

BACKGROUND

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Next Steps for Human Rights in North Korea

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Abstract

The U.S. and the international community have a responsibility to address human rights abuses in North Korea. Despite North Korea's isolation, practical steps can, and should, be taken to bring about meaningful change for the people of North Korea. To this end, the U.S. must adopt a multi-pronged strategy that acknowledges there are two important stakeholders in the human rights debate: persons inside North Korea and defectors outside the country.

After the release of the report of the United Nations commission of inquiry on human rights in North Korea (COI) in February 2014, the world can no longer deny the severity of Pyongyang's human rights crisis. The horrific tales of abuse and sheer magnitude of "systematic, widespread and grave violations of human rights" led the U.N. to conclude that North Korea was guilty of crimes against humanity.

The U.S. and the international community now have a responsibility to address human rights in North Korea. Despite North Korea's isolation, practical steps can, and should, be taken to bring about meaningful change for the people of North Korea. To this end, the U.S. must adopt a multi-pronged strategy that acknowledges there are two important stakeholders in the human rights debate: persons inside North Korea and defectors outside the country.

The U.S. has tools that could provide support for persons inside North Korea. These include implementing additional, targeted sanctions against the regime explicitly for its human rights abuse.

The U.S. also has the means to improve assimilation of North Korean defectors into other countries. Better understanding the

KEY POINTS

- It is in America's national interest to introduce a more principled approach to its policy toward human rights abuse in North Korea.
- In conjunction with South Korea, the U.S. has the opportunity to directly punish North Korea for its ongoing crimes against humanity.
- Such an approach could also potentially ward off a severe humanitarian crisis in the event of a North Korean collapse.
- As a global leader on human rights, the U.S., has a moral responsibility to confront human rights challenges in North Korea.

This paper, in its entirety, can be found at <http://report.heritage.org/bg3071>

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plight of defectors and addressing their problems in assimilating will be instrumental in preparing for a smoother transition in the event of a North Korean collapse. The U.S. and South Korea should strive to remedy problems before a potential Kim regime collapse and the humanitarian crisis that would follow.

Why the U.S. Should Care About Human Rights in North Korea

The Kim regime's pursuit of nuclear weapons, as well as the numerous belligerent acts committed by the regime—including missile tests, sinking of the South Korean ship *Cheonan*, provocative cyber attack against Sony Pictures Entertainment, and recent landmine ambush—evidence the clear threat North Korea continues to pose to the U.S. and the international community.

Contrary to some initial predictions, the leadership change from Kim Jong-il to Kim Jong-un did not spark reform—let alone a weakening in the North Korean regime. Purges in the North Korean leadership, along with tightened border security, all point to the continuing strength of the Kim regime.

It is also in the U.S. national security interest to address human rights challenges in North Korea. Human rights abuse is inextricably linked to the stability of the Kim regime. The COI report confirmed that, in order to suppress human rights, Kim Jong-un has used the same brutal tactics employed by his father. A collapsing regime could lash out at the United States and its allies and lose control of its nuclear weapons.

If North Korea were to collapse, as many as 3.65 million North Koreans could seek to resettle in South Korea.¹ Such a large-scale humanitarian crisis would threaten the stability of South Korea, unless a comprehensive assimilation plan was created well in advance. The U.S. would provide significant humanitarian assistance after a collapse, and therefore has an interest in helping South Korea find the most effective means possible to assimilate North Koreans into South Korean society.

The Current Human Rights Crisis Inside North Korea

The COI report provided a comprehensive condemnation of the human rights crisis in North Korea. For example, the report reviewed violations of “the right to food, those associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, freedom of expression, the right to life, freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other states.”²

To collect its findings, the commission held public hearings with 80 North Korean defectors as well as an additional 240 confidential interviews with defectors.³ The commission was denied access to North Korea and the border region that China shares with North Korea. However, the commission corroborated the defector testimony with satellite imagery, reliable information from inside North Korea, and information from nongovernmental organizations (NGOs) and private individuals.

The COI documented the very worst abuses, including the current arbitrary detention of tens of thousands of persons and extra-judicial killings. It also provided verifiable evidence that North Koreans in prison camps are not the only citizens experiencing abuse. The rest of the population in North Korea is denied access to food, medical care, freedom of movement, and freedom of information, among other basic rights.

The report dismissed the notion that, under Kim Jong-un's leadership, the human rights situation has improved. Kim maintains his grip on power by abusing human rights, such as the threat of being sent to a prison camp, public executions, and the use of internal informants.

North Korea continues to commit crimes against humanity—defined by the International Criminal Court as “widespread or systematic attack[s] directed against any civilian population, with knowledge of the attack.” Some human rights abuses emphasized by the COI include:

1. Bruce W. Bennett, “Preparing for the Possibility of a North Korean Collapse,” RAND Corporation, 2013, p. 73, http://www.rand.org/content/dam/rand/pubs/research_reports/RR300/RR331/RAND_RR331.pdf (accessed August 9, 2015).

2. United Nations Human Rights Council, *Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea*, No. A/HRC/25/63, February 7, 2015, p. 5, <http://www.ohchr.org/EN/HRBodies/HRC/ColDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx> (accessed August 9, 2015).

3. *Ibid.*, p. 11.

- **Prison camps.** The commission estimates that there are currently between 80,000 to 120,000 individuals imprisoned in political prison camps.⁴ The prison camp population has been reduced in recent years, in part due to the closure of two camps. Earlier figures suggest a prison population of between 150,000 to 200,000 prisoners.⁵

The commission believes that hundreds of thousands have perished in prison camps.⁶ The law firm Hogan-Lovells conducted a study and concluded that North Korea may be guilty of genocide.⁷

- **Public executions.** The COI estimates that almost every North Korean witnesses a public execution in their lifetime. Public executions are not limited to the prison camp system; they occur throughout the population.

While precise estimates of the number of persons executed are unavailable, testimony from numerous defectors suggests that public executions are common.

- **Starvation.** The COI found that policy decisions made by the North Korean government led to food deprivation and starvation. North Korea spent \$300 million on luxury facilities, \$644 million on luxury goods, and an estimated \$1.3 billion on its missile program in 2012 alone.⁸ In 2015, the U.N. World Food Program asked foreign donors for only

\$111 million in contributions. North Korea is willfully depriving its people of the food and resources they need.

- **Sexual violence, rape, and the family.** The COI documented countless cases of sexual abuse among the prison population. North Korean women in the camps were considered outside the protections of North Korean law. As a result, many were raped or sexually exploited in order to receive food from prison guards.⁹

Sexual interactions in the camps are strictly prohibited with severe punishment for transgressions, including hard labor or execution.¹⁰ A woman who becomes pregnant is usually forced to abort her child.¹¹ And if a woman manages to conceal her pregnancy and gives birth in the prison system she is forced to kill her child herself or watch guards kill the child.¹² Treatment of women in the prison system violates the right to life of their children, while also violating their individual liberty.

- **Human trafficking and forced labor.** Many individuals in North Korea are victims of human trafficking. The prison population and workers exported overseas are often subjected to forced labor for which they are not compensated, and from which the regime reaps considerable benefits.¹³

Although the COI report did not directly address the issue of North Korean laborers, new reports

4. Ibid., p. 226.

5. Chico Harlan, "Population of North Korea's Gulag has Shrunk, Experts Say," *The Washington Post*, September 12, 2013, https://www.washingtonpost.com/world/asia_pacific/experts-say-population-of-n-koreas-gulags-has-fallen/2013/09/12/c98eb22c-1bc3-11e3-8685-5021e0c41964_story.html (accessed August 24, 2015).

6. United Nations Human Rights Council, *Report of the Commission of Inquiry*, p. 350.

7. News release, "Independent Report Finds Evidence of Genocide in North Korea," Hogan-Lovells, June 18, 2014, <http://www.hoganlovells.com/independent-report-finds-evidence-of-genocide-in-north-korea-06-18-2014/> (accessed August 9, 2015).

8. Joshua Stanton, "UN Must Confront the Political Causes Of North Korea's Food Crisis," One Free Korea, July 22, 2015, <http://freekorea.us/2015/07/22/u-n-must-confront-the-political-causes-of-north-koreas-food-crisis/> (accessed September 9, 2015).

9. United Nations Human Rights Council, *Report of the Commission of Inquiry*, p. 255.

10. See United Nations Human Rights Council, *Report of the Commission of Inquiry*, and Database Center for North Korean Human Rights, 2011, p. 487, <http://rageuniversity.com/PRISONESCAPE/UK%20ANTI-TERROR%20LAW/Political-Prison-Camps-in-North-Korea.pdf> (accessed August 9, 2015). Story of woman who was beaten, burned with a hot iron, and later was left crippled, losing her legs in a terrible accident.

11. United Nations Human Rights Council, *Report of the Commission of Inquiry*, p. 256.

12. Ibid., p. 122.

13. U.S. State Department, *Trafficking in Persons Report 2014*, <http://www.state.gov/documents/organization/226844.pdf> (accessed September 18, 2015).

reveal that North Korean laborers abroad are often victims of forced labor.¹⁴ The Asan Institute for Policy Studies estimates that there are 50,000 North Korean laborers abroad, many of whom are forced to yield their earnings to the Kim regime. Korean labor abroad is estimated to generate hundreds of millions in revenue annually.¹⁵

Additionally, many female North Korean defectors in China are forced to marry Chinese men, serve as domestic servants, or are sexually exploited in brothels.

Since its inception, the State Department Office to Monitor and Combat Trafficking in Persons has designated North Korea as Tier 3 (the worst designation) in their annual Trafficking in Persons (TIP) report.¹⁶ Human trafficking in North Korea is particularly pernicious because it is state-sanctioned.

- **Religious persecution.** Michael Kirby, lead investigator for the U.N. COI, noted that the persecution of Christians is one of the aspects of the COI that has received the least public attention.¹⁷

Specifically, the COI report determined that people of faith, Christians in particular, faced acute persecution in North Korea. Upon repatriation to North Korea, defectors are interrogated and

asked if they interacted with Christian missionaries, or with South Koreans. Those found to have had contact with these groups are scrutinized, tortured, and imprisoned.

Christians are seen as a threat to the stability of the regime because of the role they played in the fall of the Soviet Union and other communist regimes.¹⁸ Christian missionaries and NGOs—many spearheaded by South Korean or U.S. pastors—are active in the underground smuggling of defectors out of North Korea.

Christians inside North Korea are also persecuted. The report found that many North Korean Christians and pastors were imprisoned in the ordinary prison camp system just for practicing their religion.¹⁹ While North Korea does have state-sanctioned churches, Christians who operate outside the auspices of these churches are targeted by Pyongyang.

Challenges to Assimilation for North Korean Defectors

The persecution, torture, and denial of basic rights lead many North Koreans to defect; the destitute conditions experienced inside North Korea form the basis of their refugee status.²⁰ At present, there are 26,483 defectors in South Korea, between 100,000 and 200,000 in China, and a few more than 180 defectors currently living in the U.S.²¹

14. Chang-Hoon Shin and Myong-Hyun Go, "Beyond the UN COI Report on Human Rights in DPRK," The Asan Institute for Policy Studies, <http://en.asaninst.org/contents/asan-report-beyond-the-coi-dprk-human-rights-report/> (accessed August 9, 2015).
15. Marcus Noland, "Organized Exports of Labor: Welcome to the Echo Chamber," Peterson Institute for International Economics, June 1, 2015, <http://blogs.piie.com/nk/?p=14166> (accessed August 26, 2015).
16. U.S. State Department, *Trafficking in Persons Report 2014*.
17. Center for Strategic and International Studies, "North Korean Human Rights: The Road Ahead, Commemorating the One Year Anniversary of the UN Commission of Inquiry Report," February 17, 2015, <http://csis.org/event/north-korean-human-rights-road-ahead> (accessed August 9, 2015).
18. Olivia Enos, "North Korea Should Be Held Accountable for Persecuting Christians," Heritage Foundation *Issue Brief* No. 4379, April 10, 2015, http://www.heritage.org/research/reports/2015/04/north-korea-should-be-held-accountable-for-persecuting-christians#_ftn3.
19. United Nations Human Rights Council, *Report of the Commission of Inquiry*.
20. Roberta Cohen, "Legal Grounds for Protection of North Korean Refugees," The Brookings Institution, Fall 2010, <http://www.brookings.edu/research/opinions/2010/09/north-korea-human-rights-cohen> (accessed August 9, 2015).
21. Sung Jiyoung and Go Myong-Hyun, "Resettling in South Korea: Challenges for Young North Korean Refugees," The Asan Institute for Policy Studies, August 8, 2014, <http://en.asaninst.org/contents/resettling-in-south-korea-challenges-for-young-north-korean-refugees/> (accessed August 9, 2015); Emma Chanlett-Avery and Ian E. Rinehart, "North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation," Congressional Research Service *Report for Congress*, December 5, 2014, <https://www.fas.org/sgp/crs/nuke/R41259.pdf> (accessed August 9, 2015); The Bush Institute, "U.S.-Based North Korean Refugees: A Qualitative Study," October 2014, http://www.bushcenter.org/sites/default/files/gwb_north_korea_executive_summary_r4.pdf (accessed August 9, 2015); and Congressional-Executive Commission on China, *Annual Report*, October 10, 2012, <http://tinyurl.com/oj717gj> (accessed September 9, 2015).

Providing support for defectors, and understanding the current conditions they face, could have positive tangible impacts for the present and future of North Korea policy.

Forced Repatriation. China does not recognize defectors as refugees, instead classifying them as “economic migrants.” Roberta Cohen, Non-Resident Fellow at the Brookings Institution, assesses that North Koreans have three ways to qualify as refugees:

1. The U.N. Refugee Convention requires a “well-founded fear of being persecuted”;
2. North Korea’s economic policies may be equivalent to political persecution; and
3. North Korean defectors can be considered *refugees sur place*—or persons that become refugees after leaving their country due to a high likelihood that they will face persecution upon their return.²²

Cohen asserts that the third category is the most important because it is well documented that almost all defectors upon repatriation are sent to prison camps, tortured, or even killed.²³ Thus, almost all defectors would qualify as refugees.

Nonetheless, China continues to repatriate defectors in violation of its international obligations under the United Nations Convention relating to the Status of Refugees and the 1967 Protocol.²⁴ As a signatory, China is obligated to uphold the principle of non-refoulement. In flagrant disregard of these commitments, China signed a border security agreement with North Korea, the “Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order and the Border Areas,” in which China agreed to apprehend and automatically deport defectors to North Korea.²⁵

North Korean defectors in China are in constant fear of being caught by Chinese authorities. Given the U.N. High Commissioner for Refugees’ (UNHCR) limited access to border regions, along with the fact that North Koreans are generally unwelcome at embassies in China, defectors rarely find safe haven until they have exited China and moved on to third-party countries in Southeast Asia. At one point, NGOs working in the Chinese border region estimated that hundreds of defectors were being repatriated weekly.²⁶

In recent years, some countries in Southeast Asia have also been unwilling to provide support to North Korean defectors. In 2014, Laotian immigration officials apprehended nine North Korean children at the Laos border. After a two-week investigation, the nine children were turned over to Chinese authorities who subsequently returned them to North Korea. As a result of the widespread public attention the incident received, the regime showed the children on television in May 2015 to prove that they were still alive and well. Laos is not a signatory of the U.N. Refugee Convention, but it is a signatory to the Convention Against Torture.

The COI adamantly called upon China to discontinue its policy of repatriation, commenting that China may be implicated in “aiding and abetting crimes against humanity” for its policy.²⁷ If other nations, such as Laos, repatriate North Korean defectors, they could also be guilty of the same.

Human Trafficking. Many defectors become victims of sex trafficking as forced brides for Chinese men. Defectors are particularly vulnerable to trafficking in China where they operate outside the protections of Chinese law. In 2013, China was designated as Tier 3 in the State Department’s Trafficking in Persons report, but has since been upgraded to Tier 2 Watch List in 2014—a result of its promises to eliminate re-education through labor camps.

22. Cohen, “Legal Grounds for Protection of North Korean Refugees.”

23. Ibid.

24. Victor Cha, “Light Through the Darkness,” The Bush Institute, January 2015, http://www.bushcenter.org/sites/default/files/gwb_north_korea_report_call_to_action.pdf (accessed August 9, 2015).

25. Dianna Bai, “Unwelcome Migrants: The Plight of North Korean Refugees in China,” *SAIS U.S.-Korea Yearbook*, 2013, U.S.-Korea Institute at SAIS, http://uskoreainstitute.org/wp-content/uploads/2014/04/Bai_YB2012.pdf (accessed August 9, 2015).

26. North Korea Freedom Coalition, “‘The List’ of North Korean Refugees and Humanitarian Workers Seized by Chinese Authorities,” December 10, 2013, http://www.nkfreedom.org/UploadedDocuments/2013.12.10_THE_LIST_ENGLISH.pdf (accessed September 18, 2015).

27. Melanie Kirkpatrick and Victor Cha, “China Is Complicit in North Korea’s Human Rights Abuses,” The Hudson Institute, July 31, 2014, <http://www.hudson.org/research/10496-china-is-complicit-in-north-korea-s-human-rights-abuses> (accessed August 9, 2015).

Both designations are indicative of China's failure to implement anti-trafficking best practices, particularly regarding North Koreans.

Approximately 70 percent of defectors from North Korea are women, and some estimate that between 70 percent and 90 percent of female defectors become victims of trafficking.²⁸

Since China does not recognize defectors as refugees, but claims they are "economic migrants," most North Koreans do not receive protection under Chinese law and are therefore less likely to report exploitation and abuse. Many defectors are sexually exploited in brothels, while other women are forced to marry Chinese men.²⁹ As North Koreans, these women are unable to report their exploitation to Chinese authorities; doing so would result in repatriation back to North Korea, where they would likely be sent to a prison camp.

Forced marriages in China are especially detrimental to North Korean women. North Korean women fill a void that was, in part, created by the one-child policy (soon to be two-child policy) in China. Due to sex-selective abortion, China has a severe gender imbalance—currently 118 men for every 100 women.³⁰ Thus, Chinese men are in desperate need of wives.

Not only do North Korean brides not have a choice in the matter of marriage, but women that become pregnant give birth to children that have neither North Korean nor Chinese citizenship. Stateless, their children have limited access to health care, education, and legal protections.³¹ Pregnant North Korean women caught by Chinese

police and repatriated to North Korea are forced to abort their children. If they have already given birth, they are separated from their children. Trafficking has reverberations for the family structure in China and harms not only defectors themselves, but their children as well.

Cultural Differences from South Koreans. North Koreans that manage to evade detection in China and make it to South Korea receive a number of benefits, but still face challenges assimilating into South Korean society.

North Koreans arriving in South Korea are granted automatic citizenship. They are sent to temporary education and relocation facilities, Hanawon,³² where defectors receive educational, language, cultural, and work-related training, as well as psychological treatment. Defectors are allowed to stay in the facilities for twelve weeks before being granted a stipend and sent to live in South Korea among the general populace. Defectors are provided job-seeking assistance, less expensive housing, and preferential treatment to continuing education. Defectors also retain access to counseling services.

North Korean defectors generally express satisfaction with life in South Korea.³³ One study found that nearly 75 percent of North Koreans are pleased with their lives in South Korea, another reported 67.4 percent satisfaction.³⁴ Unemployment is down,³⁵ and the school drop-out rate is declining.

Nonetheless, North Korean defectors face a number of challenges assimilating into South Korean life. Many defectors face discrimination from South

28. Jane Kim, "Trafficked: Domestic Violence, Exploitation in Marriage, and the Foreign-Bride Industry," *Virginia Journal of International Law*, Vol. 51, No. 2 (December 2010), p. 443, <http://www.vjil.org/articles/trafficked-domestic-violence-exploitation-in-marriage-and-the-foreign-bride-industry> (accessed August 9, 2015), and Kyla Ryan, "The Women Who Escape from North Korea," *The Diplomat*, November 24, 2014, <http://thediplomat.com/2014/11/the-women-who-escape-from-north-korea/> (accessed August 9, 2015).

29. U.S. Department of State, *Trafficking in Persons Report 2014*.

30. U.S. Department of State, *Trafficking in Human Persons Report 2013*, p. 129, <http://www.state.gov/documents/organization/210738.pdf> (accessed October 2, 2015).

31. Mary Soo Anderson, "Stateless: An Introduction to the North Korean Refugee Issue," *SinoNK*, January 31, 2012, <http://sinonk.com/2012/01/31/nk-refugees/> (accessed August 26, 2015).

32. Ministry of Unification, "Manual for the Resettlement Support for North Korean Refugees," November 28, 2014, <http://eng.unikorea.go.kr/content.do?cmsid=3029&mode=view&page=&cid=41723> (accessed August 9, 2015).

33. Jeyup S. Kwaak, "North Korean Refugees Mostly Satisfied in South Korea," *The Wall Street Journal*, April 1, 2014, <http://blogs.wsj.com/korearealtime/2014/04/01/north-korean-refugees-mostly-satisfied-in-south-korea/> (accessed August 9, 2015).

34. Ministry of Unification, "Manual for the Resettlement Support for North Korean Refugees."

35. "Defectors Work More, Make Less," *Korea JoongAng Daily*, February 10, 2015, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3000748> (accessed August 9, 2015).

Koreans.³⁶ A recent poll found that nearly half of South Koreans would prefer that authorities be more selective in the number of defectors they allow into the country—especially as it relates to the anticipated influx that would occur if the two Koreas were unified.³⁷

Furthermore, after defecting, many North Koreans experience severe emotional and psychological turmoil, are concerned about the fate of their families back home, and find it difficult to focus on the classes they are required to participate in at Hanawon. The education North Koreans receive prior to defecting often does not adequately prepare them for work in South Korea. As a consequence, one study found that defectors work more, and get paid on average 760,000 won, or close to \$700 per month less, than their South Korean counterparts.³⁸ Assistance at Hanawon is an attempt to close the skills gap and prepare defectors for new life in the South.

Defectors and policy analysts have raised questions as to the adequacy of the counseling and training received at Hanawon; in particular they have expressed concerns that South Korean assistance to defectors is too short. Most of the programs available to defectors are suspended after five years. While North Koreans should not be permanently dependent on welfare structures within South Korea, the South Korean government should be open to reviewing the effectiveness of current programming at Hanawon facilities.

How South Korea deals with the small influx of North Korean defectors now will have ramifications for the future. Dealing with a potential refugee influx of about 3.65 million would be difficult for any country to handle; fortunately, South Korea has time now to prepare for a potential North Korean collapse.

International Response to North Korea's Human Rights Abuse

U.S. Policy Toward North Korea. The U.S. has long acknowledged the gravity of the ongoing human rights crisis in North Korea. The State Department's annual Human Rights Report has consistently listed North Korea among the world's worst human rights offenders.³⁹ The State Department's International Religious Freedom report considers North Korea a "country of particular concern" (CPC), and relegated it to Tier 3—the worst ranking a country can receive in the Trafficking in Persons report.

Yet there has been a disparity between rhetoric and policy implementation. At present, the U.S. has not imposed sanctions against North Korea for human rights violations. Despite North Korea's designation as a CPC, sanctions under the International Religious Freedom Act (IRFA) have been waived and subsumed under sanctions imposed pursuant to the Jackson–Vanik Amendment.⁴⁰ Sanctions for human trafficking have either been waived or subsumed under other types of sanctions toward North Korea.

Such a tactic is a mistake, as it undermines the strength of the sanctions designated under the International Religious Freedom Office and the Office to Monitor and Combat Trafficking in Persons.

With the release of the U.N. COI, the U.S. has no excuse for failing to confront North Korea about its human rights abuses. Before exploring how the U.S. can improve its policy on North Korean human rights, it is essential to examine the tools it has already deployed.

Sanctions. Rather than holding North Korea accountable for human rights violations, U.S. policy toward North Korea, including sanctions, has focused on nuclear nonproliferation, defense, and security issues.⁴¹ However, sanctioning North Korea

36. Tara O, "The Integration of North Korean Defectors in South Korea: Problems and Prospects," *International Journal of Korean Studies*, No. 2 (2011), <http://www.icks.org/publication/pdf/2011-FALL-WINTER/8.pdf> (accessed August 9, 2015), and Council on Foreign Relations, "Delivering Social Justice for North Korean Refugees in South Korea: The Role of Civil Society and Opportunities for U.S.-South Korea Cooperation," *Asia Unbound*, May 1, 2011.

37. Kim Se-jeong, "NK Refugees Unwelcome by Half of South Koreans," *The Korea Times*, December 22, 2014, http://www.koreatimes.co.kr/www/news/nation/2014/12/116_170383.html (accessed August 9, 2015).

38. "Defectors Work More, Make Less," *Korea JoongAng Daily*.

39. John F. Kerry, "Secretary's Preface to Country Reports on Human Rights Practices for 2014," U.S. Department of State, Bureau of Democracy, Human Rights and Labor, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (accessed August 9, 2015).

40. Enos, "North Korea Should Be Held Accountable for Persecuting Christians."

41. Scott A. Snyder, "U.S. Policy Toward North Korea," Council on Foreign Relations, January 2013, <http://www.cfr.org/north-korea/us-policy-toward-north-korea/p29962> (accessed August 9, 2015).

for human rights abuses would augment current sanctions against North Korea's nuclear program and illicit activities.

Strong sanctions have proven to be successful against North Korea. In 2005, the U.S. Treasury Department designated Banco Delta Asia (BDA), a primary money-laundering concern for facilitating North Korean illicit activities.⁴² This designation banned U.S. financial institutions from doing business with BDA, and led at least two dozen East Asian financial firms to discontinue their business with North Korea.⁴³

Despite President Obama's claims to the contrary,⁴⁴ North Korea is not the most heavily sanctioned nation in the world.⁴⁵ The U.S., U.N., and EU imposed far more stringent measures against Iran than North Korea. The U.S. has unilaterally imposed measures on other countries that it has yet to implement against Pyongyang.

After the North Korean hack of Sony Pictures and threats of physical violence in December 2014, President Obama signed an executive order designating 10 additional North Korean entities to be sanctioned.⁴⁶ White House officials described the January 2015 executive order as "a first step...[and] this is certainly not the end," but the Administration has yet to follow up with any additional measures.⁴⁷

While the U.S. technically has the authority to sanction for human rights abuse under the executive order, it has not yet done so.⁴⁸ To date, the Unit-

ed States has targeted zero North Korean entities for human rights violations. By contrast, the U.S. has sanctioned Sudan, Iran, Syria, and Burma for human rights violations.⁴⁹ Additionally, Washington sanctioned by name the presidents of Zimbabwe and Belarus but has yet to name Kim Jong-un or the heads of any of the North Korean organizations listed by the U.N. Commission of Inquiry report. The U.S. can, and should, do more to sanction North Korea, including the incorporation of human rights into its broader sanctioning authorities.

North Korea Human Rights Act. In 2004, the U.S. passed the North Korea Human Rights Act (NKHRA). The act established the Special Envoy for North Korea Human Rights at the State Department, allocated \$20 million in funding for NGO activities (this has since been reduced to \$5 million annually),⁵⁰ and encouraged broadcasting into North Korea.⁵¹

One of the most important things the NKHRA accomplished was clarifying the status of asylum seekers coming to the U.S. Under the NKHRA, defectors from North Korea are considered to be asylum seekers and are therefore eligible for resettlement in the U.S.—despite their being granted citizenship in South Korea. To date, however, only a small number of defectors have come to the U.S.

South Korean Policy Toward North Korea. Since the Korean War, different presidential admin-

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42. News release, "Treasury Designates Banco Delta Asia as Primary Money Laundering Concern under USA PATRIOT Act," U.S. Department of the Treasury, September 15, 2005, <http://www.treasury.gov/press-center/press-releases/Pages/js2720.aspx> (accessed August 9, 2015).
 43. Bruce Klingner, "Time to Get North Korean Sanctions Right," Heritage Foundation *Backgrounder* No. 2850, November 4, 2014, <http://www.heritage.org/research/reports/2013/11/time-to-get-north-korean-sanctions-right> (accessed August 26, 2015).
 44. "Best of Obama's Interviews with YouTube Stars," *The Wall Street Journal*, January 23, 2015, <https://www.youtube.com/watch?v=wgJU7ou4zeQ> (accessed September 18, 2015).
 45. Bruce Klingner, "Time to Get North Korean Sanctions Right."
 46. News release, "Treasury Imposes Sanctions Against the Government of The Democratic People's Republic Of Korea," U.S. Department of the Treasury, January 1, 2015, <http://www.treasury.gov/press-center/press-releases/Pages/jl9733.aspx> (accessed August 9, 2015).
 47. "U.S. Sanctions North Korea Over Sony Hacking," *The Dallas Morning News*, January 2, 2015, <http://www.dallasnews.com/news/local-news/20150102-u.s.-sanctions-north-korea-over-sony-hacking.ece> (accessed September 18, 2015).
 48. The White House, "Executive Order—Imposing Additional Sanctions with Respect to North Korea," January 2, 2015, <https://www.whitehouse.gov/the-press-office/2015/01/02/executive-order-imposing-additional-sanctions-respect-north-korea> (accessed August 9, 2015).
 49. Joshua Stanton, "North Korea: The Myth of Maxed-Out Sanctions," *Fletcher Security Review*, Vol. 2, No. 1 (January 21, 2015), <http://www.fletchersecurity.org/#!stanton/c1vgi> (accessed August 26, 2015).
 50. The National Committee on North Korea, "North Korean Human Rights Act—2012 Reauthorization," NCNK Issue Brief, <http://www.ncnk.org/resources/publications/NKHRA-reauthorization-2012.pdf> (accessed August 9, 2015).
 51. North Korean Human Rights Act of 2004, H.R. 4011, 108th Cong., 1st Sess., http://hrnk.org/uploads/pdfs/NKHRA_2004.pdf (accessed August 9, 2015)

istrations in South Korea have had vastly different policies toward North Korea. Some, like current President Park Geun-hye, have held a principled stance toward North Korea as opposed to Kim Dae-jung's unconditional engagement "Sunshine Policy."

South Korea's North Korea Human Rights Act.

Conflicting views on policy toward North Korea has prevented Seoul from passing a North Korean human rights bill despite 10 years of debate in the National Assembly. The current incarnation of this legislation remains in limbo—the result of a gridlocked legislature that cannot agree over the bill's impact. Progressives argue that the bill will not significantly improve North Korea's human rights conditions, and will instead provoke North Korea and cause inter-Korean relations to further deteriorate. They prefer a non-judgmental approach that provides significant unconditional benefits to Pyongyang.⁵²

Conservatives advocate a "name and shame" approach toward North Korea and increasing transparency and monitoring of humanitarian aid to improve North Korea's human rights conditions. They seek to establish a North Korean human rights foundation that would fund human rights groups, as well as a human rights archive that would record human rights violations in North Korea. This bill would also appoint an ambassador to conduct government policy on North Korean human rights issues.⁵³

What the U.S. Should Do

The COI report assessed that the "gravity, scale and nature of [North Korea's human rights] violations reveal a state that does not have any parallel in the contemporary world."⁵⁴

The severity of this crisis demands a response. The U.S. has several tools that, when used in cooperation with South Korea, can induce changes to the human rights crisis in North Korea.

- **The U.S. should develop long-term whole-of-government plans with South Korea to effec-**

tively assimilate North Korean defectors. Should North Korea collapse, the absorption of millions of people is inevitable. Military planning, including preparation for a North Korean collapse, is further along than planning in most of the other sectors of the U.S. and South Korean governments.

To that end, the U.S. should commission a study of defector assimilation and use it to inform policy and provision of humanitarian assistance following a North Korean collapse.

South Korea should concurrently launch a comprehensive study of Hanawon to assess whether the needs of defectors are being met by Hanawon programming.⁵⁵ South Korea should evaluate the sustainability of such assistance, determine whether it is delivering the results it promises, and make improvements accordingly.

- **South Korea should pass its own North Korea Human Rights Act.** After ten years of debate, it is time to lay political differences aside and acknowledge the practical and symbolic value of a South Korean NKHRA. Passage of the NKHRA would send a strong message that the Republic of Korea government actively opposes the human rights abuses committed by the Kim regime.

- **The U.S. and South Korea should use every opportunity to get outside information into North Korea.** Most defectors say that access to outside information was an integral reason behind their decision to defect. Interestingly, high-level defections from the elite class are not uncommon. This is unsurprising since members of the elite class have the most access to outside information.

The U.S. should deepen its partnership with the Broadcasting Board of Governors, Voice of America, and Radio Free Asia to disseminate timely out-

52. Yeo Jun-suk, "N.K. Human Rights Bill in Limbo for Decade."

53. Government of South Korea, Ministry of Unification, Vice Minister Uhm Jong-sik, "Pass the North Korean Rights Act," May 9, 2011, <http://eng.unikorea.go.kr/content.do?cmsid=1837&mode=view&page=3&cid=32016> (accessed August 9, 2015), and Yeo Jun-suk, "N.K. Human Rights Bill in Limbo for Decade," *The Korea Herald*, May 5, 2015, <http://www.koreaherald.com/view.php?ud=20150505000280> (accessed August 9, 2015).

54. United Nations Human Rights Council, *Report of the Commission of Inquiry*.

55. Norbert Eschborn and Ines Apel, "North Korean Refugees in South Korea," KAS International Reports, August 2014, http://www.kas.de/wf/doc/kas_38622-1522-2-30.pdf?140826150900 (accessed August 9, 2015).

side information into North Korea. The BBG and its affiliates reach over 215 million people worldwide weekly and conduct programs in some of the world's most repressive regimes, including North Korea, Iran, and Cuba. Such programming could influence political change in North Korea that leads to respect for basic rights, including but not limited to religious freedom.

- **The U.S. and South Korea should pressure China, Laos, and others to discontinue the forcible repatriation of North Korean defectors.** China and others should facilitate the resettlement of North Koreans in South Korea or the U.S. The vast majority of defectors at least meet the definition of *refugee sur place*; thus China is in violation of the principle of non-refoulement.

U.S. diplomats should publicly express U.S. disapproval of Laos and China's continued repatriation of North Korean defectors and integrate concerns into human rights and strategic dialogues.

- **The U.S. should partner with the NGO community to streamline assistance for defectors.**⁵⁶ Faith-based and human rights NGOs share a common interest with North Korean human rights organizations. In fact, Christian groups play a significant role in rescuing and rehabilitating North Korean defectors. The U.S. has funds through the NKHRA that it could allocate to better support NGO programming for North Korean defectors and ensure that current efforts are effective rather than duplicative.
- **The U.S. should implement stronger sanctions to hold North Korea accountable for its human rights violations.** The U.S. government should implement sanctions that explicitly target North Korean entities engaged in human rights abuse.

The U.S. should not waive sanctions under the International Religious Freedom Act but instead

hold North Korea liable for its violations of religious freedom.

Additionally the U.S. should partner with government allies that have an interest in seeing freedom advanced in North Korea. Such an approach means working more intentionally with the International Religious Freedom Office, the Office to Monitor and Combat Trafficking in Persons, and other offices at the State Department that share the desire to hold North Korea accountable for its human rights abuses. This level of engagement would allow offices to cross-coordinate on sanctions, thereby creating an effective human rights sanctions regime that complements pre-existing sanctions for national security and nuclear transgressions.

- **The U.S. should identify and sanction Kim Jong-un and other known top officials in the North Korean government for their involvement in crimes against humanity.** This tactic would not be unprecedented. For example, the U.S. maintains direct sanctions against Zimbabwean President Robert Mugabe⁵⁷ and President of Belarus Alexander Lukashenka, the Belarusian secretary of the security council, chair of the KGB, and the Central Election Committee.⁵⁸ The U.S. should condemn Kim Jong-un and known officials complicit in the regime's human rights abuse for the crimes they have committed—a designation that should carry with it severe consequences.

Conclusion

It is in America's national interest to introduce a more principled approach to its policy toward human rights abuse in North Korea. In conjunction with South Korea, the U.S. has the opportunity to directly punish North Korea for its ongoing crimes against humanity. Such an approach could also potentially ward off a severe humanitarian crisis in the event of a North Korean collapse.

56. Victor Cha, "Light out of Darkness."

57. Kitsepile Nyathi, "United States Extends Sanctions Against Robert Mugabe's Regime," *The East African*, March 5, 2015, <http://www.theeastafrican.co.ke/news/US-extends-sanctions-against-Mugabe-regime-as-Europe-relaxes/-/2558/2643230/-/jv6vd3z/-/index.html> (accessed August 9, 2015).

58. "Obama Extends U.S. Sanctions Against Belarusian Top Officials," Belsat, June 11, 2015, <https://belsat.eu/en/articles/obama-extends-us-sanctions-against-belarusian-top-officials/> (accessed August 9, 2015).

As a global leader on human rights, the U.S. has a moral responsibility to confront human rights challenges in North Korea. Washington also has an obligation to its own people, as addressing Pyongyang's crimes against humanity will advance key national security interests.

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