

UN Report Says International Community Has a Responsibility to Protect North Koreans from Ongoing Crimes against Humanity

On 21 March 2013, the United Nations Human Rights Council (UNHRC) unanimously established a Commission of Inquiry on human rights in the Democratic People's Republic of Korea (DPRK), also known as North Korea. Almost a year later, following over 80 public hearings, 80 written submissions, and more than 240 confidential interviews, the commission released a 372-page [report](#) detailing its findings. The report states that 'systematic, widespread and gross human rights violations have been and are being committed' in the DPRK, and in many instances entail 'crimes against humanity based on State policies' (6). These crimes are described as 'essential components of [the] political system' (15), with those responsible potentially including the Supreme Leader, Kim Jong-un. The report states that the 'international community must accept its responsibility to protect the people of the Democratic People's Republic of Korea, because the Government... has manifestly failed to do so' (16). It will be officially presented to the UNHRC on 17 March 2014.

I. Objectives, Findings, and Recommendations

In resolution [A/HRC/RES/22/13](#), the commission of inquiry on human rights in the DPRK received a mandate to 'investigate the systematic, widespread and grave violations of human rights... with a view to ensuring full accountability, in particular, for violations that may amount to crimes against humanity' (3). The commission understood this mandate as without temporal limit, considering the great famine of the 1990s. It also interpreted it as without geographic limit, considering North Korea's extraterritorial acts, and actions by other States that causally enabled violations.

At the beginning of the report, the commission stresses how vital it is to understand North Korea's history and political system. The Korean and Cold Wars, and the division of the peninsula, have created an 'isolationist' attitude and 'aversion to outside powers... used to justify internal repression' (7). The country is dominated by a single party, headed by the Supreme Leader Kim Jong-un. A culture of obedience is cultivated by the State through indoctrination and propaganda, and supported by Confucian heritage. Access to outside information is severely restricted, surveillance is widespread and pervasive, and religious individuals are persecuted. The discriminatory *songbun* system classifies individuals on the basis of 'State-assigned social class and birth... political opinions and religion' (8). Loyal and useful individuals are concentrated in areas such as Pyongyang, and the Government prioritises this group over those 'deemed expendable' when distributing food (15). Citizens of the DPRK may not leave the country, and those who dissent may be sent to political prison camps (*kwanliso*) or forcibly 'disappeared'. All this is done to sustain the existing political system.

The report finds that the actions of the State constitute gross human rights violations. The Government's monopoly over its citizens' lives constitutes 'an almost complete denial of the right[s] to freedom of thought, conscience... religion... freedom of opinion, expression, information and association' (7). Its practice of official discrimination severely impacts the ability

of persons – particularly women – to enjoy their human rights. Citizens of the DPRK are denied the right to freedom of movement both internally and internationally; those who attempt to flee may be subject to torture, persecution, prolonged arbitrary detention, sexual violence, forced abortions, and summary execution. The commission finds that the Government uses food as a tool of control, failing to uphold its citizens' right to food and causing the death of at least 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 (12). Many North Koreans are 'disappeared' or executed – either publicly or secretly – without due judicial process. The report further finds that the Government has violated the rights of foreign nationals, through its systematic abduction of persons from other countries, ostensibly to gain skills and labour.

To determine whether these violations amounted to crimes against humanity, the commission employed the definition set out in the Rome Statute of the International Criminal Court (ICC). The Statute [specifies](#) eleven kinds of acts that, if 'committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack' constitute crimes against humanity. The commission found evidence that ten of the eleven had 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 of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation' (14). According to [paragraphs 138-139](#) of the 2005 World Summit Outcome Document, the international community has a responsibility to protect populations against crimes against humanity, as well as genocide, war crimes, and ethnic cleansing. The primary responsibility to protect populations from these crimes lies with the North Korean state. However, the Government has manifestly failed in this regard; indeed, the report established that the crimes have been committed "pursuant to policies established at the highest level of the State" (14). In light of this, the international community also has a responsibility to take timely and decisive action to protect the populations of North Korea from these atrocities.

Through its inquiries, the commission also found that China – by forcibly repatriating North Korean citizens – has causally enabled crimes in the DPRK, and breached its obligations of non-refoulement under international law.

In the report's conclusion, the commission makes a number of recommendations to the DPRK, China and other States, and the UN. To North Korea, it recommends a large number of reforms, including steps to establish accountability through prosecution, and immediate humanitarian access. It further recommends that other States – explicitly referring to China – should extend asylum to North Korean refugees, and support the work of civil society, among other actions. Its recommendations to the UN include Security Council referral of the DPRK to the ICC, targeted sanctions against those most responsible, and the establishment of a structure to continue the work of the commission.

II. Relations with the DPRK and China

When the commission was established in March 2013, the DPRK stated publicly that it would 'totally reject and disregard' the inquiry (4). During the investigation, the Government failed to respond to any of the commission's requests for information and access. On 20 January 2014, the commission took the unprecedented step of writing directly to Supreme Leader to notify him of their findings, his possible accountability, and their recommendation that the UN refer the situation to the ICC, which received no reply. North Korea remained silent on the matter until the day the report was to be launched. On the morning of 17 February 2014, Reuters received a two-page statement from the DPRK mission in Geneva, in which the Government 'categorically' [rejected](#) the report as 'fake'. The statement maintained that such human rights violations did not exist in North Korea, and denounced the commission as a puppet of countries such as the United States and Japan. It also accused the commission of being 'an attempt at regime change' – a charge the commission's chair, Michael Kirby, [denied](#) at the report's launch later that day.

In November 2013, the commission requested permission to visit China, but was denied later that month. After receiving preliminary findings from the Commission, China responded that North Koreans in China were economic migrants, rather than refugees. Following the report's release on 17 February 2014, China [described](#) its findings as 'unreasonable criticism', and expressed the belief that taking human rights issues to the ICC does not help a country's human rights situation.

III. The International Response

With the exception of the DPRK and China, the international community has largely commended the report. Speaking on the commission, Lee Jung-hoon, South Korea's ambassador for human rights, [said](#) : "just the fact that they are getting the vocabulary of crimes against humanity, the International Criminal Court and Kim Jong-un on the same page is a huge step forward in the debate on North Korean human rights'.

On 18 February 2014, the day after the report was released, UN Secretary General Ban Ki-moon issued a statement ([SG/SM/15649](#)) in which he said he was 'deeply disturbed' by the report's findings. He further encouraged the DPRK to engage with the international community. Speaking in Geneva, UN High Commissioner for Human Rights Navi Pillay [stressed](#) the need for 'strong international leadership', and called on the international community 'to use all the mechanisms at its disposal to ensure accountability'.

Kenneth Roth, Director of Human Rights Watch, [described](#) the atrocities in the DPRK as 'a profound challenge to the founding ideals of the UN [that] should shock the organisation into bold action'. HRW has [urged](#) the Security Council members to invite the commission for an immediate briefing. Amnesty International's East Asia Research Director, Roseann Rife, has also [called](#) for action, emphasising a 'need... to raise human rights alongside security and peace when it

comes to North Korea’.

It is unclear to what extent there will be action from the international community. On a diplomatic front, options are scarce, as North Korea refuses to engage. China has the [strongest relationship](#)

with North Korea, but even Beijing’s leverage is [limited](#)

. In addition, China has legitimate concerns about destabilising the DPRK – likely triggering a large

[influx of refugees](#)

across the border – and self-interested reservations about a ‘

[precedent](#)

of international attention to peacetime repression’. A prosecutorial approach might be possible, but there are worries that China will veto any action in the Security Council to refer the DPRK to the ICC. Speaking on this matter at the report’s launch, Kirby

[remarked](#)

: “It’s true that the signals at the moment are not particularly positive, but... China has responsibilities’. It is this idea of an overriding responsibility to protect that has led many – including the Coalition – to call for voluntary suspension of the veto in cases of mass atrocities.

For now, the course of action recommended by commentators is to put the situation on the [Security Council](#)

agenda as soon as possible, place [pressure](#)

on China, and

[challenge](#)

Beijing to veto ICC referral. There is a small chance that China’s pragmatism – given the [public shaming](#)

, [isolation](#)

, and

[erosion of power](#)

likely to accompany the use of the veto – will win out, allowing the international community to act on its responsibility to protect.

Read the report [here](#) .

Read more about the movement to limit the veto in RtoP cases on our [blog](#) .

Special thanks to Aisling Leow for her work in compiling this Listserv.