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Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vitit Muntarbhorn*

Summary

The present report reflects on the work of the Special Rapporteur, Vitit Muntarbhorn, for the past six years. Concurrently, it provides an update of the human rights situation in the Democratic People's Republic of Korea from the middle of 2009 until the beginning of 2010. It also identifies preferred steps towards the future.

The human rights situation in this country can be described as *sui generis* ("in its own category"), given the multiple particularities and anomalies that abound. Simply put, there are many instances of human rights violations which are both harrowing and horrific.

To date, the responses from the authorities of the country have been based mainly upon periodic law reform. Yet, it is not the formalism which counts but the substantive reality of how the law is practised and the extent to which ordinary people of the land are able to enjoy national protection for their rights and daily needs. The voice of the international community, through the various United Nations resolutions, indicates that the power base in the Democratic People's Republic of Korea has failed in its responsibility. In this regard, to date, the international response has been very much based upon pressure exerted through resolutions in the Human Rights Council and the General Assembly. Yet the sufferings of the ordinary people of the country continue every day, waiting for light at the end of a long and dark tunnel.

It is the international community which should offer hope and protection to the people, especially where the power base at home is unable or unwilling to do so. It is thus essential to mobilize more comprehensively the international system, especially the United Nations and all its affiliates, to act in a more concerted manner. To this end, the Special Rapporteur is open to both incentives and disincentives to influence the authorities of the country to act more responsibly towards its citizens. Yet much depends upon international leadership, will and commitment to ensure that the plight of the people is not further

* The present report was submitted after the deadline in order to include the most recent information.

prolonged. Given that the human rights situation in this country has a distinctive spillover effect, with extraterritorial implications, humane examples offered by countries dealing with these implications are important and much welcome. Resumption of the now dormant Six-Party Talks to help denuclearize the country would also be an added opportunity to provide space for an improved environment on human rights in the country.

In particular, the Democratic People's Republic of Korea should take the following measures, among others: ensure effective provision of and access to food and other basic necessities for those in need of assistance; rectify the distorted pattern of food distribution; cooperate constructively with United Nations agencies and other humanitarian actors on the issue; enable people to undertake economic activities to satisfy their basic needs and supplement their livelihood without State interference; adopt a moratorium on capital punishment; terminate public executions and abuses against the security of the person, and other violations of rights and freedoms; end the punishment of those who seek asylum abroad and who are sent back to the country; cooperate effectively to resolve the issue of foreigners abducted by the country and to address the other issues, including the consequences of the Korean war, which give rise to shackles of fear in the country; and respond constructively to the recommendations of the Special Rapporteur. A number of longer-term measures are also voiced in this report, together with recommendations to the international community.

This is the final report of this Rapporteur for the Human Rights Council.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1	4
II. Retrospect: an overview of the work of the Special Rapporteur.....	2–13	4
A. Methodology	2–7	4
B. Substance.....	8–13	5
III. Aspects: dimensions of the situation.....	14–60	6
A. Food and livelihood.....	14–23	6
B. Other basic necessities and related development.....	24–28	9
C. Personal security and freedoms	29–40	9
D. Asylum and migration	41–45	11
E. Specific groups	46–56	12
F. Impunity and responsibility	57–60	14
IV. Country visits.....	61–85	15
A. Mongolia	61–67	15
B. Republic of Korea.....	68–74	16
C. Japan.....	75–85	18
V. Prospects: conclusions and recommendations	86–89	20

I. Introduction

1. The mandate of the Special Rapporteur was established in 2004 to report on the situation of human rights in the Democratic People's Republic of Korea, with one report per year submitted to the General Assembly and another to the then Commission on Human Rights (now to the Human Rights Council). The most recent report (A/64/224) was submitted to the General Assembly in the last half of 2009. Since the maximum term of a Special Rapporteur is six years, and the current Special Rapporteur's term is now in its sixth year, the present report is the last he will submit to the Human Rights Council in his present function. The Special Rapporteur thanks warmly all Governments, members of civil society, international organizations and other concerned entities which have facilitated and supported his work, particularly in providing information to be used in his reports. This final report will partly take stock of the progression of his work, will provide an update on the situation covering the last half of 2009 until the beginning of 2010, and will offer recommendations for the future. It thus refers to retrospect, aspects and prospects.

II. Retrospect: an overview of the work of the Special Rapporteur

A. Methodology

2. The Special Rapporteur recalls that when the mandate was established, he was honoured to be invited by the Chairperson of the Commission on Human Rights to take up the post. He has based his findings on a variety of sources of information: some governmental, some intergovernmental, some non-governmental. These are supplemented by country visits, particularly to neighbouring countries, in order to assess the impact on those affected by the human rights situation in the country in question. Importantly, he has had access to scores of refugees and asylum-seekers, as well as other sources, to learn directly from them about the conditions in the country of origin and the reasons why they left their homes. He has been briefed consistently by United Nations agencies with a field presence in the country. He has written (and typed) all his reports himself to ensure the independent nature of his work.

3. In addition to preparing his reports for the United Nations, the Special Rapporteur has also sent various communications to the country in question to seek clarification and leniency of treatment for individuals affected negatively by the situation in the country. For the most part, the country in question has rebutted his communications dismissively.

4. Regrettably, throughout the mandate, the Democratic People's Republic of Korea has declined to cooperate with the mandate holder. Had it cooperated, such as to invite the Special Rapporteur into the country, there would have been an opening to reflect more directly key developments in the country, particularly through site visits and contact at the national and local levels.

5. However, lack of physical access to the country has not prevented the Special Rapporteur from collecting and collating information from a variety of well-informed sources, as part of the checks and balances underlying the analysis offered by his work. He has also tried to bridge-build among countries that voted for this mandate, countries that voted against, and those that opted for abstention. Throughout the years, he has briefed a cross-section of these countries to inform them of his methodology and findings.

6. The key contributions of the work of the Special Rapporteur, undertaken by an independent expert, pro bono, include the following:

(a) The work acts as a platform under the United Nations umbrella to consistently assess the human rights situation in the Democratic People's Republic of Korea (two reports per year: one to the Human Rights Council and one to the General Assembly);

(b) The work provides the only reporting process in the United Nations based upon critical analysis of the situation in the country as ascertained from a variety of sources of information;

(c) The work informs the world community of the human rights situation in the country, mobilizing support for the promotion and protection of those rights;

(d) The work enables States to have key information for policymaking choices in regard to the United Nations resolutions on the country in question;

(e) The work accesses the field level, particularly the victims of negative circumstances.

7. Ultimately, the work of special procedures matters most in its capacity to serve as a voice for those who do not have one, exposing the truth in the face of grave human rights violations.

B. Substance

8. It is clear from six years of observing the human rights situation in the Democratic People's Republic of Korea that the abuses against the general population for which the authorities should be responsible are both egregious and endemic.¹

9. This is not to deny that there have been some constructive developments throughout the years in regard to the country's development and engagement with the international community. First, as has been recognized consistently by the Special Rapporteur, the country is a party to four key human rights treaties (on civil and political rights, economic, social and cultural rights, women's rights and child rights) and has engaged with the monitoring bodies under those treaties. Second, a number of United Nations agencies are present in the country to render assistance, and cooperation with the authorities on some fronts has been positive, for example with regard to United Nations Children's Fund (UNICEF) work on child immunization. Third, at the end of 2009, the country sent representatives to Geneva to participate in the universal periodic review of its human rights record and expressed its willingness to cooperate with this new United Nations procedure. It remains to be seen to what extent the authorities will accept the numerous recommendations emerging from the review and how they will substantiate follow-up measures as a consequence of the review. Fourth, interestingly, in the 2009 reform of the

¹ For recent literature on the general situation in the country, see: "White paper on human rights in North Korea 2009" (Seoul, Korea Institute for National Unification, 2009); "Situation of human rights in the Democratic People's Republic of Korea: report of the Secretary-General" (A/64/319); national report submitted by the Democratic People's Republic of Korea (A/HRC/WG.6/6/PRK/1); summary prepared by the Office of the High Commissioner for Human Rights (OHCHR) on the Democratic People's Republic of Korea (A/HRC/WG.6/6/PRK/3); compilation prepared by OHCHR on the Democratic People's Republic of Korea (A/HRC/WG.6/6/PRK/2); draft report of the Working Group on the Universal Periodic Review (A/HRC/WG.6/6/L.12); Kim Kwang Jin, "After Kim Jong II: can we hope for better human rights protection?", Occasional Paper of the Committee for Human Rights in North Korea (Washington D.C., 2009).

national Constitution, the words “human rights” were inserted into the text.² Yet, it seems that this country’s notion of human rights is much related to the protection of the State-cum-elite and the rejection of external threats, rather than the human-centric notion of universal human rights. As a response to international influence, there have been some law reforms, such as periodic adjustments of the Criminal Code and Criminal Procedure Code, and new policies such as those concerning the development of children.

10. However, the more constructive side of developments is undermined by the omnipotent State seeking to prop up a regime which is out of sync with the general population and which tries to perpetuate its survival at the cost of the people. The general scenario is bleak for a variety of reasons. First, the non-democratic — indeed totalitarian — nature of the power base has created a pervasive “State of fear” or “State as one big prison” for the mass base which is not part of the elite, with inordinate constraints imposed on the rights and freedoms of the people. The power base does not tolerate dissent; indeed, it suppresses it with all the might of the State.

11. Second, society suffers an extensive surveillance and informant system, leading to political dystopia. Practices to instil fear among the population are rampant, including public executions, torture, collective punishments, and mistreatment of women and children. They have given rise to poignant nomenclature such as “pigeon torture” and “airplane torture”.³

12. Third, the national resources are distorted in favour of militarization and the ruling elite. This is most evident in regard to the expenditure on the nuclearization process, a development castigated by the international community through various United Nations resolutions.⁴ This mis-expenditure has not only depleted the national budget, which should have been spent on the welfare of the population, but it has also compromised international peace and security. As a testament to the latter, various sanctions have been imposed by the Security Council. On the home front, the mention of human rights in the Constitution is illusory, as the Constitution also now entrenches a “military first” policy. The preferred orientation, namely “people first”, is absent from both the text and reality.

13. The litany of anomalies and abuses is identified in greater detail in the following section concerning aspects of the situation.

III. Aspects: dimensions of the situation

A. Food and livelihood

14. The relationship between the authorities and the general population from the inception of the regime, half a century ago, had been based upon control of the population through a dependency system, whereby the people were given food rations by the State through a public distribution system. However, the system collapsed in the 1990s,

² Choe Sang-Hun, “New North Korean constitution bolsters Kim’s power”, *New York Times*, 29 September 2009.

³ *The Reality of Human Rights in North Korea* (Seoul, Citizens’ Coalition for Human Rights of Abductees and North Korean Refugees, 2009), p. 16: “The Pigeon Torture where prisoners are handcuffed to an iron bar with their hands behind their backs and left unable to sit or stand, causing every muscle of their bodies to become stiff, and the Airplane Torture where prisoners are beaten with their hands and feet tied behind them and their bodies strung up so that they hang against the ground, are among the tortures suffered by many repatriated North Korean defectors.”

⁴ Most recently, resolution 1874 of the Security Council (2009).

especially with the huge food shortages in the mid-1990s, due to natural disasters coupled with mismanagement on the part of the authorities. The regime then started to accept international food aid, and between 2000 and 2004 it cautiously experimented with a market system whereby people were allowed to trade and earn their own keep, especially as the State did not wish to allocate enough of its own resources for this purpose. In this context, the State was, and still is, stepping up its militarization drive.

15. The World Food Programme (WFP) has been a major conduit for multilateral food aid to the Democratic People's Republic of Korea, and there has also been periodically bilateral aid from neighbouring and other countries. Yet, in 2009 bilateral aid from the United States of America was stalled by the authorities of the recipient country, and American non-governmental organizations working on food distribution in the country were asked to leave. This seems to have been due to the authorities' rejection of closer monitoring procedures and of the potential use of Korean-speaking interpreters from outside the country (which would have ensured more balanced translation of answers from respondents in the monitoring process).

16. The situation concerning food shortages in 2009 (with impact on 2010) remains severe. Although there was a slightly better harvest on some fronts in 2008 due to more favourable weather conditions, the harvests in 2009 were less satisfactory due to drought in some parts and a shortage of fertilizers. Food aid has thus been an essential mainstay for the general population since the mid-1990s and is still pertinent today. Citing the report on the crop and food security assessment mission jointly conducted in October 2008 by the Food and Agriculture Organization of the United Nations and WFP, the latter indicated that:

The total gross production came to only 4.21 million metric tons (unmilled, 3.3 million tons milled) of cereal equivalent, as agricultural production was severely constrained by lack of fertilizer and fuel, declining soil fertility and structural factors. Even with anticipated commercial imports and currently pledged food aid, the country will experience a cereal shortfall of 836,000 tons for the 2008/09 marketing year, leaving 8.7 million people in need of food assistance.⁵

17. In 2008, WFP initiated an emergency relief programme targeted to cover 6.2 million people, mainly children, pregnant and lactating women and the elderly. However, due to a shortfall of aid, influenced most probably by the world community's disapproval of the country's nuclearization process, the organization was able to help fewer than 2 million people in 2009. It was reported that, starting in June 2008, WFP would refocus its programme in 62 counties in six provinces instead of the 131 counties (eight provinces) originally targeted under the emergency operation. Depending upon the resources received, WFP would be able to feed up to 1.88 million people in the Democratic People's Republic of Korea, mainly young children in institutions, pregnant and lactating women and the elderly.⁶

18. The principle of "no access, no food" is adhered to. While the monitoring is more constrained than in the past (7 days' notice rather than the previous 24-hour notice), it is still quasi-random, as once permission is given by the authorities monitors can choose where to visit without having to inform the authorities of all the details. However, the authorities still do not permit Korean-speaking interpreters from outside the country to be involved. The most food insecure part of the country remains the north-east. It is also essential to stress that the problem is not simply food shortage but distorted food distribution, from which the elite benefits.

⁵ See www.wfp.org/countries/korea-democratic-peoples-republic-dprk.

⁶ See www.wfp.org/countries/korea-democratic-peoples-republic-dprk.

19. While WFP finished its midterm review of the emergency relief operation in 2009, the authorities have refused to let the agency conduct a crop and food security assessment for the 2009 period, even though, like the one in 2008, such an assessment would be very useful for planning and responding to the issue of food security and access to vulnerable populations. There is thus an issue of transparency.

20. Logically, it would seem that if the authorities are not able to satisfy the basic needs of the people, the people should be able to participate in activities which can help generate income, and thereby produce or buy their own food as well as sustain their livelihood. Yet, in 2005 the State began to clamp down on the market system that had developed between 2000 and 2004 and to reimpose its control over the population and revert to the public distribution system. The irony is that the system has been dysfunctional for a long time and cannot hope to satisfy the basic food needs of the population. A recent study divides up the population into five groups for food rationing: priority 1, high-level government officials; priority 2, security and law enforcement personnel; priority 3, workers at industrial units; priority 4, other general workers and residents; priority 5, farmers.⁷ Currently, the fourth and fifth groups are in dire straits.

21. In 2009, other draconian measures had a negative impact on the general population seeking to make ends meet. The authorities started to prohibit small plot farming and closed markets where people had previously traded their wares.⁸ Farmers were also reported to be suffering from the military pilfering or extorting a share of the farm produce.⁹ At the end of the year, the authorities imposed a currency revaluation, redenominating the won. As a result, 1 (new) won is equivalent to 100 old won; two zeroes were automatically lobbed off all financial holdings and savings, much to the distress of the population.¹⁰ This was a push to curb the market system, to compel those holding on to the old currency to exchange it for the new, and to control the circulation of money in the process.¹¹ There are also measures to punish those who try to dispose of the old cash clandestinely.

22. In early 2010, another measure was introduced to prohibit the use of foreign currency in the market and in trade, and to impose the new local currency on both foreigners and locals.¹²

23. Throughout the past six years, the Special Rapporteur has emphasized that while food aid is important, another important consideration is food security, at times under the rubric of disaster preparedness, mitigation and/or management. Food security is linked closely to sustainable agriculture, environmental conservation, and people's participation in generating and benefiting from the food. It is thus welcome that the United Nations Development Programme has now returned to the country and will resume some of the activities in relation to food security which it was on the verge of initiating before it had to withdraw from the country in 2007, such as reduction of post-harvest losses (see DP/2009/8, para. 6).

⁷ Pomnyun Sunim, "Humanitarian aid to North Korea: how to approach it?", unpublished paper, 15 October 2009, p. 2.

⁸ See *North Korea Today*, No. 288, August 2009 and No. 305, November 2009, available from <http://goodfriendsusa.blogspot.com/>.

⁹ *Ibid.*, Nos. 302 and 304, November 2009.

¹⁰ *Ibid.*, Nos. 307/308–310, December 2009.

¹¹ Hyeong Jung Park, "Impact and outlook of currency exchange in North Korea", online series (Seoul, Korea Institute of National Unification, 17 December 2009).

¹² "North Korea bans foreign currency use", *Bangkok Post*, 1 January 2010, p. 9.

B. Other basic necessities and related development

24. There has been a general decline of the health and education infrastructure. Hospitals are short of medicines, schools are short of textbooks and both are short of electricity. Despite the universal access to basic education claimed by the authorities, children often face stark realities at school, as discussed below.

25. The end of 2009 brought the worrying arrival of influenza A (H1N1), compounded by a shortage of medicines. It was also reported that families were being impeded from visiting people in detention for fear of spreading the disease.¹³

26. With regard to shelter, there were reports in 2009 of some 400,000 people being forcibly evicted in Pyongyang to make room for new construction. This was done without the participation and informed consent of the people affected, and was another example of the overbearing nature of the power base which often acts at its own whim and arbitrarily.

27. On another front, the results of a national census carried out under the auspices of the United Nations Population Fund (UNFPA) in 2008 were available at the beginning of 2010.¹⁴ It is now known that the population numbers just over 24 million people, with more women than men. The census provides demographic statistics which will enable the authorities to ensure that national development planning is more consonant with current realities. Data reveal specifics concerning the following classifications: “worker, officer, farmer”, although there is no mention of the private sector. Subject to further analysis, it remains to be seen to what extent the military was covered by the census; obviously, if military personnel were omitted, the census would be incomplete, despite generally good cooperation between UNFPA and the authorities. At the end of 2009, UNICEF completed its multi-cluster survey which will provide information on women and children in such areas as nutrition and shelter; the survey will appear shortly.

28. A strategic framework between all United Nations agencies will also have to be worked out in the near future to ensure close coordination on all major aspects of development. What should not be forgotten, however, is that the country is not poor but suffers from an inequitable development process caused by the failings of the authorities. It has more mineral resources than its southern neighbour. Its trade with another neighbour has been in the billions of dollars in the past few years. Yet, the resources of the country are misspent, misallocated and misused on the elite and the “military first” policy to the detriment of the populace. Such is the injustice – latent, patent and blatant.

C. Personal security and freedoms

29. Given the oppressive nature of the power base, it is not difficult to surmise the range of abuses which happen on a daily basis and which threaten the personal security of individuals and families, compounded by other infringements of their rights and freedoms.

30. While some of the legislative reforms are constructive, such as the introduction of the principle of *nullum crimen sine lege* (according to which people should be criminalized only where the crimes are expressly stipulated in law) into the Criminal Code and related procedure code, the existence of laws and institutions is often a façade to cloak arbitrary

¹³ See *North Korea Today*, No. 318, December 2009, available from <http://goodfriendsusa.blogspot.com/>.

¹⁴ Democratic People’s Republic of Korea, 2008 Population Census (Pyongyang, Central Bureau of Statistics, 2009).

action and abusive discretion in the name of the State. For instance, torture is prohibited by the Criminal Code. Yet, there is a myriad of reports on instances of torture.¹⁵

31. While the authorities claimed at the universal periodic review session that human rights are respected in the country, different sources indicate a conglomeration of huge camps for political prisoners and their families, who are often held there in perpetuity. Kaechon, Yodok, Hwasong, Bukchang, Hoeryong, Chonjin are some of the camps of infamy.¹⁶ The lives of inmates are lost only too easily to hunger and slave labour, brutality and atrocity.

32. Intriguingly, even the country's statement to the universal periodic review admitted openly that public executions take place in the country. One non-governmental publication includes an account of people being forced to watch them.¹⁷

33. The justice system is subservient to the State, and judges, prosecutors, lawyers and juries are part of the State machinery, far removed from the international rule of law, thus lacking in independence of the judiciary and safeguards for the accused.¹⁸ Capital punishment ensues from a broad range of crimes against the State as listed and extended periodically by the Criminal Code. At times, there are also public trials to teach the general population a lesson.

34. Participation in government, freedom of expression, access to information, freedom of association, and freedom of religion are all constrained by the nature of the State, despite their nominal recognition in the Constitution and related laws. Despite the semblance of an electoral process, the system is built to support a one-party State. People are pressured to vote for the ruling elite, and it is reported that community leaders visit households to pressure them to vote; failure to vote is unacceptable and voting against those in power is regarded as reactionary and subject to punishment.¹⁹ Trade unions and mass movements (associations) are controlled by the Government as part of the State machinery.

35. While cell phones are now allowed in the capital city, use near the border is prohibited. Radio sets are pre-tuned to government programmes and it is forbidden to view videos from other countries. Reading books from the Republic of Korea is regarded as espionage, and there are sanctions against reading books from China. It is forbidden to own computers without permission. There are special squads which raid homes to see whether there are illegal materials from other countries, and neighbours/communities are encouraged to inform on each other. Bribery may attenuate arrests and sanctions.

36. There are four types of punishment: death; unlimited term of correctional labour; limited term of correctional labour; and labour training, the latter two being introduced in 2004.²⁰ They also correspond to four different types of detention, ranging from political camps and camps for other crimes to collection points and labour training for lesser crimes such as border crossing without permission. A recent study suggests that bribery may

¹⁵ Amnesty International, "North Korea: torture, death penalty and abductions", information sheet, August 2009, ASA 24/003/2009; The Reality of Human Rights in North Korea (see footnote 3 above); see also *North Korea Today*, No. 301, October 2009; Citizen's Alliance for North Korean Human Rights (NKHR), "Survival under torture", NKHR Briefing Report No. 2, Seoul, 2009.

¹⁶ The Reality of Human Rights in North Korea (see footnote 3 above), p. 4; Citizen's Alliance for North Korean Human Rights (NKHR), "The last outposts of slavery of the past XX century", NKHR Briefing Report No. 1, Seoul, 2009.

¹⁷ The Reality of Human Rights in North Korea (see footnote 3 above), p. 7.

¹⁸ "White paper on human rights in North Korea 2009" (see footnote 1 above), pp. 144–178.

¹⁹ *Ibid.*, p. 287.

²⁰ *Ibid.*, p. 84.

facilitate early release.²¹ However, abuses take place in all types of detention and related labour training. Even those who are sent for labour training are reported as witnessing some terrible abuses during their short period of detention.

37. The authorities claim that religious freedom is enjoyed in the country. Yet, it can be recalled that the State is very much based upon the *juche* ideology which requires worship of the *suryong* (top leader). This has now been supplemented by the “military first” policy. Interestingly, the authorities allowed concerts to be organized by religious groups from the United States during the year. In reality, the claim of religious freedom is cosmetic and is contradicted by other sources which indicate persecution of religious movements, as the latter are seen as competing with the personality cult of the leader. A woman distributing Bibles was reported to have been killed by the authorities in 2009 and her family was subsequently persecuted.²²

38. A number of malpractices, such as kidnapping and abduction, have affected the lives of foreigners and have at times taken place outside the country, through the placement of agents to perpetrate crimes abroad on behalf of the authorities. A number of cases concerning nationals of Japan abducted by agents of the Democratic People’s Republic of Korea remain unresolved and require stronger measures on the part of the country in question to ensure a comprehensive investigation and a transparent and satisfactory outcome. Over 10 countries have been affected by such malpractices.

39. There remain also a number of cases from the Korean War (1950–1953) and thereafter which await transparency and satisfactory resolution. The resumption of family reunion meetings between the Democratic People’s Republic of Korea and the Republic of Korea in mid-2009 may also provide another channel for easing tensions and resolving humanitarian issues.

40. On a welcome note, in 2009, two United States journalists arrested and imprisoned by the Democratic People’s Republic of Korea, a worker from the Republic of Korea arrested from the Kaesong industrial zone, and a number of fishermen from the Republic of Korea apprehended by the Democratic People’s Republic of Korea were released from captivity during the year. The Special Rapporteur recalls that, together with other special rapporteurs, he sent a communication to the country in question to seek clarification and justice for the two journalists prior to their release. The fate of another more recent case of a Korean American who entered the country illegally is now being monitored in 2010.

D. Asylum and migration

41. The issue of asylum and migration has probably been the most sensitive issue under this mandate, because it has a cross-border dimension and touches upon the practices of other countries as well as those of the country in question. The Democratic People’s Republic of Korea has always had a strict policy on the movements of its people both internally and externally. However, during some periods, there has been a slight relaxation of the control imposed on migrants. For example, around 2004, law reform which introduced labour training for those leaving the country without permission — a lighter sanction than the previously used imprisonment — suggests a slight hiatus from severe sanctions. However, developments in 2009 suggest the contrary: sanctions on the border(s)

²¹ Stephen Haggard and Marcus Noland, “Repression and punishment in North Korea: survey evidence of prison camp experiences”, East West Center Working Papers, No. 20 (Hawaii, October 2009), p. 4.

²² Information received indicates that she was openly executed on 16 June 2009.

have become more stringent, influenced by various momentous events linked with national security.

42. Precisely because it is now more difficult to leave the country of origin and to access neighbouring areas for asylum, the exodus of nationals from the Democratic People's Republic of Korea has declined (at least momentarily). For instance, at the time of the Special Rapporteur's visit to Mongolia in 2009 described below, there were no arrivals of asylum-seekers in the country, as compared with a couple of hundred in 2008. The pattern is similar in South-East Asia. As compared with larger numbers in the year before (nearly 2,000), one country reported a couple of hundred being detained in 2009, pending other solutions (although the figures went up slightly at the end of 2009).

43. More severe sanctions are now being implemented against those trying to leave without an exit visa and/or those who are forced to return from abroad. Collective punishment is also used against their families as a deterrent measure.

44. The status of people seeking asylum was discussed extensively by the Special Rapporteur in earlier reports. Whatever the characterization of persons who seek asylum, the Special Rapporteur underlines the need for humane treatment. They should not be kept in detention and they should have access to the basics of life, such as access to education, health care and protection from violence. The tendency of some countries to classify asylum-seekers as "illegal immigrants" should be modulated by a more flexible approach, whereby they are treated as humanitarian cases, without negative labelling, and access to international protection and assistance should be ensured. In 2009, one positive example in a nearby country was the granting of temporary resident status to a woman from the Democratic People's Republic of Korea who had a relationship with a local man, with children from the relationship. There are also activities to register children born with links to the country in question.

45. The Special Rapporteur notes another area deserving more analysis in future: migrant workers who work in other countries. The country in question is not a member of the International Labour Organization (ILO) and has kept a distance from the array of labour-related conventions which exist today.

E. Specific groups

46. Throughout the six years of work, the Special Rapporteur has emphasized consistently the plight of key groups, such as women, children, persons with disabilities and the elderly, especially where they do not belong to the ruling elite. There has been a range of malpractices affecting their welfare which need to be rectified by the authorities.

47. Despite guarantees of gender equality in the Constitution, there are various discrepancies disadvantaging women in the country. First, their participation in earning a livelihood has been constrained by various peculiar measures imposed by the authorities as part of the clampdown on the market system. These include the prohibition of women under a certain age (49) from trading; the stricture that women are not allowed to wear trousers or ride bicycles; the injunction against colourful hair. The stricture against wearing trousers has now been lifted to some extent. In the army, women are supposed to bandage their breasts under their military uniforms to flatten them to avoid the image of sensuality.²³ Such is the social engineering impeding the realization of women's rights.

²³ Citizen's Alliance for North Korean Human Rights (NKHR), "Flowers, guns and women on bikes", NKHR Briefing Report No. 4, Seoul, 2009, p. 16.

48. Second, there are still stereotyped expectations which undermine women's rights. For example, it is reported that women have to undergo virginity tests if they are to climb up the bureaucratic ladder.²⁴ They are blamed for infertility.²⁵ The wife of a political dissident is also pressured to divorce him.

49. Third, a large number of persons seeking asylum from the country are women. Earlier reports from the Special Rapporteur noted that many are subjected to multiple abuses "en route", such as human trafficking and smuggling in their quest for safety in another country.

50. Fourth, reports are still being received of pregnant women, originally from the Democratic People's Republic of Korea, who are returned from a neighbouring country where they had a sexual relationship with members of the local population, and who are then forced to abort by the authorities of the country of origin.

51. Fifth, a large number of those suffering from malnutrition and the consequences of food shortages are women and children.

52. With regard to children, a host of obstacles obstruct the realization of their rights and this is well documented in a study entitled *Child is King of the Country*,²⁶ in the discussions on child rights before the Committee on the Rights of the Child and the ensuing concluding observations from the Committee in 2009. The rampant presence of stunting is a testament to the prolonged malnutrition affecting children in the country and the linkage with the food crisis. The plight of street children is made worse by the act of putting them in various State institutions which are not child sensitive. Triplets are reported to be separated from parents at birth and are institutionalized, at least for the initial period of their existence.

53. Children at school, particularly middle school, are also forced to work by the authorities on State projects, such as collective farms, and parents are punished if the children do not contribute. The use of children to farm poppy (a plant linked with opium) has been cited by various sources. They are forced to watch public executions and are mobilized for the army (as Red Young Guards) as part of the State propaganda machine. They are persecuted if one of their family members is a dissident or a refugee, and suffer the consequences of collective punishment or guilt by association. Juvenile justice is sadly lacking in a system that incarcerates children all too easily in substandard institutions and that instrumentalizes children for political ends.

54. With regard to the treatment of persons with disabilities in the Democratic People's Republic of Korea, after much criticism from the international community, the country introduced a new law to ensure help for them. Yet, due to the consequences of prolonged discrimination, such as the previous practices of keeping the streets clear of persons with disabilities and locking them up in various closed wards, such persons need sustained action to ensure their recovery and social reintegration, with adequate supports.

55. The destiny of elderly persons who are not part of the elite has been particularly battered by the food crisis and the decline of State social welfare. Further measures are needed to integrate them into food provisioning and social protection.

²⁴ Open News for North Korea, 19 October 2009, available from http://nkradio.cafe24.com/bbs/view.php?id=public_news_eng&page=1&sn1+&divpage=...10/19/2009.

²⁵ Ibid.

²⁶ *Child is King of the Country* (Seoul, Citizens' Alliance for North Korean Human Rights/Life and Human Rights Books, 2009); Citizen's Alliance for North Korean Human Rights (NKHR), "Child is King of the Country", NKHR Briefing Report No. 3, Seoul, 2009.

56. Another angle which deserves emphasis is family unity and family reunification. Particularly in cross-border situations, families are separated in the migration process. The clandestine relationships between nationals of the Democratic People's Republic of Korea and those of other countries have given rise to a number of other concerns, such as forced marriage and the status of the children of cross-border relationships, their access to birth registration, documentation and education. In the eventuality that some members manage to settle in other countries as a final safe haven, the question which lingers is to what extent members of their families can join them, whether or not they are clandestine, and whether or not they are irregular migrants. Humanitarian considerations would dictate that they need to be afforded protection and assistance on the basis of non-discrimination, irrespective of nationality, statelessness, or social or other origins.

F. Impunity and responsibility

57. In the crucible of the multiple abuses identified, there arises the issue of responsibility. Why have those who should be responsible for the misdeeds enjoyed a degree of impunity for such a long time? Much depends upon national and international will to ensure accountability and responsiveness, and the role of the United Nations is obviously relevant in this respect.

58. There is the systemic issue of human rights violations caused by the power base in the name of the State. Various sources have suggested a number of ways of making the powers that be accountable internationally, given that the national authorities are unable or unwilling to press for such accountability.²⁷ They include the possibility of the Security Council taking up the issue directly and of establishing a Commission of Inquiry on crimes against humanity.

59. An intriguing question is to what extent the International Criminal Court can be accessed for this purpose, on the basis of individual criminal responsibility and interrelated with the fact that the country in question is not a party to the Rome Statute of the International Criminal Court.²⁸ There may be some openings. Article 13 of the Statute enables the Court to exercise its jurisdiction with regard to four key crimes (genocide, crimes against humanity, war crimes, and crime of aggression) in three situations: where a State party refers a case to the Court's Prosecutor; where a case is referred to the Prosecutor by the Security Council; or where the Prosecutor has initiated an investigation in respect of such crime in accordance with article 15 of the Statute. Article 15 provides that the Prosecutor can act on his/her own initiative as follows:

“1. The Prosecutor may initiate investigations *proprio motu* on the basis of information on crimes within the jurisdiction of the Court.

“... ”

“3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-trial Chamber, in accordance with the Rules of Procedure and Evidence.

²⁷ See, for example, DLA Piper, Committee for Human Rights in North Korea and the Oslo Center for Peace and Human Rights, *Failure to Protect: The Ongoing Challenge of North Korea* (Washington D.C., 2008).

²⁸ See further: William Schabas, *An Introduction to the International Criminal Court* (Cambridge, Cambridge University Press, 2004).

“4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation ...”

60. The international crime which would seem to be most closely related to the happenings in the country in question is “crimes against humanity” and the criteria which would need to be fulfilled include widespread or systematic attack against civilians and knowledge of the attack. There are also various preconditions to the exercise of jurisdiction by the Court which should be borne in mind.

IV. Country visits

A. Mongolia

61. The Special Rapporteur paid a visit to Mongolia from 24 September to 1 October 2009.

62. The main impact of the situation in the Democratic People’s Republic of Korea on Mongolia relates to the influx of nationals of the former who have exited from the country in search of asylum elsewhere. In recent years, there has been a continuing flow of these persons through a neighbouring country into Mongolia. The policy of Mongolia towards the group has been based upon a humane approach, treating them as humanitarian cases and offering them temporary asylum prior to durable solutions. It has abided by the international principle of non-refoulement of those who seek asylum and has worked closely with the United Nations High Commissioner for Refugees (UNHCR) in the process.

63. Between 1999 and mid-2009, some 3,000 nationals of the Democratic People’s Republic of Korea sought shelter in Mongolia, but there has been a marked decline in arrivals over the past two years. The influx in 2008 was about 150 persons and in the first half of 2009 the caseload was approximately 30 persons, as compared with some 500 persons in 2007. Recent arrivals comprised both men and women, at times coming as a family, although the caseload was of a younger age group than the groups which had entered Mongolia in previous years. A large number of the group had stayed in a neighbouring country for several years before entering Mongolia. The Special Rapporteur was informed that at the time of his visit, there were no nationals of the country seeking protection in the country, as the 2009 caseload had already been resettled in other countries, the resettlement process taking about a month.

64. The decline in arrivals seems to have been due to the stringent border conditions in a neighbouring country which made it difficult for nationals of the country in question to access Mongolia.

65. In regard to the engagement of Mongolia with the international system which has bearing on the protection of those seeking asylum in the country, the country is already a party to key human rights treaties, engaging well and consistently with the reporting obligations under these treaties, and it is now considering accession to the Convention relating to the Status of Refugees and its Protocol. Mongolia recently acceded to the United Nations Convention against Transnational Organized Crime, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Air and Sea.

66. On another front, the advent of a labour force from the Democratic People’s Republic of Korea under contract in Mongolia deserves attention. To date, a small number (in the hundreds) have been present and have been registered with the Mongolian

authorities dealing with labour. In 2007 the two countries concluded a bilateral agreement concerning exchange of labour, and this was complemented by a Memorandum of Understanding on the issue in 2008. Interestingly, the agreement exempts labour force from the Democratic People's Republic of Korea under contract from job placement fees in Mongolia. The labour force has been employed mainly in construction work, services and agriculture.

67. The following recommendations are thus made by the Special Rapporteur on the basis of lessons learned from the visit:

(a) The Special Rapporteur welcomes Mongolia's consideration of accession to the Convention relating to the Status of Refugees and its Protocol, and urges expeditious accession to these treaties, complemented by effective implementation at the national and local levels. The constructive cooperation with UNHCR can be further enhanced by the presence of permanent staff of UNHCR as part of the sustained engagement with Mongolia;

(b) The Special Rapporteur welcomes the accession of Mongolia to the United Nations Convention against Transnational Organized Crime and its protocols on human trafficking and smuggling, and encourages victim-sensitive legislation procedures as part of the implementation process to ensure that victims of human trafficking and/or human smuggling are not criminalized, with due regard to gender sensitivity and the needs of special groups such as children;

(c) The Special Rapporteur invites the Mongolian authorities to continue the policy of affording humane treatment to those who seek asylum in the country, with the provision of facilities to meet their physical and psychological needs and to respond to the language and other needs linked with adaptation to resettlement in other countries;

(d) The Special Rapporteur recommends a broad capacity-building process, in cooperation with civil society, to convey a positive image of those who seek asylum in the country, including the training of officials on international standards, and awareness-raising among parliamentarians and the public to nurture an attitude of empathy towards those who seek protection in Mongolia;

(e) The Special Rapporteur encourages the Mongolian authorities to consider accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and relevant international labour conventions, and to strengthen implementation measures in support of the Special Rapporteur's mandate.

B. Republic of Korea

68. The Special Rapporteur carried out an official visit to the Republic of Korea from 10 to 16 January 2010.

69. The current policy of this country's Government towards the country in question is based upon "mutual benefit and common prosperity"; this underscores the need for "reciprocity" between the two countries, oriented towards mutual engagement achieving concrete results. The policy encompasses these components:

(a) The two countries should pursue a more substantive relationship targeted to peace and unification; abandonment of the nuclear programme of the Democratic People's Republic of Korea; flexible policies supported by national consensus; social and cultural exchanges; and responses to humanitarian issues;

(b) The resolution of humanitarian issues is anchored on various human rights challenges, including resolution of the plight of families separated by the Korean war; resolution of the question of prisoners of war from that era and subsequent abductions of

nationals of the Republic of Korea; emphasis on human rights in the Democratic People's Republic of Korea as a matter of universal value; provision of aid to that country on the basis of humanitarianism; and assistance for asylum-seekers from there.

70. Implementation of this policy has been effected on many fronts, while other challenges remain. Despite the offer of 50,000 tons of corn by the Republic of Korea in May 2008 (to which the Democratic People's Republic of Korea did not respond), no food aid from the former had been provided to the latter since 2008. At the end of the Special Rapporteur's visit, however, the Democratic People's Republic of Korea had seemed to indicate that it would accept 10,000 tons of corn. Multilateral aid from the Republic of Korea has been channelled through United Nations agencies, particularly the World Health Organization and UNICEF, in the form of medicines and child-related necessities. Family reunion between the two countries resumed in the middle of 2009 after a two-year hiatus. The authorities of the Republic of Korea also support United Nations resolutions concerning the Democratic People's Republic of Korea, and have responded constructively to settle people from the latter in search of shelter and protection. There is a variety of opinions concerning the extent to which non-governmental organizations should be able to deliver aid directly to the country in question and how much regulation of this process is required.

71. The Special Rapporteur notes the generous help offered by the authorities in the Republic of Korea to persons from the country in question seeking shelter. To date, some 18,000 have been settled in the Republic of Korea in recent years, and the assistance given has expanded to include resident registration and housing support; financial subsidy; and educational, employment, medical and minimum-living support. On this matter, the Special Rapporteur paid a visit again to the Hanawon Centre, a centre for assisting newcomers in adapting to society which has excellent facilities.

72. Not far from Hanawon, there is the Hangyoreh Middle and High School, an exemplary open facility for adolescents from the Democratic People's Republic of Korea, with education adapted to their special needs. Given that the young people come from a politically claustrophobic background, the school emphasizes learning in a liberal, child-responsive manner, with extensive child participation in regulating their own lives and interlinking closely with volunteers from the community around and beyond the school. The adolescents are also encouraged to undertake activities as volunteers to help others in less fortunate positions.

73. The Special Rapporteur was very pleased to be able to interview directly persons who had sought asylum. Recent arrivals varied from those who had spent "several years on the road" prior to accessing the Republic of Korea, to those who had left the country of origin and accessed a transit country "within a week", with possible resettlement in a couple of months. Many were women who had been treated brutally in the country of origin and in transit, having undergone such violence as punishments for trying to leave the country of origin without permission, human trafficking and smuggling, forced marriage, prosecution as illegal immigrants, and detention in immigration jail pending exit to the Republic of Korea.

74. The Special Rapporteur emphasizes the following recommendations on the basis of lessons learned from this visit:

(a) Resumption of the Six-Party Talks would be welcome, moving from the current state of dormancy to substantive discourse and convergent action, contributing to the space for human rights in the Democratic People's Republic of Korea;

(b) Humanitarian policies on the part of the Republic of Korea towards its northern neighbour should be continued and strengthened, in particular the offer of

humanitarian aid through appropriate channels, subject to adequate monitoring in keeping with the international principle of “no access (to the victims), no aid”;

(c) With the support of the international community, more efforts should be made to resolve satisfactorily the consequences of the Korean war, including the issue of prisoners of war, separated families, and the issue of abducted persons; family reunions should become a sustained process moving beyond short-term meetings to life-long reunification;

(d) More open environments, linked with local communities, to help settle persons seeking asylum should be explored, attuned to social integration and inclusiveness; these can be complemented by programmes to bridge-build between different communities and by positive role models to improve the public’s understanding of the new arrivals;

(e) Implementation of human rights in the Democratic People’s Republic of Korea should be highlighted from the angle of prevention of abuses, protection of people’s rights and provision of remedies, interlinked with graduated measures from the United Nations system to ensure responsibility on the part of the authorities and to propel constructive changes.

C. Japan

75. The Special Rapporteur visited Japan from 16 to 22 January 2010.

76. The new Government of Japan came to power in the latter half of 2009. Its direction on key concerns, particularly the denuclearization of the Democratic People’s Republic of Korea and the abduction issue, are reflected in the words of an address made by Yukio Hatoyama, Prime Minister, before the General Assembly in September 2009:

The DPRK’s nuclear tests and missile launches are a threat to the peace and stability not only of the region but also of the international community as a whole, and cannot be condoned under any circumstances. It is imperative that the DPRK comply fully with the relevant Security Council resolutions and that the international community implement these resolutions. Japan will continue its efforts to realize the denuclearization of the Korean Peninsula through the Six-Party Talks. Japan seeks to normalize relations with the DPRK in accordance with the Japan-DPRK Pyongyang Declaration [2002], through the comprehensive resolution of the outstanding issues of concern with the DPRK, including the abduction, nuclear and missile issues, and by sincerely settling “the unfortunate past”. In particular, regarding the abduction issue, constructive actions by the DPRK, including swiftly commencing a full investigation as agreed last year, will be an avenue towards progress in Japan-DPRK relations. If the DPRK takes such constructive and sincere actions, Japan is ready to respond positively.²⁹

77. Currently, the Six-Party Talks targeted to denuclearizing the Democratic People’s Republic of Korea are stalled due to the intransigence of the country. Resumption of talks on this front would indeed help to provide positive space for humanitarian discourse and related action – directly or indirectly. From a human rights angle, the abduction question remains a primary concern between this country and Japan with international and regional implications.

78. At stake is the plight of many persons affected by the misdeeds of the country committed extraterritorially. There are 17 Japanese nationals listed officially as abducted by

²⁹ See www.kantei.go.jp/foreign/hatoyama/statement/200909/ehat_0924c_e.html.

the country. While five returned to Japan following the Pyongyang Summit and Declaration between the two countries, other cases await an effective commitment from the Democratic People's Republic of Korea to clarify and settle matters satisfactorily. The most recent round of dialogue between Japan and the country in question took place in August 2008 with an agreement on the following components:

- (a) The scope of investigations will be victims identified by the Government of Japan and other missing persons;
- (b) The country in question will establish an investigation committee with adequate authority;
- (c) This country will notify the progress of the investigation and discuss it with Japan;
- (d) When survivors are found, the subsequent process will be discussed and agreed;
- (e) The country will cooperate so that Japan will be able to directly confirm the results of the investigation;
- (f) Both sides will continue to discuss other matters related to the investigation.

79. The Democratic People's Republic of Korea, however, has postponed implementing this agreement. It is also increasingly acknowledged that several other countries have been affected by the abductions of their nationals committed by agents of that country, giving rise to international crimes with global implications.

80. Japan has adopted a variety of measures targeted to ensure that the Democratic People's Republic of Korea is accountable for the crimes committed. These include prohibition of visits of vessels from that country, and various embargoes and restrictions on trade and exchanges with the country. In 2006, an important law was adopted in Japan to address the issue of human rights violations by the country in question, with amendments in 2007 to strengthen international cooperation on this front. This law provides for a number of measures, including awareness-raising activities among the Japanese public.

81. The 2006 law also provides a window for addressing other human rights concerns which are now increasingly discussed in official circles. It provides for measures to protect and support defectors from the Democratic People's Republic of Korea, including the Japanese spouses of Koreans who migrated to Japan, Korean residents from Japan who later settled in the Democratic People's Republic of Korea but who now wish to come back to Japan, and nationals of the country in question seeking asylum in Japan. While a number of the second group mentioned have the nationality of Japan, others have increasingly opted to pursue becoming nationals of the Republic of Korea in recent years. This invites cooperation across frontiers to promote humanitarian solutions.

82. Constructive implementation is exemplified by the fact that Japan is now affording protection to a number of persons in such categories. More facilities and processes to enable them to adapt to society are welcome, especially to enable their peers and local communities to participate in the transition. An additional challenge is to explore creative ways of enabling those who have returned to Japan to reunite with the families left behind in the Democratic People's Republic of Korea and/or in a transit country.

83. In addition, it is notable that in 2009, Japan ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

84. The Special Rapporteur also paid a site visit to Obama city, Fukui Prefecture, a location where some of the abductions had taken place. Agents of the Democratic People's Republic of Korea had landed on the coast to perpetrate these crimes, and it was due to the

Pyongyang Summit that two of the abductees were subsequently returned to Japan, to be joined later by their children. They have reintegrated well into society, with extensive support from local authorities and communities. However, another case which has emerged concerns two children abducted from the area under suspicious circumstances; this awaits and requires effective resolution and clarification from the Democratic People's Republic of Korea.

85. Based on the key lessons learned from the visit of the Special Rapporteur, it is recommended that the Democratic People's Republic of Korea should take the following measures:

- (a) Immediately follow up the August 2008 agreement between itself and Japan, without further delay and in a comprehensive manner;
- (b) Set a concrete time frame and take concrete actions in order to resolve the abductions issue as soon as possible, including ensuring the immediate return of Japanese and other abductees;
- (c) Abide strictly by United Nations resolutions on the country and commit fully to upholding international law and ensuring the responsibility of those who perpetrated the crime of abduction;
- (d) Cooperate constructively with United Nations mechanisms and procedures on human rights, including the Special Rapporteur, and respond efficaciously to their recommendations;
- (e) Become a party to the International Convention for the Protection of All Persons from Enforced Disappearance, and implement it effectively as a gateway to engage with the world community and to underscore the need to comply with the international rule of law.

V. Prospects: conclusions and recommendations

86. **The human rights situation in the Democratic People's Republic of Korea can be described as sui generis (in its own category), given the multiple particularities and anomalies that abound. Simply put, there are many instances of human rights violations which are both harrowing and horrific.**

87. **While the prospects seem dim at one level, a beacon of light can be offered at both the national and international levels if certain measures are concretized and well implemented. In conclusion, it is thus incumbent on both the national and international environments to take constructive and tangible actions based on international standards more effectively.**

88. **The Democratic People's Republic of Korea should take the following measures:**

- (a) **Immediately (short-term):**
 - (i) **Ensure effective provision of and access to food and other basic necessities for those in need of assistance, rectify the distorted pattern of food distribution, cooperate constructively with United Nations agencies and other humanitarian actors on the issue, and allow people to undertake economic activities to satisfy their basic needs and supplement their livelihood without State interference;**

- (ii) Adopt a moratorium on capital punishment and put an end to public executions, abuses against the security of the person, and other violations of rights and freedoms;
 - (iii) End the punishment of those who seek asylum abroad and who are sent back to the country, and instruct officials clearly to avoid detention and inhumane treatment of such persons;
 - (iv) Cooperate effectively to resolve the issue of abducted foreigners and to address the other issues, including the consequences of the Korean war, which give rise to fear in the country;
 - (v) Respond constructively to the recommendations of the Special Rapporteur and allow him to visit the country.
- (b) Progressively (longer-term):
- (i) Modernize the national system by instituting reforms to ensure greater participation in the process and compliance with international human rights standards;
 - (ii) Institute equitable development policies based upon a “people first” policy, and reallocate national budgets, including military budgets, to the social sector;
 - (iii) Introduce more extensive measures related to food security, such as sound agricultural practices and environment conservation, and people’s participation and mobilization in planning, programming and benefit-sharing;
 - (iv) Guarantee personal security and freedoms by dismantling the pervasive surveillance and informant/intelligence system, reforming the justice system, and abiding by the rule of law, with safeguards for accused persons, fair trials, the development of an independent judiciary, and checks and balances against abuses of power;
 - (v) Become a party to core human rights treaties and ILO conventions and take measures to implement them effectively;
 - (vi) Pay special attention to overcoming discrimination and reducing the vulnerability facing specific groups, such as women, children, those with disabilities and the elderly, by highlighting human rights protection against neglect, abuse, exploitation and violence;
 - (vii) Address the root causes of refugee outflows; and criminalize those who exploit them through human smuggling and trafficking, while not criminalizing the victims;
 - (viii) Act against the impunity of those responsible for the violence and violations by permitting means of effective redress at the national and local levels;
 - (ix) Implement the recommendations from the universal periodic review to ensure transparency and reforms, and request technical assistance from the Office of the United Nations High Commissioner for Human Rights to help promote and protect human rights comprehensively;
 - (x) Engage in constructive dialogue with the treaty bodies that monitor the conventions to which the country is a party, and cooperate with all United Nations mechanisms, including the special procedures, to ensure effective follow-up of their recommendations and access to the country.

89. The Special Rapporteur invites the international community:

(a) To emphasize the need for an integrated approach that includes the prevention of violations, effective protection of human rights, provision of care and assistance in an accessible and accountable manner, participation of the people in the enjoyment of their rights and freedoms and ensuring the country's development path in a democratic setting;

(b) To advocate strongly for the responsibility of the authorities to protect the people of the country, taking on that responsibility should the national authorities fail to do so, and to call for a "people first" rather than the current "military first" policy, complemented by an equitable development process, food aid and food security, with due respect for the principle of "no access, no food", coupled with adequate monitoring;

(c) To respect the rights of refugees, particularly the principle of non-refoulement, and the human rights of migrants, and to mitigate the strictures of national immigration laws that might otherwise lead to the detention or forced return of refugees or asylum-seekers;

(d) To maximize dialogue with the Government of the Democratic People's Republic of Korea to promote dispute resolution and to enlarge the space for human rights discourse and action, offering relevant incentives and graduated measures, possibly linked with security guarantees, as appropriate;

(e) To address impunity from different viewpoints, whether in terms of State responsibility and/or individual criminal responsibility, and to enable the totality of the United Nations system, especially the Security Council, and its affiliates, such as the International Criminal Court, to take measures to prevent egregious violations, protect people from victimization and provide effective redress.
