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COMMISSION OF INQUIRY ON HUMAN RIGHTS
IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

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24th session of the Human Rights Council

Oral Update by Mr. Michael Kirby

Chair of the Commission of Inquiry on Human Rights

in the Democratic People's Republic of Korea

Geneva, 16 September 2013

President,

Deputy High Commissioner,

Distinguished members of the Human Rights Council

Excellencies,

Ladies and gentlemen,

In the understandable concerns of the international community about the perils and challenges of Syria, the Council has not forgotten the perils and challenges of Korea. On 21 March 2013, at its 22nd session, this Council established the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea.¹ The Commission of Inquiry was given the mandate to investigate the systematic, widespread and grave reports of violations of human rights in the Democratic People's Republic of Korea, with a view to ensuring full accountability, in particular for violations which could amount to crimes against humanity.

In my capacity as Chair of the Commission of Inquiry and on behalf of my colleagues – Ms Sonja Biserko and Special Rapporteur Marzuki Darusman - I have the honour to provide you with a short update on the progress made in the discharge of our mandate since our appointment by the President on 7 May of this year.

The Commissioners convened in Geneva in the first week of July. We established our terms of reference, programme of work and methodology which emphasizes transparency, due process, independence and impartiality. During that week, we also reached out to Member States closely engaged on the human rights situation in Democratic People's Republic of Korea and other relevant stakeholders and we received good cooperation from most actors.

The Democratic People's Republic of Korea, however, has so far not cooperated with the Commission of Inquiry. In reaction to our appointment, it conveyed to the President of this Council in a letter dated 10 May 2013 that it "totally and categorically rejects the Commission of Inquiry." This stance has remained unchanged,

¹ See Human Rights Council Resolution A/HRC/RES/22/13.

despite all our efforts. In a letter dated 18 June addressed to the Permanent Representative, we requested a meeting, followed by another letter sent on 5 July, where we solicited the Democratic People's Republic of Korea to extend cooperation and support to the Commission and to facilitate access to the country. We reiterated the request of the Commission to have access to the territory of the Democratic People's Republic of Korea in a letter we sent on 16 July to His Excellency Mr Kim Jong-un, Supreme Leader and First Secretary of the Workers' Party of Democratic People's Republic of Korea. We also invited the authorities in the Democratic People's Republic of Korea to send a representative or representatives to scrutinise the evidence and to make submissions during public hearings held by the Commission of Inquiry.

The Commission remains available to visit and engage in a dialogue with the Democratic People's Republic of Korea. In the meanwhile, the Commission of Inquiry has continued, and will continue to pursue alternative avenues to obtain direct and first-hand information in a transparent, independent and impartial manner.

In July 2013, the Commission of Inquiry shared a call for written submissions with all United Nations Member States and relevant stakeholders. Any interested state, person or organisation is invited to share relevant information and documentation, which may assist the Commission of Inquiry in the discharge of its mandate.²

From 19 to 31 August 2013, the Commission of Inquiry visited Seoul and Tokyo and held public hearings in front of members of the public, the media and other observers. These hearings provided hour after hour of sobering testimony from dozens of victims as well as several expert witnesses. Witnesses appearing before us have provided information of great specificity, detail and relevance. We have been deeply moved by their testimonies, which have given a face and voice to great human suffering. The Commission would like to again thank all witnesses for the courage in sharing their traumatic experiences, which deserves the attention of the international community assembled in the United Nations. Video recordings of the Commission of

² For details on how to make a submission, please refer to:
<http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/Callforsubmissions.aspx>

Inquiry's public hearings are now available on the Commission's webpage.³ I encourage members of the Human Rights Council to review the proceedings online to gain, at once, a first-hand impression of the evidence provided by victims and eyewitnesses of human rights violations in the Democratic People's Republic of Korea and examples of the fair, open and transparent procedure adopted by the Commission of Inquiry.

Testimony heard thus far points to widespread and serious violations in all areas that the Human Rights Council asked the Commission to investigate. We heard from ordinary people who faced torture and imprisonment for doing nothing more than watching foreign soap operas or holding a religious belief. Former officials of the Democratic People's Republic of Korea previously involved in the propaganda apparatus related how they had to systematically manipulate free access to information. Women and men who exercised their human right to leave the Democratic People's Republic of Korea and were forcibly repatriated spoke about their experiences of torture, sexual violence, inhumane treatment and arbitrary detention. Family members of persons abducted from the Republic of Korea and Japan described the agony they endured ever since the enforced disappearance of their loved ones' at the hands of agents of the Democratic People's Republic of Korea – a course of state conduct that was partly admitted by the former ruler of the country. The Commission listened to political prison camp survivors who suffered through childhoods of starvation and unspeakable atrocities, as a product of the "guilt by association" practice, punishing other generations for a family member's perceived political views or affiliation. In addition to the violations in the political prison camps, the Commission of Inquiry heard of deliberate starvation and other serious abuses occurring in other types of detention facilities and the suffering of an entire population recurrently facing malnutrition.

- We think of the testimony of a young man, imprisoned from birth and living on rodents, lizards and grass to survive and witnessing the public execution of his mother and brother.
- We think of the testimony of a woman, whose husband is presumed to have been abducted or taken as a prisoner of war in 1951 and who has had no response as to his whereabouts.

³ <http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK>.

‘To lose a partner is like losing an arm. Every day I wish I could throw myself on his person and embrace him’, she told us.

- We think of the testimony of a young woman, forcibly repatriated and imprisoned for leaving the Democratic People’s Republic of Korea, describing how she witnessed a female prisoner forced to drown her own baby in a bucket.
- We think of the testimony of a man who was obliged to help load the many corpses of prisoners who died of starvation, put them in a pot and burn them, scattering their ashes and remains on the nearby vegetation fields.
- We think of the parents of a young abduction victim from Japan who appealed to the Supreme Leader: ‘You have a family (...) and you know how important is family love. Tell us where our daughter is. Is she alive? Is she happy? Is she dead?’

The individual testimonies emerging from the public hearings, of which these are just instances, do not represent isolated cases. They are representative of large-scale patterns that may constitute systematic and gross human rights violations. The Commission of Inquiry collected similar testimony through many additional confidential interviews conducted with victims, who could not speak publicly out of fear of reprisals against family members who remain in the Democratic People’s Republic of Korea. The testimony of victims who participated in the public hearings is also entirely consistent with the large body of written documents and expert testimony that the Commission has gathered.

The Commission of Inquiry acknowledges that there have been some few instances in recent times that offer rays of hope of change, although such hopes have been dashed in the past:

- the signing by Democratic People’s Republic of Korea of the Convention on the Rights of Persons with Disabilities;
- the recent moves to reopen the Kaesong industrial complex and other co-operative facilities with the Republic of Korea; and
- the reopening of negotiations to permit a limited number of brief family reunion meetings between North and South.

These steps, however, whilst welcome, hardly diminish the overwhelming power of the extensive evidence already received by the Commission of Inquiry. That testimony is continuing and it stands unanswered.

The Commission invited the authorities of Democratic People's Republic of Korea to attend the public hearings in Seoul and make representations, but received no reply. Instead, its official news agency attacked the testimony we heard as 'slander' against the Democratic People's Republic of Korea, put forward by 'human scum.' Truth is always a defence against accusations of slander. If any of the testimony on political prison camps, international abductions, torture, starvation, inter-generational punishment and so forth can be shown to be untrue, the Commission invites the Democratic People's Republic of Korea to produce evidence to that effect. An ounce of evidence is worth far more than many pounds of insults and baseless attacks. So far, however, the evidence we have heard has largely pointed in one direction – and evidence to the contrary is lacking.

In the upcoming months, the Commission will continue to pursue its investigation. Before providing an oral update to the General Assembly at the end of October, the Commission will meet with experts, victims and officials who can shed further light on the human rights situation in the Democratic People's Republic of Korea.

As the Human Rights Council requested us to do, we will focus our inquiry on ensuring accountability, including with regard to any potential crimes against humanity. We will seek to determine, which state institutions and officials carry responsibility for gross human rights violations proved to have been committed. A Commission of Inquiry, however, is neither prosecutor nor judge. We are the eyes and ears of the international community. Our mandate is to inquire and find facts which we shall present to this body in our final report in March 2014. I express my hope and conviction that the international community will remain true to the great principles of the United Nations and give the findings of the Commission of Inquiry – when they are finalised, together with the testimony upon which these conclusions will be based – the serious consideration that the grave content of the evidence already cries out for. What we have seen and heard so

far – the specificity, detail and shocking character of the personal testimony – appears without doubt to demand follow-up action by the world community and accountability on the part of the Democratic People’s Republic of Korea. Our final conclusions and recommendations must await the end of the investigation. The Commission of Inquiry remains open to engagement with the Democratic People’s Republic of Korea. Again, we appeal for access to the many places of human rights violations described, with clear specificity and corroboration in the evidence and for dialogue and response.

The Commission of Inquiry honours the long history of Korean civilisation. That civilisation lives today in a world of universal human rights enshrined in the Charter of the United Nations and binding treaties ratified by the Democratic People’s Republic of Korea. No country can shut itself off from the light that universal human rights bring to people everywhere. That light is now shining into dark spaces in the Democratic People’s Republic of Korea. It brings hope. When our report is delivered, the light must bring about action and the events of recent days make action on this testimony all the more imperative.