

Q&A: THE RESPONSIBILITY TO PROTECT (RtoP) AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (NORTH KOREA)

Note: For more details on the crisis, as well as sources and links for all the information provided below, please visit our [website](http://www.responsibilitytoprotect.org): www.responsibilitytoprotect.org.

Q: What is happening in the Democratic People's Republic of Korea (DPRK)?

A: Both the Korean War and the Cold War, and the resulting division of the Korean peninsula, has created a unique political system in North Korea, one dominated by an "isolationist" attitude and a deep aversion to outside powers. This extreme isolationist attitude, present since Kim Il-Sung founded the DPRK in 1948, has continued to flourish under the current "Supreme" Leader Kim Jong-un, whose political party dominates the country and cultivates a culture of obedience through indoctrination and propaganda. Access to outside information is severely restricted, surveillance is widespread and pervasive, and religious individuals are persecuted. After years of rumors of the systemic human rights abuses from North Korean defectors and escapees, the UN Human Rights Council (HRC) created an unprecedented Commission of Inquiry on human rights in the DPRK (Resolution A/HRC/RES/22/13) in March 2013.

Q: What did the Commission of Inquiry report find?

A: Formally presented to the Human Rights Council in March 2014, the report stated unequivocally that "systematic, widespread, and gross human rights violations have been and are being committed in the DPRK," and in many instances amount to "crimes against humanity based on State policies." The report underscored the denial of citizens' rights to freedom of thought, conscience, religion, opinion, expression, information and association. Any attempts to flee, internally or internationally, are punished by torture, persecution, prolonged arbitrary detention, sexual violence, forced abortions, and summary executions. Furthermore, the regime fails to uphold its citizens' right to food, using it as a tool of control, and causing the death of hundreds of thousands of people by starvation. Hundreds of thousands of political prisoners are also estimated to have died in camps over the past five decades in a process of gradual elimination. The report further details the lack of judicial process awarded to prisoners, who often 'disappear' or are executed. Moreover, the government violates the rights of foreign nationals, through its systematic abduction of persons from other countries, ostensibly to gain skills and labor.

Q: Why does the international community have a Responsibility to Protect North Koreans?

A: In 2005 (see box at right) all heads of state and government agreed that they had a Responsibility to Protect populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. The HRC Commission found evidence that ten out of the eleven acts defined as crimes against humanity by the Rome Statute of the International Criminal Court (ICC) have been committed in North Korea: extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer or populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation. The Commission itself states that the "international community must accept its responsibility to protect the people of the DPRK, because the Government...has manifestly failed to do so."

Q: How has the international community upheld its RtoP?

A: Up until the report's release, the international community's action in the DPRK focused almost exclusively on nuclear disarmament issues. The report has brought a renewed focus on human rights for actors desiring change in North Korea. In addition to creating the Commission itself, the Human Rights Council has been the first to respond to the report's findings. In resolution A/HRC/25/L.17, the HRC recommended that the General Assembly submit the Commission's report to the Security Council; and asked the Security Council to refer the situation in the DPRK to the appropriate international justice mechanism, which the Commission believes to be the ICC (since the DPRK is not a signatory to the Rome Statute, the ICC must gain jurisdiction over the matter from the Security Council).

THREE PILLAR FRAMEWORK OF THE RESPONSIBILITY TO PROTECT

United Nations (UN) Secretary-General Ban Ki-moon established the three-pillar framework of the Responsibility to Protect (RtoP, R2P), in his 2009 Report *Implementing the Responsibility to Protect*:

- **Pillar One:** The state bears the primary responsibility to protect their population from genocide, war crimes, crimes against humanity and ethnic cleansing.
- **Pillar Two:** The international community, i.e. the UN, regional organizations, governments and civil society, must assist states in fulfilling their protection obligations.
- **Pillar Three:** When a state manifestly fails to protect its population or is in fact the perpetrator of these crimes, the international community has a responsibility to take collective action in a timely and decisive manner to prevent or halt the commission of mass atrocities. Such action must be on a case-by-case basis using a broad range of political, economic, and humanitarian measures and should peaceful means prove inadequate, coercive measures, including the use of force as authorized by the Security Council and in accordance with the UN Charter.

The UN Special Adviser on the Responsibility to Protect, Dr. Jennifer Welsh, in a statement on 14 March 2014, noted that the “persistence of such crimes, and the prolonged period of suffering endured by the population of the DPRK...are an affront to our humanity and demand serious consideration by the Human Rights Council and other UN bodies. While the world’s attention is fixed upon crises in Syria and the Central African Republic, the sobering testimony of witnesses before the Commission makes clear that the population of the DPRK also deserve timely and decisive action.” The European Parliament, meanwhile, in a resolution passed on 17 April 2014, demanded “that those responsible for the crimes against humanity committed in the DPRK be held accountable, brought before the International Criminal Court and subjected to targeted sanctions.”

In late 2014, the UN General Assembly adopted a non-binding resolution in which it decided to submit the report of the Commission of Inquiry to the UN Security Council. In this unprecedented measure, which was approved by a vote of 116 to 20 with 53 abstentions, the GA encouraged the Council to evaluate the conclusions of the COI and to ensure accountability, requesting the Security Council to consider referring the situation in the DPRK to the International Criminal Court. The UN Security Council met to further discuss the matter and several members voiced their support for the recommendation, which advocated the prosecution of Mr. Kim and other officials at the International Criminal Court. While such a referral remains unlikely, mainly due to China’s veto power, North Korea’s presence on the Council agenda implies that it can frequently re-emerge for discussion. Executive Director of Human Rights Watch, Kenneth Roth, explains that “by placing North Korea’s appalling human rights record on the agenda, the Council can now at any point take the next step of referring these crimes against humanity to the ICC.”

Civil society organizations, including those set up by North Korean refugees, were vocal supporters of establishing a Commission of Inquiry. NGOs, including the National Human Rights Commission of Korea and the Korea Institute for National Unification, also met with Commission members while it compiled its findings. ICRtoP Member Human Rights Watch released a video of interviews with North Korean escapees from political prison camps.

Q: Why isn’t the international community doing more to protect North Koreans?

A: Action by the international community on this particular case will likely be difficult to achieve, owing to both the politics within the Security Council and the DPRK’s extremely reclusive nature. The DPRK “totally rejected and disregarded” the Commission and refused to respond to any of the commission’s requests for information or access. China, which holds veto power on the Council, is the DPRK’s greatest benefactor and strongly desires stability on the Korean peninsula. Chinese representatives have already stated that the report’s conclusions are unfounded. Tellingly, prior to the Security Council meeting on the matter, China attempted to remove the North Korea briefing from the agenda – forcing the first procedural vote on an agenda item in eight years. Many therefore believe that China will use its veto to block any significant action by the Security Council, with some stating that other UN Member States are resistant to pressuring China on this issue in fear that China will retract its support for non-proliferation measures in North Korea.

Q: What kind of additional action can the international community take to uphold its RtoP in North Korea?

A: The Commission provided a number of recommendations to international actors. In addition to referring the situation to the ICC, the Security Council also has the option of imposing targeted sanctions against the individuals most responsible for the crimes. Member states, foundations, and the private sector could also provide more support to civil society organizations working to improve the human rights situation in the DPRK, “including efforts to document violations and to broadcast accessible information into the country.” Member States could also extend asylum to North Korean refugees. Importantly, international actors could provide support and apply pressure on the DPRK to undertake desperately-needed reforms, including steps to establish accountability through prosecution, allow humanitarian access, and permit the freedom of speech. Though chances of concerted international action may appear slim, international actors must not be complacent in the face of such obvious and documented atrocities. The Chair of the Commission, Michael Kirby, himself stated on 16 April 2014 that “**if this report does not trigger action by the international community, it is hard to say what will...What choice will we make? Do nothing today to say never again tomorrow? Or take action to say not one day further?**”

ICRtoP

INTERNATIONAL COALITION FOR **THE RESPONSIBILITY TO PROTECT**

For more information, visit our

Website: responsibilitytoprotect.org

Blog: icrtopblog.org

Facebook: [facebook.com/icrtop](https://www.facebook.com/icrtop)

Twitter: twitter.com/icrtop

Sign up for our listserv: responsibilitytoprotect.org/subscribe

The ICRtoP convenes and collaborates with civil society, Member States, and regional and sub-regional organizations to: strengthen normative consensus for RtoP; further understanding of the norm; push for strengthened capacities to prevent and halt RtoP crimes; and mobilize NGOs to push for action to save lives in RtoP country-specific situations.

Contact Us:

708 Third Avenue, Suite 1715

New York, NY 10017

tel: 646.465.8523

fax: 212.599.1332

info@responsibilitytoprotect.org