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GOVERNMENT OF JAPAN  
MINISTRY FOR THE ABDUCTION ISSUE  
A REFLECTION ON ABDUCTION & NORTH  
KOREA 2017

TOKYO, JAPAN

9 MAY 2017

The Hon. Michael Kirby AC CMG

On whom has been conferred this day the Japanese Order of the Rising  
Sun, Gold and Silver Star

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*RESPECTS AND UNIVERSAL HUMAN RIGHTS*

I begin with an expression of respect for the Government and people of Japan who have this day honoured me with admission to the *Order of the Rising Sun, Gold and Silver Star*: a great civil honour, established by the Emperor Meiji.

- \* I honour His Majesty, the Emperor. He commands admiration, in Japan and beyond, for his lifelong concern for the suffering of all, especially all the victims of wars. I was greatly privileged today to be received by His Majesty at the Imperial Palace. The honour I have received is not only for me or for my colleague and friend, Marzuki Darusman of Indonesia. (We were members of the UN Commission of Inquiry on Human Rights in North Korea). It is for

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\* Former Chair of the UN Commission of Inquiry on Human Rights Violations in the Democratic People's Republic of Korea (DPRK) (2013-2014). Text of an address given at a Reception hosted by Hon Katsunobu Kato, Minister for the Abduction Issue.

all who worked on the United Nations report.<sup>1</sup> Including our greatly valued colleague Sonja Biserko, and our hard working secretariat; brave witnesses and tireless civil society supporters.

- \* I also express respects for the ongoing determination of the members of the United Nations to address the human rights violations of DPRK (North Korea). Those violations were the subject of our report;
  
- \* I express respects for the Government of Japan and its officers, including in the Ministry of the Abduction Issue. Acting always with professionalism and respecting the independence of the COI, the Government of Japan has been forthright and unwavering in its commitment to the abductees. This commitment (supported from all sections of political opinion in the Japanese nation) has been symbolised by the presence at the Office of the Prime Minister (Mr Shinzo Abe) and by this reception hosted by the Minister for the Abduction Issue (Mr Katsunobu Kato). It was evidenced throughout the work of the COI, symbolised by the service of the Mission of Japan in Geneva (including former Ambassador Takashi Okada). His integrity was impeccable. His devotion to all the issues of human rights in DPRK was fearless. He is joined by many colleagues, whom I thank with sincerity;
  
- \* I also acknowledge the families of the Japanese nationals abducted from Japan to North Korea and the persistent civil society organisations that continue with their commitment to their

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<sup>1</sup> United Nations, Report of the Commission of Inquiry on Human Rights Violations in the Democratic People's Republic of Korea (February 2014): A/HRC/25/CRP.1.

families. They will never surrender their hopes and prayers for the reunification of the families or, at the very least, a full and proper satisfaction in relation to the disappearance of their loved ones. I witnessed their vigilance during their repeated testimony to the COI; in conferences: and in hearings before the Diet committee sessions in Tokyo and at events in Geneva. Like the COI itself, they will never relinquish the demand for full and complete satisfaction to bring this unhealed wound to healing. Their testimony often moved me to tears. But tears are not enough. Voices must be raised. Action must be sustained. Results must be achieved; and

- \* Because human rights are universal, global and constantly in need of vigilance, I am grateful that the Minister has invited to this reception some of my many Japanese friends and colleagues who have worked tirelessly over the years to secure human rights worldwide. I refer to:
- \* Professor Masao Horibe who worked with me on privacy protection as long ago as the 1980s, and is now Chairman of the Personal Information Protection Commission in Japan;
- \* Mr Yasushi Higashizawa, Chair of the LawAsia Committee on Human Rights and my recent colleague in the Human Rights Institute of the International Bar Association;
- \* My new colleague in that body Ms Mikiko Otani (member of the UN Committee on the Rights of the Child);

- \* Other new friends in Japan, Mr Hiroki Inaba (Goldman Sachs); and Mr Alexander Dmitrenko and Mr Taro Tanaka (Freshfields); and the Honourable Keiji Furuya, Commissioner of the Special Mission Committee of the Liberal Democratic Party on Sexual Orientation and Gender Identity Issues. We must not “cherry pick” issues of universal human rights, confining ourselves to popular ones. We must fight against violence, discrimination and injustice, wherever they exist. The victims of the abductions would insist on this. They would demand that we be principled. Human rights is rarely an easy or a popular issue. None of us should rest content whilst there are victims of human rights abuses anywhere on our planet. From the sufferings of Japan over the abductions must grow a national example of rationality, leadership and courage on *all* the issues of human rights. The abductions issue teaches us that lesson.

### *HUMAN RIGHTS – THE OTHER FACE OF SECURITY DANGERS*

The fundamental motivation for the pursuit of human rights is love. Love for one another. Love because we realise the pain that human rights abuses cause. Love because we share the human journey with one another. Love because we can comprehend the outrage and anguish of the families who are the victims of abduction. Just as we can share the horror of the starvation, mass detention, arbitrary conduct, public executions and other grievous wrongs that have afflicted the people of North Korea these past 70 years and are set out in the COI report.

The mandate of the COI on North Korea has concluded. Yet so “systematic, widespread and gross” were the violations revealed; so shocking the “gravity, scale and nature” of them, that they demand a response.<sup>2</sup> No one of sensibility could have been confronted with the human rights abuses described in the COI report, and just forget them or push them to one side. No one could just return to the hum drum affairs of everyday life. It is the duty of all who know about the human rights abuses in North Korea to raise the alarm; and demand global action.

That action will include the immediate cessation of the crimes against humanity; the provision of accountability for the wrongs done by the leadership of North Korea; and the provision of full transparencies for the victims and their families in Japan. The great majority of the victims of abductions come, as we know, from Korea itself. Under international law the decent opinion of mankind cries out for redress. The crimes must be stopped. Those that have occurred must be answered for.

It has been disturbing to me to witness the way in which the recent focus of concern for the security situation caused by North Korea’s nuclear and other weapons tests have all but extinguished the attention of the world community to the revelations in the COI report. It is shameful to turn away from the abductions, detentions, starvation and other great crimes. Unremarkably, this has not happened in Japan where the abductions are never forgotten.

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<sup>2</sup> COI report, above n.1, p.365 [1211].

All of the wrongs disclosed by the COI in its report are evidence of a country that is now becoming a powder keg.<sup>3</sup> It is a danger to itself and to its own people. It is a danger to its neighbours, to the region and indeed to the entire planet. We must not forget the human rights concerns revealed by the COI. They are an integral part of the essential problem of North Korea.

The human rights abuses are amongst the chief explanations for the special dangers to global peace and security. Specifically, a country that can act so callously as to abduct so many peaceful victims is a danger to peace. The victims have been:

- \* The Japanese victims of abduction and the nationals of other foreign countries seized by agents of North Korea, without respect for international law and human dignity;
- \* Thousands of young Korean men abducted from South Korea and retained in DPRK in the last stages of the Korean War, contrary to promises in the armistice;
- \* The hijacking of civilian aircraft and retention of their passengers in North Korea;
- \* The unhappy victims of the trickery of Japanese residents of Korean descent who went to DPRK on the promise of a better life; and

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<sup>3</sup> See “Handle with Extreme Care”, leader item, *The Economist*, 28 April 2017, (Vol. 423, No. 9037) 7.

- \* The repeated seizure and imprisonment of tourists who were so unwise as to visit North Korea, some as recently as late April 2017.

Recent media commentators expressed surprise at the assault and bizarre murder at Kuala Lumpur International Airport of Kim Jong-Nam, the half-brother of the Supreme Leader of North Korea. But to anyone who knows about the human rights record of DPRK it was no real surprise at all. A country that could brutally and suddenly execute Jang Song-Thaek, uncle of and effective second in command of the Supreme Leader, can easily act ruthlessly on whims and emotions.<sup>4</sup> A country that will abduct a school child from Japan, Yokota Megumi returning home after badminton practice,<sup>5</sup> seemingly for trivial reasons, will be indifferent to the norms of civilised life and respect for foreign sovereignty, whilst demanding deference to its own.<sup>6</sup> A country that will repeatedly make school children and other citizens witness public executions is a land of fearful brutality.<sup>7</sup> A country that institutes extra-judicial detention for several generations of alleged enemies of the state is not going to show concern for due process or proportionality. It is not going to observe the general rules of civilised conduct.

Where the country concerned fails to provide redress for crimes against humanity, the international community has promised to assume that burden.<sup>8</sup> The COI has pointed out that many of the wrongs on the part of North Korea amount to crimes against humanity under international

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<sup>4</sup> COI report, 43[156]-[157].

<sup>5</sup> COI report, 292 [916] ff.

<sup>6</sup> COI report, 298 [934]-[935].

<sup>7</sup> COI report 262-266 [827]-[833]; and 234-235[757]-[760] (prison executions)

<sup>8</sup> COI report 363 [1204].



law.<sup>9</sup> Specifically, international abductions and enforced disappearances constitute crimes against humanity.<sup>10</sup> Emphatically, the abduction of Japanese nationals and enforcing upon them unconsensual disappearances amount to crimes against humanity. So too is the dreadful suffering thereby inflicted on the families of the disappeared.<sup>11</sup>

The exact number of Japanese abductees is not known with exact certainty. But the existence of the practice was brazenly acknowledged by Kim Jong-Il to Japan's Prime Minister Junichiro Koizumi in 2002.<sup>12</sup> North Korea abducted nationals from other foreign countries including China. Adding to these the huge numbers of South Korean nationals abducted and retained in North Korea, cut off from their families, we can see the cruelty of North Korea. The tears and pain remain. They will not end until North Korea gives full accountability. Until it opens itself to impartial international scrutiny to put an end to the suffering. There will never be peace and security for the Korean Peninsula (and its neighbours) whilst the problems of human rights – including abductions - remain unaddressed.

### *SHARPENED BY TEARS IN THE DARKNESS*

No one can pretend that any of the choices for dealing with the present security and human rights problems of North Korea are easy. Doing nothing is unacceptable. It is also contrary to the international legal

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<sup>9</sup> COI report 320 [1026].

<sup>10</sup> COI report 347 [1147].

<sup>11</sup> COI report 313 [992].

<sup>12</sup> COI report 297[931].

requirement of accountability for crimes against humanity. Warfare today (including with North Korea) risks still more human rights abuses and disproportionate death and destruction for more innocent victims. Sanctions, engagement and increased pressure on North Korea are essential. By common consent, China is a key to the solution. With China's veto and special powers under the United Nations *Charter* come great responsibilities. The presidential election in ROK this day will also be a significant development.

The human spirit and its quest for rational solutions to problems must be engaged. Truth must overcome the vestigial Iron Curtain that, by its choice, still cuts North Korea off from the world. We must inform its people of what the world thinks and what it expects. After all, North Korea has agreed to be a member of the United Nations. The people of the world have the right to be heard beyond the DMZ. How we cope with the present challenge inevitably affects the way our vulnerable planet will deal with the next country that builds a nuclear arsenal and threatens its neighbours, its region and the globe. Now is the moment of truth.

Out of the present dilemmas, I believe, will eventually come justice and accountability for the victims of great wrongdoings – including in the case of North Korea's abductions. At least now the UN Commission on North Korea has sharpened the world's awareness about the wrongs. No one can say they do not know. Humanity's awareness shines brightly in the gloom of North Korea. It is made sharper and clearer by the report of the United Nations Commission. By the nuclear and missile test. And by the tears of those who have suffered too long without redress.

