

The Case for An Atrocity Determination for North Korea

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Abstract

This article argues that the United States and South Korea should seize the opportunity presented by the United Nations' forthcoming update to its 2014 Commission of Inquiry (COI) report to re-center international attention on the dire human rights situation in North Korea. While the COI previously established that crimes against humanity were being perpetrated by the Kim regime, this article contends that atrocity crimes—including genocide—may also be ongoing, particularly against Christians and other vulnerable groups. Drawing on defector testimony, legal frameworks, and recent precedent from U.S. atrocity determinations (e.g., on Uyghurs, Rohingya, and Yazidis), the article urges Washington and Seoul to issue their own atrocity determinations to galvanize diplomatic action, promote accountability, and provide relief to survivors. It outlines how human rights violations are intertwined with the regime's stability and weapons development, and argues that an integrated strategy linking security and human rights is essential. The article concludes with policy recommendations, including targeted sanctions, refugee protections, enhanced information access, and closure of political prison camps, offering a roadmap for a more principled and effective North Korea policy.

Keywords: Commission of Inquiry (COI); North Korean Christians; Atrocity Determination; Crimes Against Humanity; Religious Persecution; Genocide; U.S. Foreign Policy; Human Rights Violations

Introduction

North Korea remains one of the most isolated countries in the world. Three generations of the Kim regime's brutality is well-documented; their exploitation of the North Korean people amounts to crimes against humanity.

Today, conditions have not improved and may even be worse, yet international attention is elsewhere. Russia's war of aggression against Ukraine, China's threatening activities in the South China Sea and against Taiwan, and the ongoing conflict between Israel and Hamas, have all

grabbed international headlines, and the suffering of the North Korean people is simply not the priority *du jour*.

That could change, however, when the United Nations releases an update to its groundbreaking Commission of Inquiry (COI) report in September 2025. In 2014, when the UN first released the COI, they said that conditions inside North Korea were “without parallel in the modern world.”¹ The update, to be clear, is not a new COI, but rather an opportunity to take stock of how conditions have changed since the report’s original release 10 years ago. Since that time, both Seoul and Washington undertook substantial efforts to prioritize the North Korean people’s human rights.² The COI’s release generated substantial political momentum and the update, if paired with action from the U.S. and Seoul, could have real impact.

Few actions would be more meaningful than for the U.S. and Seoul to make an atrocity determination of their own. U.S. atrocity determinations have a solid track record of generating political will and follow-on action. This was especially true for Uyghur Muslims in China, Rohingya Muslims in Burma, and Yazidis and Shiite Muslims persecuted by ISIS.³ To issue a determination in concert with or in response to the UN’s soon-to-be-released update would be a powerful move for a next U.S. presidential administration to make. Seoul could also join in by issuing its own determination to further magnify the U.S. atrocity determination’s impact.

Some communities in North Korea, in addition to facing the already-established crimes against humanity, may also be experiencing genocide. Christians in North Korea are especially vulnerable. Washington and Seoul have an opportunity to clarify the extent and nature of the crimes the North Korean people face today.

The next year and a half represent a critical juncture and an opportunity to put North Korean human rights back on the list of U.S. foreign policy priorities. Washington and Seoul should weigh in as the UN undertakes its review and compiles its update to the groundbreaking COI report. They should also consider issuing atrocity determinations of their own. Such a determination would be especially powerful if coupled with sustained efforts from the U.S. executive and legislative branches to provide refugee relief, improve information access, and tackle the myriad human rights violations perpetrated by the Kim regime.

The Legal Basis of Crimes Against Humanity and Genocide

The UN COI report was groundbreaking. It established that the Kim regime not only had committed crimes against humanity but continues to do so. In fact, the report expressly states:

Systematic, widespread and gross human rights violations have been, and are being, committed by the Democratic People's Republic of Korea, its institutions and officials. In many instances, the violations of human rights found by the Commission constitute crimes against humanity. These are not mere excesses of the state. They are essential components of a political system that has moved far from the ideals on which it claims to be founded. The gravity, scale and nature of these violations reveal a state that does not have any parallel in the contemporary world.⁴

A finding of crimes against humanity is significant. Under the Rome Statute, a crime against humanity is “any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack,” including but not limited to murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution of any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law; and enforced disappearance of persons.⁵

There is no hierarchy of atrocity crimes, but many North Korea watchers questioned why the commission stopped at investigating only crimes against humanity and did not include other atrocity crimes, like genocide. In part, this was due to the limited mandate that Resolution 22/13 granted to the commissioners, requiring them to investigate “systematic, widespread, and grave violations of human rights in North Korea...in particular where these violations may amount to crimes against humanity.”⁶ There was no mention of investigations of genocide in the resolution that created the commission.

Nevertheless, according to COI Chair Michael Kirby, commissioners wondered whether the COI should look into whether genocide was also ongoing. Kirby said that he believed the current definition of genocide under international law is too narrow to include the Kim regime's crimes:

There were problems for genocide in the definition that's been adopted by the Genocide Convention, which basically requires that the genocidal act should be addressed to the nationality, race, ethnicity, or religion of the people involved. Whereas in North Korea, overwhelmingly it is addressed to the politics, the political commitment, the commitment to the party and the leadership and the Supreme Leader, and, therefore, it's not within the language of the current definition.⁷

The United Nations Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group."⁸

Genocide hinges on the intent to destroy, in whole or in part, a people group on the basis of race, ethnicity, nationality, or religion. As Kirby noted, it does not include discrimination on the basis of politics. Some academics debate whether the UN should expand the definition of genocide for this reason.⁹

Regardless of whether international lawmakers should expand the definition of genocide, the commission did not use the report as an opportunity to push definitional boundaries. Ultimately, the commission did not make a finding of genocide. However, since the COI, civil society and government actors have raised the alarm that genocide may be occurring in North Korea. They have also raised questions about the definition and about the severity of conditions in North Korea. Therefore, the issue merits a second look.

Grounds for an Atrocity Determination for Christians in North Korea

Even without modifying the current definition of genocide in international law, the COI report, defector testimony, and independent reports provide evidence that Christians in North Korea face ongoing genocide and crimes against humanity. There can be no doubt that Christians face many of the acts described as genocide in the UN definition—specifically, members of the group endure serious bodily or mental harm, killing, and targeting of their children.

According to Open Doors USA, North Korea is the most dangerous place for Christians in the world.¹⁰ Christians face severe forms of persecution, including being killed for their faith. There are an estimated 200,000 to 400,000 Christians in North Korea; the number is difficult to estimate precisely, as Christians must practice their faith discreetly.¹¹ Of that number, researchers estimate that 50,000 to 70,000 North Korean Christians have been imprisoned for their faith.¹²

The North Korean government does not merely imprison Christians but also sends many to political reeducation camps. One report highlighted an instance in which the Kim regime sentenced a two-year-old and their family to life in the camps because their parents had a Bible and practiced Christianity.¹³ When Chinese authorities repatriate North Korean refugees who escaped to China, the Kim regime often asks them two questions: (1) whether they had contact with a South Korean and (2) whether they were in contact with Christian missionaries. If the answer is yes to either question, the state treats the refugees more harshly and often sends them to a political prison camp.¹⁴

Conditions in the camps are brutal. As the COI established, camp populations are subject to starvation-like conditions, torture, rape and various other forms of sexual violence, and forced labor, among other severe abuses. Many have likened North Korea's political prison camps to Soviet gulags and, in the modern context, Chinese political reeducation camps where Beijing interns Uyghur Muslims. Being sent to the North Korean camps is often a death sentence through one means or another.¹⁵

In addition to sending its people to camps, the North Korean government often kills them for their faith. Killings take the form of public executions and purges, or death in the camps due to starvation or arduous labor. There are numerous reports of the North Korean government killing Christians for practicing their faith. The country has historically purged Christians from the government and elite. As recently as 2022, the U.S. State Department documented an incident in which officials executed a

member of the Korean Workers' Party in front of 3,000 people for possessing a Bible.¹⁶ Reports of North Koreans being publicly executed for their faith are common; other reports document separate instances when the regime publicly executed people en masse for having Bibles.¹⁷ The regime purposefully makes a spectacle of political crimes to incite fear and total acquiescence with the regime's agenda.

North Korean society regards Christians as members of the lowest class, also known as the "hostile class," in the regime's *songbun* caste system. Members of the hostile class suffer discrimination more than any other group in North Korea.¹⁸ They face difficulties in acquiring and holding onto jobs (which the state predominantly provides), are more likely to be sent to political prison camps, and are viewed overwhelmingly as politically suspect.

The North Korean regime targets Christians for many reasons. It is suspicious of Christians due to the role they played in Soviet and post-Soviet bloc countries, where Christians and Catholics often spearheaded efforts to overthrow communist leaders through peaceful protests.¹⁹ The COI report also said that Pyongyang persecutes Christians because they do not worship the Kim regime—a virtual requirement of life in North Korea—and because it thinks the U.S. and South Korea influence them.

A year after the COI released its report, Michael Kirby said one of the most overlooked findings from the report was the severity of persecution that Christians faced.²⁰ Ten years on from the report's release, the US should uncover the extent of the crimes North Korean Christians may face and craft policy solutions to alleviate their suffering.

Finally, Christians may not be the only group facing genocide in North Korea. A report from the British All-Parliamentary People's Group on North Korea asserted that half-Chinese Koreans and members of the so-called hostile class may also face genocide.²¹

There is no hierarchy of atrocity crimes. Crimes against humanity are no better or worse than genocide. Therefore, a U.S. atrocity determination of only crimes against humanity would be a satisfactory outcome. However, if both atrocity crimes are occurring, against Christians or others, the US should acknowledge both in an atrocity determination of its own.

Why Atrocity Determinations Matter

There are many reasons the US should pursue an atrocity determination for North Korea. First, the COI sparked several concrete responses intended to improve the lives of ordinary North Koreans and

hold the regime accountable. Second, there is ample evidence in the US context that issuing atrocity determinations generates political momentum and outcomes that better assist survivors of atrocity crimes. Third, US policy toward North Korea is stronger when it pursues progress on security and human rights issues in tandem. Doing so not only delivers better results for the North Korean people but also advances US interests as well.

Responses to the COI

The COI undoubtedly spurred policy responses around the globe. Policymakers began to recognize the need to respond to the regime's abuses and to provide support to the North Korean people.

The U.S. response—especially in the initial aftermath of the report's release—was significant. Just two years afterward, the Obama administration was the first to issue sanctions against North Korea on human rights grounds. In June 2016, the U.S. Treasury Department sanctioned Kim Jong Un and several Korean Workers' Party cadres and entities for their involvement in carrying out human rights violations.²² This move sent a powerful message that the U.S. would hold even the top leader accountable for human rights violations.

Congress also expanded U.S. sanctions authorities through the North Korea Sanctions and Policy Enhancement Act (NKSPEA) of 2016.²³ The act was truly the first of its kind—tying any future sanctions relief not only to forward progress on denuclearization but also to improvements in human rights. The legislation rightly recognized the interconnectedness of security and human rights challenges in North Korea and authorized the executive branch to use the strongest targeted sanctions against the regime. In addition to NKSPEA, Congress passed landmark legislation through the Countering America's Adversaries Through Sanctions Act (CAATSA).²⁴ CAATSA created a rebuttable presumption that all goods produced wholly or partially with North Korean labor were produced with forced labor and were therefore barred from entry into US markets.²⁵ Legislators designed the rebuttable presumption to deny the regime the ability to profit from the exploitation of its citizens domestically and abroad—or at the very least—to ensure that Americans were not inadvertently supporting the regime's use of forced labor through the consumption of forced-labor-produced goods.

While the U.S. has taken many other actions since the COI, these were among the most notable and resulted in the most significant policy outcomes.

There remain several areas of U.S. policy toward North Korea that need improvement. One area relates to the resettlement of North Korean refugees. While North Korean refugees receive automatic South Korean citizenships, they may still resettle in the United States. Resettlement numbers are extremely low; a total of around 220 North Korean refugees have resettled in the U.S. as of 2021.²⁶ The low number is in part due to the slow process for resettlement in the U.S., especially in contrast to immediate resettlement in South Korea. The U.S. should consider ways it could expedite resettlement for persecuted North Koreans.

The COI didn't just inspire action only in the U.S.; it also provided the political will necessary to create an infrastructure in South Korea that prioritizes responses to human rights violations in North Korea. In 2016, two years after the COI, South Korea introduced its own version of the North Korean Human Rights Act, which created a South Korean ambassador role for international cooperation on North Korean human rights as well as the legal basis for the UN to establish an office in Seoul to collect evidence and prepare transitional justice.²⁷ Since that time, South Korea has appointed two ambassadors to prioritize North Korean human rights: former Ambassador Jung-Hoon Lee and current Ambassador Shin-wha Lee.²⁸ Additionally, it has made modest commitments to advance North Korean human rights issues trilaterally with Japan and the United States.²⁹

The UN remains invested in North Korean human rights issues. In the immediate aftermath of the COI, the UN Security Council discussed North Korean human rights for the first time.³⁰ The establishment of the UN office in Seoul was another important move, especially for transitional justice preparation. In the intervening time, the UN also undertook efforts to combat the regime's use of North Korean forced laborers abroad by issuing Resolution 2397, which called on all countries to discontinue their practice of hiring these laborers and return them to North Korea by December 2019.³¹ If all member states had enforced it, the resolution would have been very powerful. Unfortunately, the primary perpetrators of this practice, China and Russia, continue to employ North Korean forced laborers. At its height, as many as 40 countries around the globe employed North Korean forced laborers, although many of them discontinued the practice after the UN called for the practice to end.³²

While more certainly could have been done, there is no doubt that the COI and its findings inspired actions to support the North Korean people and hold the regime accountable.

Successes of Previous Atrocity Determinations

Atrocity determinations are an incredibly powerful tool at the U.S. government's disposal. The strength of an atrocity determination lies in its ability to spur follow-on action and to usher in sustained attention to severe situations in which some of the worst human rights violations either have occurred or continue to occur. Atrocity determinations are also powerful because they transcend administrations—whether Republican or Democrat presidents issue them, administrations affirm the determinations of previous administrations and, in the past have taken actions to ensure accountability of perpetrators and support for survivors of atrocity crimes. The determinations' bipartisan appeal spurs action not only by the executive branch but also by Congress. Finally, their power derives from the fact that a determination properly labels a situation and helps the U.S. government and governments around the globe identify the proper tools to respond to severe atrocities.

The Power of Recent Atrocity Determinations

ISIS Atrocity Determination

In 2016, then Secretary of State John Kerry issued an atrocity determination that the Islamic State of Iraq and Syria (ISIS) had committed genocide, crimes against humanity, and ethnic cleansing against Yezidis, Christians, and Shia Muslims.³³ The determination came after Congress passed a budget measure requiring Secretary Kerry to say whether ISIS was committing atrocity crimes by March 17, 2016—the date of the official determination.³⁴ Just prior to the determination, Congress unanimously passed its own resolution saying that it believed ISIS had committed genocide, war crimes, and crimes against humanity.³⁵

The ISIS atrocity determination demonstrated that sometimes atrocity determinations do not happen without congressional action—even though it is at the discretion of the secretary of state to issue an atrocity determination at any time. The unanimous passage of the Senate resolution was especially powerful as it demonstrated a bipartisan commitment to the issue.

That bipartisanship carried forward into future action. Despite the issuance of the determination during the Obama administration, Congress passed legislation creating a fund to support survivors of ISIS genocide in 2018.³⁶ During the Trump administration, the then-U.S. Agency for

International Development distributed over \$389 million to communities affected by and recovering from ISIS genocide under the Genocide Recovery and Persecution Response initiative.³⁷

Uyghur Atrocity Determination

The atrocity determination that Secretary Kerry issued regarding ISIS is hardly the only success story. In the final days of the Trump administration's first term, then-Secretary of State Mike Pompeo issued an atrocity determination for Uyghur Muslims; the determination clearly states that Uyghurs face ongoing genocide and crimes against humanity.³⁸ In time, the Biden administration affirmed the determination.³⁹

The atrocity determination for Uyghurs sparked congressional action, particularly in the form of the Uyghur Forced Labor Prevention Act (UFLPA) that Congress passed in December 2021 and U.S. Customs and Border Protection implemented in June 2022.⁴⁰ The UFLPA created a rebuttable presumption that all goods produced with Uyghur labor are produced with forced labor and are therefore banned from entry into the U.S.⁴¹ Although the law has had its hiccups, it is going a long way toward curtailing Uyghur forced labor, and in particular it has prevented U.S. businesses and consumers from inadvertently supporting Uyghur forced labor. In the way of the atrocity determination, the executive branch has issued additional sanctions in response to the atrocity crimes.⁴²

Importantly, the atrocity determination for Uyghurs also sparked an international response, including atrocity determinations by other governments and follow-on sanctions. Canada agreed to admit approximately 10,000 Uyghur refugees,⁴³ and the European Union, the United Kingdom, and Japan are considering possible legislation regarding forced labor.

Rohingya Atrocity Determination

Finally, in March 2022, the Biden administration issued an atrocity determination for Rohingya Muslims in Burma stating that the Burmese military had carried out ongoing genocide and crimes against humanity that had targeted the Rohingya community.⁴⁴ Since the atrocity determination, Congress has passed the BURMA Act to strengthen U.S. sanctions efforts against the Burmese military, and the executive branch has issued sanctions against key institutions bankrolling the Burmese military junta, including the Myanmar Oil and Gas Enterprise.⁴⁵

While none of these atrocity determinations ended the atrocities, they did help spark follow-on actions that ensured the U.S. and other governments responded to these severe crimes. They pushed policy in a direction that better supports the people whom the atrocities targeted. And they prompted measures for accountability and action against perpetrators.

Incorporating Human Rights into a Broader U.S. Strategy Toward North Korea

As Trump takes office and the administration takes shape, the administration will have to decide what role North Korea will play in their overarching policies toward the Indo-Pacific. During the Biden presidency, attention toward North Korea—whether on security or human rights—waned substantially. This created openings for the regime to support interests antithetical to the U.S., like North Korea's material support for Russia's war against Ukraine, and allowed the regime's continued exploitation of its people in a variety of forms, especially post-pandemic. Given both of these realities, it will be nearly impossible for the incoming administration to ignore the threat posed by the regime.

Approximately six months into the administration, little in the way of a concrete strategy toward North Korea has materialized. As part of the administration's efforts to restructure the U.S. Department of State, funding for North Korean human rights has been caught in the crosshairs. Proposed cuts to grants originally disseminated by the Bureau of Democracy, Human Rights and Labor, if carried out, risk crippling civil society devoted to the cause. Furthermore, it is unclear whether Trump will restart diplomatic engagement with the Kim regime. And if past is prologue, human rights featured only in the lead-up to negotiations with Pyongyang and few efforts were made during diplomacy to ameliorate the plight of the North Korean people. A case should be strongly made that a second Trump term should incorporate human rights into over-arching strategy toward North Korea. In fact, there is a real need to create diplomatic leverage with the regime and prioritizing human rights in policies toward North Korea could do just that.

The Trump administration is no stranger to atrocity determinations. In the last days of Trump's first term, then-Secretary of State Mike Pompeo issued an atrocity determination for Uyghur Muslims—a powerful move that was recognized and continued by the Biden administration. Assuming that an atrocity determination for North Korea is not issued in the final days of the Biden administration, the Trump administration could issue an

atrocities determination for the North Korean people as an opening gambit, signaling the priority the new administration places on prioritizing the rights of the North Korean people and its seriousness about taking actions to respond. Given the multi-faceted threat posed by the regime to U.S. interests, a next administration must think critically about the tools it deploys in its toolkit to address the North Korean regime.

North Korea remains an intractable crisis for Washington. Concrete forward progress on either denuclearization or human rights remains largely elusive. The U.S. government has responded to both the security and human rights concerns on separate tracks without pursuing both goals in tandem. Foundational to this strategy is a misguided belief that raising human rights issues with Pyongyang will derail forward progress on denuclearization.⁴⁶ While the COI spurred congressional efforts to tie human rights to security outcomes, such as the NKSPEA sanctions, the executive branch has done very little to pursue the issues concurrently.

A strategy that pursues progress on human rights in North Korea only after making forward movement on security has impeded progress on both fronts.⁴⁷ And it fails to recognize a key reality: security and human rights issues are deeply connected. This is true for three reasons. First, the regime relies on repression to maintain its grip on power. Second, the regime profits from exploiting the North Korean people. Third, the regime abuses its people to improve its weapons programs. The following section elaborates.

- **The regime relies on human rights violations and repression to maintain power.** It is axiomatic that the regime in Pyongyang uses its nuclear weapons to maintain its grip on power. But it is also the case that without an acquiescent population—kept acquiescent by threats of interning three generations of a family for alleged political crimes, public executions, brutal purges of elites, enforced food insecurity, and a host of other crimes the regime commits—the regime could not maintain its grip on power. One Center for Strategic and International Studies report that surveyed 50 North Korean refugees found that support for the regime’s weapons programs was relatively low; more than 70 percent said the nuclear weapons program was not a source of pride for their country.⁴⁸ It is in the interest of the U.S. to empower the North Korean people to express their dissent. This is impossible so long as the regime continues its repression. Without

an acquiescent population, North Korea might not be able to continue its missile and nuclear weapons programs.

- **The regime profits from exploiting the North Korean people.** Some might argue that those profits are indispensable—both for maintaining the comforts of Pyongyang’s elite and for expanding its weapons program. In a speech at Hudson Institute, South Korean Ambassador for International Cooperation on North Korean Human Rights Shin-wha Lee said the regime profits more from forced labor than from any other illicit activity besides cyber-hacking.⁴⁹ Analysts once estimated that profits from forced labor ranged between \$120 million and \$250 million annually.⁵⁰ Although several countries have discontinued their practice of employing North Korean forced laborers, the US Department of State estimated in its *2023 Trafficking in Persons Report* that the regime makes hundreds of millions annually in confiscated wages from North Korean forced laborers abroad.⁵¹ The major violators—China and Russia—still hire North Korean laborers today. Analysts estimate that China alone employed between 20,000 and 100,000 North Korean forced laborers as of 2022.⁵²

In addition to profiting from forced labor, the regime also profits from the redistribution of wealth away from the North Korean people and toward the regime and its weapons programs. The World Food Programme (WFP) estimates that at least 40 percent of North Korea’s population remains undernourished; as such, the WFP provides food assistance to the people.⁵³ The most recent requests (somewhat diminished due to difficulties in accessing North Korea during the pandemic) totaled a little under \$215 million in disbursements from January 2019 to December 2023.⁵⁴ These requests pale in comparison to State Department estimates of the regime’s expenditures on its defense programs, which topped \$4 billion in 2019 alone.⁵⁵ To further illustrate the extent of the regime’s spending on weapons programs, analysts estimated its missile launches in 2022 cost more than \$560 million.⁵⁶ The regime’s spending on luxury goods and facilities is also astronomical—often topping hundreds of millions or even \$1 billion annually—all lining the private coffers of Kim Jong-un and his party officials.⁵⁷ Although the regime could feed

its people, it simply chooses not to, a finding consistent with the COI's assertion that the regime engages in policies of enforced starvation.⁵⁸

- **The regime may abuse its people to improve its weapons programs.** Last, but certainly not least, horrifying reports have emerged over the years of the regime allegedly using vulnerable populations to test chemical and biological weapons.⁵⁹ Defector testimonies and some documentation have been provided to support these claims, although they are difficult to verify, as the COI noted. The use of human subjects is one of the clearer linkages between Pyongyang's brutality and the lengths it will go to refine its weapons capabilities.

Additionally, some reports suggest there is substantial evidence that the regime uses political prison camp labor to develop its weapons programs.⁶⁰ The Committee for Human Rights in North Korea conducted an in-depth analysis of the proximity between Camp No. 16 and the Punggye-ri nuclear test site, demonstrating possible linkages where the regime may force prison camp populations to support weapons development. Studies have verified similar instances of factories adjacent to or near camps in Xinjiang, China, as sites where forced labor takes place, for example.⁶¹

Given all of these reasons, it is shortsighted to separate security and human rights concerns when crafting US policy toward North Korea. The regime doesn't do so in its own policies, and if the goal is to diminish the regime's strength, neglecting human rights violations leaves real leverage on the table.

Opportunities and Challenges for a Next Administration

It is well past time for the U.S. to undertake a more comprehensive approach to North Korea—one that recognizes the value of addressing human rights and security issues in tandem. The UN's forthcoming update to the COI will refocus attention to the issue of North Korean human rights and the U.S. should think critically about its response to the update even before the update is published. There is an abiding need for renewed attention to the plight of the suffering North Korean people. An effective

way to do this is for the U.S. to issue an atrocity determination on the Kim regime's rights violations and pursue a multipronged approach to elevating human rights considerations.

Given the gravity of the situation, the U.S. and the international community should consider the following policy steps to address these challenges:

- 1. Issue an atrocity determination on whether the Kim regime has committed genocide or crimes against humanity.**

The Department of State should establish a sound evidentiary basis prior to issuing the determination. Ideally, the U.S. government should release a supporting report to justify its findings. Such an investigation should look at the evidentiary basis for both genocide and crimes against humanity, with a special eye toward whether North Korean Christians face these two atrocities. The secretary of state can issue an atrocity determination at their discretion (with or without a detailed report). Congressional action has sometimes been necessary—as was the case with the atrocity determination the Obama administration issued against ISIS. Both routes are appropriate to obtain a determination, but an act by the administration to issue a determination without congressional prodding would demonstrate a renewed commitment by the U.S. executive branch to elevate efforts to remediate human rights abuses in North Korea.

- 2. Ideally, Washington and Seoul could issue a joint atrocity determination.**

Seoul should, likewise, consider issuing an atrocity determination independently of the U.S. Such a determination coming from South Korean leadership as a reflection of the will of the South Korean people would go a long way toward sending the signal that the people in the south care deeply for the people in the north and want to seek remedies for their continued suffering. Acting in concert with the U.S. would demonstrate the alliance's shared commitment to addressing not only the security threat posed by the regime, but also the human rights abuses perpetrated by it.

3. Press North Korea to grant access to a humanitarian actor, such as the International Committee of the Red Cross, the World Food Programme, or a relevant UN agency.

The North Korean government has long denied such actors access to political prison camps, impeding their ability to serve the country's most vulnerable populations. Permitting access should be considered a precondition for future negotiations and a gesture of good faith signaling North Korea's seriousness about broader diplomatic engagement.

4. Request the release of children and the elderly from prison camps.

The U.S. government should request the release of all children and elderly persons currently held in political prison camps.⁶² Children are among the most vulnerable populations in North Korea, especially those in political prison camps or orphaned *kotjebi* (homeless) children. At a minimum, international agencies should request access to prison camps to provide humanitarian assistance to children and families. As North Korean human rights expert Roberta Cohen aptly points out, children pose no threat to the state and are in prison camps due to guilt by association.⁶³

5. Pursue closure of political prison camps as an element of US strategy toward North Korea.

Highlighting political prison camps serves U.S. interests on the nuclear front, as the threat of imprisonment has helped create the acquiescent population that enables continued missile and nuclear weapons development. The US should consider calling for the closure of one or more political prison camps as an incremental step toward the eventual closure of all camps. North Korea will not dismantle its nuclear program overnight, and the US should not expect it to eliminate the political prison camp system overnight either. Critically, any promise of closure needs to involve verification that officials did not merely transfer prisoners from one camp to another, as was the case with China's reeducation-through-labor facilities.⁶⁴

6. Issue targeted sanctions against individuals and entities responsible for carrying out crimes against humanity or genocide in North Korea.

The US should use the full scope of its preexisting authorities under Global Magnitsky Act, the Specially Designated Nationals List, NKSPEA, and other authorities to cut off the regime from resources that continue to allow its leaders to line their private coffers. Specifically, the US government should identify individuals who oversee the camp infrastructure, carry out public executions, perpetrate persecution and atrocity crimes against Christians, and facilitate North Korean forced labor abroad.

7. Congress should prioritize legislative efforts to aid the North Korean people.

The North Korean Human Rights Act, the landmark legislation that created the apparatus for prioritizing North Korean human rights issues in US policy, lapsed 18 months ago. Reauthorizing the Act would provide a sound basis for continued US efforts to provide relief to the North Korean people. Critically, renewing the Act would reauthorize the position of the US ambassador for North Korean human rights, a post currently held by Ambassador Julie Turner. Her efforts and the efforts of future ambassadors are critical for maintaining a spotlight on these important issues.

8. The new 2024 UN Human Rights Council resolution calling for an update to the COI report should investigate whether genocide is happening in North Korea.

On April 4, 2024, the UN Human Rights Council adopted a resolution requesting an update to the COI report documenting human rights violations that have occurred since the COI's release in 2014.⁶⁵ The new report should go beyond the original scope to determine whether other atrocity crimes, including genocide, are occurring in North Korea. Such findings could help build

momentum to hold the Kim regime accountable and secure relief for survivors.

9. Enhance diplomatic engagement to enforce UN provisions requiring member states to discontinue their use of North Korean forced laborers.

As part of a broader effort to combat trafficking and forced labor, the U.S. should consider how it can hold countries accountable for hiring North Korean forced laborers, whether through sanctions, secondary sanctions, or otherwise. Although the U.S. already has its rebuttable presumption in place, other countries do not. U.S. diplomacy abroad should convince other countries to adopt similar measures curtailing the regime's profits from North Korean forced labor-produced goods. Furthermore, since the UN's December 2019 deadline for the return of North Korean laborers came and went, the U.S. has made little diplomatic effort to ensure the return of North Korean laborers. Previously, the U.S. undertook substantial diplomatic efforts to convince countries to return their workers so that the regime would not continue to profit from their exploitation abroad. Washington should resume those diplomatic efforts.

10. Extend Priority-2 (P-2) refugee status to North Koreans.

Given the severity of conditions inside North Korea, there can be no doubt that the North Korean people qualify as a group of "special concern."⁶⁶ If Washington were to grant P-2 refugee status to North Koreans, the US could expedite their refugee status and enable applicants to bypass the need for referral from the UN Commissioner for Refugees, non-governmental organizations, or embassies. A key benefit of P-2 is that applicants can apply from within or outside of their country of origin. For most North Koreans, this would mean applying for P-2 from South Korea or countries in Southeast Asia. Not every North Korean wants to resettle in South Korea (although many do); they should know that they have an expedited, permanent option to resettle in the U.S.

11. Improve efforts to disseminate information into North Korea.

Empowering the North Korean people is a critical element of any strategy to address the country's problems. From the North Korean Human Rights Act to the Otto Warmbier Countering North Korean Censorship and Surveillance Act, the US has new resources for improving efforts to promote information access in North Korea. The 2023 National Defense Authorization Act also allocated \$40 million to Voice of America and Radio Free Asia to expand broadcasts and outreach into North Korea.⁶⁷ Radio Free Asia has since been targeted by the Trump administration, so the fate of this funding hangs in the balance. Radio Free Asia's broadcasts into North Korea ended in April 2025 and Seoul-based staff were little go in the summer of that same year. A decision to discontinue efforts to promote information access will have substantial consequences for the North Korean people, as well as for policymakers in D.C. and Seoul. Washington should continue to use traditional tools, such as radio, while also leveraging advanced, technology-driven platforms. More information empowers the North Korean people with the knowledge they need to decide whether to flee the regime or facilitate change from within.

Conclusion

As the Trump administration crafts U.S. policy toward North Korea, it cannot neglect policies designed to tackle the Kim regime's ongoing human rights violations. The Trump administration has signaled a shift away from U.S. promotion of democracy and human rights globally. If carried out, this approach is strategically shortsighted and ignores the critical role that human rights violations play in securing power for authoritarian regimes like North Korea. It's not too late to shift course, however. To recenter U.S. and global attention on North Korea, the Trump administration should use momentum generated from the UN's forthcoming update to the COI to issue an atrocity determination, strengthen rather than weaken efforts to promote information access, and work with South Korea to ameliorate the suffering of the North Korean people.

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