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The Statement

of

The Special Rapporteur on the Situation of Human Rights in the Democratic
People's Republic of Korea

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Human-Rights Council

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Madam President, Ladies and Gentlemen,

Thank you for providing me with the opportunity to address the 19th session of the Human Rights Council.

This is the second time I am presenting a report on the human rights situation in the Democratic People's Republic of Korea (DPRK) before the Human Rights Council. You may recall that in March 2011, I submitted my first substantive report to the Human Rights Council. More recently, in October 2011, I submitted a report to the General Assembly following which a resolution on the DPRK was adopted with the highest vote in favour of the resolution, indicating the growing concerns about the human rights situation in the DPRK among the international community.

In this present report, I provide an overview and update on the situation in the DPRK and propose some key conclusions and recommendations for the State and the international community, particularly neighbouring countries.

Excellencies,

Since my appointment in August 2010, I have made numerous requests to visit the DPRK. In addition, I have also requested meetings with officials of the Permanent Mission of the DPRK, both in New York and in Geneva. I am sorry to report that none of these requests has received a favourable response. Most recently, in March 2012, following the succession of the new leadership in the DPRK, I have approached the State authorities both for a meeting and a visit to the country in the hope of a change in approach to the mandate of the Special Rapporteur. I am yet to receive a response to this latest communication.

Since the presentation of my report to the General Assembly in October 2011, I have conducted missions to the Republic of Korea (RoK), from 21 to 25 November 2011, and to Japan, from 14 to 20 January 2012. In both these countries, I held meetings with the Government, national and international non-governmental organizations, diplomats and victims of human rights abuses.

While the main focus of my visit to the RoK and to Japan was to gather information on human rights violations of the people of the DPRK, I also examined the issue of abduction of foreign nationals by the agents of the DPRK, family reunion of separated Korean families, the situation of asylum-seekers from the DPRK, and the humanitarian situation, in particular the food situation in that country. I was also briefed on the current status of the six-party talks, bilateral Japan-DPRK and RoK-DPRK meetings, and the situation in the Korean peninsula in general.

Excellencies,"

At the outset, I wish to point out that there has not been much progress on most of the above-mentioned issues since my previous visits to the RoK and to Japan, in November 2010 and January 2011, respectively. Indeed, I believe that there has been a significant deterioration in the human rights situation in the country.

In December, 2011, the death of RE. Kim Jong-il led to the succession of Kim Jong-Un as the new leader of the DPRK, I am of the opinion that the ramifications of this change on the people of DPRK and on the international community will only unfold in the coming months. I do hope that the new leadership in the DPRK will use the recent succession as an opportunity to engage with the international community and to secure global confidence. I believe that the current transition may be a window of opportunity for the country to adopt a reform process and address all questions and concerns in relation to human rights, which will be welcomed from all quarters.

I welcome the recent *progress* made on nuclear issues, which has been accompanied by an increased flow of food aid into the country.

Ladies and Gentlemen,

With regard to separated families and family reunions, I note with regret that the talks between the Red Cross societies' of the RoK and the DPRK., which have taken the lead in facilitating family visits of separated Korean families, have been stalled since November 2010, in the wake of the DPRK's artillery firing on Yeonpyeong Island.

I am concerned that, despite more than 150 rounds of talks between the Red Cross societies' of the RoK and the DPRK since 1971, the outcome of the talks has been minimal. To date, the two societies have managed to organize only 18 rounds of family reunions over a period of 12 years, the last one being held in October 2010. The number of families in the RoK who have benefitted from the family reunion programme stands at 1,800 out of a total 128,668 registered applicants. Many of these people are elderly and face the risk of ending their lives without contact with their loved ones.

This state of affairs underscores the urgency of resuming the reunions of family members separated by the Korean War of 1950-1953. In my report, I have proposed some new ideas of moving forward on the question of family reunions, which I hope will be considered by the parties concerned.

Madam President,

In recent years, chronic shortage of food has become one of the most pressing human rights' issues in the DPRK. In March 2011, a joint World Food Programme (WFP) -Food and Agriculture Organisation (FAO) survey found that, in the DPRK, more than 6 million people urgently required international food assistance. Following the survey, an assessment mission was jointly conducted by the FAO and WFP, in October 2011. The report showed that many of the factors behind the shortage of food in the DPRK remain the same in 2012, but have intensified; these include the adverse weather, conditions, underdevelopment and structural problems, which have all had a serious impact on food and crop production in 2010/11.

I am concerned that the current dire food shortage will lead to serious health problems, especially in children, women and the elderly. Other vulnerable groups are pregnant and lactating women; who are at greater risk of acute malnutrition and micronutrient deficiencies,

I would like to underscore the importance of meeting the food shortfall by ensuring that an adequate quantity of food' of good quality is available through 'additional imports by the Government, supported by the international agencies and bilateral donors. I would like to emphasize that the primary obligation to feed people lies with the State, but encourage multilateral cooperation in this regard. Members of the international community have both a joint and individual responsibility to provide humanitarian assistance in times of emergency. States should refrain at all times from food embargoes or similar measures that endanger conditions for food production and access to food in other countries, Food should never be used as an instrument of political and economic pressure. I hence call on donor countries, including non-traditional donor countries, to provide humanitarian aid, such as food and medicines. In this regard, I again welcome the recent decisions of a number of countries to commence providing food assistance to the DPRK.

In order to recommend certain concrete steps to improve the situation of the right to food in the DPRK, I urge the authorities of the DPRK country to invite the Special Rapporteur on the right to food for an official visit. Such an invitation to visit the country would, inter alia, help the Special Rapporteur on the right to food to make appropriate recommendations on how to rectify food production and distribution mechanisms and on ways to increase food production.

Madam, President, Ladies and Gentlemen:

In my current report, I have also focused on the due process of law in the DPRK. While welcoming the amendment made to the Criminal Code in 2004; which deleted provisions that allowed for analogical interpretations of crimes, I note with concern that a number of constitutional and legislative provisions seriously endanger the impartiality and independence of the judiciary in the DPRK. As the court system currently stands in the DPRK, the Central Court is accountable to the 'Supreme People's Assembly. Furthermore, the Criminal Code subjects judges to criminal liability for handing down, "unjust judgements". I am concerned that such provisions have an adverse impact on the protection of human rights guaranteed under the ICCPR and endanger the independence of the judiciary. Furthermore, I believe that the need to maintain the separation of powers is also compromised, seriously jeopardizing the rendering of independent and impartial justice. It is important to protect judges against conflicts of interests and interference in order to safeguard their independence.

A number of other provisions in the Criminal Code fall below the standard required to ensure that due process of law is maintained and the rights of people are respected; for instance, the definition of "labour training" and "training detention facilities" remains unclear; the possibility of a broad interpretation of the category of "political crime" remains; and elements such as "crimes by association" are maintained in several parts of the Criminal Code. Similar vague terms are contained in an addendum to the Criminal Code on which I have elaborated in my report.

Excellencies,

In February 1987, the DPRK made significant revisions to its Criminal Code, when it reduced the number of crimes punishable by death from 33 to 5. On 19 December 2007, the DPRK adopted a unique form of law, referred to as an "addendum to the Criminal Code for ordinary crimes", which has gone largely unnoticed by the international community. The addendum is a very significant legislative act, given that it was formally adopted by the Presidium of the Supreme People's Assembly as a Government directive. Since its adoption, it has been functioning as a complement to the Penal Code, and carries the same weight as other provisions, of the Criminal Code. The addendum comprises a total of 23 articles, of which 16 stipulate the death penalty for a number of crimes. Furthermore, the addendum contains a number of vague expressions, such as "the gravest cases" or "extremely serious cases" which leave room for arbitrary decisions by the authorities.

Reports of executions continued to be shared with my office; as many as 20 such executions were reported to have been carried out in 2011 alone. Some of the reasons for executions include drug trafficking, murder, sexual assault, espionage and large-scale distribution of information material from overseas.

Madam President,

I note with concern that no progress has been made in resolving the question of abduction of foreign nationals by agents of the DPRK. To date, some 500 unresolved cases of abduction of Koreans from the RoK have been reported. These abductions were carried out following the ceasefire at the end of the Korean War.

With regard to the abduction of Japanese nationals, the reinvestigation of 12 cases by the DPRK authorities is still pending. The launch of a full-scale investigation was promised by the DPRK during its working level talks with Japan on abductions held in August 2008. I wish to reiterate my position that the DPRK should stand by its commitment made to Japan to reinvestigate, the 12

pending cases of abduction. The urgency of the matter is clear; the abductees are aging, as are their family members in Japan. In this regard, it is important that pressure be maintained on the DPRK until such time as a satisfactory outcome has been achieved.

Ladies and Gentlemen,

During my mission to the RoK, I was briefed about the case of Dr. Oh Kil-nam and his family who were persuaded by agents of the DPRK to move to that country from West Germany in 1985. In 1986, while Dr. Kil-nam left the DPRK on the pretext of bringing more citizens of the RoK from West Germany, he left his wife and two daughters in the country, and they have since been held hostage by the State.

I am extremely concerned that this case has been unresolved for a number of years, and call on the authorities of the DPRK to release Dr. Kil-nam's family members immediately and to facilitate their reunion with Dr. Kil-nam.

Madam President, Ladies and Gentlemen,

Finally, I wish to touch upon the question of asylum seekers from the DPRK. I report with concern that there has been a steady increase in the number of persons seeking refuge in the RoK. By the end of 2012, there were around 23,700 asylum-seekers in the RoK. In 2011, an increase of 17 per cent in the number of arrivals to the RoK was recorded over the figures for the previous year..

I interacted with a number of asylum-seekers who had endured various types of harrowing experience in the DPRK. Most of the asylum-seekers with whom I spoke had undergone harsh punishment in forced labour camps, had either witnessed or heard of torture being used on other inmates, and suffered punishment on the basis of "guilt by association", I also heard with concern about the increase in the number of neighbourhood social squads or "minders", as they were commonly referred to. While some asylum-seekers manage to make their way to the RoK, numerous others are forcibly returned to the DPRK by the neighbouring country, It was reported that border controls were tightened in 2011, making access to international protection more difficult.

I reiterate my deep concerns with regard to the safety and protection of asylum seekers from the DPRK, and call on States to adhere to their obligation of providing international protection to such asylum-seekers and adhere to the principle of non-refoulement.

Madam President, Ladies and Gentlemen,

I thank you for your attention to my report which I again hope can be the basis of dialogue and contact with the DPRK authorities. I again appeal to the Government of DPRK, at this time of leadership transition and offers of international engagement and support, to reconsider its position on my mandate and to engage with the Human Rights Council and its mechanisms in an open and genuine manner.:

Thank you.

