

Report: Inquiry on Crimes Against Humanity in North Korean Detention Centers



A report by:

War Crimes Committee of the International Bar Association (IBA)
and The Committee for Human Rights in North Korea (HRNK)



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THE COMMITTEE FOR
HUMAN RIGHTS IN NORTH KOREA
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I. Executive Summary

Brief Synopsis:

This Inquiry (as defined below) finds that there are reasonable grounds to conclude that crimes against humanity have been, and continue to be, committed on a massive scale in detention centers of the Democratic People's Republic of Korea (the "DPRK," "North Korea," or the "State").

This Inquiry finds that there are reasonable grounds to conclude that the following ten of the eleven crimes against humanity listed in the Rome Statute of the International Criminal Court adopted in 1998 ("**Rome Statute**") have been, and continue to be, committed: (1) murder, (2) extermination, (3) enslavement, (4) forcible transfer, (5) imprisonment or severe deprivation of physical liberty, (6) torture, (7) sexual violence, (8) persecution, (9) enforced disappearance, and (10) other inhumane acts.

Based on the evidence presented and reviewed, this Inquiry finds that there are reasonable grounds to conclude that the following classes of individuals may be subject to prosecution for some or all of the above referenced crimes, including:

- Kim Jong-un in his capacity of Head of State;
- Members of the Organization and Guidance Department ("**OGD**");
- Members of the State Affairs Commission ("**SAC**");
- Members of the Ministry of Social Security ("**MPS**," formerly known as the Ministry of People's Security);¹ and
- Members of the Ministry of State Security ("**MSS**").

The legal basis for holding the above individuals liable for crimes against humanity under the Rome Statute may include modes of individual criminal responsibility, under Article 25(3)(a) (*i.e.*, direct perpetration, co-perpetration, indirect perpetration, and indirect co-perpetration), or superior responsibility under Article 28 (*i.e.*, liability of military commanders and civilian superiors for the failure to prevent or punish the crimes of their subordinates).

Recommendations: This Inquiry calls on the DPRK and the international community to urgently take all necessary actions to ensure the cessation of crimes against humanity in the detention centers and to ensure compliance with the obligations contained in human rights treaties to which DPRK is a party. This Inquiry also calls for accountability of those responsible for crimes against humanity in the DPRK using all possible avenues, including investigation and prosecution before the International Criminal Court ("**ICC**"), a special international tribunal, or national courts through the exercise of universal jurisdiction. Other recommendations include a call for targeted sanctions against persons responsible for past or ongoing crimes against humanity in North Korea's detention centers and beyond and nonjudicial transitional justice mechanisms that can play a role in a comprehensive approach to address gross human rights violations, such as national consultations, truth and reconciliation commissions, and reparations programs.

¹ This report refers to the Ministry of Social Security as the MPS, the acronym for its former title, to ensure the distinction between the MPS and the Ministry of State Security.

This Inquiry represents the culmination of an initiative spanning over two years, entitled **Inquiry on Crimes Against Humanity in North Korean Detention Centers** (“**Inquiry**”). The Inquiry sought to advance the following goals:

1. Increase public awareness of grave human rights violations in North Korea’s detention centers;
2. Explore the practical and legal options of holding the architects and overseers of North Korea’s detention system accountable for alleged crimes against humanity if the evidence demonstrates that there are reasonable grounds to conclude such crimes have been committed; and
3. Further 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.

The War Crimes Committee of the International Bar Association (the “**IBA**”) organized the Inquiry, with the support of partner organizations including the Committee for Human Rights in North Korea (“**HRNK**”), and of lead pro bono counsel, Debevoise & Plimpton LLP.

This Inquiry is preceded by the inquiry the IBA conducted in 2017 on crimes against humanity in North Korean political prisons (“**2017 Inquiry**”), which found that “there is ample evidence to support the finding that crimes against humanity have been—and continue to be—committed on a massive scale in political prisons of [the DPRK].”² The 2017 Inquiry also called upon the United Nations (“**UN**”) Security Council to refer the matter to the ICC or another international tribunal with jurisdiction to “appropriately investigate, punish and remedy the crimes against humanity chronicled by this Inquiry.”³ Unfortunately, the Security Council has not made this referral to date.

² International Bar Association, “Report: Inquiry on Crimes Against Humanity in North Korean Political Prisons,” December 2017 (“**IBA Report 2017**”), at 2.

³ *Id.*

Unlike the 2017 Inquiry, which focused on crimes against humanity in DPRK political prisons (*kwan-li-so*), the focus of this Inquiry is crimes against humanity that were, or continue to be, committed in the DPRK detention system, which is comprised of three main categories of detention facilities: pre-trial detention centers (*ku-ryu-jang*), holding centers (*jip-kyul-so*), and labor training camps (*ro-dong-dan-ryeon-dae*).⁴ The conditions under which the weakest members of a society live often mirrors the overall human rights situation in a country. For this reason, we believe it is important to explore the conditions detainees are subjected to.

Both this Inquiry and the prior 2017 Inquiry organized by the IBA are unofficial follow-ups to the UN Human Rights Council’s Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea (the “**Commission of Inquiry**”).⁵ In 2014, the UN Commission of Inquiry, chaired by former justice of the High Court of Australia, Michael Kirby, issued a seminal report and detailed findings (“**UN COI Report**” and “**UN COI Detailed Findings**”) chronicling the systematic, widespread and gross human rights violations committed by the DPRK, including violations constituting crimes against humanity based on State policies.⁶ The UN Commission of Inquiry recommended that the UN Security Council refer the situation in the DPRK to the ICC to ensure that those most responsible for the crimes against humanity are held accountable.⁷

Subsequently, the UN Human Rights Council designated independent experts to focus on accountability for gross human rights violations in the DPRK, in particular where such violations amount to crimes against humanity, as found by the UN Commission of Inquiry.⁸ In 2017, the group of independent experts on accountability also issued a report recommending that UN Member States take further steps toward achieving accountability of those responsible for human rights violations in the DPRK, including through referral by the UN Security Council of the situation to the ICC and consideration of the establishment of an *ad hoc* international tribunal.⁹ As noted by the group of independent experts, “the crimes described in the report of the commission of

⁴ See *infra* Section IV.B.

⁵ IBA Report 2017, at 3; see Human Rights Council, “Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea,” 7 February 2014 (“**COI Report**”), ¶¶ 3-6; Human Rights Council, “Report of the Detailed Findings on the Commission of Inquiry on Human Rights in the DPRK to the Human Rights Council,” 7 February 2014 (“**UN COI Detailed Findings**”), ¶¶ 1-5.

⁶ COI Report, ¶ 24.

⁷ *Id.*, ¶¶ 87, 94(a).

⁸ Human Rights Council, “Report of the Group of Independent Experts on Accountability,” 24 February 2017 (“**Accountability Report**”), ¶ 1.

⁹ *Id.*, ¶ 84(a); see also *id.* ¶¶ 75–77.

inquiry are of a gravity rarely seen, involving systems of abuse that have been operating for decades. These crimes are of international concern and cannot go unpunished.”¹⁰

Despite such repeated calls and recommendations for accountability for human rights violations in the DPRK, grave human rights violations and crimes against humanity in the DPRK have continued with impunity, necessitating further efforts such as this Inquiry to document and raise awareness of these crimes and to continue to call for accountability.¹¹

This Inquiry relied on a variety of sources, including testimony from 25 former detainees and seven experts, scholarly works, reports, and testimony given to the UN Commission of Inquiry. Notably, the written evidence obtained for this Inquiry included an affidavit from Thae Yong-ho, the DPRK’s former Deputy Ambassador to the United Kingdom and one of its highest-ranking defectors. This Inquiry conducted a detailed review of international criminal law jurisprudence, including decisions rendered by the ICC. The Inquiry also draws on evidence introduced at a day-long hearing conducted at DACOR Bacon House in Washington, D.C., on 4 March 2022 (the “**Hearing**”).¹² At the Hearing, the authors of this Inquiry report—Judges Navi Pillay (Chair), Dame Silvia Cartwright (participating remotely), Silvia Fernández de Gurmendi, and Wolfgang Schomburg heard testimony from six experts and six former detainees. Four of the experts and four of the former detainees provided live testimony, with the others testifying virtually.

The DPRK was invited to take part in the Inquiry, but declined.¹³

¹⁰ *Id.*, ¶ 76.

¹¹ *See, e.g.*, HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, 30 May 2019, A/HRC/40/66, ¶ 27 (“Torture and ill-treatment remains widespread and systematic in detention facilities operated by the Ministry of State Security and the Ministry of People’s Security.”); HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, 2 July 2021, A/HRC/46/51, ¶¶ 15–16 (“[A]nalysis of available information continued to confirm that there were reasonable grounds to believe that crimes against humanity had been committed and could be ongoing in the Democratic People’s Republic of Korea There are still no signs that the Democratic People’s Republic of Korea has overcome the entrenched culture of impunity to hold accountable individuals who are responsible for human rights violations.”).

¹² Hearing Video, https://youtu.be/NmJ_mgToGY4 (last accessed 17 June 2022).

¹³ *See* HRNK Response to March 1 Statement by the DPRK Ministry of Foreign Affairs, 1 March 2022, <https://www.hrnk.org/events/announcements-view.php?id=86> (last accessed 17 June 2022).

A. Summary of Findings

Since the early years of its establishment, the DPRK has been a single-party State ruled by a family dynasty, with a system of governance built on an absolute guiding ideology, or cult of personality, of the Supreme Leader (*suryong*).¹⁴ The *suryong* system demands absolute obedience to the Supreme Leader, who exercises total control over the country; no other political ideology, belief system, or independent thought is allowed.¹⁵ The current Head of State, or Supreme Leader, of the DPRK is Kim Jong-un.¹⁶

The Kim regime exercises absolute power and control over the population through the state security apparatus, which maintains complete surveillance over the citizenry and a system of arbitrary detention, violence, and harsh punishments for non-compliance with the State's dictates.¹⁷ As reported by the UN Special Rapporteur on the situation of human rights in the DPRK, "[f]undamental to the effective control of the population is a system of arbitrary detention, lack of fair trial guarantees and a judiciary that serves the interests of the Government."¹⁸ As such, the DPRK criminal justice system and its facilities do not

¹⁴ See *infra* Section IV.A.

¹⁵ UN COI Detailed Findings, ¶¶ 110, 259–260, 1183; see also R. Collins, "Pyongyang Republic," HRNK (2016) ("**Pyongyang Republic**"), at 18–22; Collins and A. Mortwedt Oh, "From Cradle to Grave, The Path of North Korean Innocents," HRNK (2017) ("**Collins and Mortwedt Oh**"), at 3.

¹⁶ Kim Jong-un, the current Supreme Leader of the DPRK, was elected as the General Secretary of the Korean Workers' Party ("**KWP**") in January 2021. Ruediger R. Frank, "Key Results of the Eighth Party Congress in North Korea (Part 2 of 2)," 38 North (19 January 2021), <https://www.38north.org/2021/01/key-results-of-the-eighth-party-congress-in-north-korea-part-2-of-2/> (last accessed 17 June 2022). During his tenure as Supreme Leader, he has also served as Director of the KWP OGD, Supreme Commander of the Korean People's Army ("**KPA**"), Chairman of the KWP Executive Policy Bureau, Chairman of the KWP Central Military Committee, and Chairman of the DPRK SAC. Additionally, the Supreme Leader has held membership positions in the Standing Committee of KWP Politburo, which organizes and directs party work on behalf of the party's Central Committee between plenary meetings; the KWP Central Committee, which oversees party affairs; and the DPRK Supreme People's Assembly, a legislative body. See Robert R. Collins, "Kim Jong-un's Hats: the Concept of Authority in North Korea," HRNK Insider (2016), <https://www.hrnkinsider.org/2016/10/kim-jong-uns-hats-concept-of-authority.html> (last accessed 17 June 2022).

¹⁷ D. Hawk and A. Mortwedt Oh, "The Parallel Gulag: North Korea's 'An-jeon-bu' Prison Camps," 2017 ("**The Parallel Gulag**"), at 7 ("[T]he Kim regime . . . rest[s] on three foundations. The first is the attempt at complete control of the knowledge and information that the populace is allowed access to. The second is effectively omnipresent and even overlapping systems of surveillance over the citizenry. The third foundation is the certainty of harsh punishment for non-compliance with the totalitarian dictates of the regime."); see also HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, 30 May 2019, A/HRC/40/66, ¶¶ 26–27, 30 .

¹⁸ HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, March 2022, A/HRC/49/74, ¶ 9.

serve a legitimate purpose; instead, they form an integral part of a State system to maintain the population's absolute obedience to the political system and its leadership.¹⁹

The detention center and prison systems operated by the State security apparatus are central components of this political structure to eliminate and preempt, through a climate of fear, any threat to the current system of government and to the State ideology.²⁰ These systems allow the Kim regime to exercise constant control over all of its citizens through fear, punishment and coercion.²¹ There is such “widespread fear of arbitrary arrest and mistreatment in detention,”²² and the fear of State authorities, surveillance, and the detention center and prison systems is “so deeply ingrained in the society of the Democratic People's Republic of Korea” that one escapee concluded: “The whole country is a prison.”²³

The State security agencies operate detention centers throughout North Korea as part of the State policy to investigate and punish those considered to pose a threat to the country's political system and leadership, including people who commit “crimes” consisting of exercising fundamental human rights such as attempting to leave the country or practicing religion.²⁴ In furtherance of that policy, members of the population are systematically imprisoned without due process and intentionally subjected to severe physical and mental suffering and severe deprivation of fundamental rights while in detention.²⁵ At the detention centers, the DPRK systematically uses torture, sexual violence, forced labor,

¹⁹ See UN COI Detailed Findings, ¶¶ 801, 1082.

²⁰ See COI Report, ¶ 56; UN COI Detailed Findings, ¶ 1082 (“In the DPRK, the criminal justice system and its prisons serves not merely to punish common crimes. They also form an integral part of the state's systematic and widespread attack against anyone considered a threat to the political system and its leadership. Many inmates of ordinary prisons in the DPRK are, in fact, political prisoners.”); see also HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, 30 May 2019, A/HRC/40/66, ¶ 26.

²¹ See HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, 30 May 2019, A/HRC/40/66, ¶ 30; HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, March 2022, A/HRC/49/74, ¶ 9.

²² HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, March 2022, A/HRC/49/74, ¶ 9.

²³ HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, 30 May 2019, A/HRC/40/66, ¶¶ 26, 30.

²⁴ See HRC, Report of the UN High Commissioner for Human Rights, Promoting Accountability in the Democratic People's Republic of Korea, 11 January 2021, A/HRC/46/52, ¶¶ 44–45, 63; Office of the UN High Commissioner for Human Rights, *Human Rights Violations against Women Detailed in the Democratic People's Republic of Korea* (2020) (“**UN OHCHR Report**”), at 5; The Committee for Human Rights in North Korea, “North Korea's Short Term Detention Facilities in Google Earth: ‘HRNK-IBA Project,’” HRNK, 8 June 2021 (“**HRNK-IBA Project**”), available at https://earth.google.com/earth/d/1YarRZdRUW_-60FxUpVKuN9skbMr3TB0a?usp=sharing.

²⁵ HRC, Report of the UN High Commissioner for Human Rights, Promoting Accountability in the Democratic People's Republic of Korea, 11 January 2021, A/HRC/46/52, ¶¶ 44, 49, 51.

inhumane detention conditions, and deliberate starvation as means of interrogation, control, and punishment.²⁶

To assess the possibility of criminal liability resulting from the operation and oversight of North Korea’s detention facilities, this Inquiry examined all eleven crimes against humanity listed in the Rome Statute. Crimes against humanity involve the widespread or systematic commission of these crimes against a civilian population. The eleven substantive crimes are 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 crimes against humanity enumerated in Article 7 of the Rome Statute, have been and continue to be committed in the DPRK, 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 UN 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:

- *Arbitrary executions, infanticide, and forced abortions are commonplace in detention centers.*
 - Witnesses have testified to repeated instances of infanticide and forced abortions at detention centers, particularly targeting “impure,” half-Chinese babies.²⁷

²⁶ See UN COI Detailed Findings, ¶¶ 411, 412, 421–423, 689, 704, 1083–1085; HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, 30 May 2019, A/HRC/40/66, ¶ 27; HRC, Report of the UN High Commissioner for Human Rights, Promoting Accountability in the Democratic People’s Republic of Korea, 11 January 2021, A/HRC/46/52, ¶¶ 55, 57, 61, 65; HRC, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, March 2022, A/HRC/49/74, ¶ 10; Human Rights Watch, “Worth Less Than an Animal: Abuses and Due Process Violations in Pretrial Detention in North Korea,” 19 October 2020 (“**HRW, Worth Less Than an Animal, 2020**”), <https://www.hrw.org/report/2020/10/19/worth-less-animal/abuses-and-due-process-violations-pretrial-detention-north> (last accessed 17 June 2022).

²⁷ See, e.g., Hearing Witness Testimony, Witness i3, at 2:28:06–3:21:15; Affidavit i25, at 4 (explaining that pregnant female detainees were targeted and “[i]n many instances, there was a live birth and the baby was killed on the spot”); Affidavit i39, at 3 (stating that at Onsong *Bo-wi-bu ku-ryu-jang*, a pregnant woman was detained because she was determined to be carrying a “Chinese seed.” She was forced to work outside under difficult conditions and was not provided any medical assistance when her baby was born. According to the witness, the baby died as a result of the lack of treatment); Korea Institute for National Unification, “White Paper on Human Rights in North Korea,” 2017 (“**KINU 2017 North Korea White Paper**”), at 420–421 (detailing one witness’s account of a forced abortion in October 2016 while being held at the Chongjin *jip-kyul-so*); UN COI Detailed Findings, ¶ 1105.

- Detainees are executed for trying to find food or escape.²⁸
- *Detainees are intentionally deprived of food as a “weapon of punishment and control.”*²⁹
 - Nearly all witnesses have reported an intentional deprivation of food to detainees causing severe illnesses, malnutrition, and often death by starvation.³⁰ One of the witnesses detained at the Musan *Ro-dong-dan-ryeon-dae* between 1997 and 2004 explained that deaths from starvation occurred on a near daily basis in the detention center.³¹
 - One witness detained at the Hyesan *Bo-wi-bu ku-ryu-jang* stated that they were fed “mostly skin of corn or potatoes mixed in with stones and coal.”³² Others described food rations of a few kernels of corn.³³ Detainees

²⁸ See, e.g., Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05; Hearing Witness Testimony of Witness i3 at 2:28:06–3:21:15; Affidavit i3, at 4–5 (explaining how guards would shoot inmates with complete impunity for trying to find food or running away); Affidavit i22, at 3 (describing having witnessed “quite a few people die through the death penalty” and stating that detainees were shot multiple times by *An-jeon-bu* agents); Affidavit i23, at 3 (explaining having “heard that several people in the detention centers had been executed for trying to escape, without any due process or proceedings under law”); Affidavit of Roberta Cohen, ¶ 30 (describing testimony of detainees who witnessed executions of detainees who stole food to survive).

²⁹ Affidavit of Roberta Cohen, ¶ 26; see also Hearing Testimony of Roberta Cohen, at 4:38:36–5:00:25 (describing a policy of denial of food to detainees even when food is available, rather than just a scarcity of food).

³⁰ See, e.g., Hearing Witness Testimony, Witness i58, at 6:03:00–6:27:49 (testifying detainees were given a cup of maize that was so insufficient in quantity that she could count the individual kernels); Hearing Testimony of Roberta Cohen, at 4:38:36–5:00:25; Affidavit of Roberta Cohen, ¶ 23; Affidavit i26, at 2–3; Affidavit i8, at 1; Affidavit i19, at 3; Affidavit i25, at 3; Affidavit i38, at 2; Affidavit i37, at 2–3; Affidavit i42, at 4; UN COI Detailed Findings, ¶¶ 770–772.

³¹ See, e.g., Affidavit i26, at 2–3 (explaining that while detained at the Musan *ro-dong-dan-ryeon-dae* between 1997–2004, the detainee witnessed many inmates suffering from malnutrition, untreated diseases, “terrible medical care,” and overwork resulting in death and stating that “death from hunger was part of everyday life in the detention centre”).

³² Affidavit i39, at 2.

³³ See, e.g., Hearing Witness Testimony, Witness i58, at 6:03:00–6:27:49; Affidavit i21, at 2 (testifying that detainees were given very little food, such as “three or four spoonfuls” each of corn); see also Korea Institute for National Unification, “White Paper on Human Rights in North Korea,” 2020 (“**KINU 2020 North Korea White Paper**”), at 121 (“Another testifier detained in a detention center (*guryujang*) Hyesan City MPS in Yanggang Province in May 2017 testified that a meal only included 50 corns that smelled like fungus.”).

described the food as “inedible,” “rotten,” or “waste” that was “intended to sicken detainees.”³⁴

- Former detainees testified to catching and eating rodents, frogs, or snakes to survive detention.³⁵ One witness detained at the Chongjin *jip-kyul-so* in 2002 stated that “one of the other detainees was so driven by hunger that he ate his ears.”³⁶
- Witnesses testified to reductions in food rations—which were already inadequate—for detainees who failed to meet work quotas in the course of their forced labor, which led to further malnourishment and continued failures to meet work quotas, and eventually death by starvation.³⁷
- *Detainees are regularly subjected to beatings and other forms of torture.*
 - Witnesses consistently testified to beatings by detention center officials.³⁸ At the Hearing, Mr. Gwangil Jung described being beaten so severely at an underground MSS detention facility that all of his lower teeth were broken.³⁹ He was also subjected to waterboarding and electric shocks.⁴⁰

³⁴ Affidavit of Roberta Cohen, ¶ 24; KINU 2020 North Korea White Paper, at 122 (describing “rotten corn with fungus and cabbage soup” and “corn rice that had a fungus smell”); Hearing Testimony of Roberta Cohen, at 4:38:365:00:25.

³⁵ See, e.g., Hearing Witness Testimony, Witness i3, at 2:28:06–3:21:15; Hearing Testimony of Roberta Cohen, at 4:38:36-5:00:25; see also Affidavit i3, at 4; Affidavit of Roberta Cohen, ¶ 18; UN COI Detailed Findings, ¶ 805; “Basic Facts about the Prison Camps,” Committee for Human Rights in North Korea (“**HRNK, Basic Facts about the Prison Camps**”), <https://www.nkhiddengulag.org/about-the-camps.html> (last accessed 17 June 2022).

³⁶ Affidavit i5, at 2.

³⁷ See, e.g., Hearing Witness Testimony, Witness i56, Mr. Jung Gwang-il, at 1:48:15-2:28:05; Hearing Witness Testimony, Witness i51 at 5:39:36–6:02:58; see also “Who are the Victims?” Committee for Human Rights in North Korea (“**HRNK, Who are the Victims?**”), <https://www.nkhiddengulag.org/victims.html> (last accessed 17 June 2022) (describing starvation serves as a method of control as meager food rations are further reduced when detainees fail to meet their strict and often unrealistic work quotas, and that the threat of food reduction thereby incentivizes productivity).

³⁸ See, e.g., Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05; Hearing Witness Testimony, Witness i3, at 2:28:06–3:21:15; Hearing Witness Testimony, Witness i36, at 4:04:48–4:38:06; Hearing Witness Testimony, Witness i55, Ms. Park Ji Hyun, at 5:00:26-5:30:08; Hearing Witness Testimony, Witness i58, at 6:03:00-6:27:49; Affidavit i51, at 2–3.

³⁹ Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05.

⁴⁰ Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05.

- One witness testified to having been beaten by a guard with a wooden stick covered in nails.⁴¹ Another detainee described being beaten with a club and an electric shock baton until she passed out.⁴²
- Detainees were regularly subjected to stress positions,⁴³ including “pigeon torture”—a stress position where the detainee’s hands are handcuffed behind the back and hung so the detainee can neither stand nor sit down for days—which Mr. Jung Gwang-il described as the most painful of all tortures that he was subjected to.⁴⁴
- *Sexual violence against detainees was common.*
 - Witnesses testified that it was “very common” for female detainees to be sexually assaulted and that it occurred “virtually every day.”⁴⁵
 - At the Hearing, Witness i3 testified to being brutally beaten and raped by the deputy head of a detention facility, who also raped most of the young

⁴¹ See, e.g., Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05; Hearing Witness Testimony, Witness i3, at 2:28:06-3:21:15; Hearing Witness Testimony, Witness i36, at 4:04:48–4:38:06; Hearing Witness Testimony, Witness i55, Ms. Park Ji Hyun, at 5:00:26-5:30:08; Hearing Witness Testimony, Witness i58, at 6:03:00–6:27:49; Affidavit i51, at 2–3.

⁴² See, e.g., Affidavit i16, at 23.

⁴³ See, e.g., COI Report, ¶ 713 (“[I]nmates held in detention and interrogation facilities run by the secret police] who are not undergoing interrogations or who are not at work, are forced to sit or kneel the entire day in a fixed posture in often severely overcrowded cells. They are not allowed to speak, move, or look around without permission. Failure to obey these rules is punished with beatings, food ration cuts or forced physical exercise. Punishment is often also imposed collectively on all cellmates.”); UN OHCHR Report, ¶¶ 42-43; HRW, *Worth Less than an Animal*, 2020; KINU White Paper 2020, at 114 (citing testimony by NKHR2019000069 2019-08-26 that they were forced to remain in a fixed posture, with even slight movements such as scratching not allowed); *id.*, 115 (describing testimony by NKHR2016000094 2016-06-14 that another witness held at the Yanggang *Jip-kyul-so* in 2014 was forced to remain in a fixed posture).

⁴⁴ Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05; UN COI Detailed Findings, ¶¶ 715, 717; see also, e.g., HRW, *Worth Less than an Animal*, 2020; KINU White Paper 2020, at 114 (citing testimony by NKHR2019000069 2019-08-26 that they were forced to remain in a fixed posture, with even slight movements such as scratching not allowed); *id.* at 115 (describing testimony by NKHR2016000094 2016-06-14 that another witness held at the Yanggang *Jip-kyul-so* in 2014 was forced to remain in a fixed posture); COI Report, ¶ 713 (“[I]nmates [held in detention and interrogation facilities run by the secret police] who are not undergoing interrogations or who are not at work, are forced to sit or kneel the entire day in a fixed posture in often severely overcrowded cells. They are not allowed to speak, move, or look around without permission. Failure to obey these rules is punished with beatings, food ration cuts or forced physical exercise. Punishment is often also imposed collectively on all cellmates.”).

⁴⁵ See, e.g., Affidavit i37, at 4; Affidavit i39, at 3; see also UN OHCHR, ¶ 60 (citing witness testimony of KOR/19/0004, KOR/18/0058, KOR/19/0036, KOR/19/0044, KOR/18/0032, KOR/18/0031, KOR/17/0045, KOR/17/0019, KOR/17/0048, KOR/17/0062).

women detained in the facility.⁴⁶ Ms. Park Ji Hyun also recalled female detainees had “different daily routines,” according to which they were forced to perform sexual acts on officers.⁴⁷

- *Many detainees were arrested and detained for the exercise of basic human rights, such as attempting to leave the country or practicing religion.*
 - Many of the witnesses were detained for attempting to leave the country or forcibly transferred to North Korea.⁴⁸
 - Witness i53 testified that, “[i]n North Korea, anyone accused of practicing religion is sent to the *Bo-wi-bu* interrogation/detention facility and treated as a political prisoner.”⁴⁹
 - Witnesses reported that the “only way to survive in North Korea . . . is to hide or deny one’s religious belief [because] those who revealed their religious belief suffered terrible reprisals,” including being tortured or killed.⁵⁰
- *Christians, in particular, were targeted for detention and particularly grave treatment in detention.*

⁴⁶ Hearing Witness Testimony of Witness i3, at 2:28:06–3:21:15; Affidavit i3, at 3.

⁴⁷ Hearing Witness Testimony of Witness i55, at 5:00:26–5:30:08.

⁴⁸ See, e.g., Hearing Witness Testimony of Witness i3, at 2:28:06–3:21:15; Hearing Witness Testimony, Witness i58, at 6:03:00–6:27:49; Hearing Witness Testimony of Witness i55, at 5:00:26–5:30:08; Hearing Witness Testimony of Witness i36, at 4:04:48–4:38:06; Affidavit i51, at 2.

⁴⁹ Affidavit i53, at 4. See also KINU White Paper 2020, at 148 (citing NKHR2016000102 2016-06-28) (stating that any North Korean forcibly transferred back to the country “who received education in Christianity [was] categorized as [a] political offender and sent to political prison (*kwanliso*) without going through a trial process”).

⁵⁰ Affidavit i4; see, e.g., Affidavit i36, ¶ 2 (“I asked [Young-nam, a fellow detainee’s] relatives what he looked like before he was buried, and they told me that Young-nam looked decades older than he was, with hair that had turned white and his face had very little flesh. When they last saw him they said that he looked like he was more than 80 years old, due to the torture he had received in the *Bo-wi-bu* because he was a Christian.”); Affidavit i19 at 3 (“When I was returned to North Korea, I had to hide my commitment to Christianity, as the consequences would be terrible. I saw people who were Christians receive very bad treatment and one had to hide their Christianity or they would suffer a lot. I had to beg the Chinese authorities not to tell the North Korean border guards that I was a Christian as I would have been treated very badly. Being a Christian was not possible in North Korea and to survive, I hid my religious beliefs.”); Affidavit i36, at 2 (“I can attest that Christians in North Korea are treated very severely.”).

- One detainee estimated that between 50-60% of their fellow detainees at Onsong Shorter-Term Labor Detention Facility (*Jip-kyul-so*) had attended some form of Christian service in China.⁵¹
- Detention periods have been documented as being longer for Christians than other groups,⁵² and witnesses have reported that “[i]dentified Christians are interrogated for longer periods, usually under torture”⁵³ and subjected to some of the worst forms of torture to force them to incriminate others during interrogation.⁵⁴
- *Detainees were subjected to grueling forced labor and abhorrent living conditions in detention facilities.*
 - At the Hearing, witnesses testified that detainees were treated like “animals” and forced to work from dawn to past 11:00 pm at night.⁵⁵ A number of detainees described being subjected to extreme working conditions, with working days exceeding 10 hours per day and some detainees being worked to death.⁵⁶ For example, one witness detained at

⁵¹ Affidavit of Benedict Rogers, ¶ 18(f) (citing Korea Future, “Persecuting Faith: Documenting Religious Freedom Violations in North Korea,” (“**Korea Future Report**”), <https://static1.squarespace.com/static/608ae0498089c163350e0ff5/t/6185747b98a32923b43b7de8/1636136111825/Persecuting+Faith+-+Documenting+religious+freedom+violations+in+North+Korea+%28Volume+2%29.pdf> (last accessed 17 June 2022), at 44).

⁵² *Id.*, ¶ 18(c) (citing Korea Future Report, at 41).

⁵³ U.S. State Dept. DPRK Human Rights Report (2020), at 7.

⁵⁴ Hearing Expert Testimony of Benedict Rogers, at 3:42:41–4:04:26; *see also, e.g.*, Hearing Expert Testimony of Roberta Cohen, at 4:38:36–5:00:25; IBA Report 2017, ¶ 254; UN COI Detailed Findings, ¶ 254 (finding the MSS “makes concerted efforts to identify Christians,” including systematically interrogating persons forcibly transferred to North Korea from China to identify practicing Christians among them and to identify other members of underground Christian churches).

⁵⁵ *See* Hearing Witness Testimony, Witness i55, Ms. Park Ji Hyun, at 5:00:26–5:30:08; Hearing Witness Testimony, Witness i58, at 6:03:00–6:27:49.

⁵⁶ *See* Affidavit of Roberta Cohen, ¶ 22; Hearing Witness Testimony of Witness i56, Mr. Jung Gwang-il, at 1:48:15–2:28:05; KINU 2020 North Korea White Paper, at 80–81 (citing testimony by NKHR2019000010 2019-04-08, a witness detained in the Chongjin Jip-kyul-so in 2018 who was forced to do farm work, construction site work, and livestock work from 5:00am to 8:00pm, including carrying blocks on their back in 40 °C heat at a construction site and being beaten by a manager for trying to drink water); Affidavit i39, at 3 (detainee at the Chongjin *jip-kyul-so* in 2008 describing being forced to do very hard labor, which included digging holes in the ground in temperatures reaching minus 37 °C); Affidavit i42, at 4 (testifying that detainees were forced to work at twice the rate of a normal worker and for sustained periods, with very limited food, which together led to the death of detainees).

Nongpo *Jip-kyul-so* in 2015 was forced to produce 20 tons of cement and 3,000 precast pavers a day, working around 15-16 hours per day.⁵⁷

- A witness detained at the Chongjin *Jip-kyul-so* in 2003 described seeing detained children as young as seven being forced to do hard labor, including cutting large trees on the mountain.⁵⁸
- Witnesses testified to being detained in overcrowded, unsanitary living conditions.⁵⁹ Several former detainees have described “being covered by different types of bugs, including lice, bedbugs, and fleas.”⁶⁰ A number of witnesses testified to being denied the use of bathroom facilities and therefore being forced to soil themselves.⁶¹
- Even though temperatures can reach below minus 20 degrees Celsius in winter, detainees have described living in cells with no heat during wintertime, which caused frostbite.⁶²

⁵⁷ KINU 2020 North Korea White Paper, at 81 (citing testimony by NKHR2019000089 2019-10-19).

⁵⁸ Affidavit i37, at 3; *see also* U.S. State Dept. DPRK Human Rights Report (2020), at 1, 6 (reporting children being subjected to hard labor for up to 12 hours a day).

⁵⁹ *See, e.g.*, Affidavit i38, ¶ 5.2 (stating that in the Hoeryong *Bo-an-so*, the witness was put in a single cell with 40 or more people and a single toilet within the cell); Affidavit i21, at 3 (stating that the witness was kept in an overcrowded cell with 40 people in a 13m² room); Affidavit i22, at 2 (describing being detained in the Hyesan *Bo-wi-bu ku-ryu-jang* for over two months in a cell with “about 40 other people”); Affidavit i19, at 2 (describing having witnessed others being put in cages with up to 30 other people with no space to lie down); Affidavit i25, at 3 (stating that detainees were placed in a small cell with 50 other detainees); Affidavit i37, at 3 (explaining that a defector was put into a confined space with 70 other women); *id.*, ¶ 5.8 (stating that in the Chongjin *jip-kyul-so*, 300 people slept in one room).

⁶⁰ HRW, *Worth Less Than an Animal*, 2020 (“All the former detainees that spoke with Human Rights Watch said that the detention and interrogation facilities did not provide any basic needs like soap, clothes, or bedding and did not have adequate heating or cooling systems or running water, so detainees could not wash or shower properly. They explained that in the large detention and interrogation facilities the toilet was an open space in the corner of the cell, sometimes with a low partition up to the chest or neck when squatting. Sometimes guards brought in a basin with water, and in some cases, there was a water tap for washing. Small detention and interrogation facilities had toilets in a separate building or room. Four former detainees and two former police officers described detainees being covered by different types of bugs, including lice, bedbugs, and fleas, and detainees still not being allowed to move.”).

⁶¹ *See, e.g.*, Hearing Witness Testimony, Witness i51, at 5:39:36–6:02:58; Hearing Witness Testimony, Witness i58, at 6:03:00–6:27:49; Affidavit i51, at 2–3 (witness detained at the *Samjiyeon Bo-an-so* in 2014 describing that detainees were forced to defecate on themselves because they were not allowed to use a toilet)

⁶² HRW, *Worth Less Than an Animal*, 2020 (recounting one witness testimony as follows: “The conditions were terrible, especially as the detention and interrogation facility was up north in a remote area. The cells didn’t have metal bars, they were wooden, and there was no heating ... the floor was made of cement, and it was so cold, the wall was covered with white ice. That’s why the detainees’ foot froze, mine did too. The bowibu office had a heater but not in the detention and interrogation facility

This Inquiry finds that there are reasonable grounds to conclude that the following individuals or classes of individuals may be subject to prosecution for perpetrating some or all of the ten crimes against humanity listed above:

- Kim Jong-un in his capacity of Head of State;
- Members of the Organization and Guidance Department (“**OGD**”);
- Members of the State Affairs Commission (“**SAC**”);
- Members of the Ministry of People’s Security (“**MPS**”); and
- Members of the Ministry of State Security (“**MSS**”).

B. Summary of Conclusions

This Inquiry concludes that there are reasonable grounds to establish that the individuals or classes of individuals listed above—from the Head of State to the detention centers’ guards—have committed, and continue to commit, crimes against humanity in DPRK detention centers.

The individuals who perpetrated the crimes may be held accountable for crimes against humanity pursuant to individual responsibility (*i.e.*, direct perpetration, co-perpetration, indirect perpetration, and indirect co-perpetration) and/or superior responsibility (holding military commanders and non-military or civilian superiors accountable for the failure or omission to prevent or punish the crimes of their subordinates).⁶³

Given the gravity and extent of the crimes against humanity committed in the DPRK detention centers,⁶⁴ this Inquiry makes the following recommendations to hold the perpetrators of these crimes accountable and provide redress to victims:⁶⁵

- **Cessation of crimes against humanity:** This Inquiry calls upon the DPRK to immediately cease the perpetration of crimes against humanity in connection with the detention system, including murder, extermination, enslavement, forcible transfer, imprisonment or severe deprivation of physical liberty, torture, sexual violence, persecution, enforced disappearance, and other inhumane acts. This Inquiry calls upon the DPRK to abolish the current detention system that has enabled the continued commission of crimes against humanity. Further, this Inquiry calls for the development of a new detention system that guarantees detainees their fundamental human rights.

cell. There were six female detainees, but only two blankets. We slept all together, but we still froze. The man was at the end cell, it must have been colder there, so his frostbite was more severe.”); UN COI Detailed Findings, ¶ 773.

⁶³ See *infra* Sections V.C, VII.

⁶⁴ See *infra* Section VI.

⁶⁵ See *infra* Section VIII.

- **Public acknowledgment of the perpetration of crimes:** This Inquiry calls upon the DPRK to publicly acknowledge that crimes against humanity have been committed in the DPRK detention centers.
- **Criminal Prosecutions:**
 - *International Criminal Prosecutions at the ICC:* This Inquiry calls on the UN Security Council to refer the case to the ICC pursuant to Article 13(b) of the Rome Statute.
 - *Ad Hoc Tribunal:* This Inquiry calls upon the international community to pursue accountability through the establishment of an *ad hoc* tribunal, established by an international or regional organization or by treaty.
 - *Domestic Prosecutions and Exercise of Universal Jurisdiction:* This Inquiry calls upon other States to exercise universal jurisdiction over individuals who committed, or may have committed, crimes against humanity in the DPRK detention centers.
- **Compliance with UN Human Rights Treaties:** This Inquiry calls for the UN Security Council to issue a resolution calling upon the DPRK to comply with its international obligations under treaties that it has ratified, including the International Covenant on Civil and Political Rights (“**ICCPR**”), the International Covenant on Economic, Social and Cultural Rights (“**ICESCR**”), the Convention on the Elimination of all Forms of Discrimination Against Women (“**CEDAW**”), and the Convention on the Rights of the Child (“**CRC**”).
- **Non-Judicial Transitional Justice Mechanisms:** This Inquiry calls upon the international community to develop a plan to address the legacy of atrocities in the DPRK detentions systems if and when the opportunity for transitional justice presents itself.
 - *Reparations:* This Inquiry calls upon the international community to develop a plan for victims to obtain fair redress. If the DPRK perpetrators are criminally prosecuted, the tribunal may award reparations to the victims of the crimes. Alternatively, the international community may, at its own initiative, develop channels to help victims obtain reparation.
 - *National Consultations:* This Inquiry calls upon national actors and civil society to ensure that transitional justice considers the victims of crimes against humanity.
 - *Truth and Reconciliation Commissions:* This Inquiry calls upon the international community to develop a restorative justice approach, documenting the atrocities. This would not only serve as evidence for

potential prosecutions, but will also allow victims to receive public acknowledgement for their help in uncovering the truth.

- **Targeted Sanctions:** This Inquiry calls upon the UN Security Council to adopt targeted sanctions against those who appear to be the most responsible for the crimes committed in the DPRK detention centers.

Accountability Chart

The following chart lists the eleven (11) Crimes Against Humanity enumerated in the **Rome Statute**, the treaty that gave rise to the **International Criminal Court (ICC)**. Additionally, this chart lists the ten (10) classes of individuals who may be subject to investigation and prosecution for committing crimes associated with the North Korea’s pre-trial detention centers known as *ku-ryu-jang*, holding centers known as *jip-kyul-so*, and labor training camps known as *ro-dong-dan-ryeon-dae*.

	Kim Jong-un	Korean Workers' Party (KWP)	Organization and Guidance Department	State Affairs Commission	Ministry of People's Security (MPS) ¹	Ministry of State Security (MSS) ²	MPS Officers	MSS Officers	MSS Agents and Prison Guards	MPS Agents and Prison Guards
1. Murder	●	●	●	●	●	●	●	●	●	●
2. Extermination	●	●	●	●	●	●	●	●	●	●
3. Enslavement	●	●	●	●	●	●	●	●	●	●
4. Forcible Transfer	●	●	●	●	●	●	●	●		
5. Imprisonment	●	●	●	●	●	●	●	●	●	●
6. Torture	●	●	●	●	●	●	●	●	●	●
7. Sexual Violence	●	●	●	●	●	●	●	●	●	●
8. Persecution	●	●	●	●	●	●	●	●	●	●
9. Enforced Disappearance	●	●	●	●	●	●	●	●		
10. Other Inhumane Acts	●	●	●	●	●	●	●	●	●	●
11. Apartheid										

¹ The MPS has a force of approximately 300,000 and is responsible for policing and general population control, including the investigation and preliminary examination of crimes that are not considered "political." The MPS also engages in surveillance, maintains the citizen registration system, and issues internal travel documents to monitor and control the movement of citizens. The MPS is currently known as the Ministry of Social Security.

² The MSS has approximately 50,000 personnel. It conducts counterintelligence and internal security functions, enforces the Monolithic Ideological System through surveillance and investigations of political crimes, and monitors activities against the regime to identify "anti-state" criminals through mass surveillance networks.