

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: AL G/SO 214 (33-27) G/SO 214 (53-24)
PRK 1/2013

17 December 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 22/13, 17/5, and 2005/39.

In this connection, we would like to draw the attention of your Excellency's Government to the information received regarding the cases of Mr. **Jang Sung-Taek**, who was reportedly executed on 12 December 2013 and the executions of Mr. **Jang-Lee Yong-ha** and Mr. **Jang Soo-kee**.

According to the information received:

On 12 December 2013, Mr. Jang Sung-Taek was reportedly executed after being sentenced to death by the Special Military Tribunal of the Democratic People's Republic of Korea Ministry of State Security, under the charges of "plotting against Mr. Kim Jong-Un administration".

On 8 December 2013, five days before the execution took place, Mr. Sung-Taek was reportedly expelled publicly from the Worker's Party of Korea (WPK). On the same day, Mr. Sung-Taek's arrest during the political meeting of WPK and accusation was announced on national television. Allegedly, Mr. Sung-Taek's expulsion from WPK was subsequent to the accusations of having "perpetrated thrice-cursed acts of treachery in betrayal".

It has been further reported that Mr. Jang-Lee Yong-ha and Mr. Jang Soo-kee, who were Mr. Sung-Taek's close associates, have also allegedly been executed under charges of corruption on November 2013. The executions allegedly follow

the reported public executions of an increasingly large number of individuals in the Democratic People's Republic of Korea since August 2013.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our concerns that the death penalty may have been imposed and carried out against Mr. Jang Sung-Taek after proceedings which did not comply with international human rights law standards of fair trial and due process guarantees, and of the most serious crimes provision. We are also concerned about the information about the executions of Mr. Jang-Lee Yong-ha and Mr. Jang Soo-kee, which would have also been imposed under the same circumstances described above.

In light of the information received we would like to bring to the attention of your Excellency's Government that, in countries that have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, as provided in article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Democratic People's Republic of Korea on 14 September 1981. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of offences that result in the intentional loss of life. The Human Rights Committee (CCPR/C/79/Add.25) noted in its concluding observations on the periodic report under the Covenant that the imposition of the death penalty for crimes that do not result in the intentional loss of life is incompatible with the Covenant.

We would also like to make reference to the articles 6(2) and 14 of the International Covenant on Civil and Political Rights (ICCPR), that death penalty may also be imposed only when following a trial that complied with fair trial and due process safeguards. Furthermore, article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the ICCPR, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings".

Moreover, in the report to the 67th session of the General Assembly (A/67/275), the Special Rapporteur on extrajudicial, summary or arbitrary executions holds in the paragraph 33 that "Military or other special jurisdictions are ill suited to ensuring full compliance with fair trial standards as required in capital cases (E/CN.4/1996/40, para. 107)", while his recommendation 121 states that, "Military or other special jurisdictions should not have the authority to impose the death penalty." Only full respect for stringent fair trial and due process guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution.

We would further like to draw the attention to your Excellency's Government to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/67/279 Paragraph 52), in which the Special Rapporteur

emphasizes that in relation to the enforcement of the death penalty, the Human Rights Committee has recommended that families of death row inmates be given reasonable advanced notice of the scheduled date and time of execution, with a view to reducing the psychological suffering caused by the lack of opportunity to prepare themselves for that event (CCPR/C/JPN/CO/5, para 16). Secrecy [...] (is a) especially cruel feature (s) of capital punishment, highlighting the need for total transparency and avoidance of harm to innocents in the whole process.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the cases under considerations:

1. Are the facts alleged in the summary of the cases accurate?
2. Please provide detailed information on each stage of the judicial proceedings conducted against Mr. Jang Sung-Taek, Mr. Jang-Lee Yong-ha and Mr. Jang Soo-kee, as well as indicate how they comply with the requirement and guarantees of a fair trial and due process as enshrined, *inter alia*, in article 14 of the ICCPR.
3. Please provide information on how the death sentence and its implementation against Mr. Jang Sung-Taek, Mr. Jang-Lee Yong-ha and Mr. Jang Soo-kee is compatible with international human rights law provision of most serious crime, which stipulates that death sentence can be imposed only for the crime of intentional killing.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Given the seriousness of the allegations, we would like to inform your Excellency's Government that we intend to issue a press release on the issues contained herein.

Please accept, Excellency, the assurances of our highest consideration.

Marzuki Darusman

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

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment