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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS IN ANY PART OF
THE WORLD**

Situation of human rights in the Democratic People's Republic of Korea

Note by the secretariat*

Summary

This document is submitted in accordance with resolution 2003/10 in which the Commission on Human Rights requested the High Commissioner for Human Rights to engage in a comprehensive dialogue with the authorities of the Democratic People's Republic of Korea. It provides information on the broad range of issues that the Commission addressed to the Government in the resolution. The annex contains a note verbale from the Government stating its position with regard to resolution 2003/10.

* The present note is being submitted late so as to take into account as much updated information as possible.

Introduction

1. In its resolution 2003/10, the Commission on Human Rights requested the United Nations High Commissioner for Human Rights to engage in a comprehensive dialogue with the authorities of the Democratic People's Republic of Korea with a view to establishing technical cooperation programmes in the field of human rights and to submit his findings and recommendations to the Commission at its sixtieth session.

2. Since the Commission requested the High Commissioner to engage in a comprehensive dialogue, this note also provides information on the broad range of recommendations that the Commission addressed to the Government of the Democratic People's Republic of Korea.

I. TECHNICAL COOPERATION

3. In line with standard policy and practice developed pursuant to General Assembly resolution 926 (X) of 14 December 1955, which established the United Nations programme of advisory services and technical cooperation in the field of human rights, various forms of assistance in the area of human rights are at the disposal of Member States and could be made available upon their request. According to the mandate established by the General Assembly in resolution 48/141 of 20 December 1993, the Office of the High Commissioner for Human Rights (OHCHR) has provided advisory services and technical cooperation to more than 50 countries since its inception.

4. With a view to exploring ways of initiating technical cooperation with the Democratic People's Republic of Korea, OHCHR approached the Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office at Geneva. Following working-level contacts between OHCHR officials and the Permanent Mission, the Acting High Commissioner addressed a letter to the Permanent Representative of the Democratic People's Republic of Korea on 8 August 2003, inviting him to undertake a dialogue regarding technical cooperation matters. In his letter, the Acting High Commissioner also noted that, in line with established practice, the Government could consider inviting a needs assessment mission from OHCHR in order to identify potential areas of cooperation. The Acting High Commissioner would then consider the mission's findings and present to the Commission his observations and recommendations regarding possible technical cooperation activities.

5. In view of the absence of a reply to the above-mentioned letter and in an effort to explore other avenues of cooperation, including those outside the resolution's framework, the Acting High Commissioner wrote a follow-up letter to the Permanent Representative of the Democratic People's Republic of Korea on 16 December 2003 in which he took note of the fact that the Committee on Economic, Social and Cultural Rights had expressed its appreciation for the dialogue that took place between its members and the delegation of the Democratic People's Republic of Korea during the Committee's consideration of the second periodic report of the Democratic People's Republic of Korea in November 2003. In the spirit of continuing and strengthening cooperation between OHCHR and the Democratic People's Republic of Korea, the Acting High Commissioner expressed his hope that the Democratic People's Republic of Korea would cooperate in the context of OHCHR activities under the Framework for Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific region.

6. A reply from the Permanent Representative of the Democratic People's Republic of Korea was received on 30 December 2003, which informed the Acting High Commissioner that his letter had been transmitted to Pyongyang and that the Government valued close cooperation with OHCHR.

II. REPORTS OF HUMAN RIGHTS VIOLATIONS

7. In paragraph 1 of its resolution, the Commission expressed its deep concern about reports of systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, including:

(a) Torture and other cruel, inhuman or degrading treatment or punishment, public executions, imposition of the death penalty for political reasons, the existence of a large number of prison camps and the extensive use of forced labour, and lack of respect for the rights of persons deprived of their liberty;

(b) All-pervasive and severe restrictions on the freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association and on access of everyone to information, and limitations imposed on every person who wishes to move freely within the country and travel abroad;

(c) The mistreatment of and discrimination against disabled children whose particular needs are not sufficiently taken into consideration;

(d) Continued violation of the human rights and fundamental freedoms of women.

8. Since the adoption of the resolution, the following developments have taken place, in relation to the above-mentioned issues under the auspices of the human rights treaty bodies and the special procedures of the Commission on Human Rights.

9. The Committee on Economic, Social and Cultural Rights considered the second periodic report of the Democratic People's Republic of Korea on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.35) at its thirty-first session in November 2003 and adopted concluding observations (E/C.12/1/Add.95) that referred as follows to a number of issues mentioned in paragraph 1 of the resolution:

(a) The Committee expressed its concern that children with disabilities are not included, whenever possible, in the regular school system (para. 25) and recommended that the Democratic People's Republic of Korea change the present system and allow these children to be educated in the regular school system. It also recommended that measures be taken to raise awareness among students, teachers and families of the special needs of these children and train teachers to assist them effectively in regular classes (para. 46);

(b) The Committee expressed its concern about the persistence of traditional societal attitudes and practices prevailing in the Democratic People's Republic of Korea with regard to women that negatively affect the enjoyment of their economic, social and cultural rights. It was concerned about the lack of domestic legislation on non-discrimination against women and about the persistence of de facto inequality between men and women in decision-making positions, both in political and administration bodies, as well as in the industrial sector as a whole

(para. 13). Accordingly, the Committee suggested that domestic legislation be reviewed with the aim of giving full effect to the principle of non-discrimination against women and that the Government adopt and implement a programme containing specific measures for awareness-raising, aimed at promoting the rights of women and their advancement in all fields of political, economic and social life (para. 33). The Committee also recommended that the Democratic People's Republic of Korea amend its legislation in order to include specific provisions that can be used as grounds to fight domestic violence (para. 39);

(c) Concerned about the alarming increase in the maternal mortality rate (para. 23), the Committee recommended that the Democratic People's Republic of Korea take effective measures to improve the conditions of maternal care, including prenatal health services and medical assistance at birth (para. 44).

10. In regard to the above-mentioned issues, no action has been taken by the special procedures of the Commission on Human Rights since the adoption of the resolution. However, some special procedures had dealt with a number of issues of human rights concern in their earlier reports, for instance the Special Rapporteur on violence against women, its causes and consequences¹ and the Special Rapporteur on the right to food.²

III. MEASURES REQUESTED OF THE GOVERNMENT BY THE COMMISSION

11. Relevant information is provided below on the requests contained in paragraph 2 of its resolution, in which the Commission called upon the Government of the Democratic People's Republic of Korea to respond urgently to these concerns by:

(a) Ratifying human rights instruments to which it is not yet a party. At the time of writing, no human rights instruments, including those expressly referred to in the resolution, had been signed or ratified by the Democratic People's Republic of Korea;

(b) Providing all pertinent information concerning the above-mentioned issues. By note verbale dated 21 January 2004, the Government of the Democratic People's Republic of Korea was specifically invited to provide information in connection with the preparation of the present note. In its note verbale dated 4 February 2004, the Permanent Mission of the Democratic People's Republic of Korea provided information which it wished to be reported to the Commission. The note verbale is reproduced in the annex to the present report;

(c) Implementing the recommendations of the Committee on the Rights of the Child and the Human Rights Committee:

- (i) The recommendations of the Committee on the Rights of the Child are contained in its concluding observations adopted on 5 June 1998 (CRC/C/15/Add.88) following the consideration of the initial report of the Democratic People's Republic of Korea (CRC/C/3/Add.41). The Committee is scheduled to review the implementation of its recommendations at its next session in June 2004 during the consideration of the second periodic report (CRC/C/65/Add.24). The Committee's pre-sessional working group held a preparatory discussion on the report at

the thirty-sixth session in February 2004. In connection with the consideration of its report, on 9 February 2004, the Government of the Democratic People's Republic of Korea invited the Chairman and one member of the Committee to visit the country in April 2004;

- (ii) The most recent recommendations of the Human Rights Committee are contained in the concluding observations adopted on 27 August 2001 (CCPR/CO/72/PRK) following the consideration of the second periodic report of the Democratic People's Republic of Korea (CCPR/C/PRK/2000/2). The Committee welcomed the opportunity to resume dialogue with the Democratic People's Republic of Korea after an interval of more than 17 years. However, it regretted the lack of information on the human rights situation in practice, as well as the absence of facts and data on the implementation of the Covenant. As a result, a number of credible and substantiated allegations of violations of Covenant provisions which had been brought to the attention of the Committee could not be addressed effectively, and the Committee found it difficult to determine whether individuals in the State party's territory and subject to its jurisdiction fully and effectively enjoy their fundamental rights under the Covenant. Apart from these general points, the Committee identified numerous areas of concern and offered recommendations for addressing them. Information relating to the Committee's recommendations was requested to be included in the third periodic report of the Democratic People's Republic of Korea, which was due by 1 January 2004. At the time of writing, this report was outstanding;

(d) By refraining from sanctioning citizens of the Democratic People's Republic of Korea who have moved to other countries, in particular for humanitarian reasons. During the period covered in the present note, the Committee on Economic, Social and Cultural Rights expressed concern about information according to which citizens of the Democratic People's Republic of Korea who have travelled abroad without a passport in search of employment and better living conditions are sent to labour camps upon return to their country (E/C.12/1/Add.95, para. 15). The Committee recommended that the national legislation be reviewed in order to eliminate penalties against persons having travelled abroad in search of employment and better living conditions (*ibid.*, para. 35). The Committee also invited the Government of the Democratic People's Republic of Korea to explore the possibility of increasing in due course the budgetary allocations for social expenditure, as well as public assistance for people in need, and of enabling persons looking for employment, particularly women, to find jobs on the territory of the Democratic People's Republic of Korea (*ibid.*, para. 38);

(e) By cooperating with the United Nations system in the field of human rights. In paragraph 2 (e) of the resolution the Commission expressly called upon the Government of the Democratic People's Republic of Korea to cooperate without restriction with the thematic procedures of the Commission relevant to the situation in the country, in particular the Special Rapporteurs on the right to food, on the question of torture and on religious intolerance, and the

Working Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances. Information reflecting the situation relevant to this paragraph since the adoption of the resolution is provided below:

- (i) The Special Rapporteur on the right to food requested permission from the Government of the Democratic People's Republic of Korea to carry out a mission to that country in his letter dated 8 May 2003. Subsequently, in his report to the General Assembly, the Special Rapporteur urged the Government to respond to his request and authorize the mission (A/58/330, para. 5). No reply from the Government has been received to date;
- (ii) The present Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression renewed, in his letter of 7 October 2002, the request of his predecessor to visit the Democratic People's Republic of Korea dating back to 18 March 1996. The Special Rapporteur refers to this request in his latest report to the Commission (E/CN.4/2004/62, para. 22). No invitation has been received yet from the Government;
- (iii) The Special Rapporteur on religious intolerance requested to visit the Democratic People's Republic of Korea in his letter of 16 May 1999. This request was reiterated in a letter dated 29 July 2002. A reference to this outstanding request is made in his latest report to the Commission (E/CN.4/2004/63, paras. 5 and 6);

(f) By resolving all the unresolved questions relating to the abduction of foreigners. Representatives of the Government of Japan and families of abducted Japanese nationals have been in contact with OHCHR to seek support for their efforts to deal with the issue of abduction of Japanese nationals to the Democratic People's Republic of Korea. The Working Group on Enforced or Involuntary Disappearances has been seized with the matter. In particular, the Working Group has been concerned about nine individuals of Japanese nationality who were allegedly kidnapped some years ago in Japan or Europe by agents of the Democratic People's Republic of Korea and taken to the territory of the Democratic People's Republic of Korea (E/CN.4/2003/70, paras. 84, 85 and 326; see also E/CN.4/2004/58, paras. 92-96);

(g) By adhering to internationally recognized labour standards. Since the adoption of the resolution, the issue was addressed by the Committee on Economic, Social and Cultural Rights. In particular, the Committee:

- (i) Recommended that the Democratic People's Republic of Korea join the International Labour Organization (ILO) as a full member and consequently ratify the main ILO conventions in due course. In order to facilitate the accession, the Committee recommended that the Democratic People's Republic of Korea speed up the necessary reform of its legislation with a view to fulfilling the criteria of the tripartite representation system in the ILO (E/C.12/1/Add.95, para. 32);

- (ii) Expressed concern that the right to work may not be fully assured in the present system of compulsory State-allocated employment, which is contrary to the right of the individual to freely choose his/her career or his/her workplace (ibid., para. 14), and encouraged the Democratic People's Republic of Korea to take legislative measures to guarantee the right of everyone to choose his/her career and workplace (ibid., para. 34);
- (iii) Noted with concern that the Korean legislation establishes a single trade union structure, which is controlled by the ruling party; that the exercise of the right to form trade unions is dependent upon an authorization given by the State security organs; and that domestic legislation does not recognize the right to strike (ibid., para. 16). The Committee recommended that the Democratic People's Republic of Korea review its domestic legislation to bring it into line with the provisions of the Covenant with regard to the trade unions rights, including the right to form independent trade unions and the right to strike (ibid., para. 36).

IV. THE HUMANITARIAN SITUATION

12. In its resolution, the Commission expressed its concern about reports of a precarious humanitarian situation in the Democratic People's Republic of Korea and called upon the authorities to ensure that humanitarian organizations, in particular the United Nations agencies, have free and unimpeded access to all parts of the country in order for them to ensure that humanitarian assistance is delivered impartially. Information provided by the Office for the Coordination of Humanitarian Affairs³ indicates that well-targeted assistance can have an immediate impact on the lives of vulnerable people. However, the substantial gains that humanitarian assistance has achieved are challenged by lingering economic difficulties and a weakened international response. At the same time, the humanitarian situation in the Democratic People's Republic of Korea remains complex and still requires substantial international assistance to safeguard the well-being of millions of vulnerable citizens of the Democratic People's Republic, including children and women, whose survival would otherwise be seriously compromised. While the humanitarian effort will have to be pursued, it is becoming evident that the humanitarian response alone, which continues to focus on relief assistance and the provision of support to basic services, will not be effective in the long term unless the country overcomes its severe economic difficulties.⁴

Notes

¹ In her report to the Commission at its last session (E/CN.4/2003/75/Add.1), the Special Rapporteur identified the following issues of concern: discrimination against women and gender-specific violence; trafficking in women and girls from the country, noting the absence of a specific law addressing trafficking; and torture in prisons or during interrogations, noting that women who have become pregnant as a result of having been trafficked to China are especially targeted in detention and are forced to undergo abortions.

² In his reports, the Special Rapporteur on the right to food has made references to the Democratic People's Republic of Korea as one of the countries suffering from hunger (see, for instance, A/57/356, para. 5).

³ See 2004 United Nations Consolidated Inter-Agency Appeal for the Democratic People's Republic of Korea.

⁴ Ibid.

Annex***NOTE VERBALE DATED 4 FEBRUARY 2004 FROM THE PERMANENT
MISSION OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA
ADDRESSED TO THE OFFICE OF THE UNITED NATIONS HIGH
COMMISSIONER FOR HUMAN RIGHTS**

The Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to state as follows the position of the Government of the Democratic People's Republic of Korea (DPRK) on Commission on Human Rights resolution 2003/10 in response to the Office's note verbale of 21 January 2004, asking for information which the Government of the DPRK would wish to see reflected in the forthcoming report of the Office to the Commission.

The Government of the DPRK sets as its priority policy the realization of the independent rights of its citizens and makes every effort to carry out the policy. Our people, who are subject to the suffering of national division by foreign forces and never-ending threats and pressure from the outside, desire the enjoyment of independent rights more than any other peoples and wish to live peacefully, free from any outside interference.

The Government seeks to achieve international cooperation and collaboration designed to ensure the sovereign rights of all peoples and opposes pursuit of any political purposes under the pretext of "human rights".

It is from this position that the Government of the DPRK has become party to several international legal instruments on human rights and implemented them in good faith. It has opposed the challenges of politicization of human rights, double standards, etc. and continued to pursue substantial discussions and cooperation for achieving genuine human rights in the Commission on Human Rights and all other human rights meetings.

Practical efforts have been exerted for bilateral cooperation in the field of human rights. The Government, starting from the EU-DPRK preliminary contact in Brussels in June 2001 for bilateral human rights dialogue, has held several human rights dialogues with the EU and also arranged regular contacts with the Ambassadors of the EU member States, namely Germany, Sweden and the United Kingdom, in Pyongyang on the issues of human rights.

The issues of human rights have been placed as major agenda items of the annual EU-DPRK political dialogue, the seminar on the prospects for EU-DPRK relations and other bilateral forms, and human rights experts from the DPRK attended human rights training courses in London and Stockholm.

* Reproduced as received, in the language of submission.

The Government of the DPRK responded with great indulgence to the human rights questionnaire put forward by the EU in October 2001, though the nature of the questionnaire was an open push for interference in its internal affairs, and also allowed them access to reform-through-labour centres and contact with former inmates in 2002.

The cooperation that the Government of the DPRK has shown during the two years after the establishment of EU-DPRK relations has stemmed from its standpoint to respect the EU's advocacy for respect of human rights and to further develop relations through mutual understanding and collaboration.

However, the EU unilaterally scrapped the dialogue and cooperation with the DPRK in the human rights field and forced the adoption of the abruptly tabled resolution without any prior consultation with the party directly concerned.

The EU cannot be construed otherwise than as imposing another pressure upon the Government and people of the DPRK, as it - not by chance - dovetailed with the attempt in early 2003 by the United States to stifle the DPRK.

Resolution 2003/10, adopted under pressure by the EU, has nothing in essence to do with human rights and represents the product of political collusion with the anti-DPRK policy of the United States, having only resulted in the burgeoning of mistrust towards the EU.

The Government of the DPRK categorically objects to resolution 2003/10, which lost fairness and objectivity in view of its tabling process and contents and contained uncivilized wording designed to artificially impair the image of the DPRK.

The resolution pursues the clear-cut purpose of depriving the people of the DPRK of their sovereignty and genuine rights. The Government of the DPRK cannot implement the resolution opposed by its people.

The DPRK, as a State Member of the United Nations, stands for peace, security, independent development and friendly relations with all countries and peoples based on sovereign equality, in accordance with the purposes and principles of the Charter.

We will not subscribe to any form of move to infringe upon the interest and rights of other countries and nations.

The Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office at Geneva would highly appreciate if the Office of the High Commissioner for Human Rights would reflect the above information in its report to the Commission, and avails itself of this opportunity to renew to the Office the assurances of its highest consideration.
