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March 8, 2018

**Subject: HRC Member States should support strong measures to advance accountability for rights abuses in North Korea**

Dear Colleague,

We write to urge continued support for strong measures in the resolution on the Democratic People's Republic of Korea (DPRK) to advance accountability for gross and systematic human rights violations at the upcoming 37th session of the Human Rights Council (HRC). These measures should complement continued engagement and human rights negotiations with the DPRK.

In 2014, the UN Commission of Inquiry (COI) on Human Rights in the DPRK found that crimes against humanity, including extermination, murder, enslavement, torture, imprisonment, rape, forced abortions, sexual violence, persecution, deliberate starvation, and enforced disappearances, have been committed "pursuant to policies at the highest level of the state." The gravity, scale, and nature of these violations – which have been perpetrated for decades – "reveal a state that does not have a parallel in the contemporary world."

Among its recommendations, the COI urged the UN Security Council to consider referral of the situation to the International Criminal Court.

Since the COI report, the past and current UN special rapporteurs on the situation of human rights in the DPRK have urged the international community to pursue a two-track approach: pursuing accountability while also seeking ways to constructively engage with North Korean authorities.

Last year, North Korea made some limited gestures on human rights. In September, the Committee on the Rights of the Child examined the DPRK's record, while in November, North Korean officials appeared before the Committee on the Elimination of all forms of discrimination against Women. Last May, Catalina Devandas-Aguilar, UN special rapporteur on the rights of persons with disabilities, became the first UN thematic special rapporteur to visit the country. At the same time, the DPRK

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continued to deny the findings of the COI and refuse access to the special rapporteur on the situation of human rights in the DPRK.

While we welcome North Korea's limited engagement with the United Nations, it is important to examine the quality of this engagement.

**1. *What should North Korea's engagement on human rights with the UN look like?***

Human rights engagement and dialogues should be principled, follow clear benchmarks for progress, and be accountable. Such engagement should be part of a good faith discussion leading to changes to end violations against the long-suffering North Korean people. DPRK officials should not use engagement with the UN to sidetrack efforts at justice and accountability. UN officials and HRC member states should keep the pressure on the DPRK to demand real changes on the ground that will improve the lives of North Koreans.

**2. *What did the North Korean government say about the COI?***

During the North Korean delegations' meeting with the CEDAW Committee on November 8, 2017 on the measures the DPRK took to address the COI's findings, particularly in relation to women forcibly returned from China to North Korea and then abused or tortured, the delegation dismissed the findings as "unsubstantiated" and "politicized," claiming they were like other "anti-Democratic People's Republic of Korea (DPRK) human rights resolutions" adopted by the UN. They also denied the existence of political prison camps and even said they didn't recognize the term *songbun*, a socio-political classification system that limits access of individuals and their families to types of employment, residence, and schooling on political grounds.

**3. *How did the North Korean government engage with the CEDAW Committee on other issues?***

DPRK officials ignored or only partially answered many questions posed by Committee members, requiring members to ask many repeatedly. Questions related to the lack of independent civil society organizations in North Korea; the number of women who had invoked the Convention to enforce their rights; which institution was in charge of enforcing the 2010 Women's Protection Law; data on the number of complaints of rights violations, sexual harassment, family violence or rape; the number of North Koreans forcibly sent back by China; the number of violations that had been prosecuted under the law and what sentences had been imposed; why penalties for sexual crimes against children and with women in a subordinate relationship had been reduced in 2012; data on equal pay,

disaggregated by gender, type of profession; and work in different economic sectors; data on female representation by sector in senior positions in the government and the wider economy; and data on salaries of men and women in low-, middle-, and high-level positions in state-owned enterprises and in government positions. During the session, Park Kwang Ho, Councilor of the Central Court in the DPRK, said he didn't understand what "marital rape" was and asked the committee to explain it. Shockingly, he said even if a woman in a subordinate position was forced to engage in sexual relations for fear of losing her job or in exchange for preferential treatment it was her choice as to whether or not she complied, so the punishment for the perpetrator should be lighter. He later amended his statement to say that if she did not consent to having sexual relations and was forced to do so the perpetrator was committing rape and would be punished accordingly.<sup>1</sup>

**4. *Are North Korean standards in line with those established by international law?***

Although the North Korean delegation stated that all the elements of CEDAW had been included in domestic law, the DPRK delegation was unable to provide the definition of discrimination against women used by the DPRK.

**5. *How did the DPRK engage with the SR on the rights of persons with disabilities on her visit to North Korea?***

During her visit, Catalina Devandas-Aguilar met with government officials, visited schools and rehabilitation centers, and spoke with some people with disabilities. However, the North Korean government did not meet the requirements laid out in the terms of reference for special procedures mandates holders for a country visit, which include unrestricted movement and freedom of inquiry.<sup>2</sup> Devandas-Aguilar's itinerary, schedule and meetings were tightly monitored and controlled, and authorities did not grant her request to visit a mental health facility.

**6. *How can the UN Human Rights Council continue to effectively support accountability for gross rights violations in North Korea?***

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<sup>1</sup> During the last CEDAW review of the DPRK, on July 18, 2005 Ho O Bom, Director of the Legal Affairs Department at the Presidium of the Supreme People's Assembly, said the North Korean authorities had become aware of the issue of marital rape by studying the Convention. He said that the issue had never been discussed but would be considered by the government. During the session Committee members repeatedly expressed regret for the lack of updated information and repeatedly requested data on issues that were also ignored or only partially answered during the 2017 session.

<sup>2</sup> Revised Terms of Reference for country visits by Special Procedures mandate holders of the United Nations Human Rights Council, <http://www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf> (accessed on March 6, 2018).

Victims of human rights violations in North Korea deserve redress. Justice remains critical to end impunity for the worst abuses in North Korea. The Commission of Inquiry noted the North Korean government's "unwilling[ness] to implement its international obligation to prosecute and bring the perpetrators to justice, because those perpetrators act in accordance with State Policy." The COI stressed the role of UN member states to ensure accountability for those most responsible, including through the International Criminal Court.

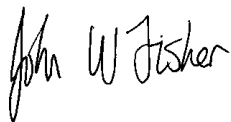
We note that to advance accountability for gross and systematic human rights violations, in 2017, the Human Rights Council in resolution 34/24 decided for a period of two years to strengthen the capacity of OHCHR on DPRK, including through its field-based office in Seoul and the hiring of experts on legal accountability to assess all information and testimonies with a view to developing possible strategies to be used in any future accountability process. This decision followed the recommendation of a group of experts on accountability for human rights violations in the DPRK created by the HRC the previous year.

Delays in budget approval resulted in the deferral for a year of the hiring of additional staff and the senior "international criminal justice expert." This will require the extension of the mandate of the additional experts of accountability by one year.

The mandate of the Special Rapporteur of the situation of human rights in the DPRK should also be extended. HRC member states should exert maximum pressure on the DPRK to cooperate with the special rapporteur's mandate and allow access to the country.

We look forward to your government's continued support for promotion and protection of human rights in the DPRK and for justice and accountability for North Korea's countless victims.

Yours sincerely,

A handwritten signature in black ink that reads "John W. Fisher". The signature is written in a cursive, slightly slanted style.

John Fisher  
Geneva Director  
Human Rights Watch