

Forgotten Abductees: 50 Years in North Korea

1969 Korean Air Lines Hijacking

Report for:

- “An Update on the Human Rights Situation in North Korea”
– European Parliament Conference
- 40th Session of the UN Human Rights Council

By



People for Successful COrean REunification (PSCORE)



Lawyers for human rights and unification of Korea (Hanbyun)

1969 KAL Abductees' Families Association

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Korean names mentioned in this report follow the format
surname and then hyphenated given name.

My father boarded a plane for a work trip. He was kidnapped during the flight and for 50 years he has been prevented from coming back home to his family and denied freedom to live according to his will. It is a situation I find completely unacceptable. Is there anyone who would argue otherwise?

This is not simply an event of the past. It is an unresolved situation that continues in its unacceptable state. Although long overdue, is it not right that he be able to return home according to principle?

Please help.

22nd February, 2019

Hwang In-Cheol

(Son of Hwang Won, an abductee from KAL YS-11 in 1969 who until today is unable to return home)

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Introduction

2019 marks the 50th anniversary of the Korean Air YS-11 abduction. North Korea has been committing crimes including the kidnapping of South Koreans, Japanese and people from other countries.

However, North Korea's human rights issue was not taken seriously in the North-South summit in Singapore in 2018 and in the three summit talks between the two Koreas. On 17th of December, 2018, the United Nations passed a resolution condemning North Korea's human rights record during a plenary session of the UN 73rd General Assembly in New York. The resolution was passed without a vote and marks the 14th consecutive year that the UN has approved a resolution calling attention to human rights violations in the DPRK.

In the following report we intend to shed light on the abductions of South Koreans and foreign nationals by the Democratic People's Republic of Korea (DPRK) since the Korean War, focusing specifically on the case of the hijacked airplane KAL YS-11 in 1969. This report was created mainly to present this issue at the European Parliament in March 2019, the United Nations Human Rights Council session in the same month and at the 33rd Universal Periodic Review (UPR) for which the review of the DPRK is taking place in May 2019.

It remains difficult to investigate the cases of abductions as the majority of them happened more than seven decades ago. This further complicates

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the issue and the efforts of those trying to seek clarification of what happened to their relatives. While there are some efforts from the South Korean and Japanese governments respectively, the current attempts fail to be effective. Furthermore, the international community has to work together and condemn the abductions at the hand of North Korea. They need to put pressure on the regime to release those remaining, or to at least inform about their well-being.

These abductions remain to be an important issue in South Korea that prevents the two Koreas from moving forward and achieving peace. To raise awareness about this issue, we have prepared this booklet containing the history of abductions by North Korea while focusing on the hijacked airline case and presents legislative background to show options for actions.

Kim Tae-Hoon,

President,

People for Successful COrean Reunification (PSCORE) &

Lawyers for Human Rights and Unification of Korea (Hanbyun)

Part I: Abductions

History of Abductions

Since the beginning of the Korean War on June 25th 1950, approximately 200,000 civilians and soldiers have been abducted by the DPRK’s regime (COI, 2014: Paragraph 1011). In 1946, Kim Il-sung stated that, “Not only do we need to search out all of Northern Chosun’s¹ intelligentsia² in order to solve the issue of a shortage of intelligentsia, but we also have to bring Southern Chosun’s intelligentsia [to the North]” (Go, 2018: Online). Following this time, many citizens were abducted during the



Total abduction episodes (Go, 2018: Online)

¹ Chosun is a term used by DPRK when referring to their country.

² Intelligentsia - intellectuals or highly educated people as a group.

Korean War, however, the exact number of missing persons remains unknown (Han et al., 2018: 542). A large number of South Korean military were assumed as “missing in action” after the Korean War (Han et al., 2018: 559).

The North Korean abduction strategy can be generally divided into three different phases; the strategic, the covert expansion and the defensive phase (Go, 2018: Online). The *strategic phase* can be defined as the time period between 1955 and 1977 during which North Korea’s abductions of South Korean nationals took mainly place either in South Korea or its adjacent territorial waters and were considered to be exceptionally disruptive, with the goal of this policy being simply to wreak havoc on South Korea. The main driving force in this era was to recruit intellectuals to help stabilize the North Korean economy and as they would not come voluntarily to the DPRK, they had to be taken by force (ibid).

The second phase, dubbed the *covert expansion phase*, from 1977 into the 1990s, was when the nature of the abductions changed significantly. The abduction of fishermen came to an end, but North Korea expanded their abductions geographically through the kidnapping of South Korean nationals abroad, in countries such as West Germany and Iraq. They also began abducting Japanese nationals (ibid).

In the current and ongoing phase called the *defensive phase*, North Korea has been focusing directly on those that pose a potential threat to the stability of its regime such as North Korean defectors. However, the DPRK has continuously denied these abductions.

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Breakdown of Abductee by Phase	SK Fishermen	SK Military	SK Civilians	Japanese	American	Subtotal
Strategic (1955-1977)	442	29	16	0	0	487
Covert Expansion (1977-1991)	14	1	10	11	0	36
Defensive (1991-Today)	1	0	3	1	3	8
Subtotal	457	30	29	12	3	531

Abductions of Korean Citizens During the Korean War

Number of South Koreans abducted during the Korean War				
Category	Compiled by	Year	Number of abductees	Existence of the list
List of victims from Seoul	Statistical Bureau, Ministry of Public Information	1950	2,438	○
List of persons abducted during the Korean War	Statistical Bureau, Ministry of Public Information	1952	82,959	○
Number of persons abducted during the Korean war	Police Headquarters of the Ministry of Internal Affairs	1952	-126,325	×
List of persons abducted during the Korean war	Statistical Bureau, Ministry of Public Information	1953	-84,532	×
List of persons abducted due to circumstances of the Korean War	Police Headquarters of the Ministry of Internal Affairs	1954	17,532	○
List of citizens registered as missing	Korean Red Cross / Statistical Bureau, Ministry of Public Information	1956	7,034	○
List of missing citizens	Ministry of Defense	1963	11,700	Vol 1. ○ Vol 2. ×

Source: The website of the Committee on Fact-Finding of Korean War Abductions and Restoration of the Reputation of the Victim, Current Status of South Koreans Abducted during the Korean War (http://www.abductions625.co.kr/home/dta/dta01/dta01_02.jsp)

Although the exact number of abductions during the war are unknown, the Korea Institute for National Reunification (2018) identifies that there are seven lists of abductees that vary significantly. Due to the variation

between the lists, it is only possible to provide an estimate of the number of people missing. Some of the sources, such as the National Police Bureau of Ministry of Internal Affairs (1952), who estimate 126,325 people are missing, and the Statistics Bureau of the Ministry of Public information, with an estimate of 84,532 persons missing, do not have a compiled list of names. The Statistics Bureau of the Ministry of Public Information also has a list of 2,438 abductees from Seoul but this does not necessarily mean that these people's names also appear on their other lists (Han et al., 2018: 542). The Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (COI)³ (2014, paragraph 1143) states that approximately 80,000 civilians were abducted by DPRK forces during the Korean War with tens of thousands being kept when they should have been released.

Korean War POWs in North Korea

Following the ceasefire, a prisoners of war (POW) exchange took place between the North and South in the Operation Big Switch from Operation Big Switch, August 5–December 23, 1953 (Grey, 2019: Online). According to the U.N. Command, 82,000 members of the Korean Armed Forces were estimated to be missing in the DPRK, however, only 8,343 soldiers were returned to the South during this exchange (Park et al., 2010: 480).

³ The Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea was established by the United Nations Human Rights Council (UNHRC) in 2013 with the goal to investigate the human rights violations in the DPRK (UNHRC, 2019: Online).

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Of these, 13,836 were assumed to have been killed in action while the status of 19,409 soldiers was unconfirmed and they were assumed as missing in action (Park et al., 2010: 481). Many of these soldiers were forced to work in coal mines, factories and farm villages to help rebuild the DPRK after the Korean War (Han et al., 2018: 563).

Approximately 80 prisoners of war have managed to defect back to South Korea but the others are still detained. The remains of only 6 soldiers have been handed back to South Korea (Han et al., 2018: 562).

Abductions of South Koreans after the Korean War

Current Status of Post-War Abductees (estimated unit in persons)							
Category	Total	Fisher- men	Staff of Korean Airlines	Soldiers / Policemen	Others		
					Domes- tic	Overseas	
Abducted to North Korea	3835	3729	50	30	6	20	
Re- turned	Repatri- ated	3310	3263	39	-	-	8
	Defected	9	9	-	-	-	-
Remaining in North Korea	516	457	11	30	6	12	

Source: Separated Families Division, Ministry of Unification (As of 31 December 2017)

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Number of Detained Abductees by Year					
Year	Number of Persons Abducted	Cumulative Total	Year	Number of Persons Abducted	Cumulative Total
1955	10	10	1973	8	429
1957	2	12	1974	30	459
1958	23	35	1975	28	487
1962	4	39	1977	4	491
1964	16	55	1978	4	495
1965	20	75	1980	1	496
1966	19	94	1985	3	499
1967	52	146	1987	13	512
1968	133	279	1992	1	513
1969	20	299	1995	1	514
1970	36	335	1999	1	515
1971	20	355	2000	1	516
1972	66	421			

Source: Separated Families Division, Ministry of Unification(AS of 31 December 2017)

According to the White Paper on Human Rights in North Korea (Han et al., 2018:545) there have been at least 143 abductions and at least 3,835 people have been abducted since the end of the Korean War. 3,310 of these people were returned after being held for 6 months to a year. After 2000, 9 more defected back but 516 remain missing (ibid: 545). 95% of the 516 still missing were taken between 1955-1977 and 133 of them were taken in 1968 alone. Only 3 of the 516 still detained were taken after 1995 (ibid, 546).

Prominent Abduction Cases of South Koreans

The late leader of North Korea, Kim Jong-Il was said to have an interest in the film industry, and wanted DPRK to be able to compete on the international film stage. In order to develop their film industry, the North Korean government found a solution in abducting the most famous South Korean couple in film in 1978: Shin Sang-Ok, a film director, and Choi Eun-Hee, an actress and Shin's former wife (Evans, 2015: Online). Both were asked to meet in Hong Kong in a remote place to discuss a film project, Choi was abducted first in 1978 and Shin half a year later when he went looking for her. In 1986, Shin and Choi were able to escape when they managed to convince Kim Jong-Il to let them go to Vienna for a film festival where they managed to apply for asylum at the U.S. embassy and later returned to South Korea, where Shin died in 2006 and Choi in 2018 (BBC, 2018: Online).

However, the North Korean government under Kim Il-Sung and later Kim Jong-Il did not only kidnap a movie director and an actress, but also South Korean government officials, businessmen and students with the intention of using them for propaganda and spying. North Korea has yet to admit to these kidnappings, denying the abductions until today and instead stating that they wished to remain in the North (Kim 2018: Online).

While the attention revolved mainly around the kidnappings of prominent people, the news outlets have reported to lesser extent about the majority of kidnapped South Koreans who actually happened to be impoverished

fishermen. Prof. Andre Lankov of Kookmin University in South Korea estimates that around 500 South Koreans have been abducted stating that most of them were South Korean fishermen that were fishing close to the North Korean border (Evans, 2015: Online). The Ministry of Unification stated that of the 516 kidnapped South Koreans kept in the North, 457 are fishermen (ibid), adding to Prof. Andre Lankov's estimations. A prominent example of these abductions were of the fishing vessels Suwon-ho 32 and Suwon-ho 33, which were attacked by the North Korean navy in 1974 (Go, 2018: Online), with the former being sunk and the latter being captured.

While the UN criticized North Korea's actions as an unprovoked attack, the DPRK defended itself, claiming that the "fishing vessels" were sent by ROK to commit espionage and refused the DPRK's orders to leave their waters. One of the fishermen, Choi Yung-Chul was able to reunite with his family briefly in 2014 during an inter-Korean family reunion meeting, the fates of the other fishermen remain unknown (ibid). The kidnappings of South Korean fishermen by North Koreans decreased in the 1970s, when it is assumed that the North began to focus on targeting non-Koreans, primarily the Japanese (Kim, 2018: Online).

Overseas Abductions of Foreign Nationals

In 1959, more than 93,000 persons were coerced by false promises to move to the DPRK from Japan. However, a few years after they had moved, they were forced to cut off contact with their families in Japan

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(COI, 2014: Paragraph 1143). According to the COI's (2014: Paragraph 1143) findings, many of these people ended up in political prison camps or other places of detention in the DPRK where they were subjected to other crimes against humanity.

Over a hundred citizens of Japan, South Korea and other states were victims of planned abductions by special operations and intelligence agents of DPRK. Around 25 non-South Korean abductions were from Europe, the Middle East and other parts of Asia (Burton 2018: Online) who were brought to DPRK to become wives to other foreigners already living in the DPRK.

Although the DPRK has officially admitted to kidnapping 13 Japanese nationals, it is estimated that in total 17 were kidnapped (Williams and Mobrand, 2010: 509). Other sources estimate that there are as many as 450 suspected cases of Japanese abductions by North Koreans, and only five returning in 2002 (Evans, 2015: Online). After that the only sign of life of the Japanese abductees was the North Korean regime's declaration of the death of eight of them. To support these claims North Korea has handed over several things to the Japanese officials including the remains of the deceased Japanese abductees. However, the Japanese government evaluated the remains and deemed them unreliable as they could not be identified (US Government, 2006: 25).

As mentioned in a previous chapter, the abduction of Japanese nationals only began in the 1970s, in the covert expansion of North Korean abductions. The origin of the Japanese abductions is widely attributed to the

failed assassination attempt of then-incumbent president Park Chung-Hee in 1974 as the would-be assassin was an ethnic Korean who was a resident of Japan and a North Korean regime sympathiser. The failed assassination attempt led to the South Korean government having more thorough identification processes and background checks on ethnic Koreans residing in Japan which worked towards strengthening themselves against infiltration by North Korean spies which then forced North Koreans to recruit and kidnap other citizens besides ethnic Koreans residing in Japan (ibid).

In January 1968, a U.S. Navy intelligence ship was captured and the crew were held for 11 months and were only returned after the U.S. signed a formal apology (Wilkins, 2011: Online), which is widely referred to as the “Pueblo Incident” with a remaining dispute whether the U.S. Navy’s intelligence ship was in international waters or the DPRK was just exercising its sovereign rights (Naenara, 2015: Online). The U.S. ship remains anchored along the Taedong River in Pyongyang to this day (Wilkins, 2011: Online).

According to the COI (2014), the abductions were sanctioned by the government as they were carried out by Office 35 of the Central Committee of the Workers’ Party of Korea, an Intelligence Bureau controlled by Kim Il-Jong, clearly showing that those abductions were not made completely at random but much rather carefully thought out and planned by the North Korean regime.

Hijacking of the 1969 Korean Air Lines YS-11

The abduction this report will focus on is the case of the 1969 hijacked Korean Airlines flight. On December 11th 1969, the Korean Airlines YS-11 plane from Gangneung Airbase bound for Gimpo International Airport was hijacked and changed its direction to North Korea within 10 minutes of taking off. The aircraft was carrying 46 passengers, 4 crew members and the North Korean sleeper agent Cho Chang-Hee. The hijacker flew the airplane to Sondok Airfield which lies near the city of Hamhung, North Korea's second largest city, more than 260 km away from plane's original destination. It is unclear what happened to the hijacker, although, there are reports that there was a car waiting for him at the airport where the plane landed. (Chey, 2018: Online).

After two months, on the 14 February 1970, 39 of the 50 abductees were returned to South Korea across the Freedom Bridge near Panmunjeom. However, 7 of the passengers, all 4 crew members and the aircraft itself remain missing (Chey, 2018: Online). The South Korean president Park Chung-Hee sent a letter regarding the missing 11 passengers of the flights to the UN Secretary General U Thant on March 9, 1970. He responded admitting to have no power to pressure North Korea. Instead, they should seek support from the International Committee of the Red Cross (Daley, 1970: Online).

To this day, North Korea claims that the remaining 11 South Koreans have chosen to stay in North Korea out of their own free will. South Korean president Kim Dae-Jung⁴'s sunshine policy towards North Korea resulted in family reunions taking place in 2001. One of the randomly chosen participants was Seong Gyeong-Hui, who was one of the flight attendants on the flight YS-11 (Ryall, 2013: Online). When she met her mother in 2001, she revealed that the other crew members were still alive and even living in close proximity to her near Pyongyang. While she had not seen the other abductees since their first arrival in North Korea, she mentioned she heard they were faring well (ibid).

This year, 2019, marks the 50th anniversary of the Korean Airline YS-11 hijacking. See below the 11 persons who remain disappeared.

Not yet returned (age at time of abduction):

1. **Yu Byeong-Ha** (유병하, 38) of Seoul, captain
2. **Choe Seok-Man** (최석만, 37) of Seoul, first officer
3. **Jeong Gyeong-Suk** (정경숙, 24) of Seoul, flight attendant
4. **Seong Gyeong-Hui** (성경희, 23) of Seoul, flight attendant
5. **Lee Dong-Ki** (이동기, 49) of Miryang, manager of a printing company

⁴ Kim Dae-Jung (1924.1.6.-2009.8.18) was the South Korean President from 1998-2003, most notably known for his sunshine policy through which he began the slow establishment of working towards normalizing diplomatic relations on the Korean peninsula. For his efforts to improve relations with North Korea as well as restoring democracy, he remains the only South Korean to have ever been awarded the Nobel Peace Prize (Britannica 2019: Online).

6. **Hwang Won** (황원, 32) of Gangneung, programme director at Munhwa Broadcasting Corporation (MBC)
7. **Gim Bong-Ju** (김봉주, 27) of Gangneung, cameraman at MBC
8. **Chae Heon-Deok** (채헌덕, 37) of Gangneung, doctor
9. **Im Cheol-Su** (임철수, 49) of Yanggu, office worker
10. **Jang Ki-Yeong** (장기영, 40) of Uijeongbu, food industry businessman
11. **Choi Jeong-Woong** (최정웅, 28) of Wonju, Hankook Slate Company employee.

Part II: Legislative Background: Human Rights and Aviation Security

Human Rights: The United Nations, the UDHR and UN Resolutions

The UN was created in 1945 following the end of World War II. Its overall mission is to maintain peace and security in the world. This chapter will focus specifically on the UN's mission to uphold international law and to protect human rights (UN 2019: Online).

The Universal Declaration of Human Rights was adopted by the UN in 1948 during its third session (Hannum, 1998: 144). The Declaration consists of 30 articles outlining individuals' rights. It was adopted in order to define the meaning of 'fundamental freedoms' and 'human rights' (UDHR, 1948). As confirmed by Eleanor Roosevelt, Chair of the UN Commission of Human Rights when the declaration was being drafted, and a U.S. Representative to the General Assembly when the Declaration was adopted:

“In giving our approval to the declaration today, is it of primary importance that we keep clearly in mind the basic character of the document. It is not a treaty; it is not an international agreement. It is not and does not purport to

be a statement of law or of legal obligation. It is a declaration of basic principles of human rights and freedoms, to be stamped with the approval of the General Assembly by formal vote of its members, and to serve as a common standard of achievement for all peoples of all nations.”

Although it was never meant to be legally binding, many international lawyers and scholars believe that the declaration has developed into a binding norm and become part of Customary International Law⁵ (Hannum, 1998: 146) that is used as a powerful tool to pressure governments violating its articles (Hannum, 1998: 145). In 1968, during an international conference of non-governmental organisations, it was widely accepted that the UDHR “constitutes an authoritative interpretation of the [U.N.] Charter of the highest order, and has over the years become part of customary international law” (Montreal Statement, 1968: 94).

At a governmental conference in 1968⁶, focusing on the international human rights, it was observed that the declaration constituted an obligation for all the Members of the international community. In 1994, the International Law Association also acknowledged that the UDHR was an authoritative elaboration of human rights provisions of the U.N. Charter. They also proclaimed “that many if not all of the rights specified in the Declaration are widely recognised as rules of customary international law” (Hannum, 1998: 148).

⁵ Customary International Laws are a set of obligations that have arisen from established international practices.

⁶ Declaration of Tehran, Final Act of the International Conference on Human Rights.

In reference to the UDHR, the DPRK infringes on the right to the freedom of movement of abductees by continuing to detain them in North Korea. Although there are differing opinions on whether the articles in the UDHR constitute customary international law, the international community has a moral obligation to condemn the abductions of the DPRK. If the UDHR is considered as a binding norm and part of customary international law, then States and governmental organisations must consider methods to hold the DPRK to account. However, even if the UDHR is not part of customary international law, states must encourage and pressure the DPRK to comply with human rights and to release all of the victims of enforced disappearance.

Although North Korea has officially ratified five human rights UN treaties⁷, for some of those treaties North Korea's official state report is more than a decade late (Human Rights Watch 2019: Online). Furthermore, the COI report noted systematic and widespread human rights violations such as but not limited to; imprisonment, torture, murder, and enslavement perpetrated by the government (Human Rights Watch 2016: Online). This was followed by a resolution by the United Nations Human Rights Council condemning the violation of human rights in North Korea. Despite this, the country continues to refuse to implement change and continuously rejects the findings of the 2014 COI outright.

⁷ Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention of the Rights of Persons with Disabilities (CRPD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) (Human Rights Watch 2019: Online).

Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea's Report

The Commission of Inquiry (COI) of Human Rights in the Democratic People's Republic of Korea (DPRK) is a UN-body which were asked by the Human Rights Council to investigate human rights violations of the people in DPRK. Amongst their investigations of human rights violations of DPRK citizens, they also reviewed the violations of international persons being held in the DPRK to conclude whether they would amount to crimes against humanity. After the investigation, the Commission concluded that the DPRK have and are continuing to commit crimes against humanity against abducted international persons (COI, 2014: Paragraph 1138). The report also specifically mentions the KAL YS-11 hijacking incident and confirms that 11 people remain disappeared against their will (COI, 2014: Paragraph 897).

Although it is often difficult to determine the exact circumstances of the disappearances and whether they were involuntary, their right to leave North Korea as well as to move freely within the country remains undisputed, infringing on their right to freedom of movement (Han et al 2018, 553). However, the report also states that, "A number of forcibly disappeared travelled to the DPRK voluntarily. Others were abducted through physical force or fraudulent persuasion. Subsequently, they were all denied the right to leave the country," (COI, 2014: Paragraph 68). Since 2014, there have been consecutive resolutions by the United Nations Human Rights Council (UNHRC) in which the UN has confronted the

DPRK regarding their abductions and enforced disappearances, repetitively urging the North Korean regime to let the abductees return home (ibid).

The definition of enforced disappearance as outlined by International Criminal Law, and included in the Commission’s report (2014: Paragraph 1142), has three components:

1. The arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a state or a political organisation.
2. Followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, and
3. The intention of removing them from the protection of the law for a prolonged period of time.

However, a state or person normally cannot be held to account for a crime retrospectively (COI, 2014: Paragraph 1139) as the DPRK has ratified the Convention, but only after the events of 1969. This is in accordance with Article 15 of the International Covenant on Civil and Political Rights (ICCPR), which states that:

“1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time

when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby. 2) Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by the community of nations”

Despite this, the Commission (2014: Paragraph 1195) finds that enforced disappearances, which constitute a crime against humanity, can still be considered a violation of international law in accordance with Article 15 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts which states:

“1) The breach of an international obligation by a State through a series of actions or omissions defined in aggregate as wrongful occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act. 2) In such a case, the breach extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation.”

In reference to this Article, the Commission (2014: Paragraph 1154) sees the enforced disappearances as continuing crimes, that will not be solved

until the fates and location of the victims is disclosed, and therefore argues that Article 15 of the ICCPR does not apply to the abduction of persons by the DPRK.

In most circumstances, cases also may not be tried if the treaty that concerns them came into force after the crime has occurred (ICCPR, Article 15). International law states that a case can only be tried for the definition of the crime that existed when the crime took place. Although enforced disappearances were first included into the definition of inhumane acts in the International Law Commission's Draft Code of Crimes Against the Peace and Security in 1996 and then further defined in 1998 within Article 2(7)(i)⁸ of the Rome Statute, enforced disappearances have been recognised internationally within peremptory norms⁹ as an inhumane act since the Nuremberg trials¹⁰ in the late 1940s (COI, 2014: Paragraph 1195). Therefore, North Korea is subject to the definition of enforced disappearances that was outlined during these trials as it constitutes a part of customary international law.

⁸ Enforced Disappearance: the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

⁹ Peremptory norms, also known as *jus cogens*, refers to a fundamental principle in International law which is accepted by the international states as a compelling law from which no exemption is permitted.

¹⁰ The Nuremberg trials were a series of military tribunals held by allied forces in the 1940s to try Nazis for war crimes and crimes against humanity, this included enforced disappearances.

The Commission concludes that the state has sponsored international abductions and enforced disappearances (COI, 2014: Paragraph 1214); any systematic and widespread violations, including international abductions, meet the requirements to qualify as crimes against humanity (COI, 2014: Paragraph 1216); the UN needs to hold those responsible for crimes against humanity to account (COI, 2014: Paragraph 1218).

COI Recommendations

The COI outlines several recommendations (COI, 2014: 368) but those relevant to the abductions and enforced disappearances are as follows:

1. Provide the families of all those that were abducted with full information about the fate and whereabouts and allow those that are still alive to return home, if they wish to do so. If they have passed away, with the cooperation of the families, identify the remains and return them to the families.
2. Allow the separated families to reunite by travelling or by means of communication such as mail, telephone, etc.
3. Immediately ratify and comply with the International Convention for the Protection of All Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court.

The international community should advocate for the DPRK to commit to the recommendations outlined by the COI in order to help solve these cases of abductions and allow detainees to return home.

The Working Group on Enforced or Involuntary Disappearances (WGEID)

The Working Group of Enforced or Involuntary Disappearances (WGEID) was established in 1980 by resolution 20 (XXXVI) of the Commission of Human Rights in order to help families of disappeared persons determine the fate and whereabouts of their disappeared relatives. As the Declaration on the Protection of All Persons from Enforced Disappearance came into force, the mandate of the WGEID was extended by the Council. The Working Group now also helps and monitors signatories of this treaty to ensure they are complying with their obligations (A/HRC/39/46:1)

There are many different ways how the WGEID deals with a complaint of a disappearance, this is normally dependant on the urgency of the complaint. There are 3 different procedures: Urgent Procedures, Urgent Appeals, and Standard Procedures. Urgent Procedures are cases of enforced disappearance that have taken place within 3 months of the reporting of the disappearance to the Working Group, and are immediately and directly brought to the attention of the Minister of Foreign Affairs of the concerned country. Urgent Appeals may take place when reliable allegations are received that a person has involuntarily disappeared or may disappear in the future. The Working Group will immediately relay this to the Minister of Foreign Affairs of the concerned government, requesting that the government carry out an investigation into these allegations and confirm the fate and whereabouts of those concerned (OHCHR, Online).

Standard procedures, however, apply to the cases that are reported more than three months after they have taken place are presented to the WGEID so they can be examined during the WGEID sessions. Cases fulfilling the requirements to be further investigated will be transmitted to the government that is concerned in order for them to carry out their investigation and inform the WGEID of the results. The case under investigation is communicated to the country by letter through the Permanent Representative to the United Nations Office at Geneva. Any additional information the the sources provide, once approved by the Working Group, is transmitted to the government concerned (OHCHR, Online). As three cases from the 1969 KAL YS-11 hijacking incident¹¹ were submitted to the WGEID in 2010, more than 40 years after the abduction took place, the cases were handled according to the standard procedure.

WGEID and North Korea

The WGEID placed a request to the DPRK to release information on three abductees, including Mr Hwang Won, in 2011 (Daily NK, 2016: Online). In 2016, the UN then submitted a request to Pyongyang for information regarding 14 South Koreans that North Korean operatives had allegedly abducted. Amongst the abductees on the list compiled by the Working Group was a former crew member of the hijacked Korean Air Lines YS-11 (ibid). As these cases have not been solved, accordingly with WGEID policy, these cases will remain open until the fate and whereabouts of the abductees is known. According to the WGEID report, at the beginning of the period under review (in this case 2017-2018), the number of outstanding cases was 167. During the period

¹¹ These were the cases of Mr Hwang Won (17 June 2010), Mr Lee Dong-Ki (8 October 2010) and Choi Jeong-Woong (8 November 2010)

under review, another 66 standard cases were added and one urgent case was transmitted to the DPRK. The total number of outstanding cases by the end of the period were 233 (A/HRC/36/49).

North Korea's Response

The WGEID reports from over the years show that North Korea continuously has failed to reply with any information about the disappeared people. In response to the 2011 request, DPRK refused to disclose information and denied that these people are in the DPRK (NK Daily). The WGEID (A/HRC/36/49: Paragraph 92) has also previously asked to be invited to the DPRK on the 22nd of May, 2015 but there was no response. The WGEID followed up with 2 reminders, one of the 18th of November 2016 and then again on the 19th of January 2018 but the DPRK still has not responded.

Aviation Security: International Civil Aviation Organisation (ICAO)

ICAO and the Hague Hijacking Convention

The International Civil Aviation Organisation (ICAO) is a specialized UN agency which is linked to the latter through the Economic and Social

Council (ECOSOC) created in 1944. They are tasked with the management of the administration as well as the governance of the Convention on International Civil Aviation¹².

ICAO's first article defines the question of jurisdiction of airspace: "Every state has complete and exclusive sovereignty over the air space of their territory" (November, 1972: 644). Thus, in case of a hijacking, the jurisdiction falls towards the country in which either the plane finally lands or in which the hijacking took place. (November, 1972: 645). Furthermore, ICAO works with International Civil Aviation Standards and Recommended Practices (SARPs) to further help create and implement a safe, efficient, secure, economically sustainable and environmentally responsible civil aviation sector (ICAO, 2019 I: Online). The Chicago Convention itself now has 192 members, with the DPRK joining in 1977 (ICAO, 2017: Online).

Besides the Chicago Convention, the other essential document to take into consideration regarding the KAL YS-11 case is the *Hague Convention for the Suppression of Unlawful Seizures of Aircrafts* also commonly known as the Hague Hijacking Convention. It came into force in 1971 after a series of increased hijacking incidents in order to provide an effective legal system to prevent and prosecute hijackings. It resulted in

¹² The Convention on International Civil Aviation which is also known as the Chicago Convention was put in place to create the International Civil Aviation Organisation to further regulate air-related issues such as air navigation, air space, nationality of aircraft and measures to facilitate air navigation (ICAO 1944: Online).

hijacking incidents decreasing significantly in the years following the Convention (ICAO, 2019 II: Online).

However, some issues about the clear jurisdiction regarding the offender in the case of a hijacked plane remain. In regards to how the situation will be handled from a legal perspective, the Tokyo Convention¹³ from 1963 legitimises the landing state to prosecute the offender (Article 13, paragraph 5), but does not make it mandatory. Furthermore, the Hague Hijacking Convention requests that the landing state officially establishes jurisdiction over the offender. However, if the state chooses not to extradite the accused (Article 4, paragraph 2), it creates a loophole: If the state does not view the offender as one, it would lead to the offender possibly avoiding prosecution (November 1972: 647) - as it has been the case for the hijacker of the flight YS-11. The Tokyo Convention was acceded to in early 1983 by the DPRK and became effective later that year (ICAO 2019 III: Online, ICAO 2019 IV: Online).

ICAO and KAL YS-11

Taking into account the working methods and goals of ICAO, it is essential to relate ICAO's responsibilities to the hijacked Korean Air Lines plane YS-11. In the occurrence of a hijacking, the landing state has juris-

¹³ The Tokyo Convention or the Convention on Offences and Certain Other Acts Committed On Board Aircraft mainly tackles the powers of the aircraft commander on international flights should there be reason for suspicion of a possible offender and the responsible jurisdiction for the offender (Tokyo Convention 1963: Online).

diction to arrest, and prosecute or extradite the offender. However, in regards to the abducted KAL YS-11 plane, the accused was allegedly not acting on his own but under the orders of the DPRK. Although a case of hijacking can be further investigated, it is not ICAO's responsibility and delegates this to a national level. Therefore, the country involved with the incident is able to carry out an investigation. In South Korea, this responsibility lies with the Aviation and Railway Accident Investigation Branch, a part of the Ministry of Land, Infrastructure and Transport (ICAO, 2019 V: Online), which has yet to be involved in the process of investigating the disappeared plane.

The Hague Hijacking Convention, specifically Article 9 states:

When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession (Hague Hijacking Convention, 1970: Article 9, Paragraphs 1&2).

As the DPRK has signed and ratified not just the Hague Hijacking Convention but also most treaties in association with ICAO. This would mean that according to the latter named convention, the DPRK is obliged to return the plane and passengers as it has to facilitate the continuation of the journey of the airplane and its crew as soon as possible. However, neither the aircraft nor all passengers have been returned to its original country. The DPRK joined the Hague Hijacking Convention as well as several other following conventions in only 1983. However, since there currently is no specific article about the retrospective application in the convention, the 1969 KAL YS-11 case remains unresolved. Stuck in a limbo-like situation, it makes the legal prosecution of this case rather difficult.

Recommendations Based on ICAO's Guidelines

As previously mentioned, there is a contradiction in terms of how the Hague Hijacking Convention should be used as an argument to advocate for the release of the remaining passengers, as it was signed and ratified significantly after the Korean Airlines plane was hijacked. However, we argue that the terms of the Hague Hijacking should still be applied, there should be pressure to release the remaining passengers as well as the aircraft - mainly because the Hague Hijacking Convention lays out that the passengers and aircraft need to be allowed to continue their journey as soon as possible - which North Korea still has not adhered to. Moreover, as a state party to the Hague Hijacking Convention, the DPRK should, at minimum, conduct a good-faith investigation into the 1969 KAL hijack-

ing case and provide the international community with a credible explanation. Furthermore, the South Korean government should make use of their right to investigate the hijacked flight, however, they view the case more as a political and diplomatic issue than a humanitarian one (Chey, 2018: Online).

Abductees, including Korean War POW, are occasionally grouped together with separated families' issues, as they are subject to similar human rights abuses that mainly concern aspects like family unification. (Han et al 2018: 549). The abducted South Korean civilians during the Korean War already pose a violation of Article 49 of the Geneva Convention (IV)¹⁴, as it outlaws forced transfers of civilians, as well as their detention which is also illegal according to Article 79¹⁵ (ibid). The “1969 Korean Air Abductees’ Families Association” filed their case of the unreturned 11 passengers from the hijacked flight in 1969 with the UN’s WGEID and asked for the confirmation of either life or death of the passengers as well as their repatriation with the DPRK Red Cross. They received the answer that it was impossible to confirm the passenger’s state of being (Han et al, 2018: 551).

In mid-2018, ICAO conducted on-site missile safety inspections, after North Korea had done some test-firing of long-range missiles without

¹⁴ Geneva Convention (IV) Article 49: “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.”

¹⁵ Geneva Convention (IV) Article 79: “The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.”

prior notice which is a huge threat to commercial airplanes flying in the region (Japan Times, 2018: Online). Furthermore, ICAO has also begun discussions regarding a new route between Pyongyang and Incheon at the DPRK's request (Charpentreau, 2018: Online). The ongoing discussions have led to the idea to use the discussions about the new air routes to pressure the DPRK to adhere to the international rules of the conventions they have signed and thus resolve the issue about the remaining passengers. However, as of February 2019, the efforts of ICAO have been blocked by the U.S. which was part of the U.S. strategy to continue sanctioning the DPRK because of their nuclear and missile programs (Lampert and Shin, 2019: Online).

Further steps to raise awareness surrounding this issue have also been taken. A press conference on the 14th February 2019, which was organised by Teach North Korean Refugees (TNKR), 1969 Korean Air Abductees' Families Association, Hanbyun, PSCORE and the MP Hong Il-Pyong, was held at the Korean National Assembly. Parliamentary representatives were invited and the KAL YS-11 hijacking case was presented one more time to the South Korean government, with the parliamentary representatives calling for the resolution of the issue. The date of the press conference marks exactly 49 years after the 39 passengers were returned at Panmunjeom.

Part III: Moving towards the Future

KAL Abductee: Mr. Hwang Won

One of the passengers who remains in North Korea is Mr. Hwang Won, whose son Hwang In-Cheol is the founder of the organization “1969 Korean Air Abductees’ Families Association” which advocates projects to learn about the life status of the KAL Abductees as well as calling for their repatriation.

Mr. Hwang In-Cheol has further lobbied for his father’s repatriation with the South Korean Ministry of Unification, which was rejected (Maresca, 2018: Online). He took the case to an international stage and captured WGEID’s attention about the issue with the reasoning that disappearances, such as the one of his father, were forbidden under international human rights and humanitarian laws (ibid). This can be further backed by the COI (2014) findings and White Paper on Human Rights in North Korea 2018, which clearly state that the violation of Human Rights is applicable to the case of abductees in North Korea (Han et al, 2018: 527).

Details about Mr. Hwang Won’s time being detained in North Korea were revealed in testimonies by the returned passengers who reported that they were forced to take indoctrination classes, but that Mr. Hwang Won had resisted them, only to be dragged away and did not return until two weeks later. It was reported by the other abductees that on New Year’s

Day of 1970¹⁶, Mr. Hwang started singing a song about wishing to return home, yet soldiers dragged him away again, which according to the abductees' testimonies was the last time they saw him (Kwon, 2016: 7). Specifically focusing on Mr. Hwang-Won's case is his son, Mr. Hwang In-Cheol, who is still heavily advocating for his release through his organization.

Continuing with the 1969 Korean Air Abductees' Families Association's individual submission to the UN Universal Periodic Review for the upcoming 33rd session of the UPR in May 2019 on the DPRK, it is important to note that in the previous UPR report on the DPRK in 2014, North Korea denied the existence of abductions of South Koreans. Thus, the DPRK has been rejecting all recommendations regarding abductions and involuntary disappearances (UPR Submissions, 2018: 13).

The ongoing denials of abductions of South Koreans have been countered with the DPRK's response that those remaining in their country are doing so voluntarily. As mentioned in the previous chapter on the WGEID, the DPRK has continuously refused to clarify the circumstances of reported abductions. In regards to Mr. Hwang Won's case, which was submitted by his son to the WGEID, the DPRK responded that there is "no person in [the] country who had been enforcedly or involuntarily disappeared or detained against his or her will" (UPR Submissions, 2018: 15). Similar replies were sent by the DPRK in 2012, 2013 and 2015 all denying abductions and thus repatriation of the missing people.

¹⁶ This refers to the Lunar New Year's Day, which was 6 February 1970.

The 1969 Korean Air Abductees' Families Association further expresses its gratitude towards the UN High Commissioner of Human Rights as he mentioned in his 2016 annual report that the “whereabouts of Mr. Hwang Won and the ten other passengers and crew members remain unknown” (UPR Submissions, 2018: 16). The Association further calls specifically for the North Korean government to respond to the cases presented by the WGEID in a clear, unambiguous manner as well as to provide the life status and whereabouts of the abductees from the flight KAL YS-11. Moreover, they request the North Korean government to adhere to the international rules they have voluntarily agreed to, including the Hague Hijacking Convention (ibid).

Conclusion & Recommendations

The 11th of December 2019 marks 50 years since the plane was hijacked en route to Seoul. 11 of those that were on the plane remain disappeared and the DPRK has continuously denied that they are being kept against their will but refuse to provide any evidence to support these statements. These people and the others that remain missing are subjected to crimes against humanity and deserve the collective efforts of the international community and the South Korean government to be rescued.

In accordance with the UDHR, the DPRK infringes on the right to freedom of movement of all abductees by detaining them in North Korea. By enforcedly disappearing those abducted and withholding information about them, they COI finds them in violation of crimes against humanity. Although ICAO does not primarily investigate hijackings and most often delegates this to national institutions, they should enforce their own resolutions when they are not followed by member states in order to discourage the DPRK and other member states from violating them.

Despite these crimes - specifically the crimes against humanity - taking place in the distant past, PSCORE & Hanbyun recognises that these are continuing crimes as the fate and whereabouts of all abductees has not been fully disclosed.

Therefore, PSCORE & Hanbyun,

DPRK

1. Demand that the DPRK to adequately reply to WGEID's requests for information about the fate and whereabouts of abductees of KAL YS-11 and to extend an invitation to WGEID to visit the DPRK to carry out its own investigation.
2. Urge the DPRK to ratify the Rome Statute to allow the investigation of crimes against humanity which includes enforced disappearances.
3. Call for the DPRK to fully disclose the fate and whereabouts of abductees as enforced disappearances are a crime against humanity under customary international law.
4. Urge the DPRK to conform with the Universal Human Rights Declaration and implement right to freedom of movement thus allowing the remaining passengers to return home.
5. Request the DPRK to adhere to the Hague Hijacking Convention (acceded to in 1983) by returning the aircraft and the remaining passengers (Hague Hijacking Convention, 1970: Article 9, Paragraphs 1&2)¹⁷.
6. Recommend the DPRK to follow UN COI's recommendations¹⁸;
7. Invite the DPRK to consider following humanitarian aspects:
 - a. Authorise repatriation of detainees;
 - b. Approve the return of the remains of the deceased.

¹⁷ S. Chapter "Recommendations Based on ICAO's Guidelines".

¹⁸ S. Chapter "Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea.

International Organisations

8. Request that the UN Security Council refers this case to the ICC
9. Request the member states that adopted Resolution 286 by the UN Security Council¹⁹ to actively participate in resolving the issue through requesting repatriation in accordance with the resolution.
10. Instruct the WGEID to update Mr. Hwang In-Cheol about any information regarding his father's, Mr. Hwang Won, case every six months, even if there are no new discoveries.
11. Direct the International Committee of the Red Cross (ICRC) to request the return of the remaining passengers of KAL YS-11.
12. Encourage ICAO to review the existing air routes within the DPRK as they are in violation of the Hague Hijacking Convention and thus cannot guarantee the safety of civilian flight passengers.
13. Strongly call on ICAO to investigate if the DPRK is conforming to the international rules of ICAO conventions.
14. Call upon ICAO, the UN and its member states to hold the DPRK accountable for the 1969 hijack and enforced disappearances.
15. Request the South Korean Aviation and Railway Accident Investigation Branch, a part of the Ministry of Land, Infrastructure and Transport²⁰, to examine the KAL YS-11 case.

¹⁹ Resolution 286 by the UN Security Council adopted on September 9, 1970 concerns the threat to innocent civilians from the hijacking of aircraft and other international travel and was adopted without a vote.

²⁰ S. Chapter "ICAO and KAL YS-11".

International Community

16. Invite the People's Republic of China, due to their permanent seat on the UN Security Council, to provide diplomatic support in the resolution of the hijacking of 1969 as when a Chinese aircraft was hijacked to Korea, the necessary steps were taken to return plane and passengers.
17. Ask the International Federation of Journalists (IFJ)²¹ to actively protest and appeal to the international community for the repatriation and support of the journalist Hwang Won who is a member of IFJ.

²¹ The International Federation of Journalists (IFJ) is the the world's largest organisation of journalists which was founded in 1926, the IFJ is the organisation that is the voice for journalists within the United Nations system and within the international trade union movement (IFJ, 2019: Online).

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

Annex

WGEID Report Tables 2018

A/HRC/39/46

Countries	Number of cases at the beginning of the period under review		Cases transmitted to the Government during the reporting period		Cases clarified during the period under review by:		Number of cases of possible clarification by Government (six-month rule)		Number of outstanding cases at the end of the period under review			Communications sent during the period under review				Communications received during the period under review			
	Urgent actions	Standard cases	Urgent actions	Standard cases	Government		Urgent intervention letter	Prompt intervention letter	Urgent appeal letter	Other allegation letter	General intervention letter	Response to prompt intervention letter	Response to urgent appeal letter	Response to general allegation letter	Response to other intervention letter	Response to general allegation letter	Response to urgent appeal letter	Response to other intervention letter	
					Urgent actions	Standard cases													
Cameroun	14																		
Central African Republic	3																		
Chad	23																	1	
Chile	785																		
China	43	2	3		3													1	
Colombia	973																	1	
Congo	89																	89	
Democratic Republic of Korea	107	1	65															233	
Democratic Republic of Congo	48	1			1													48	
Dominican Republic	2																	2	
Ecuador	5																	5	
Egypt ³⁸	258	173	14		54	27	104	363	4	2	1	1	2	1					
El Salvador	2 282							2 282										1	
Equatorial Guinea	8							8										8	
Eritrea	62							62										62	
Ethiopia	113							113										113	
France	1							1										1	

³⁸ The Working Group determined during its 114th session that one case was a duplicate and subsequently expunged it from the records.

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

A/HRC/39/46

States/entities	Cases transmitted to the Government				Cases clarified by:				Status of person at date of clarification				General Allegation		
	Outstanding cases		Total		Government	Sources	At liberty	In detention	Dead	Discontinued cases	Closed cases	CA sent	Response		
	Cases	Female	Cases	Female										Discontinued cases	Closed cases
Chile	785	63	908	65	101	22	2	121					Yes	Yes; No (2010/2011/2018) (2018)	
China	45	11	144	25	78	21	60	37	2				Yes	Yes (2012/2013/2015/2016/2017) No (2017)	
Colombia	973	96	1 260	126	219	68	160	24	103						
Congo	89	3	91	3						2					
Cuba			1		1			1					Yes (2009)	Yes	
Czechia													Yes (2012)	No	
Democratic People's Republic of Korea	233	42	233	42									Yes (2015)	Yes	
Democratic Republic of the Congo	48	11	58	11	6	4	10						Yes (2009)	No	
Denmark			1					1					Yes (2015)	Yes	
Dominican Republic	2		5		2		2			1			Yes (2009)	No	
Ecuador	5		27	2	18	4	12	4	6						
Egypt ^{1,2}	363	8	617	8	144	110	64	188	2				Yes	Yes; No (2011/2016/2017) (2017)	
El Salvador	2 282	296	2 673	333	318	73	196	175	20				Yes (2015/2015)	No	
Equatorial Guinea	8		8												
Eritrea	62	4	62	4									Yes (2012/2017)	No	
Ethiopia	113	1	120	2	3	4	2	5							
France	1		1												
Gambia	13	2	21	2			8								
Georgia			1		1			1							
Greece	1		3												
Guatemala	2 897	372	3 154	390	177	80	187	6	64				Yes (2011/2013)	Yes	

¹ The Working Group determined during its 1144th session that one case was a duplicate and subsequently expunged it from the records.

² The Working Group determined during its 1144th session that one case was a duplicate and subsequently expunged it from the records.

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

Responses from DPRK to WGEID



Report on Enforced or Involuntary Disappearances



DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Case No: 10003185

NAME: Hwang

First Name: Won

Transmitted for the first time: 26/08/2011

Clarification Code: N

I. Identity of the disappeared person

NAME: Hwang

First Name: Won

Sex: Male

Date of Birth: 12 September 1937

Home address: 214 Hongje-dong, Gangneung
City, Gangwon Province, Republic
of Korea

Identity: ID CARD Nr. 370912-1057017 date of issue:

Place of issue: Hongje-dong, Ga

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA



Report on Enforced or Involuntary Disappearances



II. 1 Date of ABDUCTION: 11 December 1969 hour: 12:40

III. 1 Place of ABDUCTION:

Location: on aircraft Korean airlines, flight YS-11
Country: Republic of Korea

IV. 1 Forces believed to be responsible for the ABDUCTION:

Forces believed to be responsible: Intelligence Services DPRK Number:

II. 2 Date of LAST SEEN: 14 December 1969

III. 2 Place of LAST SEEN:

City: Pyongyang
Country: Democratic People's Republic of Korea

IV. 2 Forces believed to be responsible for the LAST SEEN:

Forces believed to be responsible: Intelligence Services DPRK Number:

V. Steps taken:

Inquiries with Date: 24/2/1970
Place: ICRC
Inquiries with Date: 1/6/1998
Place: diplomatic action at the United Nations; Ministry of Unification requested information to the DPRK.

VI. Information concerning the author of the present report:

Confidential Date of submission: 16/6/2010

VII. Summary:

Session: 094

INFORMATION FROM SOURCE

Date: 16/6/2010

It was reported that, on 11 December 1969, at 12:40pm, Mr. Hwang Won, a South Korean Broadcasting Corporation producer, born on 12 September 1937, resident registration card number 370912-1057017, issued at Hongje-dong, Gangneung City, Gangwon Province, resident in 214, Hongje-dong, Gangneung City, Gangwon Province, was allegedly abducted while on board of Korean Airlines flight YS-11, flying from Gangneung City to Seoul's airport. According to the information received, after the plane took off, the flight was hijacked and diverted from its original destination, to the Democratic People's Republic of Korea (DPRK). According to a witness, after the plane crossed the 38th parallel, two DPRK's military airplanes escorted the hijacked plane, which landed in Yeonpo Airbase, in Hamheung City, South Hamgyong Province, in the DPRK. Witnesses report that the aircraft was

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DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA - Case No: 10003185

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA



Report on Enforced or Involuntary Disappearances



surrounded by armed soldiers who allegedly greeted the hijacker, guiding him to a black sedan, in which he left the airbase. It is reported that an army general arrived and introduced himself to the passengers as a guide. According to the source, passengers were then blindfolded and transported in two buses to different waiting rooms, where they remained for some hours under military supervision. Reportedly, at about 8 p.m., an officer in uniform, wearing a three-star epaulet, entered the room and welcomed the passengers in his country. It is reported that, on 14 December 1969, passengers were transported to Pyongyang, separated in three groups, and detained in three different hotels (Pyongyang, Daedong and Duyeo). It is alleged that, since 16 December 1969, passengers received forced education on DPRK's programs and were forced to visit revolutionary museums and galleries and a tractor factory. It is also alleged that passengers were investigated. According to the source, passengers that questioned communist ideals or the Government of the DPRK were taken into different rooms and allegedly tortured. Witness report that Mr. Hwang expressed his disobedience to the DPRK régime and was also taken into a separate room, where he was last seen. According to the information received, on 14 February 1970, 39 out of the 50 passengers of flight KAL YS-11, were repatriated to the Republic of Korea. The source reports that the Government of the Republic of Korea organized a press conference on 15 February 1970, where the returnees related to the public their alleged abduction. According to the source, repatriated passengers published their testimonies in local newspapers (front covers of "Dong-A Ilbo" and "Kyunghyang Sinmun", of 16 February 1970). On 24 February 1970, notice was given to the International Federation of Journalists, the International Press Institute, the Asia-Pacific Broadcasting Union, and the European Broadcasting Union; in November 1970, diplomatic negotiations reportedly took place at the United Nations; in June 1998, the Ministry of Unification of the Republic of Korea allegedly asked the DPRK for information about the detainees. The fate and whereabouts of Mr. Hwang Won remain unknown.

Transmitted to Government on: 26/8/2011

Transmitted to Source on: 2/9/2011

Session: 097

INFORMATION FROM GOVERNMENT

Date: 9/5/2012

The Government of the DPRK reports: "[...] Second, the three cases mentioned [...] are not cases of enforced disappearances. There is no person in my country who has been enforcedly or involuntarily disappeared or detained against his or her will.

In totality, communications on the "cases" [...] are concocted plots of the hostile forces against the DPRK and therefore have nothing to do with the lofty humanitarian mission of your Working Group [...]."

Transmitted to Government on: 15/8/2012

Transmitted to Source on: 11/9/2012

Session: 098

INFORMATION FROM GOVERNMENT

Date: 20/9/2012

The Government of the DPRK reports: "[...] Second, the three cases mentioned [...] are not cases of enforced disappearances. There is no person in my country who has been enforcedly or involuntarily disappeared or detained against his or her will.

In totality, communications on the "cases" [...] are concocted plots of the hostile forces against the

Page 3 of 4

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA - Case No: 10003185

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA



Report on Enforced or Involuntary Disappearances



DPRK and therefore have nothing to do with the lofty humanitarian mission of your Working Group [...]”

Transmitted to Government on: 14/12/2012

Transmitted to Source on: 26/12/2012

Session: 099

INFORMATION FROM GOVERNMENT

Date: 21/1/2013

The Government of the DPRK reports:

“...the... cases... are not worthy of consideration. Communications related to such cases are the extension of the stereotyped heinous anti-DPRK political plots by the forces hostile to the DPRK and, therefore, have nothing to do with the lofty humanitarian mission of your Working Group...”

Transmitted to Government on: 2/5/2013

Transmitted to Source on: 21/5/2013

Session: 107

INFORMATION FROM GOVERNMENT

Date: 22/7/2015

The Government of the Democratic People's Republic of Korea presents the following information:

As for the newly raised cases in annex I, 53 cases in annex II and 4 cases in annex IV mentioned in your letter as well as alleged use of “labour camps for political prisoners” contained in the letter addressed by some special procedures on 3 October 2012 in annex III, I would like to make clear once again that all such allegations are the extension of the stereotyped heinous political plots pursued by the hostile forces against the Democratic People's Republic of Korea (DPRK). They, therefore, are not worthy of consideration.

The position of the DPRK vis-à-vis the alleged cases is crystal and firm.

The DPRK categorically rejects all such allegations as an integral part of the anti-DPRK “human rights” rackets. These rackets are only based on false information as fabricated by the so-called “defectors from the North” in order to make money for their living by defaming, slandering their natives places and even telling sheer lies.

The DPRK strongly urges once again that those who fabricate such false information in pursuit of impure and ill-minded purpose should be investigated, brought to justice and punished severely.

I sincerely call on the Working Group, which underlies non-politicization, objectivity and impartiality as a basis of its activity, to pay due attention to the real motive behind the communications and take a fair and critical attitude toward the ill-minded attempts by the forces hostile to the DPRK.

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DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA - Case No: 10003185

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

International Committee of the Red Cross Communication

11 OCT '11 12:58 SINDORICOH

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ICRC

Beijing, 30 September 2011
BEJ11/236 – VCR/ida

Dear Mr Secretary General,

Your letter regarding the confirmation of the fate and the possible repatriation of the eleven persons who have remained in DPRK following the abduction of KAL flight YS-11 in 1969 has received our full attention. The plight of Mr Hwang and the other families concerned by this case highlights the unresolved issue of the tens of thousands of families separated during and in the aftermath of the war who are still waiting for news from their loved ones.

As you know, the answer from DPRK over the years has been unequivocal: all those who have not returned have remained in the North of their own will, and the fate of the persons in this group (with one exception) 'could not be confirmed'. We understand that this was also the answer transmitted to your Society in 2006.

This answer was repeated to us when we raised the case again with the DPRK Red Cross following the reception of your letter. Unfortunately, we see no possibility to obtain a different response under the current circumstances.

Mr. Kim Yong Hyun
Secretary General
Republic of Korea National Red Cross
32, NamSan Dong 3Ga
Jung Gu
Seoul - Republic of Korea

International Committee of the Red Cross Regional Delegation for East Asia, 3-2 Chiyuan Diplomatic Compound 9 Jianshewanwai Dajie, Beijing 100600, China
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FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

11 OCT '11 12:58 SINDORICOH

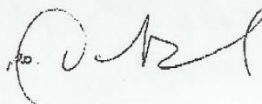
P.4

- 2 -

The authorities in Pyongyang have maintained, over the past years, that cases of separated families should be treated directly between DPRK and South Korea. This leaves unfortunately little room for action by our institution, as we cannot effectively act as neutral intermediary without the acceptance of the authorities on both sides.

The longstanding humanitarian issue of the separated Korean families remains of great concern to the ICRC. On the occasion of a next mission we would like to discuss with you, and possibly the competent authorities in Seoul, the current state of the family reunion programme, and explore together what role, if any, the ICRC might be able to play.

Yours sincerely,



Thierry Méyrat
Head of ICRC Regional Delegation for East Asia

Hague Hijacking Convention

Convention for the Suppression of Unlawful Seizure of Aircraft [Hijacking Convention], 860 U.N.T.S. 105, *entered into force* Oct. 14, 1971.

THE STATES PARTIES to this Convention,

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

- a. unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- b. is an accomplice of a person who performs or attempts to perform any such act commits an offence (hereinafter referred to as "the offence").

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.
2. This Convention shall not apply to aircraft used in military, customs or police services.
3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.
4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.
5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8, and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

offender is found in the territory of a State other than the State of registration of that aircraft.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:
 - a. when the offence is committed on board an aircraft registered in that State;
 - b. when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
 - c. when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.
2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary enquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.
4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was

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committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.
2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.
4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

Article 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.
2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- a. the circumstances of the offence;
- b. the action taken pursuant to Article 9;
- c. the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 12

FORGOTTEN ABDUCTEES – 50 YEARS IN NORTH KOREA

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.
3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

Article 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.
2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.
3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.
4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.
5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.
6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Article 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.
2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

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I. Abductions

An introduction into abductions perpetrated by North Korea

II. Human Rights and Aviation Security

Legislative background on international rules regarding abductions and airplane hijackings including UN and ICAO resolutions

III. Recommendations

A summary of recommendations of NGOs and PSCORE

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