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Press Release

The introduction of the Panel of Experts on accountability in the UN Resolution on North Korean human rights is a new milestone after the UN Commission of Inquiry

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The Citizens' Alliance for North Korean Human Rights (NKHR) welcomes the institution of the Panel of Experts in the new UN Resolution on the Situation of Human Rights in the DPRK, which will be voted upon at the present session of the UN Human Rights Council (HRC). The voting on the tabled resolution is only a formality, since the majority of member states of the present Council already support the resolution. The proposal of "panel of experts" was suggested first by the UN Special Rapporteur on the Situation of Human Rights in the DPRK, Mr. Marzuki Darusman, in 2015. The Citizens' Alliance for North Korean Human Rights presented an opinion to the states, which traditionally draft the Resolution (EU states and Japan) in January 2016, arguing that a panel of experts would be the most desirable option to keep accountability a high profile issue in order to continue to exercise pressure on North Korea, as was done with the UN Commission of Inquiry. The Resolution requests the group of independent experts on accountability to present a report within 6-month time framework, "taking into account existing international law and prevailing State practices with regard to accountability to:"

- a) explore appropriate approaches to seek accountability for human rights violations in the Democratic People's Republic of Korea, in particular where such violations amount to crimes against humanity as found by the commission of inquiry;*
- b) recommend practical mechanisms of accountability to secure truth and justice for the victims of possible crimes against humanity in the Democratic People's Republic of Korea, including the International Criminal Court*

In light of the UN Commission of Inquiry (COI)'s report, particularly its recommendation that the North Korean leadership should be referred to the International Criminal Court (ICC), the UN Human Rights Council and General Assembly's Resolutions in 2014 and 2015 included the same call for a referral. The Resolutions also encouraged regular briefings on the situation in the country at the UN Security Council, as well as requesting the establishment of the UN Human Rights Office for DPRK, which opened in Seoul, Republic of Korea in June 2015.

At present, two years after the COI Report, the issue of responsibility for crimes committed in North Korea is losing its momentum. The DPRK is not a party to the Rome Statute which established the ICC and thus may only be referred by Resolution of the UN Security Council. Given

the composition of the Council, this is not likely in the near future. Where the Council does not act on North Korean crimes against humanity, the international community has an obligation to do so.

The proposed Panel of Experts on accountability, in which establishment NGOs played a key role, will map out an accountability strategy in terms of both international and domestic options. The COI laid down the groundwork for accountability options without going into significant detail. The comprehensive report on accountability will lay out the details of what such a process should include; specifically, what concrete actions the international community could undertake in the case of inaction by the UN Security Council to refer the DPRK to the ICC, as was suggested by the EU-Japan resolution.

The accountability strategy to be laid out by the Panel of Experts is a broad legal and institutional framework requiring knowledge of various aspects of the transitional justice process and the legal complexities, both international and domestic, pertaining to the DPRK. Responsibility for addressing crimes against humanity in the DPRK will fall upon not only the international community, but likely also on the Republic of Korea.

Why is the Panel of Experts so important?

The Citizens' Alliance for North Korean Human Rights was an active advocate to introduce this new element into the UN Resolution. It is of the opinion that the Panel of Experts' report will have profound implications for the Korean Peninsula into the future.

Given the sensitivity of the North Korean human rights issue in South Korea, such an international independent report would strengthen the advocacy of civil society vis-à-vis the South Korean government, while also laying out concrete actions that could be undertaken internationally. Experts on transitional justice will look into possible international solutions, such as criminal prosecutions, vetting policies, archives, policies for the victims, and proper policies of memory. The South Korean government and society will also have to take responsibility for the implementation of the majority of these policies on a domestic scale.

Moreover, given the inability of the North Korean judiciary to prosecute criminals at the highest political levels, responsibility for crimes will have to be undertaken either by the international tribunal or the South Korean judiciary. In NKHR's opinion, given that the Constitution of the Republic of Korea includes North Korea within its remit, the crimes against humanity found by the COI Report were conducted within South Korean jurisdiction. The Panel of Experts' report on an accountability strategy should look into international options as identified by the COI (e.g. an interim prosecutor and/or exercise of universal jurisdiction), as well as domestic ones (e.g. the responsibilities of the South Korean government given its ratification of the Rome Statute; the translation of that law into its domestic legal framework; and the specifics of the South Korean Constitution, which includes North Korea within its jurisdiction). Such an exercise would reinforce the present UN Resolution's call for accountability, while sending a firm message to North Korea that a call for ICC referral by the international community will not lapse with time.

The Citizens' Alliance for North Korean Human Rights is of the opinion that the Panel of Experts will prepare for the domestic initiatives on possible transitional justice in North Korea in the future and South Korea's responsibility in that process. The Panel of Experts is also expected to strengthen the international advocacy in search of justice, truth, and compensation to North Korean victims.