

HUMAN RIGHTS NORTH KOREA
10TH ANNIVERSARY OF THE COI ON DPRK
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OPENING STATEMENT BY THE HON. MICHAEL KIRBY
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I'm Michael Kirby, and I was appointed by the Human Rights Council of the United Nations to be the Chair of the Commission of Inquiry into human rights in North Korea.

Before that appointment I had no special knowledge of, or interest in, the position on the Korean Peninsula, but with the aid of my colleagues Marzuki Darusman from Indonesia, and Sonja Biserko from Serbia, we gathered a huge amount of information, and that was the foundation for our report.

We worked on our report from March of 2013 until March of 2014. We got it all done in the space of a year, there were no dissents, and it was brought in within budget. But what was unusual about the way we went about the inquiry was that we adopted a different course to virtually all United Nations investigations, we acted in public, we sat in public hearings, we gathered testimony from witnesses, we put that testimony online, we used that testimony on virtually every page of our report, and our report unlike many reports at the United Nations was extremely readable.

But getting a report is only the first step, it's then necessary to take steps to ensure that the report is implemented. The first thing to do was to get the support of the Human Rights Council and of the General Assembly. This we did, we secured very large majorities both in the Council and in the Assembly, and the Assembly — the General Assembly of the United Nations — recommended that the report should be delivered to the Security Council so that the highest organ of the United Nations, witnessing to the interconnections of human rights and security, the special responsibility of the Security Council could take this matter under its consideration.

And using a little known provision of the Charter of the United Nations which provides for procedural matters to be dealt with by a super majority, but not subject to the veto, we secured the support of the majority of the Security Council, and that has resulted in an agenda item of the Security Council that means that the matter remains before the Council and can be raised — and has been raised — virtually every year, generally in December. And so that part of our obligation was, I think, fulfilled.

There were attempts by North Korea to delay, there were attempts by North Korea and those who supported it to postpone, but they did not succeed. And the result was that our transparent report seeking to bring accountability to the situation on the Korean Peninsula, is before the world community. And the world community, following the terrible events of the Second World War, committed itself in the case of serious conduct to have regard to crimes against humanity, and never to turn its back on crimes against humanity, but to ensure that crimes against humanity would be responded to.

So the accomplishments were: producing a readable report, the votes on the General Assembly, and the transfer of the matter to the Security Council. The approach was different, using public hearings and media. The recommendations for implementation within the UN system were largely carried out. Our recommendation for the establishment of a field office in South Korea, well it was in the region, but it was most sensibly and ultimately decided that it would be in Seoul, that was implemented.

What has not been implemented has been the reference of the matter by the Security Council to the International Criminal Court. Having found on evidence that was compelling, that serious crimes against humanity had occurred, we recommended that there should be a referral of the matter, by the Security Council, to the International Criminal Court — that has not yet happened.

And the momentum towards action on the report of the Commission of Inquiry was slowed by the hope of the Government of President Moon Jae-in, that the North Korean Administration could, by cooperation, and efforts to re-establish friendly relations, that that could lead to real progress. Sadly, it did not. I don't think that there were any real dividends from that policy.

So the question is: what can we do to regain momentum?

The actions of the Republic of Korea have to realise, and the world community must realise, that there is a close connection between the issues of human rights and the issues of peace and security. And allowing people to speak to the United Nations in our public hearings, was itself an achievement. But allowing action to be brought against those who are responsible — are found responsible — by an independent court is even more important, and that is something that has not yet been achieved.

Technology should be brought to bear, the people of Korea, on both sides of the border, have great skills in technology, including the technology of information. An antidote to the dangers, and to the cruelty, and to the deprivation of human rights, is knowledge on the part of the people, the citizens of North Korea, so that they will hold their officials and Government to account. If we look at the history of the world in the last fifty or seventy years, the history of the Charter of the United Nations and the history of the Universal Declaration of Human Rights, we can see that progress is capable of achievement, and we must never lose our faith and our determination to secure progress for the human rights of the people of North Korea.

I want in closing to pay a tribute to HRNK, this organisation has been extremely important in upholding the spirit of human rights and the devotion to human rights in the United Nations, and in North Korea and South Korea. When we were working on our report, we had great help from HRNK. Help on the *songbun* system, help on the political prisons, help through satellite imagery, which was available to HRNK — made available to the Commission of Inquiry, on the corroboration of the testimony we were receiving about prison camps, and the detention of so many people in North Korea.

We must continue to support HRNK, and it must continue to hold high the flag of the United Nations, and the determination of the United Nations, to do what the Charter and the Universal Declaration of Human Rights require: secure, establish, and defend peace and security on the Korean Peninsula, but at the same time secure and defend the human rights that belong to the people of North Korea.

That is the message that should be sent forth on the 10th anniversary of the provision of the report of the Commission of Inquiry on North Korea.