

## [Legal definition]

### What crimes against humanity may have occurred, or may be occurring, in the Democratic People's Republic of Korea?

The Commission of Inquiry on the situation of human rights in the Democratic People's Republic of Korea (DPRK) reported in 2014 that there were reasonable grounds to believe that certain crimes against humanity had occurred or were occurring in the DPRK.<sup>1</sup>

Crimes against humanity require (1) intentional inhumane acts that (2) form part of a widespread or systematic attack against a civilian population. The Commission of Inquiry found that the Government of the DPRK was carrying out three distinct attacks against civilian populations in the DPRK. These attacks were the basis for findings of crimes against humanity in the DPRK.

1. The State is carrying out a systematic and widespread attack against anyone who is considered to pose a threat to the political system and leadership of the DPRK. This includes inmates of political prison camps and the ordinary prison system, persons who try to flee the DPRK, religious believers and others considered to introduce subversive influences.
2. The State has led a systematic and widespread attack against the general civilian population by knowingly aggravating its starvation and sacrificing the lives of large numbers of innocent, ordinary citizens in order to preserve the political system and its leadership.
3. The State abducted and forcibly disappeared a large number of persons from other countries in a systematic and widespread manner in order to gain labour and skills to enhance the DPRK and strengthen it in the struggle for supremacy on the Korean peninsula.

The Commission of Inquiry and OHCHR rely on the definitions of crimes against humanity set out in the Rome Statute of the International Criminal Court. It should be noted that the Republic of Korea is a member of the International Criminal Court, but the DPRK is not.

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<sup>1</sup> Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1

**The following definitions of crimes are unofficial summaries and should not be relied on as the full definition. For the detailed definitions of crimes, please see the full Rome Statute of the ICC.**

### **Murder**

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator killed one or more persons.

### **Extermination**

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator killed one or more persons, including by inflicting conditions of life calculated to bring about the destruction of part of a population, for example the deprivation of access to food and medicine, as part of a mass killing of members of a civilian population.

### **Enslavement**

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator treated someone like property. The perpetrator acted like he or she “owned” people, for example by purchasing, selling, lending or bartering them, or other similar deprivations of liberty.

*Forced labour by itself is not necessarily enslavement. However, how a person is treated in the context of forced labor might show that someone else is exercising “ownership” over that person. It should also be noted that international law does allow for labour as punishment for a crime, if it is pursuant to a sentence set out by a court.*

### **Deportation or forcible transfer of a population**

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator deported or forcibly transferred people from a place where they were lawfully present, without legal justification, and the perpetrator was aware that they were lawfully present.

*Generally, “deportation” refers to displacement across national borders, whereas “forcible transfer” refers to displacement within the same country.*

### **Imprisonment**

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator imprisoned one or more persons or otherwise severely deprived them of physical liberty. The conduct was severe enough that it broke basic rules of international law, and the perpetrator knew this.

*Imprisonment can be a crime against humanity if the imprisonment violates basic international law. Imprisoning people in inhumane conditions, or sentencing people to imprisonment without a fair trial, or imprisoning them for exercising their basic human rights may constitute imprisonment as a crime against humanity, if found by a court of law to take place in the context of a widespread or systematic attack.*

## Torture

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator inflicted severe physical or mental pain or suffering on people who were in the custody or under the control of the perpetrator. The pain or suffering did not arise only from a legal punishment.

*There is no legal threshold for the severity of the pain or suffering to be considered torture. On the other hand, even some punishments handed down by a court of law can be considered torture. Deliberate starvation and other inhumane conditions of detention can amount to torture.*

## Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack,

- **Rape** means essentially any penetration of a sexual nature of a person's body, committed by force or coercion.
- **Sexual slavery** means essentially the same as enslavement, but the victim is forced to engage in one or more acts of a sexual nature.
- **Sexual violence** means any act of a sexual nature, committed by force or coercion, of a similar gravity to other sexual crimes.

*Recall that this information is only a summary—sexual violence is a very sensitive and detailed area of the law. "Sexual violence" is a broad category under which many acts of a sexual nature, such as forced abortions, could be considered crimes against humanity.*

## Persecution

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights, based on their membership in a group based on political, racial, national, ethnic, cultural, religious, or gender grounds in connection with another crime listed in the Rome Statute.

*A key element of persecution is the requirement that the conduct be based on the victim's membership in a certain group. Also, note that for the purposes of the Rome Statute, persecution can only take place in connection with another crime.*

## Enforced disappearance of persons

In the context of a widespread or systematic attack directed against a civilian population, and with knowledge (or intent) that the conduct was part of that attack, the perpetrator knowingly arrested or detained one or more persons OR refused to acknowledge the detention or give information about the fate or whereabouts of that person; by or with the acquiescence of a state or political organization; with the intent to remove that person from the protection of the law for a prolonged period of time.

*Under this definition, the disappeared person is not the only victim of the crime. The families of the disappeared person can also be victims. A key element in this definition is the response of the state or political organization. It is not enough to believe that a person has disappeared; the state or organization has to refuse to give information about the person.*

*In 2014, the Commission of Inquiry noted that inmates of the DPRK's political prison camps are victims of the crime of enforced disappearance. People who have been abducted from other countries may also be considered victims of enforced disappearance. A separate body of international humanitarian law, or the law of war, addresses prisoners of war from the Korean War who were never allowed to return home.*

### **Other inhumane acts**

Other inhumane acts is a residual category of similar acts that intentionally cause great suffering, or serious injury to body or to mental or physical health. For example, the Commission of Inquiry found that “causing or aggravating prolonged and severe starvation to large numbers of people, with the knowledge that this will result in starvation and related severe suffering in the ordinary course of events, can constitute an inhumane act of a nature amounting to a crime against humanity.”<sup>2</sup>

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<sup>2</sup> Ibid., para. 1131