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Will the Security Council Now Act on North Korea?

The international community takes a modest step forward in responding to North Korea's human rights situation.

By Jared Genser

In a historic vote of [11-2-2](#), the UN Security Council has voted to place the human-rights situation in North Korea on its permanent agenda, after being briefed by Assistant Secretary-Generals, for Political Affairs, Tayé-Brook Zerihoun, and for Human Rights, Ivan Simonovic. Such procedural votes are not subject to the P5 veto. The vote came just days after the UN General Assembly voted 116-20-33 to urge the Security Council to take up the case of North Korea, refer the situation to the International Criminal Court, and consider imposing targeted sanctions against those individuals identified as being responsible for the commission of crimes against humanity by a UN Commission of Inquiry which examined mass atrocity crimes there.

Yet despite what appears to be a modest step forward, advocates for human rights in North Korea have a reason to celebrate. As one of those who has worked on human-rights issues in North Korea for years, it is an extraordinary accomplishment, and is the culmination of 15 years of efforts by victims and civil society to get the world to take seriously the atrocities being committed against the people of North Korea by its government. In the wake of such progress, however, the most salient question is this: What next?

Before contemplating next steps, it is important to understand the progress that has been made and what it took to get here. In 1945, the Soviet Union installed former guerilla leader Kim Il-sung as the first president of the Democratic People's Republic of Korea, but little was known of the internal affairs of the Hermit Kingdom for decades. When the country experienced a devastating famine in the

late 1990s – with an estimated death toll of more than a million people, the international community realized the dangerous implications of its limited understanding and limited access to North Korea. Later, it was discovered that the roots of the famine were the dysfunctional political structures associated with a totalitarian state – not unlike the famines of the 1930s in the Soviet Union and 1958 in China.

Back then, it was nearly impossible to understand the average life of a North Korean citizen, as there were very few defectors to detail to the world their former lives. In the past two decades, however, the number of defectors living in exile has grown from a few dozen in 2000 to some [25,000 in 2014](#). The accounts from these lucky few to have found freedom are sobering. Defectors' former lives mimic a dystopian novel; stories of being forced to watch public executions and having friends and relatives sent to gulag-style labor camps. Today, it is estimated that between [80,000-120,000 prisoners](#) remain in these labor camps.

Other defectors detailed widespread starvation, even in the years after the famine, and many criticize the North Korean government's inability to equip its citizens with means to deal with food insecurity – a damning critique of its totalitarian politics. Over the years reports coming from both inside and outside the country also found that the North Korean government had engaged in widespread [kidnapping](#) of foreign nationals, especially Korean and Japanese citizens, and [systemically eliminating its population of people with disabilities](#).

Back in 2006, when I was a lawyer at the global law firm DLA Piper, I led a team – commissioned by former Czech Republic President Václav Havel, Nobel Peace Laureate Elie Wiesel, and former Norwegian Prime Minister Kjell Magne Bondevik, and working in partnership with Human Rights in North Korea – to create [a report](#) that applied the then new doctrine of “responsibility to protect” to the situation in North Korea. We concluded that the government had committed crimes against humanity against its own population. We urged the UN Security Council to place North Korea on its permanent agenda and to address this situation with urgency. Years later, the Coalition to Stop Crimes Against Humanity in North Korea, to which I served as pro-bono counsel, successfully advocated for the creation of a UN Commission of Inquiry on the human-rights situation in North Korea to investigate these mass atrocity crimes.

The Commission of Inquiry on Human Rights in North Korea, led by former Australian High Court Justice Michael Kirby and including Marzuki Darusman, UN Special Rapporteur on Human Rights in North Korea, and Sonja Biserko, did

an extraordinary job reviewing and analyzing the testimonies of over 300 witnesses in six countries. In February 2014, a report was released that [described](#) “unspeakable atrocities” in North Korea. The Commission concluded that North Korea had committed crimes against humanity against its own population and urged the totality of the UN system to protect the North Korean population. It also specifically urged the North Korean regime be referred by the UN Security Council to the International Criminal Court for investigation.

The vote of December 22 is a critical step forward, yet at the same time, despite many years of effort, the average North Korean still experiences a plight not unlike that of prior decades. The international community thus faces the difficulty of achieving two competing goals: ameliorating the ongoing suffering of the North Korean population and holding the leaders of North Korea to account for current and historic mass atrocities.

Achieving these two goals will certainly be challenging, but not impossible. And while the Security Council is merely one channel to secure change in North Korea, it is the only UN organ with the capacity to compel action by member states. The recent vote can be a springboard for further action within the Council. Now that North Korea has been placed on the Security Council’s permanent agenda, it must be fully briefed and then decide what to do next.

A strong potential Chapter VII resolution would be uninhibited in demanding justice in North Korea. It would first outline the major reasons for Security Council’s intervention and then call on the Government to allow open access to all parts of the country for humanitarian aid organizations; permit the Special Rapporteur on Human Rights in North Korea to enter the country; release all political prisoners; refer the situation to International Criminal Court to investigate allegations of crimes against humanity; and ask the Secretary General to work proactively to engage with North Korea.

While these ambitious demands may well provoke a double veto from China and Russia, the international community must persist in calling attention to the plight of the North Korean people. In light of the damning Commission of Inquiry report and the majority of the countries of the world demanding action, it high time for those who stand in the way of action in North Korea to be highlighted and held to account for this decision. While it is of course well worth exploring if less forceful action could be taken, such as adoption a presidential statement or non-binding resolution, there is little indication so far to suggest any action would be acceptable to Beijing.

But even if the resolution is vetoed, the international community must not be dissuaded in achieving these critical goals. Now that the situation is on the permanent agenda, members of the Council will be able to request periodic briefings on the human-rights situation in the country, enable ongoing opportunities to press the issue especially with China. In addition, various United Nations agencies that have engaged on the situation need to expand their efforts, including the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees, and the World Food Programme, among others. And UN members must also step up and fund these operations fully, which historically has been [difficult to achieve](#).

There are no easy solutions to what is more than a 60-year conflict nor will it be easy from the outside to demand the North Korean government respect the fundamental human-rights on its own people. But North Korea's [charm offensive](#), which was launched to counteract this strong push on its human rights record, demonstrates that pressure is opening doors and not closing them. Regardless, we have no choice but to persevere and to be relentless in addressing one of the worst human-rights situations in the world today. If we try hard, we still may not prevail, but the world cannot remain silent or indifferent in light of such profound suffering.

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