

**Tribunal  
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**International  
Moot  
Tribunal**

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Date: **1 November 2024**

**PRE-TRIAL CHAMBER I**

**Before: Judge Kwangil Chu, Presiding  
Judge Silvia Rose Cartwright**

**SITUATION IN THE  
DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA  
IN THE CASE OF *PROSECUTOR V. KIM JONG-UN***

**Public**

**Public Version of Confidential Annex A  
“Document Containing the Charges”  
1 November 2024, IMT-01-01-Conf-AnxA**

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## SUMMARY OF THE CASE<sup>1</sup>

This brief charges Kim Jong-Un, the Supreme Leader of the Democratic People’s Republic of Korea (“DPRK” or “North Korea”), with crimes against humanity in connection with the operation of the prison camp system that he has overseen and run since assuming power in 2011. The scale and severity of human rights abuses committed at his direction and previously under the direction of his father Kim Jong-Il and grandfather Kim Il-Sung are unprecedented in modern times. Over the last 65 years, an estimated 400,000 North Koreans have been murdered or died in the political prison camps (*kwan-li-so*) at the direction of the Kim Family. And today, an estimated some 120,000 North Koreans continue to suffer unspeakable crimes in these camps.

The existence and continued operation of these camps are not merely violations of international law, but are an affront to the very principle of human dignity that is embedded in the UN Charter and is found in Article 1 of the Universal Declaration of Human Rights, which says that “[a]ll human beings are born free and equal in dignity and in rights.” For real or imagined dissenters in North Korea, life in the prison camps is nothing short of a living hell.

Since the establishment of the first prison camps in the early 1950s, the DPRK, led by the Kim Family, has engaged in a ruthless campaign of repression, targeting perceived dissenters and three generations of their family – as instructed by Kim Il-Sung – through arbitrary detention, enforced disappearance, extrajudicial executions, extermination, enslavement, torture, rape and

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<sup>1</sup> This summary of the case is intended to serve as an introduction for those who come to this International Moot Tribunal (“IMT”) to learn more about the North Korean prison camp system rather than a formal opening to the legal brief, which will begin with Section I, below. At the outset, it is important to explain that there were three important stipulations made in advance of this IMT by the judges to foster the most educational and effective moot tribunal possible. First, it was agreed that the IMT would operate in accordance with the Rome Statute of the International Criminal Court (“Rome Statute”) and its related Rules of Evidence and Elements of Crimes. Second, it was agreed that the IMT would have jurisdiction to hear a case brought against Supreme Leader Kim Jong-Un for the alleged commission of crimes against humanity committed in the prison camps of North Korea, retroactive to the Rome Statute’s entry into force on 1 July 2002. It is not relevant for the IMT how it obtained its jurisdiction. But, it could have occurred, for example, by the situation having been referred to the Prosecutor by the UN Security Council acting under Chapter VII of the Charter of the United Nations. And third, it was agreed by the IMT that it would be presumed that Kim Jong-Un was not in custody and this would therefore be an *in absentia* hearing to confirm the charges made by the Prosecutor under Article 61 of the Rome Statute. Importantly, under Article 61(5), the Prosecutor shall support each charge with “sufficient evidence to establish substantial grounds to believe that the person committed the crime charged” and may “rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial” (emphasis added). The International Criminal Court (“ICC”) has previously made a decision to hold an *in absentia* hearing under the Rome Statute in circumstances where a defendant could not be found and brought before the Court. In *Prosecutor v. Joseph Kony*, the Pre-Trial Chamber II determined that Mr. Kony “qualifies as a person who cannot be found, within the meaning of Article 61(2)(b)” and that “under the prevailing circumstances, there is cause to hold a confirmation hearing against [him], in his absence.” Decision on the Prosecution’s Request to Hold a Confirmation of Charges Hearing in the Kony Case in the Suspect’s Absence, *Prosecutor v. Kony*, INTERNATIONAL CRIMINAL COURT, Pre-Trial Chamber II, ICC-02/04-01/05, 23 November 2023, at Conclusion (List of Evidence, Proton Drive, at #5). In a subsequent decision, after numerous actions were undertaken by the ICC Registry to reach Mr. Kony, the Pre-Trial Chamber II determined “all reasonable steps to inform Mr. Kony of the charges against him in the Document Containing the Charges have been taken, within the meaning of Article 61(2)(b) of the Statute.” Second Decision on the Prosecution’s Request to Hold a Confirmation of Charges Hearing in the Kony Case in the Suspect’s Absence, *Prosecutor v. Joseph Kony*, INTERNATIONAL CRIMINAL COURT, Pre-Trial Chamber II, ICC-02/04-01/05, 4 March 2024, at Conclusion (List of Evidence, Proton Drive, at #4). It therefore concluded that the hearing to confirm the charges could proceed *in absentia*.

other sexual violence, and persecution on political, religious, and gender grounds. These practices reflect a broader policy of state-sponsored terror that has resulted in the suffering of countless individuals, many of whom remain imprisoned today under brutal conditions that shock the conscience of humanity. It would be truly impossible for any person to understand or even imagine the depths of the horror and human misery of those suffering in the prison camps, except for the courageous survivors who have escaped North Korea and shared their stories. Unfortunately, these stories are often met with indifference – both to the suffering of the individual and that of those they left behind.

Tragically, as we stand at this pivotal moment in history, this indictment serves as a painful reminder of a day that has not yet come – the day when the North Korean regime will collapse, its prison camps will be shuttered, and the world will see Supreme Leader Kim Jong-Un standing in the dock of an international tribunal to face justice and accountability for his crimes. And yet, in life, there is always hope. The persistence of these crimes demands a response – the global community must confront the moral and legal imperative to protect the victims of such egregious violations and to achieve justice and accountability for the perpetrators. That may not happen today, but it will happen one day. As Nelson Mandela said, “It always seems impossible until it is done.”

Based upon this brief and the presented documentary and summary evidence and witness testimonies, the Prosecutor respectfully requests that the Pre-Trial Chamber confirm there is sufficient evidence to establish substantial grounds to believe that Supreme Leader Kim Jong-Un has committed the crimes against humanity charged and, under Article 61(7)(a) of the Rome Statute, commit him to a Trial Chamber for trial – today in the International Moot Tribunal but one day in the real world – on the charges as confirmed.

## **I. THE SUSPECT – KIM JONG-UN**

1. Kim Jong-Un (“**KIM**”) was born on 8 January 1982 in Pyongyang, Democratic People’s Republic of Korea. He is a national of the Democratic People’s Republic of Korea.
2. **KIM** is a North Korean politician who has been the Supreme Leader of the DPRK since December 2011. He is the third son of Kim Jong-Il, who was the second Supreme Leader of the DPRK, and a grandson of Kim Il-Sung, the founder and first Supreme Leader of the DPRK. Following his father’s death on 17 December 2011, state television announced **KIM** as the “Great Successor.” **KIM** holds the titles of Commander-in-Chief of the Korean People’s Army since 30 December 2011, General Secretary of the Workers’ Party of Korea (“KWP”) since 11 April 2012, and President of the State Affairs Commission since 29 June 2016. The State Affairs Commission replaced the National Defence Commission, for which **KIM** had served as First Chairman from 11 April 2012 to 29 June 2016. He is also a member of the Presidium of the WPK Politburo, the highest decision-making body in the country. In 2021, he was promoted to the highest rank of Marshal in the Korean People’s Army (“KPA”), consolidating his position as Commander-in-Chief of the Armed Forces. It is also important to emphasize that the Korean People’s Army is commanded by the KWP Central Military Commission, which is run by the General Secretary of the KWP and President of the State Affairs Commission, both of whom are also **KIM** Jong-Un. As such, there is no distinguishing, in practical terms, between **KIM**’s

leadership of the military and civilian government of the DPRK as he oversees both through holding the same positions.

3. In the exercise of his authority as Supreme Leader and the aforementioned related positions, **KIM** contributed to the DPRK's commission of crimes under the Statute from at least 30 December 2011 through present. These include murder (Article 7(1)(a)), extermination (Article 7(1)(b)), imprisonment or other severe violations of physical liberty (Article 7(1)(e)), torture (Article 7(1)(f)), rape and sexual assault (Article 7(1)(g)), persecution on political, religious, and gender grounds ((Article 7(1)(h)), and enforced disappearance (Article 7(1)(i)).

4. **KIM** made these contributions with the intent and knowledge requisite for criminal responsibility. This is shown by factors such as: his knowledge and endorsement of the strategy to purge and disappear real or imagined dissenters and their families; his oversight and management of the political prison camps (*kwan-li-so*); his awareness of the terrible conditions of the prison camps; his awareness of the crimes committed in the prison camps; and his acceptance and ongoing approval of such crimes.

5. For these reasons, **KIM** is responsible for:

- (i) Ordering, soliciting, or inducing the commission of the charged crimes by the Government, aware that these types of crimes would occur in the ordinary course of events, and while acting with the purpose of facilitating their commission, pursuant to Article 25(3)(b) of the Statute;
- (ii) Aiding, abetting, or otherwise assisting in the commission of the charged crimes, including providing means for their commission by the Government, and while acting with the purpose of facilitating their commission, pursuant to Article 25(3)(c) of the Statute; and
- (iii) Contributing to the commission of the charged crimes by acting with a common purpose, with the aim of furthering the Government's criminal activities and/or purpose, and aware of its intention to commit such crimes, pursuant to Article 25(3)(d)(i) and (ii) of the Statute.

## **II. CONCISE STATEMENT OF THE FACTS WHICH CONSTITUTE CRIMES AGAINST HUMANITY PURSUANT TO ARTICLE 7 OF THE ROME STATUTE**

### **A. Procedural History**

6. This International Moot Tribunal ("IMT") was established by the North Korean Human Rights Cooperative ("NKHRC"), People for Successful COrean REunification ("PSCORE"), Lawyers for Human Rights and Unification of Korea ("Hanbyun"), and the Citizens Assembly for Ethical North Korean Human Rights Law and Unification ("All-In-Mo") (together, "the Organizers"). It is sponsored by the Korean Ministry of Unification, Korean Bar Association ("KBA"), and the KBA Rights Foundation.

7. The IMT was established to raise awareness in South Korean and internationally of the ongoing human rights abuses in North Korea by organizing the first rigorous international moot tribunal aimed at highlighting and holding North Korea's Supreme Leader **KIM Jong-Un** accountable for crimes against humanity, as documented by the UN Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea ("DPRK COI")<sup>2</sup> and many others.

8. A two-judge panel was appointed as a Pre-Trial Chamber of the IMT to conduct the international moot trial, including Mr. Kwangil Chu (former Chief Prosecutor of Seoul High Prosecutor's Office, former Chief Ombudsman of the Republic of Korea, and former Vice President, International Ombudsman Institute), as Presiding Judge; and Dame Silvia Rose Cartwright (Chair, Executive Committee, International Commission of Jurists, and former judge of the Extraordinary Chambers of the Courts of Cambodia ("ECCC")).

9. The Organizers conveyed to the Prosecutor the following information: First, the Pre-Trial Chamber had determined that in its operations, it would follow the Rome Statute of the International Criminal Court and the ICC Rules of Procedure and Evidence. Second, the international moot trial would be held on 25-26 November 2024 in Seoul, South Korea. Third, the Pre-Trial Chamber had determined the trial would be a hearing under Article 61 of the Statute, in which it would consider if the Prosecutor had provided sufficient evidence to establish substantial grounds to believe that the persons committed the crimes charged. Fourth, the Pre-Trial Chamber stipulated the hearing would be held *in absentia*, in the absence of the persons to be charged. And fifth and finally, the Pre-Trial Chamber requested this "Document Containing the Charges" be provided to the judges well in advance of the IMT.

## B. Facts

### 1. Summary of Prison Camps

10. The DPRK has a complex system of arbitrary detention and forced labor. These include (1) political prison camps or *kwan-li-so*;<sup>3</sup> (2) general prison camps or *kyo-hwa-so*. Kim Il-Sung,

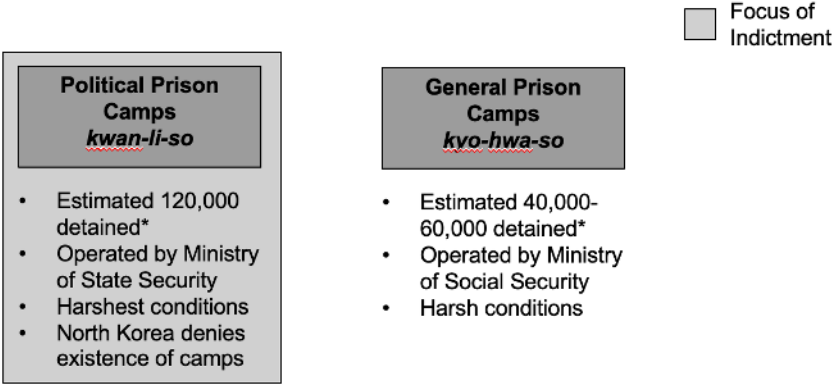
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<sup>2</sup> *Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea*, HUMAN RIGHTS COUNCIL, U.N. Doc. A/HRC/25/CRP.1, 7 Feb. 2014 ("DPRK COI Report") (List of Evidence, Proton Drive, at #1).

<sup>3</sup> *Id.*, at 208-269, ¶¶ 693-845; Affidavit of Expert Witness Professor Heo Man-Ho, Prosecution's Final Witness List, List of Evidence, and Witness Affidavits, Confidential Annex D.1, Public Version, IMT-01-01-Conf-AnxB-D, 1 Nov. 2024, at 7-22. Center for North Korean Human Rights Records, *2024 Report on North Korean Human Rights*, MINISTRY OF UNIFICATION (Republic of Korea), 2024 (List of Evidence, Proton Drive, at #2); *White Paper on Human Rights in North Korea 2023*, KOREA INSTITUTE FOR NATIONAL UNIFICATION, 2023 (List of Evidence, Proton Drive, at #16); War Crimes Committee, *Report: Inquiry on Crimes Against Humanity in North Korean Political Prisoners*, INTERNATIONAL BAR ASSOCIATION & HOGAN LOVELLS, Dec. 2017 ("IBA War Crimes Report") (List of Evidence, Proton Drive, at #19); David Hawk, *The Hidden Gulag IV: Gender Repression and Prisoner Disappearances*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 18 Sept. 2015 (List of Evidence, Proton Drive, at #21); David Hawk, *North Korea's Hidden Gulag: Interpreting Reports of Changes in the Prison Camps*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 27 Aug. 2013 (List of Evidence, Proton Drive, at #22); David Hawk, *The Hidden Gulag (Second Edition): The Lives and Voices of "Those Who Are Sent to the Mountains,"* COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 10 Apr. 2012 (List of Evidence, Proton Drive, at #23); *Failure to Protect: A Call to the UN Security Council to Act in North Korea*, DLA Piper LLP, Oct. 2006 (Commissioned by Former Czech Republic President Václav Havel, Elie Wiesel, and former Norwegian Prime Minister Kjell Magne Bondevik and Committee on Human Rights in North Korea) ("Havel-Wiesel-Bondevik Report") (List of Evidence,

North Korea’s first leader, modeled the prison camps on the Soviet gulags and, over the past 65 years, North Korea’s prison system has grown tremendously. This chart explains the two types of prison camps in North Korea:

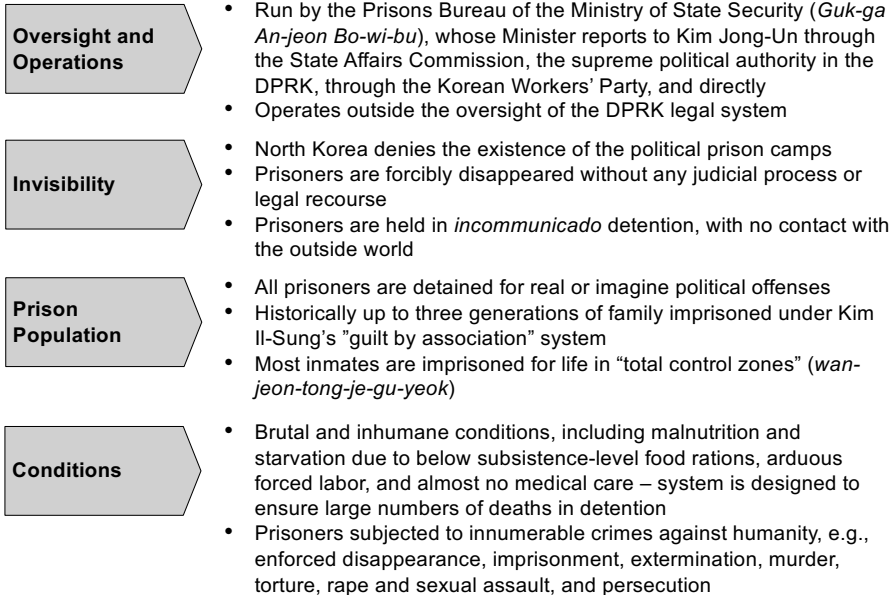
**MAJOR KINDS OF NORTH KOREAN PRISON CAMPS AND DETENTION FACILITIES**



\* These are at best rough estimates given the lack of transparency into the DPRK prison camp system.

11. As noted in the chart, the focus of the charges against **KIM** Jong-Un in this case relate *exclusively* to his oversight and operations of the political prison camps or *kwan-li-so*. While atrocity crimes are also being committed in other prison camps and detention facilities, the conditions in the political prison camps are the most horrific and severe and unlike with the others, they operate outside any governance of the North Korean legal system. Not only is their very existence denied to the outside world, but the detainees are held in permanent *incommunicado* detention, which underscores the gravity of the violations.

**DEFINING CHARACTERISTICS OF NORTH KOREA’S POLITICAL PRISON CAMPS OR KWAN-LI-SO**



Source: Committee for Human Rights in North Korea.

Proton Drive, at #25); David Hawk, *The Hidden Gulag: Exposing North Korea’s Prison Camps*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 2003 (List of Evidence, Proton Drive, at #26).

12. It is estimated that some 400,000 political prisoners have been murdered or died in the North Korean gulag system since it was established in the 1950s.<sup>4</sup> There are four known operational political prison camps, including No. 14 *Kwan-Li-So* in Gaecheon,<sup>5</sup> No. 16 *Kwan-Li-So* in Myeonggan,<sup>6</sup> No. 18 *Kwan-Li-So* in Gaecheon,<sup>7</sup> and No. 25 *Kwan-Li-So* in Cheongjin.<sup>8</sup> It is estimated that some 120,000 people are currently imprisoned in these camps:

**Number of Inmates in North Korea’s Political Prison Camps (*Kwan-Li-So*)**

Camp	March 2020	June 2024
No. 14 Gaecheon	43,000	39,300
No. 16 Myeonggan	24,000	21,000
No. 18 Gaecheon <sup>9</sup>	26,000	23,800
No. 25 Cheongjin	40,000	32,100
Total	133,000	116,200

Source: DailyNK<sup>10</sup>

13. According to a source, the declining numbers reveal a grim reality as a result of two conflicting factors. There has been an increase in new inmates due to growing political dissent following the COVID-19 pandemic. But this has been counterbalanced by a higher death rate in the camps resulting from intensified punishment and control measures: “[I]n camps where the total population decreased despite new prisoners, the number of deaths exceeded new arrivals.”<sup>11</sup>

<sup>4</sup> Mun Dong Hui, *N. Korea’s Political Prison Camps: Shrinking Population Amid Tightening Control*, DAILYNK, 30 Jul. 2024 (List of Evidence, Proton Drive, at #28); DPRK COI Report, at 245, ¶ 781; *Close North Korea Gulags*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, <https://www.hrnk.org/close-north-korean-gulags/>.

<sup>5</sup> See, e.g., Joseph S. Bermudez, Jr., Greg Scarlatoui, and Amanda Mortwedt Oh, *North Korea’s Political Prison Camp Kwan-Li-So No. 14, Update 1*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 22 Dec. 2021 (List of Evidence, Proton Drive, at #18).

<sup>6</sup> See, e.g., Jacob Bogle, Greg Scarlatoui, and Raymond Ha, *Switchback: Evidence of a Connection Between Kwan-Li-So No. 16 and the Punggye-ri Nuclear Test Facility*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 17 Oct. 2023 (List of Evidence, Proton Drive, at #17); Joseph S. Bermudez, Jr., Andy Dinville, and Mike Eley, *North Korea: Analysis of Camp 16*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA AND ALLSOURCE ANALYSIS, 15 Dec. 2015 (List of Evidence, Proton Drive, at #20).

<sup>7</sup> No. 18 *Kwan-Li-So* was relocated from Pukch’ang to Gaecheon, but this report relates to the prior camp. See, e.g., Joseph S. Bermudez, Jr., Greg Scarlatoui, and Raymond Ha, *North Korea’s Political Prison Camp Kwan-Li-So No. 18 (Pukch’ang)*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 18 Jun. 2024 (List of Evidence, Proton Drive, at #14). Pukch’ang is also spelled Bukchang in English.

<sup>8</sup> See, e.g., Joseph S. Bermudez, Jr., Greg Scarlatoui, and Raymond Ha, *North Korea’s Political Prison Camp Kwan-Li-So No. 25, Update 4*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 17 Feb. 2024 (List of Evidence, Proton Drive, at #15).

<sup>9</sup> No. 18 *Kwan-Li-So* was relocated from Pukch’ang to Gaecheon.

<sup>10</sup> *Our Reports*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, <https://www.nkhiddengulag.org/hrnk-reports.html>; *2019 Country Reports on Human Rights Practices: North Korea*, U.S. DEPARTMENT OF STATE, 2019 (List of Evidence, Proton Drive, at #3).

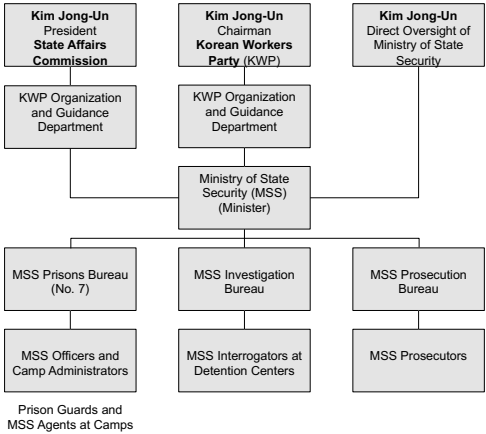
<sup>11</sup> Mun Dong Hui, *N. Korea’s Political Prison Camps: Shrinking Population Amid Tightening Control*, DAILYNK, 30 Jul. 2024 (List of Evidence, Proton Drive, at #28).

14. North Koreans are imprisoned in the political prison camps for actions that are protected under the International Covenant on Civil and Political Rights<sup>12</sup> and Universal Declaration of Human Rights. They are prosecuted as anti-state criminals. Once imprisoned, these North Koreans are subjected to extraordinary violations of their human rights. Political prisoners are typically imprisoned for life though, in rare cases, some may spend decades in these political prison camps and be released, and some prisoners are even born into the system.

2. Command Responsibility for the Political Prison Camps

15. **KIM** Jong-Un has command responsibility for oversight and operations of the prison camps in North Korea. The political prison camps or *kwan-li-so* are, in general, run by the Prisons Bureau of the Ministry of State Security.<sup>13</sup> The Ministry itself is responsible for wide-ranging counter-intelligence and internal security functions generally associated with the secret police and its personnel is believed to number some 50,000.<sup>14</sup> The Minister of State Security previously reported to **KIM** as First Chairman of the National Defence Commission, where he served in that role from 11 April 2012 to 29 June 2016. On that date, the National Defence Commission was replaced by the State Affairs Commission, which is now the supreme political authority in the DPRK. **KIM** has served as President of the State Affairs Commission since its establishment and, from its inception, the Minister of State Security has reported to him through that body, through the KWP, and directly. Reaffirming the interconnection between military and civilian government in the DPRK, the current Minister of State Security Ri Chang-Dae previously served as Colonel General in the Korean People’s Army.

REPORTING STRUCTURE OF THE MINISTRY OF STATE SECURITY



Source: War Crimes Committee, Report: Inquiry on Crimes Against Humanity in North Korean Political Prisoners, INTERNATIONAL BAR ASSOCIATION & HOGAN LOVELLS, Dec. 2017 (chart updated from State Security Department to Ministry of State Security)

<sup>12</sup> The Democratic People’s Republic of Korea acceded to the International Covenant on Civil and Political Rights on 14 September 1981.  
<sup>13</sup> A recent report affirms that No. 18 *Kwan-Li-So* is one anomaly among the political prisoner camps, in that it is operated by the Ministry of Social Security, but that does not “diminish the cruelty and severity of the human rights abuses committed [there].” Joseph S. Bermudez, Jr., Greg Scarlatoui, and Raymond Ha, *North Korea’s Political Prison Camp Kwan-Li-So No. 18 (Pukch’ang)*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 18 Jun. 2024, at 5 (List of Evidence, Proton Drive, at #14). That said, in terms of command responsibility, the Ministry of Social Security also reports to **KIM** Jong-Un through the State Affairs Commission.  
<sup>14</sup> War Crimes Committee, Report: Inquiry on Crimes Against Humanity in North Korean Political Prisoners, INTERNATIONAL BAR ASSOCIATION & HOGAN LOVELLS, Dec. 2017, at ¶ 12 (List of Evidence, Proton Drive, at #19).

### 3. Sources of Information About the Political Prison Camps

16. The existence of political prison camps and the gross human rights abuses committed in them are much more than mere allegations. An estimated 34,000 North Koreans have defected to South Korea since the 1950s. The Center for North Korean Human Rights Records of the Ministry of Unification interviews defectors entering the Settlement Support Center for North Korean Refugees (referred to as Hanawon). In addition, two South Korean research organizations, the Korea Institute for National Unification (“KINU”) and the Database Center for North Korean Human Rights (“NKDB”) have also had unparalleled access to newly arriving North Korean refugees in South Korea. And the National Human Rights Commission of Korea and UN Commission of Inquiry on Human Rights also interviewed North Korean defectors. Among those interviewed, very few had been released from or escaped political prison camps due to the harsh detention conditions and near-impossibility of escape, yet the majority of defectors were aware of the existence of the political prison camps operating in North Korea.

17. Eyewitness testimonies have, for more than a decade, been combined with the expertise of professional satellite imagery analysts to confirm the location of specific camps and allow the world to track the expansion of some political prison camps or the removal of specific zones of other camps. Indeed, both expansive and close-up satellite imagery have located North Korean facilities with the tell-tale identifying characteristics of political prison camps and penitentiaries – security enclosures with gated high walls and barbed wire fences, guard towers, dormitories, and workshops or mines located within or adjacent to the political prison camps. While the political prison camps are unofficial detention facilities not specified under North Korean law, their existence was confirmed in the Resident Registration Project Reference Manual published by North Korea’s Ministry of Public Security (now Ministry of Social Security) in 1993.<sup>15</sup>

### 4. Locations of Political Prison Camps

18. Today, the Ministry of Unification’s Center for North Korean Human Rights Records and numerous NGOs – including the Committee for Human Rights in North Korea, Amnesty International, North Korean Economy Watch, One Free Korea, as well as KINU and NKDB – map political prison camp facilities in North Korea. This chart provides a map of the locations of both kinds of political prison camps based on a combination of eyewitness testimonies and satellite imagery:

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<sup>15</sup> Robert Collins, *Marked for Life: Songbun – North Korea’s Social Classification System*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 2012, at 3 (List of Evidence, Proton Drive, at #24).

Figure V-1 Location of Political Prison Camps (*Kwanliso*)



Source: White Paper on Human Rights in North Korea 2023<sup>16</sup>

## 5. Purported Reasons for Detention in Political Prison Camps

19. Testimonies of those previously detained in the political prison camps or *kwan-li-so* reveal that their detentions and that of their families (often on the principle of guilt by association or *yeon-jwa-je*, consistent with Kim Il-Sung’s admonition that three generations of the inmate should be annihilated) have been justified on various grounds. One key reason for detention involves North Korea’s socio-political classification system, or *songbun*, officially categorizing individuals as political prisoners. Such detentions often result from *todae*, which is one’s family background, e.g., persons whose parents or grandparents were connected with the Japanese occupation during World War II or the South Korean Army during the Korean War. In *songbun* and *todae* cases, there is generally no due process; such persons often vanish without warning and they are imprisoned solely based on the principle of guilt by family association. Detainees classified in this manner are not informed of the reasons for their imprisonment, resulting in their families being condemned to live their entire lives within the camp. Additional grounds for detention involve actions perceived as undermining the Supreme Leader’s authority, including verbal treason, also known as *mal bandong*, espionage, engaging in religious activities, involvement in internal power struggles, embezzlement by officers, attempts to flee to South Korea, and other matters related to South Korea, including involvement in human trafficking or communicating with individuals from South Korea.<sup>17</sup>

## 6. Treatment of Detainees in Political Prison Camps

20. The treatment of detainees in the political prison camps or *kwan-li-so*, whose existence is denied by authorities, is generally very harsh. These camps aim not only to strengthen the *juche*

<sup>16</sup> *White Paper on Human Rights in North Korea 2023*, KOREA INSTITUTE FOR NATIONAL UNIFICATION, 2023 (List of Evidence, Proton Drive, at #16). Bukchang is another name for Pukch’ang, which is otherwise used in this brief.

<sup>17</sup> *2024 Report on North Korean Human Rights*, MINISTRY OF UNIFICATION (Republic of Korea), 2024, at 181-186 (List of Evidence, Proton Drive, at #2); *White Paper on Human Rights in North Korea 2023*, KOREA INSTITUTE FOR NATIONAL UNIFICATION, 2023, at 594-603 (List of Evidence, Proton Drive, at #16).

(self-reliance) ideology and hereditary dictatorship, but also to eliminate any ideological, political, or social uprising. Camps are surrounded by high perimeter fences that are electrified at a deadly voltage and secured by barbed wire. Pit traps and minefields are also placed around the perimeter fence. Camp guards are under firm orders to shoot to kill anyone trying to escape and are rewarded if they do.<sup>18</sup>

21. Public and secret executions are carried out without legal process for reasons such as attempted escape, violation of rules, or disobedience against orders. For lesser offenses, other punishments can be given – for example, forced labor, solitary confinement, beatings, and mutilation.

22. Detainees are often assigned to demanding labor tasks in mines or farms, often without rest. They are subjected to beatings, extended hours, and food ration cuts if they do not fulfill their assigned daily work quota. From the age of five, children are also compelled to engage in forced labor such as farming or cleaning.<sup>19</sup>

23. The living conditions within these camps is generally very poor, with prisoners living in basic huts made from wood, hay, and soil, without window panes or effective heating, in conditions that can reach -20 degrees Celsius (-4 Fahrenheit) in the winters. Detainees are only provided starvation level rations that are so insufficient in quantity, quality, and diversity, that any prisoner who solely relies on the ration will quickly starve to death. This diet gives the emaciated political prisoners a distinctly skeletal physical appearance. Each year, large numbers of prisoners die from starvation or nutritional deficiency diseases.<sup>20</sup> Prisoners are provided limited to no health care, resulting in the outbreak of epidemic diseases that kill large numbers of the starving and exhausted prisoners.<sup>21</sup>

24. Women who are not in authorized relationships and become pregnant are subjected to forced abortion and additional punishment, including execution or torture. Rape perpetrated by guards and prisoners in privileged positions is common.<sup>22</sup> No human rights group has been given permission to visit these camps and camp authorities have received orders to kill all prisoners in the case of an armed conflict of revolution to destroy primary evidence of the camps' existence.<sup>23</sup>

25. To inform the IMT about the camps, there are two available witnesses from No. 15 *Kwan-Li-So*, also known as Yodok Concentration Camp, which was the most famous camp that was shut down in 2014.

26. IMT Witness **Kang Chol-Hwan**, who is its best-known survivor and a journalist, published a memoir entitled *The Aquariums of Pyongyang* (The Perseus Press, 2000). He was sent

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<sup>18</sup> DPRK COI Report, at 233-234, ¶¶ 756-757 (List of Evidence, Proton Drive, at #1).

<sup>19</sup> *Id.*, at 243, ¶ 779.

<sup>20</sup> *Id.*, at 239-240, ¶¶ 769-770.

<sup>21</sup> *2024 Report on North Korean Human Rights*, MINISTRY OF UNIFICATION (Republic of Korea), 2024, at 187-194 (List of Evidence, Proton Drive, at #2); *White Paper on Human Rights in North Korea*, KOREA INSTITUTE FOR NATIONAL UNIFICATION, 2023, at 604-607 (List of Evidence, Proton Drive, at #16); *Total Control Areas, Political Prison Camps*, DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS, <https://en.nkdb.org/detentionfacilities>.

<sup>22</sup> DPRK COI Report, at 237-238, ¶¶ 764-765-732 (List of Evidence, Proton Drive, at #1).

<sup>23</sup> *Id.*, at 221, ¶¶ 731-732.

there with his family in 1977, was released in 1987, and escaped to South Korea in 1992. These are highlights of his testimony:

In early August 1977, when I was in third grade, seven State Security Department agents appeared at my Pyongyang home. They confiscated all the family's property because my grandfather . . . was a traitor. I was taken to Yodok with my grandmother, my father (who was forced to divorce my mother), and younger sister, and my youngest uncle who had been imprisoned the day before.

The camp is surrounded by steep mountains more than 1,500 meters (4,900 feet) above sea level . . . there were 50,000 prisoners in Yodok Camp . . . There was a 3-4 meter (10-13 feet) barbed-wire fence, a 2-3 meter (6.5-10 feet) wall, electric fence, traps, and lookout towers installed on the border of Yodok Camp. The People's Guard consisted of 1,000 guards. State Security Department Bureau 7 was in charge . . . agents and guards received [extra pay] and they regarded the prisoners as enemies and treated them like they would prisoners of war, like dogs or pigs.

The house was a straight mud-walled hut built with flimsy handmade bricks with two small rooms and a kitchen. It was so poorly built that it may as well have been a pig pen with a temporary roof . . . The winter that began in November was severely cold and the temperature averaged -20 degrees Celsius (-4 Fahrenheit). Most suffered from frostbite and could calculate one's time at the camp depending on how many fingers and toes were remaining.

A few blankets and a Mao suit provided in the beginning were all one got for clothing and nothing else was provided afterwards. When someone died, prisoners competed to strip the rags off the deceased. No shoes were provided, which meant that one had to make them oneself. Lice, bedbugs, and fleas crawled all over the face and back of the hands so even the State Security agents avoided physical contact with the prisoners. Infectious diseases such as eruptive typhus were common.

Some 350 grams (3/4 pound) of maize was rationed daily, but since it is not easily cooked and hard to digest, many died from continuous diarrhea or from the skin disease caused by malnutrition called "pellagra." People suffering from cold and starvation caught many other diseases on top of malnutrition and every day someone died.

Education started at 8:30 but in the afternoon, the students were forced to work. In February, prisoners were mobilized for "alluvial gold panning" for the preparation of Kim Il-Sung's birthday. It was hard work; a group of six had to take thirty trips, carrying 30 kg (66 pounds) of soil. Starting in spring, prisoners were taken to participate in the "farming village support battles" (making corn nutrition complexes, corn transplant battles, rice planting battles, weeding battles). Student had to finish up 50 pyongs (about 165 square meters or 1,700 square feet) before they could be provided with their daily portion of corn meal. I graduated from the school in the camp. Among 100 that entered, 15 had died and 20 had been taken to the total controlled zone.

Beatings using clubs and cursing were common occurrences. Trivial violations of regulations resulted in being locked up in a “detention house” for a month, where the detainee had to kneel continuously from 5 a.m. to midnight except during mealtime and bathroom time. Most died before long and were carried out on stretchers. Students were called “bastards” and “reactionaries” and were cursed at. I heard three prisoners were shot dead in October 1977 on the riverside near Work Unit 2 in Ipseok-ri . . . In August 1983, I witnessed an execution near Seondolbawui for the first time. On August 10, 1985, two runaways . . . were hanged in public on the riverside near Work Unit 2. Several thousand people were forced to throw rocks at dead bodies that were hanging on the scaffold.<sup>24</sup>

27. IMT Witness **Kim Jung-Ah** was born in North Hamgyong Province, North Korea, and enlisted in the military in 1993, at the age of 17. She joined the 19th Brigade under the General Bureau of Border Security, which was later transferred to the Ministry of the People’s Armed Forces. She graduated from Ri Je-Sun Military College. Later, she was assigned to the 815 Training Unit, a mechanized corps officer training regiment as an instructor and was later promoted to security commander, completing 10 years of military service in 2003. This is her testimony regarding her visit to Yodok Concentration Camp:

At a time I was not assigned to a position in 1997, I heard that a senior platoon leader, who graduated two months before me, had been assigned to Yodok Concentration Camp, and couldn’t be reached. This was an officer who had helped me when I had previously been injured and my platoon leader, who was concerned that we had lost contact, asked that I go find him. I couldn’t understand why a graduate of Ri Je-Sun Military College would be assigned to this place. After getting off at Yodok Station, I took a private vehicle to travel . . . I didn’t even know what the Yodok Political Prison Camp was. I just thought it was a place for criminals.

While others didn’t even dare to approach the camp, I entered the security checkpoint in my military officer uniform and asked for my friend, who was the checkpoint commander. I explained that I was a colleague of the checkpoint commander and that I had come to meet him. I had heard that others spent days waiting outside, bribing the guards to be able to meet him.

When the checkpoint commander came out, he scolded me, saying, “Are you crazy? Do you know where you are?” and “Leave immediately.” He arranged for a vehicle from the base to take me straight back to the city. The local head of the village offered me a meal and repeatedly told me never to come back or make contact again, saying that getting involved in any way could cause trouble. He said “Oh my . . . you really have no fear, do you?” In hindsight, I realized it was because the place was a political prison camp.

After my discharge, I became close to the patrol chief of the Cheongjin City Security Bureau, through a mutual friend. I once saw forcibly repatriated defectors crawling on all fours and being beaten with clubs in the courtyard of the Cheongjin Security Bureau. I

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<sup>24</sup> Affidavit of Witness Kang Chol-Hwan, Prosecution’s Final Witness List, List of Evidence, and Witness Affidavits, Confidential Annex D.2, Public Version, IMT-01-01-Conf-AnxB-D, 1 Nov. 2024, at 23-29.

asked what would happen to those people. I was told that those who attempted to go to South Korea would be sent to political prison camps, while regular border crossers would be sent to prisons. I then mentioned my visit to Yodok. The chief responded, “Do you even know what kind of place that is? You should never go near such places. You were spared because of your good background. If someone with a poor background did what you did, they would immediately be investigated.”

The outer security of the Yodok Concentration Camp was handled by active-duty soldiers deployed by the Ministry of People’s Armed Forces. The weapons system differs between the Ministry of People’s Armed Forces, the Ministry of State Security, and the Ministry of Social Security, creating a three-tiered structure. Kim Jong-Un is the Supreme Commander of the Armed Forces of the Democratic People’s Republic of Korea, which proves that the Yodok Concentration Camp was guarded by military forces approved by the State.

In North Korea, not a single bullet can be moved without approval from the Supreme Commander of the Korean People’s Army. Because of North Korea’s dictatorial structure, everything operates under the sole leadership of the Supreme Leader, who is at the center of everything.<sup>25</sup>

28. There are also many detailed published compilations of witness testimonies. The first major such effort was a casebook published by the National Human Rights Commission of Korea, after opening the North Korean Human Rights Documentation Center & Archives in March 2011. It was the first of its kind to be compiled and systematically organized by a national organization.<sup>26</sup>

### **III. ANALYSIS OF INFORMATION DEMONSTRATING THERE IS SUFFICIENT EVIDENCE TO ESTABLISH SUBSTANTIAL GROUNDS TO BELIEVE THAT KIM JONG-UN COMMITTED CRIMES AGAINST HUMANITY WITHIN THE JURISDICTION OF THE COURT UNDER ARTICLE 7 OF THE ROME STATUTE**

#### **A. Purpose of the Hearing to Confirm the Charges**

29. Under Article 61(5), the Prosecutor shall support each charge with “sufficient evidence to establish substantial grounds to believe that the person committed the crime charged” and may “*rely on documentary or summary evidence* and need *not call the witnesses* expected to testify at the trial.”<sup>27</sup>

30. The purpose of the hearing to confirm the charges is *not* to find the truth in relation to the guilt or innocence of the person against whom a warrant of arrest or a summons to appear has been issued, but to confirm the charges on which the Prosecutor intends to seek trial. The word “confirm” means to “make valid by formal authoritative assent; to ratify, sanction.” Accordingly,

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<sup>25</sup> Affidavit of Witness Kim Jung-Ah, Prosecution’s Final Witness List, List of Evidence, and Witness Affidavits, Confidential Annex D.5, Public Version, IMT-01-01-Conf-AnxB-D, 1 Nov. 2024, at 36-39.

<sup>26</sup> Compilation of North Korean Human Rights Violations, National Human Rights Commission of Korea.

<sup>27</sup> Emphasis added.

the Pre-Trial Chamber validates the charges as formulated by the prosecution by determining whether the evidence presented is sufficient to commit said person for trial, and, in the event that the charges are confirmed, it demarcates the subject-matter of the case, designs the legal and factual framework for the subsequent trial proceedings, and facilitates the preparation for trial.<sup>28</sup>

31. In short, the confirmation of charges hearing exists to separate those cases and charges which should go to trial from those which should not. It serves to ensure the efficiency of judicial proceedings and to protect the rights of persons by ensuring that cases and charges go to trial only when justified by sufficient evidence.<sup>29</sup> The confirmation hearing is therefore not a trial before the trial or a mini-trial, but a procedure designed to protect the suspect against unfounded accusations and to ensure judicial economy.<sup>30</sup> Moreover, the confirmation hearing is not intended to revisit the “reasonable grounds to believe” determination for the issuance of a warrant of arrest or to assess the manner in which the Prosecutor has conducted the investigation.<sup>31</sup> The confirmation hearing is only meant to assess the sufficiency of the results of the investigation to proceed to trial.

#### B. Crimes Against Humanity – In General

32. The Prosecutor charges that **KIM Jong-Un** has committed the following crimes against humanity within the jurisdiction of the Court under Article 7 of the Rome Statute in relation to his oversight and operation of North Korea’s political prison camps or *kwan-li-so*.

33. Under Article 7(1) of the Rome Statute:

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<sup>28</sup> See, e.g., Decision on Content of the Updated Document Containing the Charges, *Prosecutor v. Ruto and Sang*, Trial Chamber V, INTERNATIONAL CRIMINAL COURT, ICC-01/09-01/11-522, 28 December 2012, at ¶ 14 (List of Evidence, Proton Drive, at #6); Decision on Content of the Updated Document Containing the Charges, *Prosecutor v. Kenyatta and Muthaura*, Trial Chamber V, INTERNATIONAL CRIMINAL COURT, ICC-01/09-02/11-584, 28 December 2012, at ¶ 18 (List of Evidence, Proton Drive, at #7).

<sup>29</sup> Judgment on the Appeal of the Prosecutor against the Decision of Pre-Trial Chamber I of 16 December 2011 Entitled “Decision on the Confirmation of Charges,” *Prosecutor v. Mbarushimana*, Appeals Chamber, INTERNATIONAL CRIMINAL COURT, ICC-01/04-01/10-514, 30 May 2012, at ¶¶ 39, 47 (List of Evidence, Proton Drive, at #8).

<sup>30</sup> See, e.g., Decision on the Confirmation of Charges, *Prosecutor v. Lubanga*, Pre-Trial Chamber I, INTERNATIONAL CRIMINAL COURT, ICC-01/04-01/06-803-tEN, 29 January 2007, at ¶ 37 (List of Evidence, Proton Drive, at #12); Decision on Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules, *Prosecutor v. Katanga and Ngudjolo*, Pre-Trial Chamber I, INTERNATIONAL CRIMINAL COURT, ICC-01/04-01/07-428-Corr, 21 April 2008, at ¶¶ 5-6 (List of Evidence, Proton Drive, at #11); Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, *Prosecutor v. Bemba*, Pre-Trial Chamber II, INTERNATIONAL CRIMINAL COURT, ICC-01/05-01/08-424, 15 June 2009, at ¶ 28 (List of Evidence, Proton Drive, at #10); Decision on the Confirmation of Charges, *Prosecutor v. Abu Garda*, Pre-Trial Chamber I, INTERNATIONAL CRIMINAL COURT, ICC-02/05-02/09-243-Red, 8 February 2010, at ¶ 39 (List of Evidence, Proton Drive, at #9).

<sup>31</sup> Decision on the Final System of Disclosure and the Establishment of a Timetable, *Prosecutor v. Lubanga*, Pre-Trial Chamber I, INTERNATIONAL CRIMINAL COURT, ICC-01/04-01/06-102, 15 May 2006, at Annex I, ¶¶ 55-56 (List of Evidence, Proton Drive, at #13); Decision on the Confirmation of Charges, *Prosecutor v. Abu Garda*, Pre-Trial Chamber I, INTERNATIONAL CRIMINAL COURT, ICC-02/05-02/09-243-Red, 8 February 2010, at ¶ 48 (List of Evidence, Proton Drive, at #9).

For purpose of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread and systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement; . . .
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape . . . or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political [or] religious . . . grounds . . . ;
- (i) Enforced disappearance of persons . . . .

### C. Command Responsibility

34. Command responsibility imposes criminal responsibility for a superior’s failure to prevent or punish violations perpetrated by those under their command.<sup>32</sup> **KIM** Jong-Un has had command responsibility for the oversight and operations of North Korea’s prison camps since 2011. The political prison camps or *kwan-li-so* are operated by the Prisons Bureau of the Ministry of State Security. The Minister of State Security reports directly to **KIM** Jong-Un as President of the State Affairs Commission, through the KWP, and directly. Before that, the Minister reported to **KIM** as First Chairman of the National Defence Commission from 2012-2016.<sup>33</sup>

35. According to the Pre-Trial Chamber in the *Decision on the Confirmation of Charges in Prosecutor v. Bemba*:

[T]o prove criminal responsibility within the meaning of article 28(a) of the Statute [on command responsibility] for any of the crimes set out in articles 6 to 8 of the Statute, the following elements must be fulfilled:

- (a) The suspect must be either a military commander or a person effectively acting as such;
- (b) The suspect must have effective command and control, or effective authority and control over the forces (subordinates) who committed one or more of the crimes set out in articles 6 to 8 of the Statute;

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<sup>32</sup> War Crimes Committee, *Report: Inquiry on Crimes Against Humanity in North Korean Political Prisoners*, INTERNATIONAL BAR ASSOCIATION & HOGAN LOVELLS, Dec. 2017, at ¶ 48 (List of Evidence, Proton Drive, at #19).

<sup>33</sup> A recent report affirms that No. 18 *Kwan-Li-So* in Pukch’ang is one anomaly among the political prisoner camps, in that it is operated by the Ministry of Social Security, but that does not “diminish the cruelty and severity of the human rights abuses committed [there].” Joseph S. Bermudez, Jr., Greg Scarlatoui, and Raymond Ha, *North Korea’s Political Prison Camp Kwan-Li-So No. 18 (Pukch’ang)*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 18 Jun. 2024, at 5 (List of Evidence, Proton Drive, at #14). That said, in terms of command responsibility, the Ministry of Social Security *also* reports to **KIM** Jong-Un through the State Affairs Commission.

(c) The crimes committed by the forces (subordinates) resulted from the suspect's failure to exercise control properly over them;

(d) The suspect either knew or, owing to the circumstances at the time, should have known that the forces (subordinates) were committing or about to commit one or more of the crimes set out in article 6 to 8 of the Statute; and

(e) The suspect failed to take the necessary and reasonable measures within his or her power to prevent or repress the commission of such crime(s) or failed to submit the matter to the competent authorities for investigation and prosecution.<sup>34</sup>

36. In these circumstances, all of these requisite criteria under Article 28(a) of the Rome Statute and *Prosecutor v. Bemba* have been met:

(a) **KIM Jong-Un** is Supreme Leader and Commander-in-Chief of the Korean People's Army, with the highest rank of Marshal, while simultaneously serving as President of the State Affairs Commission and General Secretary of the KWP. Given his leadership of the military and civilian government are indistinguishable, he is at least a person effectively acting as a military commander.

(b) **KIM** has had effective command and control over his forces (subordinates) who committed the crimes against humanity, in this case from when he assumed office, including the Minister of State Security through his role as President of the State Affairs Commission, as General Secretary of the KWP, and directly, and previously through his role as First Chairman of the National Defence Commission.<sup>35</sup>

Beyond the reporting from the public organizational chart of the North Korean Government, interviews of former senior North Korean officials, prison guards, and escaped prisoners who escaped North Korea and were interviewed by the UN Commission of Inquiry, Governments, and civil society organizations have established

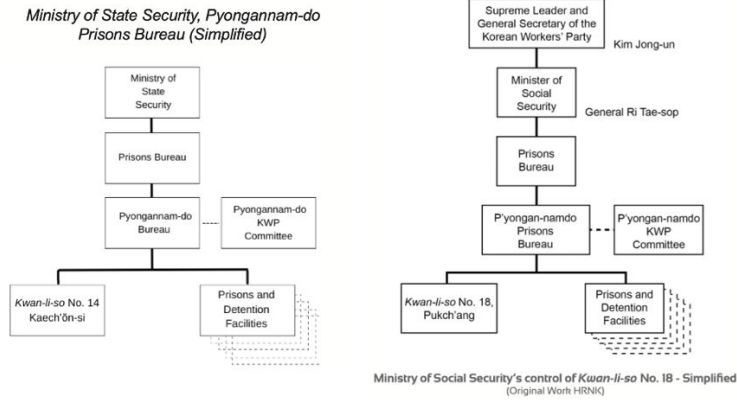
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<sup>34</sup> *Decision on Confirmation of Charges*, Pre-Trial Chamber II, *Prosecutor v. Bemba*, INTERNATIONAL CRIMINAL COURT, No. ICC-01/05-01/08-424, 15 Jun. 2009, at ¶ 407 (List of Evidence, Proton Drive, at #10).

<sup>35</sup> As noted earlier, the Minister of Social Security, who oversees No. 18 *Kwan-Li-So*, also reports to **KIM Jong-Un** through the State Affairs Commission. Previously, from April 2010 through the creation of the State Affairs Commission in 2016, this ministry was referred to as the People's Security Department, and it reported to **KIM Jong-Un** through the National Defence Commission. At that time, the Department was renamed to the Ministry of People's Security. And in May 2020, it was renamed the Ministry of Social Security.

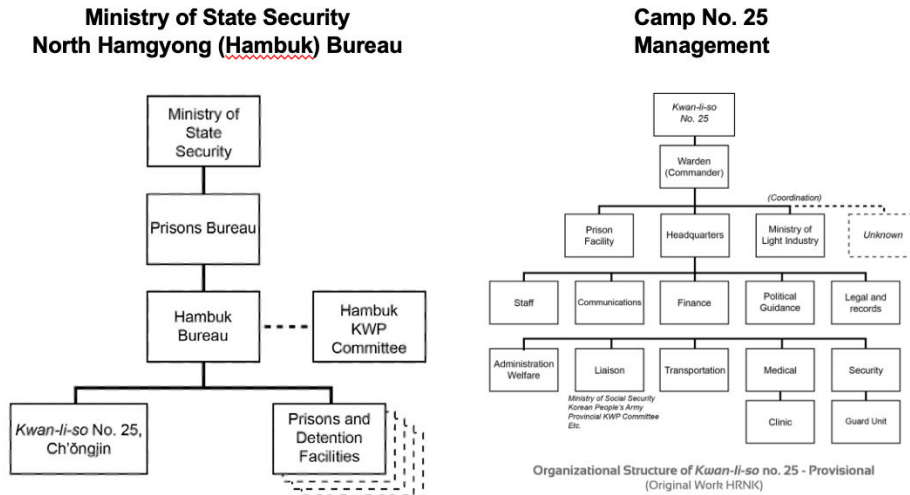
the reporting structures from No. 14 *Kwan-Li-So* in Gaecheon,<sup>36</sup> No. 18 *Kwan-Li-So* in Pukch'ang,<sup>37</sup> and No. 25 *Kwan-Li-So* in Cheongjin<sup>38</sup> to **KIM Jong-Un**:

**COMMAND & CONTROL STRUCTURE OF KWAN-LI-SO NO. 14 AND NO. 18**



Source: Committee for Human Rights in North Korea

**COMMAND & CONTROL STRUCTURE OF KWAN-LI-SO NO. 25**



Source: Committee for Human Rights in North Korea, Original Work

<sup>36</sup> See, e.g., Joseph S. Bermudez, Jr., Greg Scarlatoui, and Amanda Mortwedt Oh, *North Korea's Political Prison Camp Kwan-Li-So No. 14, Update 1*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 22 Dec. 2021, at 5 (List of Evidence, Proton Drive, at #18).

<sup>37</sup> See, e.g., Joseph S. Bermudez, Jr., Greg Scarlatoui, and Raymond Ha, *North Korea's Political Prison Camp Kwan-Li-So No. 18 (Pukch'ang)*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 18 Jun. 2024, at 5 (List of Evidence, Proton Drive, at #14).

<sup>38</sup> See, e.g., Joseph S. Bermudez, Jr., Greg Scarlatoui, and Raymond Ha, *North Korea's Political Prison Camp Kwan-Li-So No. 25, Update 4*, COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, 17 Feb. 2024, at 6 (List of Evidence, Proton Drive, at #15).

Although the detailed reporting structure from No. 16 *Kwan-Li-So* in Myeonggan has not been published, its management by the Ministry of State Security has been widely reported.

There are also widespread reports from the United Nations, Governments, NGOs, and international media that **KIM** has absolute control over the DPRK Government. And to ensure he maintained that control, after assuming power, he murdered his uncle Jang Song-Thaek and half-brother Kim Jong-Nam<sup>39</sup> for an alleged plot with China to overthrow him as well as many other members of his family.<sup>40</sup> He is also reported to have ordered 340 people to be executed between 2011-2016, including 140 senior officers in the country's government, military, and ruling Korean Worker's Party.<sup>41</sup> And to ensure he remains in power, he doesn't just murder real or purported political threats but also officials he views as corrupt or incompetent, such as 20-30 leaders who were charged and convicted of corruption and dereliction of duty and reportedly executed for their alleged failure to prevent massive flooding and landslides in Summer 2024, which resulted in the deaths of more than 4,000 people.<sup>42</sup>

(c) The crimes committed by the forces (subordinates) resulted from **KIM**'s failure to exercise control properly over them. In light of the fear that **KIM** instills in his subordinates through the widespread reporting of his mass executions of family members and officials whom he loses trust in, there is every reason to be confident that successive Ministers of State Security have been and continue to be exacting in running the political prison camps in strict accordance with **KIM**'s wishes.

If officials aren't sufficiently afraid, **KIM** sent an unequivocal message that the consequences of betraying or failing the Supreme Leader may not just be limited to the execution of the official themselves. After executing his uncle Jang Song-Thaek, he also executed all of Jang's direct relatives, including his children, his nephew (who was the DPRK Ambassador to Malaysia), and his brother-in-law (who was the DPRK's Ambassador to Cuba).<sup>43</sup> The message was clear – if **KIM** would do this to his own uncle's family, he wouldn't hesitate to do it to another official's family.

In addition, IMT Witness **Kim Kook-Sung** was a member of the General Directorate of Reconnaissance, an agency that coordinates intelligence gathering and espionage abroad, and was treated as a Vice Minister of the Worker's Party Central Committee, of the same rank as **KIM** Jong-Un's sister Kim Yo-Jung, until he defected to South Korea in 2013.

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<sup>39</sup> Greg Heffer, *North Korean Leader Kim Jong-Un "Killed Relatives Over China Coup Plot*, SKY NEWS, 24 Aug. 2017 (List of Evidence, Proton Drive, at #29).

<sup>40</sup> Jean H. Lee, *Inside Kim Jong-Un's Bloody Scramble to Kill of His Family*, ESQUIRE, 11 Aug. 2017 (List of Evidence, Proton Drive, at #30).

<sup>41</sup> K.J. Kwon and Ben Wescott, *Kim Jong-Un Has Executed Over 300 People Since Coming to Power*, CNN, 29 Dec. 2016 (citing report by Institute for National Security Strategy) (List of Evidence, Proton Drive, at #31).

<sup>42</sup> Namita Singh, *North Korea Reportedly Executes 30 Officials in Purge Over Flood Response*, THE INDEPENDENT, 5 Sept. 2024 (List of Evidence, Proton Drive, at #27).

<sup>43</sup> Ioannis-Alexandros Ioannidis, *Kim Jong-Un Executes Family of Purged Uncle*, EURONEWS, 27 Jan. 2014 (List of Evidence, Proton Drive, at #32).

He previously reported to **KIM Jong-Un** on unrelated matters but he nonetheless observed:

I had not seen . . . any dossiers on the political prison camps . . . but the way the North Korean regime works is the same, so there is no escaping it. The person in charge of the political prison camps will take direction from **KIM Jong-Un**, especially on issues like political prisoners. North Korea is **KIM Jong-Un**'s country, and he makes all the decisions. Even when a proposal is made to change a road, the final decision is made by . . . **KIM Jong-Un**. The text reads “[w]e ask for your permission,” and instructions are given to “implement the policy of Comrade **KIM Jong-Un**.” North Korea is a so-called “unitary leadership system” country. Political prisoners are the most politically dangerous issue in North Korea. It’s all reported and **KIM Jong-Un** makes the decision. Anyone who is sent to a political prison camp is reported.<sup>44</sup>

Another IMT Witness **Lee Byung-Lim** provided some dated testimony that is relevant just to establish that there is a long history of the Kim Family being provided highly-detailed information about the operations of the prison camps. Lee was born in 1957 and, in 2010, escaped across the Yalu River and came to South Korea. But many years earlier, after graduating from high school, at the age of 18, she was selected as one of 20 students to complete two years at a special school within the Mansumugang Institute in Pyongyang. Around 1977, she was assigned to the No. 2 Escort Command (No. 1 was Kim Il-Sung) as one of four janitors at Kim Jong-Il’s residences, before he became the Supreme Leader. She reported the following:

On days that Kim Jong-Il would come, liaison officers with pistols would arrive with piles of reports, which Kim would review and approve in his office, where no one else could get near him. I once went in to clean up the empty room after Kim Jong-Il left and I saw out of curiosity some shredded and leftover paperwork that had been scattered there and it contained everything about North Korea.

Some of the things I remember is that the papers included a report titled “To Our Dear Comrade Leader,” signed by Kim Byung-Ha, the head of the National Political Security Department [Ministry of State Security]. It detailed incidents such as a resident being sent to a political prison camp for anti-State speech after saying “[d]o you think the snacks you got on the holiday were given by Kim Il-Sung? It was actually bought with the money earned by the workers and farmers, but Kim Il-Sung acts as if he gave it himself.” Another case from Gilju mentioned a resident who was sent to a political prison camp for saying while looking at a portrait of Kim Il-Sung: “You may have been born great, but don’t you know that people are starving?” – Even though it wasn’t during the Arduous March, the economy was already struggling. The report showed evidence that Kim Jong-Il became enraged because it was torn up with scattered pieces around the room.

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<sup>44</sup> Affidavit of Witness Kim Kook-Sung, Prosecution’s Final Witness List, List of Evidence, and Witness Affidavits, Confidential Annex D.3, Public Version, IMT-01-01-Conf-AnxB-D, 1 Nov. 2024, at 30-33.

Additionally, the papers included reports with details such as the bedroom conversation of the renowned [North Korean] scientist Dr. Lee Seung-gi [often spelled Ri Sung-gi] and his wife, information about the rape of a resident [of a prison camp], issues relating to reeducation camps, the TV broadcast schedule, and revisions made to articles, editorial, and opinion pieces in the *Rodong Sinmun* [official North Korean newspaper of the Central Committee of the Workers' Party of Korea].<sup>45</sup>

(d) **KIM** knew or, owing to the circumstances at the time, should have known that the forces (subordinates) were committing crimes set out in article 6 to 8 of the Statute. This is evident from the widespread global public reporting from the United Nations, Governments, NGOs, and international media over decades about the horrific conditions in North Korea's prison camp system, which began in the late 1990s. Further information is provided with respect to knowledge under Section III.D. below. But as just one illustration, the atrocity crimes being committed in North Korea's prison camp system were first analyzed as crimes against humanity in a report commissioned by former Czech Republic President Václav Havel, Nobel Peace Prize Laureate Elie Wiesel, and former Norwegian Prime Minister Kjell Magne Bondevik that was published and presented publicly by the three principals and the report's lead author Jared Genser in the UN General Assembly Chamber in New York on 29 October 2006.<sup>46</sup>

(e) **KIM** failed to take the necessary and reasonable measures within his or her power to prevent or repress the commission of such crime(s) or failed to submit the matter to the competent authorities for investigation and prosecution. Despite years of public condemnations of the mass atrocities committed in the DPRK's prison camp system, from the outset, the DPRK publicly stated it would "totally reject and disregard" the Commission of Inquiry, which it considered a "product of political confrontation and conspiracy."<sup>47</sup>

37. If the Pre-Trial Chamber were to determine that **KIM** does not have criminal responsibility for his supervision of the Minister of State Security, who oversees and operates the *kwan-li-so*, because **KIM** was neither a military commander nor person effectively acting as a military commander under Article 28(1) of the Rome Statute, then he would still have criminal responsibility under Article 28(2), which states in pertinent part:

With respect to superior and subordinate relationships not described in paragraph (a) [that of a military commander], a superior shall be criminally responsible for crimes within the

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<sup>45</sup> Affidavit of Witness Lee Byung-Lim, Prosecution's Final Witness List, List of Evidence, and Witness Affidavits, Confidential Annex D.4, Public Version, IMT-01-01-Conf-AnxB-D, 1 Nov. 2024, at 34-35.

<sup>46</sup> *Failure to Protect: A Call to the UN Security Council to Act in North Korea*, DLA Piper LLP, Oct. 2006 (Commissioned by Former Czech Republic President Václav Havel, Elie Wiesel, and former Norwegian Prime Minister Kjell Magne Bondevik and Committee on Human Rights in North Korea) (List of Evidence, Proton Drive, at #25). Jared Genser, the lead author of this report, is the lead prosecutor in this case before the IMT. See also Vaclav Havel, Kjell Magne Bondevik, and Elie Wiesel, *Turn North Korea Into a Human Rights Issue*, NEW YORK TIMES, 30 Oct. 2006 (List of Evidence, Proton Drive, at #33); Jaehoon Ahn, *U.N. Action Urged on North Korean Crimes Against Humanity*, RADIO FREE ASIA, 29 Oct. 2006 (List of Evidence, Proton Drive, at #34).

<sup>47</sup> *Id.*, at 8, ¶ 21.

jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

- (a) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
- (b) The crimes concerned activities that were within the effective responsibility and control of the superior; and
- (c) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.<sup>48</sup>

38. Specifically, even if he were not a military commander, **KIM** is the superior of the Minister of State Security who reports directly to **KIM** as President of the State Affairs Commission, as General Secretary of the KWP, and directly. And here, in those other roles, **KIM** failed to exercise control over his subordinates because he knew, or consciously disregarded, information about crimes being committed,<sup>49</sup> the crimes concerned activities within his responsibility and control of,<sup>50</sup> and **KIM** failed to take all necessary and reasonable measures to prevent or repress their commission or submit them for investigation and prosecution to competent authorities.<sup>51</sup>

#### D. Crimes Against Humanity – Specific Acts<sup>52</sup>

##### 1. Imprisonment or Other Severe Deprivation of Physical Liberty (Article 7(1)(e))

39. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM** Jong-Un must have imprisoned or otherwise severely deprived one or more persons of their physical liberty in a way where “[t]he gravity of the conduct was such that it was in violation of fundamental rules of international law.”<sup>53</sup> Imprisonment in violation of the fundamental rules of international law includes detention that fails to respect the basic principles of due process. These principles are enshrined in Articles 9 and 14 of the International Covenant on Civil and Political Rights. The requisite level of gravity is reached when persons are detained for long periods of time without ever being brought before an independent judge or being charged, tried,

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<sup>48</sup> Rome Statute, Art. 28(2).

<sup>49</sup> See ¶ 36(d).

<sup>50</sup> See ¶ 36(a)-(b).

<sup>51</sup> See ¶ 36(c), (e). Not only did **KIM** deny the existence of the camps and the crimes being committed in them, but he oversaw and ordered their ongoing commission.

<sup>52</sup> The order in which the crimes against humanity are presented is not the same as under Section III.B. Here, they are presented not in chronological order of the Rome Statute but rather in an order that more naturally flows from the factual and legal allegations.

<sup>53</sup> *Elements of Crimes*, INTERNATIONAL CRIMINAL COURT, Official Records of the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May-11 Jun. 2010, at Art. 7(1)(e)(2) (“Elements of Crimes”).

or duly convicted for any crime. Fundamental rules of international law are also violated where a person is detained without any valid legal basis that would be compatible with international law, including where the imprisonment resulted from the prisoner's exercise of human rights guaranteed by international law. It is estimated that some 120,000 people are imprisoned in North Korea's political prison camps.

40. **KIM Jong-Un** has committed the crime against humanity of imprisonment or other severe deprivation of physical liberty because prisoners detained in the political prison camps or *kwan-li-so* are victims of the crime of imprisonment because they are imprisoned, usually for life, without ever having been brought before a judge in accordance with Article 9(3) and 9(4) of the ICCPR. They have also never been charged, tried, convicted, or sentenced to imprisonment, following a fair and public hearing, by a competent, independent, and impartial tribunal established by law as would be required by article 14 (1) of the ICCPR, let alone provided the rights guaranteed under Article 14(2) (presumption of innocence), Article 14(3) (e.g., to choose defense counsel and have time to prepare a defense; to be tried without undue delay; to produce witnesses and to cross-examine witnesses brought by the prosecution), or Article 14(5) (right to appeal). In addition, these prisoners are generally not imprisoned for reasons that conform to international human rights law. In many cases, their only transgression was to freely express themselves on political questions, to leave their own country, to hold a religious belief, or to exercise other human rights guaranteed to them under international law. Many inmates are not accused of any personal wrongdoing. They are incarcerated based solely on the principle of guilt by family association. Some are even born prisoners.<sup>54</sup>

## 2. Enforced Disappearance (Article 7(1)(i))

41. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM Jong-Un** must have arrested, detained, or abducted one or more persons and “refused to acknowledge the arrest, detention, or abduction, or to give information on the fate or whereabouts of such person or persons.”<sup>55</sup> In addition, the perpetrator need also have been aware that in the “ordinary course of events,” such arrest, detention, or abduction, “would be followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons.”<sup>56</sup> And such arrest, detention, or abduction was “carried out by, or with the authorization, support, or acquiescence of, a State of political organization.”<sup>57</sup>

42. **KIM Jong-Un** has committed the crime against humanity of enforced disappearance because prisoners detained in the political prison camps or *kwan-li-so* are victims of the crime of enforced disappearance. They are stripped of their citizenship rights and detained *incommunicado* in remote political prison camps that officially do not exist. Most detainees are imprisoned for life, without any prospect of release. The families of detainees are not informed of the fate or whereabouts of their detained family member. North Korean authorities commonly

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<sup>54</sup> DPRK COI Report, at 323 (List of Evidence, Proton Drive, at #1); Havel-Wiesel-Bondevik Report, at 90 (List of Evidence, Proton Drive, at #25); IBA War Crimes Report, at 60-63, ¶¶ 238-248 (List of Evidence, Proton Drive, at #19).

<sup>55</sup> Elements of Crimes, at Art. 7(1)(i)(1)(b).

<sup>56</sup> *Id.*, at Art. 7(1)(i)(3)(a).

<sup>57</sup> *Id.*, at Art. 7(1)(i)(4).

refuse to acknowledge their imprisonment outright. In the case of the death of an inmate, the family is not notified, and they are not permitted to collect the body for burial. The political prison camps are also removed from the oversight that the DPRK Office of the Prosecutor exerts over ordinary prisons according to North Korean law. The authorities also consistently deny access to or information about the camps to UN human rights bodies. The authorities falsely claim that the camps and their inmates do not exist. These considerations establish that the camps have been set up to deprive inmates over a prolonged time period of the protection that oversight bodies, set up under national and international law, could potentially exercise.<sup>58</sup>

### 3. Extermination (Article 7(1)(b))

43. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM Jong-Un** must have killed, directly or indirectly, one or more persons “including by inflicting conditions of life calculated to bring about the destruction of part of a population”<sup>59</sup> and the conduct in question must have “constituted, or took place as part of, a mass killing of members of a civilian population.”<sup>60</sup> To infer that the intentional infliction of conditions of life have been calculated to exterminate a population, there must be, *inter alia*, the deprivation of access to food and medicine and other conditions (e.g., forced labor) that lead to this result.<sup>61</sup> The crime of extermination therefore requires killing on a massive scale. This can be carried out by imprisoning a large number of people and withholding the necessities of life so that mass deaths ensue. In determining whether the threshold of mass killing has been reached, the accumulated deaths that are linked to the same overall extermination episode may be aggregated, even if the killings are dispersed in terms of time or geography. The death of large numbers of people does not have to be the goal pursued by the perpetrators for the criminal intent requirement to be satisfied. It is sufficient that the perpetrators impose living conditions in calculated awareness that such conditions will cause mass deaths in the ordinary course of events.

44. **KIM Jong-Un** has committed the crime against humanity of extermination because the living conditions imposed on prisoners in the political prison camps cause the unnecessary deaths of thousands of inmates every year. Over the period of the existence of the camp system, hundreds of thousands have died. The living conditions in the prison camps are calculated to bring about mass deaths. Forced to carry out grueling labor, prisoners are provided food rations that are so insufficient that many inmates starve to death. The death toll is further exacerbated by executions, deaths from torture, denial of adequate medical care, preventable disease, high incidence of work accidents, lack of shelter, and lack of appropriate clothes. The prison authorities running the prison camps are aware that deaths on a massive scale occur in the ordinary course of events. Indeed, former guards of the camps interviewed after their escape have testified the goal of the camps is to gradually eliminate the camp populations by working

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<sup>58</sup> DPRK COI Report, at 324 (List of Evidence, Proton Drive, at #1); IBA War Crimes Report, at 81-83, ¶¶ 347-356 (List of Evidence, Proton Drive, at #19).

<sup>59</sup> Elements of Crimes, at Art. 7(1)(b)(1).

<sup>60</sup> *Id.*, at Art. 7(1)(b)(2).

<sup>61</sup> Rome Statute, at Art. 7(2)(b).

many prisoners to death. This also corresponds with the instruction, attributed to Kim Il-Sung and taught to camp officials, that three generations of a prisoner's family must be eliminated.<sup>62</sup>

#### 4. Murder (Article 7(1)(a))

45. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM Jong-Un** must have “killed one or more persons.”<sup>63</sup> The crime of murder under international criminal law requires unlawfully causing the death of a person. The perpetrator must act either with the subjective purpose of causing such death or serious injury or awareness that the causation of death will be the consequence of the impugned acts in the ordinary course of events. Here, **KIM** has committed the crime against humanity of murder because the intentional killings of individual inmates in the prison camps, through summary executions, beatings, infanticide, deliberate starvation, and other illegal means, all amount to the crime of murder.<sup>64</sup>

#### 5. Enslavement (Article 7(1)(c))

46. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM Jong-Un** must have “exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending, or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.”<sup>65</sup> The extraction of forced labor can amount to enslavement if it is accompanied by aggravating circumstances that effectively destroy the juridical personhood of the victim. Relevant circumstances include detention or captivity; the degree of control exercised over the victim's autonomy; freedom of choice or freedom of movement, including measures taken to prevent or deter escape; fear of violence; abuse of power; duration, conditions, and intensity of forced labor; victims' vulnerability; subjection to cruel treatment and abuse; and intense control of sexuality.

47. **KIM** has committed the crime against humanity of enslavement because the experience of the prisoners in the political prison camps or *kwan-li-so* bear all of the characteristics of enslavement. Inmates are subjected to a lifetime of arduous and perilous forced labor. The prisoners are often so weakened from malnourishment and disease that they are literally worked to death. They have no chance of extricating themselves from this situation. Failure to perform forced labor is subject to severe punishment including summary execution, torture, and ration cuts that further aggravate starvation. Escape from the prison camps is almost impossible. Anyone who attempts to escape is summarily executed. Inmates are subject to the total control of the camp authorities.<sup>66</sup>

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<sup>62</sup> DPRK COI Report, at 324-325, 331 (List of Evidence, Proton Drive, at #1); Havel-Wiesel-Bondevik Report, at 91-92 (List of Evidence, Proton Drive, at #25); IBA War Crimes Report, at 44-45, ¶¶ 155-165 (List of Evidence, Proton Drive, at #19).

<sup>63</sup> Elements of Crimes, at Art. 7(1)(a)(1).

<sup>64</sup> DPRK COI Report, at 325-326 (List of Evidence, Proton Drive, at #1); IBA War Crimes Report, at 40, ¶¶ 133-136 (List of Evidence, Proton Drive, at #19).

<sup>65</sup> Elements of Crimes, at Art. 7(1)(c)(1).

<sup>66</sup> DPRK COI Report, at 326 (List of Evidence, Proton Drive, at #1); Havel-Wiesel-Bondevik Report, at 91-92 (List of Evidence, Proton Drive, at #25); IBA War Crimes Report, at 51-52, ¶¶ 197-202 (List of Evidence, Proton Drive, at #19).

## 6. Torture (Article 7(1)(f))

48. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM Jong-Un** must have “inflicted severe physical or mental pain or suffering upon one or more persons,” who was “in the custody or under the control of [him],” and “such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.”<sup>67</sup>

49. **KIM** has committed the crime against humanity of torture because physical torture is an established feature of the political prison camps or *kwan-li-so* in North Korea, where it is widely used to punish and intimidate inmates held on discriminatory political, religious, or social grounds. It is typically carried out in specially constructed punishment blocks. Guards are also authorized and instructed to impose on-the-spot punishments that inflict severe suffering in response to perceived inmate infractions. Intentionally subjecting persons to extremely inhumane conditions of detention can constitute a crime against humanity. In the case of the prison camps, the inhumanity of the overall situation is particularly shaped by the policy of deliberate starvation that subjects inmates to a lifetime of physical suffering and mental anguish. Since this severe suffering is inflicted on the prisoners to intimidate and punish them on political grounds, the threshold of torture may be reached on the ground of their deliberate starvation alone.<sup>68</sup>

## 7. Rape and Sexual Violence (Article 7(1)(g)(1), (g)(6))

50. It is now undisputed that crimes against humanity encompass rape. Although formally prohibited and occasionally leading to disciplinary action, rape is regularly committed in the prison camps of North Korea. They are a product of the environment of the prison camps and the impunity generally enjoyed by camp officials. Rape therefore forms part of the overall attack against the camp population. In some cases, female inmates are raped using physical force. In other cases, women are pressed into “consensual” sexual relations to avoid harsh labor assignments, or to receive food. Such cases may also amount to rape as defined under international law, because the perpetrators take advantage of the coercive circumstances of the camp environment and the resulting vulnerability of the female inmates. The imposition of forced abortions on female inmates who become pregnant without authorization not only results in immediate physical harm, but also interferes with the victim’s reproductive rights and causes severe emotional suffering. Systematic or widespread forced abortions must therefore be considered a form of sexual violence of a gravity amounting to crimes against humanity.<sup>69</sup>

51. **KIM Jong-Un** is responsible for the crime against humanity of rape because rape and forced abortions are regularly committed in the prison camps in North Korea. In addition, the severe pain and suffering of the incarcerated victims, who are targeted on discriminatory political and gender grounds, regularly reach the threshold of torture as defined under Article 7(1)(f) of the Rome Statute as well.<sup>70</sup>

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<sup>67</sup> Elements of Crimes, at Art. 7(1)(f)(1)-(3).

<sup>68</sup> DPRK COI Report, 326-327 (List of Evidence, Proton Drive, at #1); Havel-Wiesel-Bondevik Report, at 92-93 (List of Evidence, Proton Drive, at #25); IBA War Crimes Report, at 67, ¶¶ 268-274 (List of Evidence, Proton Drive, at #19).

<sup>69</sup> DPRK COI Report, at 327-328 (List of Evidence, Proton Drive, at #1).

<sup>70</sup> *Id.*, at 327-328; IBA War Crimes Report, at 72-73, ¶¶ 295-304 (List of Evidence, Proton Drive, at #19).

8. Persecution Against Identifiable Group on Political or Religious Grounds  
(Article 7(1)(h))

52. To qualify as violations of the Rome Statute under the Elements of Crimes, **KIM Jong-Un** must have “severely deprived, contrary to international law, one or more persons of fundamental rights,” “targeted such person or persons by reason of the identity of the group,” and based this treatment on “political . . . [or] religious [or] gender . . .” grounds.<sup>71</sup> The deprivations must be committed with the specific intent of discriminating against the victim. The Rome Statute and customary international criminal law both recognize political and religious grounds among the bases of persecution as a crime against humanity.

53. **KIM** committed the crime against humanity of persecution because prisoners in the political prison camps or *kwan-li-so* are generally victims of the crime of persecution. They are singled out for punishment involving arbitrary detention, enforced disappearance, torture, starvation, forced labor and other gross human rights violations on the grounds of their or political or religious convictions or the socio-political background of their families. Even in the rare cases where political prisoners are released, their persecution continues upon their reintegration into general society, as they and their families are restricted to the bottom rungs of the *songbun* system.<sup>72</sup>

54. In the case of women, the persecution on political or religious grounds intersects with gender-based persecution. Women are singled out for acts of sexual violence, including rape and forced abortion, because of their gender. In the case of forced abortions, women’s capacity to reproduce is deliberately and systematically targeted to prevent the reproduction of so-called “class enemies.” In the case of rape, the persecutory intent is not only rooted in the motivations of individual perpetrators. It also manifests itself in a general practice of not making serious efforts to punish the male perpetrators among the guards and other prisoners, even though their action is criminal under the DPRK Criminal Code and also breaches camp rules banning unauthorized sexual contact.<sup>73</sup>

E. Widespread and Systematic Attack Against Under State Policy

55. The inhumane acts perpetrated in the prison camps in the DPRK are committed on such a scale, and with such a level of organization, that they amount, in and of themselves, to a widespread and systematic attack, pursuant to State policy. Furthermore, the prison camp system constitutes a core element of the larger systematic and widespread attack on anyone considered to be a threat to the political system or leadership of the DPRK. Today, some 120,000 prisoners are detained in prison camps. This represents approximately 1 in every 220 citizens of the DPRK.<sup>74</sup>

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<sup>71</sup> Elements of Crimes, at Art. 7(1)(h)(1)-(3).

<sup>72</sup> DPRK COI Report, at 328-329 (List of Evidence, Proton Drive, at #1); Havel-Wiesel-Bondevik Report, at 90 (List of Evidence, Proton Drive, at #25); IBA War Crimes Report, at 77-78, ¶¶ 320-332 (List of Evidence, Proton Drive, at #19).

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*, at 329-330.

56. The political prison camps or *kwan-li-so* were established to achieve a central political objective, namely the elimination of three generations of enemies. Guards and other camp authorities are instructed that this is the objective of the camps, as determined by Kim Il-Sung himself. The camps continue to serve this purpose, while also being used to purge from society anyone else who poses a threat to the political system and its leadership. In addition, the forced labor derived from prisoners in the camps' mines, farms, and factories, at minimal cost, assists in the realization of politically important economic objectives, including energy generation and the provision of supplies to the security forces. The inhumane acts perpetrated in the DPRK's political prison camps occur on a large scale and follow a regular pattern giving rise to the inference that they form part of an overarching State policy. Across the various political prison camps in the DPRK and over a timespan of six decades, hundreds of thousands of inmates have suffered a very similar pattern of starvation, forced labor, and other inhumane acts.<sup>75</sup>

57. Guards and security agents serving in the political prison camps are taught to consider inmates to be sub-human enemies, who no longer enjoy the rights of citizens. Accordingly, they are instructed to treat inmates without pity. The combination of indoctrination by specific training and general propaganda creates a psychological environment that eradicates human inhibitions that might otherwise prevent guards from subjecting prisoners to such inhumane acts. The closest analogies, although with shorter duration and different destructive features, are the camps of totalitarian States of the 20th century. The fact that such political prison camps continue to exist at present in the DPRK is an affront to universally shared human rights values and the mistreatment described above constitutes crimes against humanity. It is the duty of the DPRK and the international community to ensure that these camps are dismantled, the surviving prisoners released without further delay, and **KIM Jong-Un** is held accountable for his crimes.<sup>76</sup>

#### F. Knowledge of the Attack

58. The DPRK has devoted considerable resources to establishing and expanding its sprawling system of political prison camps. The Ministry of State Security, the country's elite security agency, is responsible for guarding inmates and administering the camps. An entire bureau is assigned to this task. It is staffed by thousands of agents and guards. Roads and railroad connections have been built so that production taking place in the camps can be fully integrated into the economy. Satellite images viewed by the UN Commission of Inquiry, Governments, and NGOs show continued investment in expanding the camps, their security installations, and infrastructure. It is impossible to believe that such a large-scale and complex institutional system could be operated without being based on a State policy approved at the highest level, given the strongly centralized nature of the state in the DPRK.<sup>77</sup>

59. The UN Commission of Inquiry, several States, and NGOs have received information directly indicating that the prison camp system is controlled from the highest level of the State. In some cases, the Commission reported it was able to trace orders to cause the disappearance of individuals to the political prison camps to the level of Supreme Leader **KIM Jong-Un**.

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<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*, at 329-330.

Moreover, the Minister of State Security, who decides whether to send individuals to the political prison camps, reports to and is subject to the directions and close oversight of the Supreme Leader. Despite the increasing futility of such efforts, authorities continue to devote considerable energy to concealing the existence of political prison camps and to preventing information about the crimes committed in them from reaching the international community. Precautions taken by the DPRK authorities even extend to orders from the Supreme Leader to kill all inmates in the case of war or revolution, to eradicate the primary evidence of the existence of the camps and the conditions prevailing therein.<sup>78</sup>

60. Beyond all this information, it has been widely reported that **KIM** Jong-Un has traveled around the world and has access to and views international media reports on the situation in the DPRK. It would simply be impossible for **KIM** to be unaware of serious global concerns about the crimes against humanity being committed in the prison camps. Over the last 20 years, there have been some 20 resolutions adopted by the UN General Assembly, 20 resolutions adopted by the former UN Commission on Human Rights and UN Human Rights Council, and multiple meetings of the UN Security Council discussing the situation of human rights in North Korea, almost all of which specifically referenced the atrocities reportedly being committed in the political prison camps. In addition, since 2004, there has been a UN Special Rapporteur on the Situation of Human Rights in the DPRK, who has typically researched and published two reports annually, many of which also reported on the prison camps. And that doesn't even include literally hundreds of reports from both renowned international and South Korean NGOs. Most of these resolutions and reports attracted both international and South Korean media attention and news about them were often even broadcasted in the North Korean language into North Korea by radio news organizations such as Voice of America, Radio Free Asia, BBC, and KBS. Not only did the UN Special Rapporteur make dozens of attempts over the years to engage with North Korean officials to discuss human rights in North Korea, but the Commission of Inquiry also sought repeatedly to contact them, including sending a letter to **KIM** Jong-Un with an advance copy of their report, inviting comments and factual corrections. This only reaffirms that **KIM** was directly provided information to ensure he had knowledge of the atrocity crimes being committed in the DPRK, including through its operations of the *kwan-li-so*. All the DPRK Government did was to reject the resolution of the UN Human Rights Council establishing the Commission, saying it was a "product of political confrontation and conspiracy," and it later sent a letter to the President of the Council saying it "totally and categorically rejects the Commission of Inquiry."<sup>79</sup>

#### IV. CONCLUSION

Based upon this brief and the presented documentary and summary evidence and witness testimonies, the Prosecutor respectfully requests that the Pre-Trial Chamber confirm there is sufficient evidence to establish substantial grounds to believe that Supreme Leader **KIM** Jong-Un has committed the crimes against humanity charged and, under Article 61(7)(a) of the Rome Statute, commit him to a Trial Chamber for trial – today in the International Moot Tribunal but one day in the real world – on the charges as confirmed.

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<sup>78</sup> *Id.*

<sup>79</sup> *Id.*, at 8-9.

*Jared Genser*

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**Jared Genser, Prosecutor**

Dated this 1<sup>st</sup> day of November 2024  
At Washington, D.C., United States of America