.

¹ UNHRC, Statement by Mr. Michael Kirby Chair of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea to the 25th Session of the Human Rights Council, Geneva (17 Mar. 2014), <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14385&LangID=E>.

EXECUTIVE SUMMARY

This Inquiry represents the culmination of a nearly two-year, civil-society-driven initiative entitled **Inquiry on Crimes Against Humanity in North Korean Political Prisons (“Inquiry”)**. This Inquiry sought to advance three goals:

1. to increase public awareness of human rights violations in North Korea’s political prisons;
2. to explore the practical and legal options of holding the architects and overseers of North Korea’s political prison system accountable for alleged crimes against humanity if the cumulative evidence demonstrates such crimes have been committed; and
3. to develop a model for conducting inquiries that other civil society organizations may wish to replicate when accountability for past or ongoing human rights violations has proven elusive due to inaction by the international community or otherwise.

This Inquiry, which was organized by the War Crimes Committee of the International Bar Association (“IBA”) and supported by the IBA’s North America Office and numerous partner organizations, is an unofficial follow-up to the United Nations (“UN”) Human Rights Council’s Commission of Inquiry on Human Rights in the Democratic Republic of Korea (“Commission”). The Commission, chaired by former justice of the High Court of Australia, Michael Kirby, was charged with investigating “the systematic, widespread and grave violations of human rights”² in the Democratic People’s Republic of Korea.

The Commission’s landmark report (2014) chronicled a wide range of crimes of such gravity that it recommended the United Nations Security Council refer the matter to the ICC for the investigation and prosecution of individuals most responsible for committing those crimes. Notably, in March 2017, a UN group of experts focusing on accountability for gross human rights violations in the DPRK conducted its own inquiry and issued a report recommending that the ICC initiate investigations and prosecutions upon a referral by the United Nations Security Council. The focus of the present Inquiry is narrower than the work of the Commission and the UN group of experts referenced immediately above. *This Inquiry focuses primarily on crimes against humanity that were, or continue to be, committed in political prisons (“kwan-li-so”) in the DPRK. In some important instances where we received credible testimony, we also reported severe human rights violations that took place in other facilities that detain North Koreans for offenses not permitted under contemporary international law, such as interrogation units that are feeder facilities for the political prison camps.*

This Inquiry relied on a variety of sources, including scholarly works, reports, videos, transcripts, and testimony before the Commission referenced immediately above. This Inquiry also conducted a detailed review of international criminal law jurisprudence, including decisions rendered by the ICC, the International Criminal Tribunal for the Former Yugoslavia, and other tribunals. This Inquiry also draws on evidence introduced at a day-long hearing conducted at the Johns Hopkins School of Advanced International Studies in Washington, D.C., on 8 December 2016 (the “Hearing”). During this Hearing, the authors of this Inquiry report – Judges Navanethem Pillay (Chair), Thomas Buergenthal, and Mark Harmon – heard testimony from former political prisoners and North Korean state actors, including a former prison guard. Two recognized international experts on North Korea’s network of political prisons and its political system also testified. Further, the lawyers presenting evidence at the Hearing summarized the content of six of the nine affidavits submitted by former political prisoners exclusively for this Inquiry.

² Both the UN Commission of Inquiry Report (A/HRC/25/CRP.1) (hereinafter “COI Report”) and the Summary of Findings (A/HRC/25/63) (hereinafter “Summary of Findings”) are available at: <http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/CommissionInquiryonHRinDPRK.aspx>.

Notably, after the December 8 Hearing, Thae Yong-ho – the DPRK’s former Deputy Ambassador to the United Kingdom and one of its highest ranking defectors – submitted a detailed affidavit to this Inquiry. Among other things, Thae testified that political crimes that may result in imprisonment in the *kwan-li-so* include listening to South Korean pop songs, attempting to communicate outside of the country, or creating a picture of a North Korean leader. He also identified by name several individuals whom he personally knew who were sent to political prison camps in the latter part of 2013 in connection with the purge and execution of Kim Jong-un’s uncle, Jang Song-thaek. Further, Thae made clear that “[a]ll North Korean elites are very well aware” that the grave human rights abuses and “systemic violence”³ perpetrated on the North Korean people have been “planned, orchestrated and ordered by Kim Jong-un.”

A. Summary of Findings

Since 1948, a succession of family leaders – Kim Il-sung, Kim Jong-il, and Kim Jong-un – have designed and perpetuated a brutal, totalitarian regime, a signature feature of which is a network of political prisons that has no parallel in the world today.

Today, just shy of its 70th year under Kim family rule, North Korea is widely acknowledged to be the world’s most repressive country. The Kim family has declared that its authority is derived from a “Monolithic Ideology System” devised by Kim Il-sung, which vests in the “Supreme Leader” near total control over North Korea. Kim Jong-un, who assumed power upon the death of his father, Kim Jong-il, in 2011, is the Head of State of the DPRK’s only political party, the Korean Workers’ Party. He is also Supreme Leader of its internal security apparatus – the State Security Department – which is principally responsible for overseeing the DPRK’s network of political prisons. To this day, the DPRK continues to deny the very existence of these political prisons. Yet, detailed satellite imagery, as well as the corroborated testimony of scores of former prisoners and state actors with first-hand knowledge of the prisons, established the existence of this prison system, and the horrific practices that occur therein, beyond any doubt. Evidence summarized in this Inquiry report also makes clear that Kim Jong-un and his inner circle directly control the State Security Department and North Korea’s network of political prisons.

To date, hundreds of thousands of inmates are estimated to have died in North Korean political prisons. Today, between 80,000 and 130,000 individuals are estimated to be incarcerated in such prisons. Many of these prisoners are family members of individuals accused of political wrongdoing. This form of collective punishment can be traced to Kim Il-sung, who in 1958 said it was critical to eliminate the “seed” of three generations of “class enemies.” Identifying “class enemies” is a task accomplished by an elaborate network of secret police, citizen informants, and security personnel. These so-called class enemies (and their families) are subject to arbitrary detention, torture, summary execution, or life sentences in political prison camps. Those sentenced to a prison’s “total control zone” effectively have no prospect of release. They are expected to die in these prison camps and are treated as less than human. Those sentenced to a prison’s “revolutionizing zone” in theory have some prospect of release following a period of “reeducation.” In actuality, many prisoners in revolutionizing zones perish as a result of overwork, starvation, torture, or disease. Some are simply executed outright.

To assess the criminal liability that may result from the operation and oversight of North Korea’s political prisons, this Inquiry examined all eleven crimes against humanity enumerated in the Rome Statute. Crimes against humanity involve serious crimes committed against a civilian population that is widespread or systematic, whether during war or peacetime. The eleven substantive crimes are listed in Article 7 of the Rome Statute as follows: (1) murder; (2) extermination; (3) enslavement; (4) forcible transfer; (5) imprisonment; (6) torture; (7) sexual violence; (8) persecution; (9) enforced disappearances; (10) apartheid; and (11) other inhumane acts. ***This Inquiry finds reasonable grounds to conclude that ten of the eleven***

³ Thae Yong-ho is the former Deputy Ambassador of the DPRK to the UK. His affidavit is dated 23 March 2017.

crimes above have been committed in the Democratic People's Republic of Korea, with only the crime of apartheid deemed inapplicable under the facts presented.

Facts gathered by and testimony provided to this Inquiry support a conclusion fully consistent with that of the United Nations Commission of Inquiry - that is, crimes against humanity have been and continue to be, committed. Some of the crimes chronicled in this Inquiry report include the following:

- Christians are heavily persecuted and receive especially harsh treatment in prison camps, with one former prison guard testifying that “Christians were reactionaries and there were lots of instructions . . . to wipe out the seed of reactionaries;”⁴
- multiple witnesses watched prisoners tortured and killed on account of their religious affiliation;
- a prisoner was raped by a security officer, after which the officer stuck a wooden stick inside her vagina and beat her lower body, resulting in her death within a week of the rape;
- an abortion was induced by three men standing on a wooden plank placed on a pregnant prisoner's stomach;
- another witness lost consciousness after enduring a beating designed to trigger premature labor, with prison officials killing her baby before she could regain consciousness;
- rape victims who feared being killed after becoming pregnant self-induced abortions by eating dirt and poisoning themselves with flower roots;
- other rape victims self-induced abortions by inserting a rubber tube in their vaginas;
- rape of teenage girls and their subsequent attempts to commit suicide by jumping in the Daedonggang River were so common that prison guards were deployed to the river to thwart them;
- four pregnant women were executed for protesting the fact guards forced them to run down a mountain in a failed effort to induce miscarriages;
- twelve prisoners were shot and killed in the commotion that ensued after the execution of the four pregnant women referenced immediately above;
- a former prison guard witnessed a prisoner's newborn baby, most likely fathered by a high-ranking official, fed to guard dogs and killed;
- female prisoners suspected of being impregnated by non-Korean men (namely Chinese men) are subjected to especially harsh treatment, with one witness describing a prisoner being injected with a labor-inducing drug and having to watch as a guard suffocated her newborn to death with a wet towel;
- a former North Korean army nurse testified that she saw multiple abortions performed by injecting Ravenol (a motor oil) into the wombs of pregnant women and that babies born three to four months premature were “wrapped in newspapers and put in a bucket until buried”⁵ behind the detention center;

⁴ *North Korea: A Case to Answer A Call to Act*, Christian Solidarity Worldwide 64 (2007), <http://www.csw.org.uk/2007/06/20/report/35/article.htm> (citing testimony of Ahn Myong-cheol).

⁵ David Hawk, *The Hidden Gulag, Second Edition, The Lives and Voices of “Those Who are Sent to the Mountains”*, The Comm. for Human Rights in North Korea, 153 (2012), https://www.hrnk.org/uploads/pdfs/HRNK_HiddenGulag2_Web_5-18.pdf.

- deliberate starvation, malnutrition and overwork are extremely common, resulting in the deaths of countless prisoners;
- at one prison camp, 1,500–2,000 prisoners, mostly children, are believed to have died each year from malnutrition, while many other prisoners were beaten to death for failing to meet production quotas;
- starving prisoners are regularly executed when caught scavenging for food;
- at one prison camp, starving prisoners who were found digging up edible plants on a mountainside were shot to death;
- at another camp, a witness saw a fellow inmate executed for stealing potatoes, while in a separate camp a witness described the execution of numerous prisoners caught scavenging for leftover food in prison guards' quarters;
- a prisoner was beaten to death for hiding stolen corn in his mouth;
- public executions by firing squads or other means are common, especially for prisoners caught attempting to escape;
- the existence of mass graves is well documented, including detailed descriptions of mass burial sites at or near prison camps, as well as testimony about bodies being “dumped” on mountainsides near prison camps;
- an undisclosed location near a prison camp was regularly used for nighttime executions, with gunshots clearly audible;
- at a 1990 prison riot, approximately 1,500 prisoners were shot and killed, their bodies discarded in a closed mine;
- in order to satisfy production quotas, inmates – including teenagers – were forced to perform fifteen to sixteen hours of hard labor per day;
- one witness was forced to perform hard labor (carrying logs) when he was nine years old;
- at one mine in particular, prisoners were forced to work 20 hours per day, with a witness testifying that approximately 200 prisoners died each year at that mine alone;
- a soldier supervising a forced labor site at a political prison rolled a log down a steep mountainside, killing ten prisoners as they were carrying logs up the mountain;
- the bodies of some prisoners who died as a result of forced labor or torture were thrown into the cells of prisoners in solitary confinement and later strung on barbed-wire fences where they were eaten by crows;
- one witness described a torture chamber with blood and flesh on the walls and decaying corpses of past victims placed in the chamber in order to instill fear in the next prisoner;
- psychological abuse in political prisons is pervasive, with gruesome acts, including executions, carried out in plain view of fellow prisoners in order to terrorize them; and

- torture is a routine feature of life in political prisons, with a 2014 report by Amnesty International concluding that “North Korea’s prison camps are very possibly home to some of the most appalling torture in the world.”⁶

This Inquiry identifies individuals or classes of individuals who may be held liable for committing some or all of the ten crimes against humanity enumerated in the Rome Statute that are relevant under the facts presented. They are as follows:

1. Kim Jong-un as Supreme Leader;
2. Korean Workers’ Party officials;
3. State Affairs Commission officials;
4. State Security Department Prisons Bureau and Main Command officials;
5. State Security Department Investigations Bureau officials;
6. Prosecution Bureau officials;
7. State Security Department officers; and
8. State Security Department agents and prison guards.

B. Summary of Conclusions

This Inquiry concludes there is sufficient evidence to establish that perpetrators ranging from Kim Jong-un to lower-level prison guards perpetrated, and continue to perpetrate, crimes against humanity in North Korean political prison camps. At any future trial, these individuals likely would be subject to criminal liability under the principle of joint criminal enterprise or command responsibility, the latter a long-established form of liability under customary international law that holds superiors responsible for the criminal acts of their subordinates. Given North Korea’s tightly controlled leadership structure, Kim Jong-un and his inner circle warrant prosecution under the principle of command responsibility. Finally, this Inquiry makes the following recommendations:

- **Cessation of crimes against humanity:** This Inquiry calls upon the Democratic People’s Republic of Korea to cease, and the international community to put a stop to, illegal acts described in this Inquiry report, including: torture; murder; sexual violence; starvation; slave labor (including children); and persecution of religious citizens, namely Christians;
- **Compliance with United Nations human rights treaties:** This Inquiry calls for the United Nations Security Council to adopt a resolution demanding that the Democratic People’s Republic of Korea comply with all United Nations human rights treaties that the Democratic People’s Republic of Korea has ratified, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Convention on the Rights of Persons with Disabilities;

⁶ *Torture in 2014: 30 Years of Broken Promises*, Amnesty Int’l 34 (May 2014), <https://www.amnestyusa.org/files/act400042014en.pdf>.

- **Dismantlement of the political prison system:** This Inquiry calls for the Democratic People's Republic of Korea to dismantle its political prison system, commit to a new system of fair and transparent justice that affords proper due process to its citizens and submit to an international monitoring scheme that ensures the present political prison system remains dismantled;
- **Acknowledgement of atrocities and public accounting of past crimes:** This Inquiry calls for public acknowledgement of the atrocities that victims and their families have suffered, including the release of prison records to victims' families and proper memorialization of the deceased;
- **Referral to, or creation of, a tribunal of binding authority:** This Inquiry calls upon the UN to provide the ICC or a special international tribunal with jurisdiction to appropriately investigate, punish and remedy the crimes against humanity chronicled by this Inquiry report, and further calls on the international community to advocate for the UN to take such action;
- **Personal accountability and prosecution of individuals:** This Inquiry calls for culpable individuals to be held accountable for their criminal acts and to be prosecuted and punished accordingly;
- **Exercise of Universal Jurisdiction:** Third-party states who may find within their borders regime officials holding leadership positions who are known or suspected to have committed crimes against humanity in connection with North Korea's political prisons should consider exercising universal jurisdiction over said individuals, and investigate and prosecute these crimes where warranted;
- **Prohibition against the importation of products of forced labor:** This Inquiry calls for the implementation of safeguards by United Nations member states to prevent the importation of products produced in the North Korean penal system; and
- **Targeted sanctions of persons responsible:** This Inquiry calls for issuers of convertible currencies to adopt carefully targeted, coordinated, and multilateral sanctions against persons they mutually agree are responsible for past or ongoing crimes against humanity in the Democratic People's Republic of Korea.