



International Service for Human Rights

The Reports in Short

ISHR's summaries of documents for the 4th session
of the Human Rights Council

Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea¹

Mandate holder

Vitit Muntarbhorn.

Mandate

The mandate was established in 2004 by the Commission on Human Rights after concerns on the human rights situation of the Democratic People's Republic of Korea (DPRK). The mandate of the special procedure is to investigate and report on the situation of human rights in DPRK and on the Government's compliance with its obligations under international human rights instruments. The mandate was renewed in 2006 for one year by the Human Rights Council, during which time the Special Rapporteur is tasked with preparing and submitting reports to both the General Assembly and the Council.

Annual Report²

Scope:

The report covers the situation regarding human rights in the DPRK until the beginning of 2007. It includes the Special Rapporteur's efforts to invite the DPRK to respond to the mandate, as well as an update on relevant issues as drawn from other communications, missions to Japan, the Republic of Korea and Mongolia, and other research.

Activities:

- The Special Rapporteur has repeatedly sent communications to the Government of the DPRK, including on 20 December 2005, 4 January 2006, 12 April 2006, 5 May 2006, and 18 August 2006. The Government of DPRK responded to three of these communications by re-stating that it does not recognise the mandate of the Special Rapporteur;
- He issued a joint communication with the Special Rapporteur on trafficking in persons, the Special Rapporteur on violence against women, and the Special Rapporteur on the sale of children, child prostitution and child pornography on 24 March 2006;
- Visit to Japan, 10 to 14 December 2006;

¹ Summary prepared by Alison Leon, Intern ISHR and Elodie, Intern, ISHR; edited by Elodie and Gareth Sweeney, Human Rights Officer, Information Program, ISHR.

² A/HRC/4/15, 7 February 2007.

- Visit to the Republic of Korea, 14 to 18 December 2006;
- Visit to Mongolia, 18 to 23 December 2006.

Summary and key conclusions:

The most recent report of the Special Rapporteur was written against the background of nuclear testing being carried out in the DPRK. This was followed by global condemnation of their activities.

- **Sustenance:** Food shortages have continued since the 1990s, with complications arising from a return to market style system in 2002 and subsequently higher food prices. The Government re-imposed the **Public Distribution System**³ for food rationing in 2005 to try to calm the disparities. Food security problems resulted from the floods that damaged the 2006 harvest. They were also linked to the reduction in food aid by foreign countries as a reaction to the missile and nuclear test carried out by the country and seen as provocative by the international community.
- **Freedoms:** Main areas of concern continue to be **harsh punishments**, including the existence of work camps and the death penalty for persons accused of ‘anti-state activities’; **human rights abuses** by State authorities, including torture, public executions, detention centres, and political persecutions; and **rigid control over freedoms** of expression and association. DPRK alleges religious freedoms have been granted, and reforms made in the criminal law system, but other sources dismiss these claims.
- **Asylum:** The Special Rapporteur calls attention to the phenomenon of "**refugees sur place**", which he defines as those who did not originally leave the country of origin for fear of persecution, but who **fear persecution if and when they are sent back** due to severe punishments for attempted flight. He cites hunger as a cause for such refugees. Other issues include exploiters at many levels who are all encouraged by profit and the responses from asylum countries, who vary in their treatment and policies regarding refugees.
- **Vulnerable groups:** The Rapporteur notes that **women** and **children** are particularly vulnerable to human rights violations, especially to human trafficking or smuggling. Additionally, child survival, including children’s access to food and their protection from violence or abuse, is a key concern.
- **State responsibility:** The Government has been castigated at the international level for its lack of cooperation with the General Assembly, as well as reminded of its responsibilities in economic development and security related incentives at the six-party talks.

Country Visits:

Mission to Japan:

- **Abductions of Japanese nationals** by DPRK are a major concern for the Special Rapporteur and were referred to in the General Assembly resolution 61/174⁴. In 2002, both countries reached an agreement to help settle the abductions issue but various uncertainties remain. Japan claimed that 17 individuals had been abducted; among which five have now returned to Japan. The Working Group on Enforced or Involuntary Disappearances also addresses a number of these cases.

³ According to the Rapporteur: “In 2002 the authorities moved away from the age-old Public Distribution System whereby the State provided rations to the people, to a more market-oriented experiment whereby people were to be paid higher wages and were expected to fend for themselves by accessing food through the market system. This led to major disparities due to a substantial rise in food prices, with various vulnerable groups marginalized in the process. However, in 2005, the authorities started to clamp down on the various markets by banning cereal trading for fear of losing a grip on the population and have since reimposed the Public Distribution System.”

⁴ A/61/174, 21 July 2006.

Mission to the Republic of Korea:

- The Special Rapporteur highlighted the need to resume the six-party talks in order to solve the **nuclear issue** facing the Korean peninsula. A positive outcome on this issue would contribute to progressive humanitarian action.
- **Missing persons:** both countries agreed to cooperate to confirm the fate of those missing during and after the Korean War and to resolve this issue. In addition to inter-Korean ministerial talks, meetings are organised by the International Committee of the Red Cross (ICRC) to make some progress on this question.
- The Special Rapporteur welcomed the **reunion of separated families** from the North and South and highlighted the importance of enabling family members to keep in touch once they have returned to their respective residences.
- The Republic of Korea has provided substantial **humanitarian aid** to DPRK but suspended it as a reaction to the missile and nuclear tests carried out by DPRK.

Mission to Mongolia:

- Given its strategic position, Mongolia has adopted a policy of friendly relations with DPRK.
- **Asylum seekers and refugees:** People escaping from DPRK are treated as humanitarian cases. The Special Rapporteur pointed out that this policy abides by the international law principle of non-refoulement. Mongolian authorities are considering the accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Accession would help to set clear benchmarks for asylum-seekers and establish a system with greater clarity and transparency regarding refugee status.

Key Recommendations:

The DPRK should:

- Abide by its international obligations under the human rights treaties to which it is party.
- Facilitate access to humanitarian aid and build food security.
- Reform its prison system, eliminate violence against the person, and establish safeguards for accused persons.
- Enunciate a clear policy not to punish those who leave the country without permission, desist from punishing returnees, and amend the law on this matter.
- Tackle the root causes of refugees and criminal exploiters while not punishing victims.
- Protect the rights of women, children, and other vulnerable groups.
- Act responsibly and accountably towards its population.
- Enable the Special Rapporteur to enter the country to assess the human rights situation.

The international community should:

- Continue to provide humanitarian aid on the basis that it reaches target groups ("no access, no aid").
- Respect the right of refugees, particularly non-refoulement.
- Utilise dialogues and other interactions to engage with the DPRK.
- Support processes which concretise responsibility and accountability for human rights violations.