



Spring 2024 Comment

Russia and China's Complicity in North Korea's Human Rights Violations: Measures the U.S. Should Take to Intervene and Mitigate the Abuse

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RUSSIA AND CHINA'S COMPLICITY IN NORTH KOREA'S HUMAN RIGHTS VIOLATIONS: MEASURES THE U.S. SHOULD TAKE TO INTERVENE AND MITIGATE THE ABUSE

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The complicity of Russia and China in North Korea's (DPRK) human rights issues is incredibly concerning not only for the safety and well-being of North Korean citizens, but for world-wide security. Both China and Russia facilitate the DPRK human rights abuses by trading with North Korea irrespective of international sanctions, enabling human trafficking of North Koreans who have fled to China, and involuntarily repatriating refugees from the DPRK. Awareness of the DPRK human rights issues and Russia and China's complicity, as well as active intervention, should be at the forefront of the U.S. human rights policy in order for the nation to successfully mitigate the systematic abuse. In addition to taking numerous policy measures, the U.S. must: (1) integrate human rights into clarified DPRK policy; (2) improve the implementation of the Countering America's Adversaries Through Sanctions Act (CAATSA); (3) make a connection between the CAATSA and the Uyghur Forced Labor Prevention Act (UFLPA); (4) take advantage of the North Korea Sanctions and Policy Enhancement Act (NKSPEA) of 2016, and (5) ensure the proper execution of the North Korea Human Rights Act (NKHRA). If the dire human rights situation in the DPRK is not improved and the U.S. does not take the aforementioned measures, North Korean's suffering will be unnecessarily prolonged and the DPRK totalitarian regime may achieve uninhibited control and power, thereby hindering progress toward a solution to world-wide security issues.

I. Introduction

Although the Universal Declaration of Human Rights pronounces that all humans are "born free and equal in dignity and rights,"¹ those born under the self-serving regime in the Democratic People's Republic of Korea (DPRK, a.k.a. North Korea), do not currently possess these basic inherent rights.² The infringement on the human rights of citizens of the DPRK, such as their freedoms of expression, thought, and religion, is recognized and inquired into by the United Nations (U.N.)³, as can be seen in the 2014 U.N. Report regarding human rights in North Korea.⁴ But, the

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¹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, Art. 1 (Dec. 10, 1948), [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_217\(III\).pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_217(III).pdf) [https://perma.cc/S59N-492L].

² Senior U.S. Official, Remarks During a Background Briefing on a U.S.-Hosted Arria-Formula Meeting on the Human Rights Situation in the DPRK, 1, 3 (Mar. 16, 2023), <https://usun.usmission.gov/remarks-by-a-senior-u-s-official-during-a-background-briefing-on-a-u-s-hosted-arria-formula-meeting-on-the-human-rights-situation-in-the-dprk/> [https://perma.cc/RW7N-TVM6].

³ Victor Cha & Katrin Fraser Katz, *How China and Russia Facilitate North Korea's Human Rights Abuses*, GEORGE W. BUSH PRESIDENTIAL CTR., 1, 1 (Sept. 13, 2023), <https://www.bushcenter.org/publications/how-china-and-russia-facilitate-north-koreas-human-rights-abuses> (discussing the various ways the DPRK violates the inherent human rights of its citizens, as well as "the roles played by authoritarian leaders in Beijing and Moscow in facilitating North Korea's human rights violations.") [https://perma.cc/76SZ-R7F7].

⁴ See generally Human Rights Council, *Rep. of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea*, U.N. Doc. A/HRC/25/63 (Feb. 7, 2014) [hereinafter COI Report],

involvement of the Russian and Chinese governments in North Korea's human rights violations is less commonly explored.

Russia and China's involvement in the DPRK human rights abuses have been evidenced through their facilitative actions like continuation of trade with North Korea irrespective of international sanctions, the enabling of human trafficking of North Koreans who have fled to China, and the involuntary repatriation of refugees from the DPRK.⁵ As opposed to the country's main concern and focus being on its citizens welfare, the capital city of Pyongyang chooses instead to prioritize the allocation of resources toward enhancing the power of its military with missiles and nuclear weapons.⁶ If the human rights situation in the DPRK is not improved and the U.S. allows Russia and China's perpetuation of the issues to continue, no meaningful solution to world-wide security issues can be in sight— if a regime places value on military strength above the well-being, health, and happiness of its citizens, it will be much more willing to use force against other countries around the world.⁷

In order to advance United States (U.S.) human rights policy toward North Korea to assist in bringing peace and safety to its citizens, it is imperative that the U.S. give a reinvigorated focus to the human rights abuse situation through numerous practical measures, such as: (1) integrating human rights into clarified DPRK policy to force the regime to improve its human rights record⁸; (2) improving the implementation of the Countering America's Adversaries Through Sanctions Act (CAATSA)⁹; (3) making a connection between the CAATSA and the Uyghur Forced Labor Prevention Act (UFLPA)¹⁰; (4) taking advantage of the North Korea Sanctions and Policy Enhancement Act (NKSPEA) of 2016 in order to identify Chinese and Russian individuals and organizations participating in the violations of human rights,¹¹ and (5) ensuring the proper execution of the North Korea Human Rights Act (NKHRA).¹²

The CAATSA “is a forceful, bipartisan statement that the US Congress continues to view robust economic sanctions as a cornerstone of US foreign policy, . . . [and] the North Korea section in particular includes additional secondary sanctions that create new risk areas for non-US companies.”¹³ The UFLPA is quite similar to the CAATSA but is narrower and aimed at protecting the citizens of the Uyghur region of China from forced labor human rights violations. The

https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_25_63.pdf, [https://perma.cc/5HXP-KAMP].

⁵ Cha & Katz, *supra* note 3 at 1.

⁶ Gi-Wook Shin, Commentary, “*What Did You Do as We Were Dying?*”: *The Urgency of Addressing North Korean Human Rights*, SHORENSTEIN APARC NEWS, 1, 3 (2023), https://fsi9-prod.s3.us-west-1.amazonaws.com/s3fs-public/2023-02/Shindonga-NK-Human-Rights-January_2023.pdf (discussing the fact that “[i]n its single-minded pursuit of nuclear weapons and ballistic missiles, the North Korean regime has shown utter disregard for the human rights of its population.”) [https://perma.cc/R6PC-Q9Q6].

⁷ *Id.* at 3.

⁸ Cha & Katz, *supra* note 3 at 11.

⁹ *Id.* at 11-12.

¹⁰ *Id.* at 12.

¹¹ *Id.* at 13.

¹² *Ten Practical and Specific Measures For Advancing Human Rights in United States Policy Toward North Korea*, THE COMM. FOR HUM. RTS. IN N. KOR., 1, 2, <https://www.hrnk.org/publications/policy-recommendations.php> (last visited Jan. 15, 2024) [https://perma.cc/R4GC-ZAS7].

¹³ Jeydel et al., *A Detailed Look at the Countering America's Adversaries Through Sanctions Act*, STEPTOE, 1, 1 (Aug. 10, 2017), <https://www.steptoel.com/en/news-publications/a-detailed-look-at-the-countering-america-s-adversaries-through-sanctions-act.html> [https://perma.cc/4J9L-U7KG].

NKSPEA is legislation which makes it “[a] requirement for the President to sanction entities found to have contributed to North Korea’s WMD [(weapons of mass destruction)] program, arms trade, human rights abuses, or other illicit activities.”¹⁴ Finally, the NKHRA, originally enacted in 2004 and reauthorized for a fourth time in 2022, “ensure[s] the U.S. continues to promote basic freedoms of speech, press and religion in North Korea for the next five years.”¹⁵

Additionally, policy measures the U.S. should take to further its intervention and mitigation in the North Korean human rights issues, as well as Russia and China’s complicity in its violations, include: 1) teaming up with technology companies to identify workers from North Korea that are pretending to be Chinese contractors; 2) recommending the human rights abuse situation in North Korea to be everlasting topic of discussion by the U.N. Security Council; 3) protecting refugees fleeing North Korea as a result of its human rights abuses by working with South Korea to create an asylum program; and 4) taking advantage of the depletion of the Kim regime’s surveillance of cellphone usage/access to outside information and come up with ways in which to get helpful information into North Korea.

Consciousness of the human rights issues in the DPRK and how Russia and China are complicit in such issues, as well as active intervention, must be at the forefront of the U.S. human rights policy if the nation is going to successfully partake in mitigation of the abuses of North Koreans’ inherent rights as human beings. Delayed action or failure by the U.S. to take the aforementioned measures would prolong the suffering of North Korean citizens as well as enable the DPRK totalitarian regime to achieve uninhibited control and power, thereby hindering progress toward a solution to world-wide security issues.

II. Background

Since 1948, North Korea has been ruled by the Kim family.¹⁶ As a result of Kim Jong Il’s death in 2011,¹⁷ his son, Kim Jung Un, took his place and became—and still remains—the authoritarian leader of “one of the most repressive autocratic states today.”¹⁸ For more than fifty years, the DPRK has been known as “the poster child for rogue states” due to its antagonistic actions such as “pursu[ing] a nuclear weapons program, construct[ing] and export[ing] ballistic missiles, sponsor[ing] terrorist acts, allegedly participat[ing] in the drug trade and counterfeiting, and

¹⁴ *Summary of the North Korea Sanctions and Policy Enhancement Act of 2016*, THE NAT’L COMM. ON N. KOR. (NCNK), 1, 1 (Feb. 18, 2016), https://www.ncnk.org/sites/default/files/content/resources/publications/HR757_Summary_Final.pdf [<https://perma.cc/75HK-Q9D5>].

¹⁵ Joeun Lee & Christy Lee, *US Senators Introduce Bill to Extend Human Rights Work for North Koreans*, VOICE OF AM. (VOA) NEWS, 1, 1 (May 16, 2022), <https://www.voanews.com/a/us-senators-introduce-bill-to-extend-human-rights-work-for-north-koreans-/6576454.html> [<https://perma.cc/66U4-QVVQ>].

¹⁶ Eleanor Albert, *North Korea’s Power Structure*, COUNCIL ON FOREIGN RELATIONS, 1, 1 (June 17, 2020), <https://www.cfr.org/backgrounder/north-koreas-power-structure> [<https://perma.cc/6DA4-NXEB>].

¹⁷ U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., 2022 Country Reports on Human Rights Practices: North Korea, 1, 1, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/north-korea/> (last visited Jan. 15, 2024) [<https://perma.cc/B7GE-7VK6>].

¹⁸ *North Korea’s Human Rights Violations: The Cost of Violence*, Vision of Human., 1, 1, <https://www.visionofhumanity.org/cost-violence-north-korea/> (last visited Jan. 15, 2024) (discussing human rights violations in North Korea, its ranking on the Positive Peace Index, and how the country could greatly benefit from greater Positive Peace measures) [<https://perma.cc/5G6Z-RHT6>].

pos[ing] a continuous threat to U.S. allies and interests, resulting in the stationing of U.S. forces in South Korea and Japan.”¹⁹ Recently, a multitude of human rights violation issues have been reported in the DPRK, comprising of reports of violations such as “unlawful or arbitrary killings by the government; forced disappearances; torture and cruel, inhuman, and degrading treatment and punishment by government authorities[,] and harsh/life-threatening prison conditions.”²⁰ Further, the regime has continually taken advantage of North Koreans through “mass mobilizations” of involuntarily labor, as well as redirection of resources that could benefit its citizens toward strengthening its unlawful military programs, such as weapons of mass destruction.²¹ On March 21, 2013, the U.N. Human Rights Council (HRC) created the Commission of Inquiry on Human Rights (COI) in the DPRK with the purpose of the COI being “to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, with a view to ensuring full accountability, in particular for violations which may amount to crimes against humanity.”²²

Less than a year later, the COI on the DPRK released a “landmark” 2014 report in which they held “the highest level of [North Korean] government” accountable for both “systematic and widespread human rights violations” against North Korean citizens.²³ Markedly, the report detailed numerous abuses of human rights committed by the DPRK government such as “the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation.”²⁴ The plethora of human rights abuses that have been reported by the U.N. Secretary-General are comprised of violations such as “pervasive torture and forced labor among the country’s large detainee population, which includes labor camps, prisons[,] and other detention centers”²⁵ Further, for many years, the North Korean government has made valiant efforts to shield itself from international attention and will not work with either the Office of the High Commissioner of Human Rights (OHCHR) or the U.N. Special Rapporteur on

¹⁹ Joel Wit, *The United States and North Korea*, BROOKINGS, 1, 1, <https://www.brookings.edu/articles/the-united-states-and-north-korea/> (discussing the relationship between the U.S. and North Korea and the policies different presidential administrations have attempted to use in order to improve their relations) [<https://perma.cc/5GBM-N455>].

²⁰ U.S. Dep’t of State, *supra* note 17 (discussing the multitude of human rights abuses in the DPRK that are known to the U.S. government as of 2022).

²¹ Press Release, Matthew Miller, Department Spokesperson, U.S. Dep’t of State, Supporting Human Rights in North Korea, 1, 1 (Sept. 17, 2023), <https://www.state.gov/supporting-human-rights-in-north-korea-2/> [<https://perma.cc/T3NN-ATFQ>].

²² *Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea*, U.N. HUM. RTS. COUNCIL, 1, 1, <https://www.ohchr.org/en/hr-bodies/hrc/co-idprk/commission-inquiry-on-h-rin-dprk> (last visited Jan. 15, 2024) (discussing the mandate proffered by the COI to investigate the DPRK and hold it responsible for its violations of its citizens human rights, especially those so egregious so as to meet the elements of crimes against humanity) [<https://perma.cc/W9LV-VZQR>].

²³ *Democratic People’s Republic of Korea*, GLOB. CTR. FOR THE RESP. TO PROTECT, 1, 1 (Nov. 30, 2023), <https://www.globalr2p.org/countries/democratic-peoples-republic-of-korea/> [<https://perma.cc/Y75A-624D>]; *See generally* COI Report.

²⁴ Glob. Ctr. for the Resp. to Protect, *supra* note 23 at 2 (discussing the “abuses committed by the DPRK government, including extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other forms of 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.”).

²⁵ *Id.*

changing/improving the DPRK human rights issues.²⁶ It seems as though no matter what efforts have been made by both the U.S. and the international community, the DPRK refuses to acknowledge its wrongs or make any attempts in improving the treatment of its citizens; the most important thing to the Kim regime is North Korea's military strength and dominance as a world power, not the livelihood and inherent human rights of the country's citizens. For instance, in 2022 alone, an approximate two million dollars was spent by North Korea in the launch of seventy-one missiles, which instead could have "provide[d] sufficient food for North Korea's population for 46 days."²⁷ In doing so, "the North Korean regime has shown utter disregard for the human rights of its population."²⁸

Moreover, Beijing and Moscow are complicit in and regularly contribute to the situation of North Korea's human rights abuses.²⁹ Driven by the urge to remain on good terms with the DPRK and benefit economically, Russia and China assist in "human trafficking [of North Korean citizens], transnational repression, and forcible repatriation of North Korean refugees"³⁰ Rather than acknowledging the abuses of human rights of North Korean citizens and the treatment they are inherently entitled to, Russia and China disregard numerous treaties and regulations with the aim to make their countries more prosperous and effectively throws human decency out the window. Both China and Russia continuously hide North Korean laborers³¹ and violate U.N. Security Council Resolution (UNSCR) 2397 by hosting North Korean workers in their countries and "are [] active facilitators of the [Kim] regime's transnational repression – i.e., when authoritarian governments take actions outside their borders to repression their citizens[.]"³² as opposed to abiding by the resolution and "repatriat[ing] to the DPRK all DPRK nationals earning income in that Member State's jurisdiction"³³ Russia and China also contribute to the DPRK's human rights issues by resisting U.N. sanctions and choosing to "buy [] things like coal and copper [from North Korea], which are excavated through lots of human rights abuses."³⁴

Even though it is a party to the Refugee Convention and the Convention Against Torture³⁵, as well as a permanent U.N. Security Council member, China's complicity in North Korea's violations of human rights is evidenced by its dodging of accountability for any of the DPRK's abuses "by

²⁶ *Id.*

²⁷ Shin, *supra* note 6 at 2.

²⁸ *Id.* at 3.

²⁹ Victor Cha & Joseph Kim, *Beijing and Moscow Share Responsibility for Many of North Korea's Human Rights Violations*, GEORGE W. BUSH PRESIDENTIAL CTR., 1, 3 (Oct. 3, 2023), <https://www.bushcenter.org/publications/beijing-and-moscow-share-responsibility-for-many-of-north-koreas-human-rights-violations> [https://perma.cc/859N-HP6W].

³⁰ *Id.*

³¹ Forum Staff, *Experts: PRC, Russia Uphold North Korea's Human Rights Violations*, INDO-PAC. DEF. F., 1, 3 (Nov. 27, 2023), <https://ipdefenseforum.com/2023/11/experts-prc-russia-uphold-north-koreas-human-rights-violations/> [https://perma.cc/VM68-SXLL].

³² Cha & Katz, *supra* note 3 at 5.

³³ S.C. Res. 2397, 1, 4 (Dec. 22, 2017), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/463/60/PDF/N1746360.pdf?OpenElement> [https://perma.cc/DT4G-R8KT].

³⁴ Forum Staff, *supra* note 31 at 2.

³⁵ See generally G.A. Res. 39/46, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 10, 1984), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading> [https://perma.cc/W8LY-KAMU].

claiming that there are no North Korean defectors in China, only illegal residents.”³⁶ Further, regardless of also being a permanent U.N. Security Council member, China has been known to use North Korean citizens who have fled to China for forced labor “for up to 18 hours a day, enduring harsh working conditions and living with strict controls on their movement, akin to a state of confinement.”³⁷ ³⁸ Essentially, China partakes in “a mutually beneficial arrangement, with Chinese factories getting a cheap and compliant workforce and the North Korean regime receiving millions of dollars in return.”³⁹ Instead of taking initiative to attempt to put a stop to the human rights abuses of North Korean citizens, China just takes advantage of those who have escaped the DPRK by using them for their country’s own economic benefit, and thereby perpetuates the human rights violations committed by the Kim regime. Further, within the U.N., Russia and China representatives aid in North Korea’s avoidance of “international sanctions and human rights obligations,” and appoint members to various U.N. bodies in order “to discourage initiatives advancing North Korean human rights.”⁴⁰ Having Chinese and Russian members within numerous bodies of the U.N. seems to cause the likelihood of North Korea being properly held responsible for its human rights violations and the implementation of measures to combat such abuses to be more slim than if the DPRK did not have their complicity and assistance.

Additionally, potential opportunities for the U.S. to partake in negotiations with the DPRK are commonly squandered and unproductive due to the antagonistic relationship the two countries,⁴¹ they have had no communication for more than four years and “have only engaged in official security discussions in one out of the last [eleven] years[,] and do not appear to be prioritizing future diplomacy seriously.”⁴² For example, in a speech given by Kim Jung Un in September of 2022, Un stated that, “there will never be any . . . kind of negotiations or bargaining to meet the other side’s conditions.”⁴³ While the U.S. foreign policy in relation to the DPRK has been centered around “denuclearization of the country[,]” implementation of stronger human right policies by the U.S. may aid in the denuclearization process and thus would convey a real sense that [North Korea] has made a strategic decision to join the international community.”⁴⁴ According

³⁶ Enuju Kim, *North Korea Is Teaming Up With China and Russia to Violate Human Rights*, NK NEWS, 1, 2 (Jan. 18, 2024), <https://www.nknews.org/2024/01/north-korea-is-teaming-up-with-china-and-russia-to-violate-human-rights/> [https://perma.cc/HH65-5C9D].

³⁷ *Id.*

³⁸ See generally Ian Urbina, *Inside North Korea’s Forced-Labor Program*, THE NEW YORKER (Feb. 25, 2024), <https://www.newyorker.com/magazine/2024/03/04/inside-north-koreas-forced-labor-program-in-china> (discussing how North Koreans sent by the Kim regime to work in factories in China “describe enduring beatings and sexual abuses, having their wages taken by the state, and being told that if they try to escape they will be ‘killed without a trace.’”) [https://perma.cc/3F4Q-S4V6].

³⁹ U.S. Dep’t of State, *supra* note 17 at 18 (discussing how, unlike the response of other countries to “international pressure and UN sanctions” in regard to previously employed laborers from the DPRK, Russia and China continue to employ North Koreans anyway and even practice forced labor).

⁴⁰ Cha & Kim, *supra* note 29 at 3.

⁴¹ Mark E. Manyin, CONG. RSCH. SERV., R47242, *North Korea: September 2022 Update (Sept. 15, 2022)*, 1, 6, <https://crsreports.congress.gov/product/pdf/R/R47242/3> [https://perma.cc/NR2X-36C8].

⁴² Frank Aum, *Exploring Peaceful Coexistence with North Korea*, U.S. INST. OF PEACE, 1, 2 (Jan. 8, 2024), <https://www.usip.org/publications/2024/01/exploring-peaceful-coexistence-north-korea> [https://perma.cc/HE3A-S4PH].

⁴³ Manyin, *supra* note 41 at 6.

⁴⁴ Victor Cha, *Human Rights is the Forgotten Issue in U.S. Foreign Policy*, GEORGE W. BUSH INST., 1, 7 (2019), <https://www.bushcenter.org/catalyst/global-challenges/cha-refugees-forgotten-in-us-foreign-policy> [https://perma.cc/5V32-C2Z].

to Gi-Wook Shin, a distinguished professor familiar with international studies, “[t]he North Korean nuclear problem, inter-Korean relations, and human rights issues are closely inter-twined, which necessitates a comprehensive approach to North Korea policy. Ignoring human rights does not make it easier to achieve progress on security issues.”⁴⁵

Thus, in regard to the human rights violations taking place within the DPRK, not only is the Kim regime a concern for the U.S., but so is the enabling and assistance by Russia and China in their efforts to benefit their own countries. Working with North Korea is simply not enough; the U.S. must also set its sights on ways to put a stop to and punish Russia and China for their complicity in the DPRK human rights violations.

III. Analysis

The totalitarian DPRK regime, as the perpetrator of human rights violations, is mainly responsible for the abuses committed against its citizens, yet China and Russia must also be held liable as aiders and abettors.⁴⁶ Over the years, efforts such as centering U.S. foreign policy on human rights issues through the use of trilateral summits,⁴⁷ appointing a Special Envoy for Human Rights in North Korea,⁴⁸ and reentering onto the U.N. Human Rights Council⁴⁹ have been made to mitigate and restrict the human rights violations within the DPRK in order to protect the welfare of North Korean citizens, but doing so is no easy feat.⁵⁰ Although the previously mentioned measures have aided in the mitigation of the DPRK human rights issues, further action is still imperative and must be a top priority of consideration by the U.S. in order to protect North Korean citizens and make progress toward world-wide security.

A. U.S. INITIATIVES TO MITIGATE NORTH KOREA’S HUMAN RIGHTS ABUSES

Thus far, the U.S. has taken multiple measures from various angles with the goal of mitigating human rights issues in the DPRK. Recently, the Biden administration altered the U.S. foreign policy to focus towards more of a democracy and human rights-centric approach.⁵¹ In August of 2023, the U.S., South Korea, and Japan met for a trilateral summit at Camp David (President Biden’s Maryland country home where foreign leaders are typically hosted)⁵² to discuss the human right issues in North Korea and “reaffirm the critical importance of regular, high-level

⁴⁵ Shin, *supra* note 6 at 3.

⁴⁶ Cha & Kim, *supra* note 29 at 5.

⁴⁷ Cha & Katz, *supra* note 3 at 10.

⁴⁸ Cha & Kim, *supra* note 29 at 4.

⁴⁹ Richard Roth & Megan Vazquez, *US Officially Rejoins Controversial UN Human Rights Council*, CNN, 1, 1 (Oct. 14, 2021), <https://www.cnn.com/2021/10/14/politics/us-joined-nations-human-rights-council/index.html> (discussing how rejoining the HRC is the Biden administration’s “latest effort to restore [U.S.] standing on the global stage through involvement in multilateral organizations and treaties spurned by the Trump administration.”) [<https://perma.cc/3AUK-M74Z>].

⁵⁰ Vision of Human., *supra* note 18.

⁵¹ Cha & Katz, *supra* note 3 at 10.

⁵² *Camp David*, THE WHITE HOUSE, 1, 1, <https://www.whitehouse.gov/about-the-white-house/the-grounds/camp-david/> [<https://perma.cc/LAH7-D9P6>].

consultations between [the] countries.”⁵³ At the summit, Col. David Maxwell spoke of the summit’s importance and its potential to make much needed progress in regard to the DPRK Kim regime, saying that, “[t]his is the time to initiate a new strategy. It should be based on three lines of effort: a human rights upfront approach, a comprehensive information and influence campaign, and the pursuit of a free and unified Korea.”⁵⁴ From the summit came something completely new and never done before—an announcement of “joint human rights demands” on the DPRK.⁵⁵ In addition to the insistence that the DPRK provide inherent human rights to their citizens, the demands also included that abducted Japanese citizens and South Korean prisoners of war be repatriated to their respective home countries.⁵⁶

But, it has been pointed out by the director of the program on U.S.-Korea policy at the Council on Foreign Relations (CFR) that the trilateral relationship between the U.S., South Korea, and Japan is progressing simultaneously with the relationship between North Korea, Russia, and China, and that this may “deepen competition and impede prospects for cooperation between the two coalitions.”⁵⁷ As the relationship strengthens between the U.S., Japan, and South Korea, it is imperative to keep in mind that the “policy coordination” between the DPRK, China, and Russia is reinforced as well.⁵⁸ Further, after remaining unoccupied for more than two presidential administrations, President Biden finally filled the position of U.S. Special Envoy for Human Rights in North Korea by appointing State Department official Julie Turner.⁵⁹ Turner’s appointment is thought to bring much-deserved attention to North Korea’s human rights violations and revitalize the “energy surrounding these issues on the international stage.”⁶⁰ In a speech given in South Korea’s capital city of Seoul, Turner made a bold and affirming statement directed toward North Korean citizens that

[t]he United States government does care deeply for [their] welfare, and [their] rights, [and the U.S. is] working diligently through the various mechanisms that [it has] available to hopefully make concrete improvements, so that one day, the North Korean people can also enjoy the same rights that Koreans in South Korea and Korean diasporas in the United States are able to enjoy.⁶¹

⁵³ *Fact Sheet: The Trilateral Leaders’ Summit at Camp David*, THE WHITE HOUSE, 1, 1 (Aug. 18, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/18/fact-sheet-the-trilateral-leaders-summit-at-camp-david/> [<https://perma.cc/8GER-BRZL>].

⁵⁴ Eric Olsen, *North Korea Human Rights Forum Urges Trilateral Support by U.S., Japan, and ROK for a Free and United Korea*, GLOB. PEACE FOUND., 1, 5 (Sept. 28, 2023), <https://globalpeace.org/north-korea-human-rights-forum-urges-trilateral-support-by-u-s-japan-and-rok-for-a-free-and-united-korea/> [<https://perma.cc/HG2U-SV8C>].

⁵⁵ Cha & Katz, *supra* note 3 at 10.

⁵⁶ *Id.*

⁵⁷ Scott A. Snyder, *The Camp David Trilateral Summit Expands Trilateralism Beyond North Korea*, COUNCIL ON FOREIGN RELATIONS, 1, 6 (Sept. 27, 2023), <https://www.cfr.org/blog/camp-david-trilateral-summit-expands-trilateralism-beyond-north-korea> (discussing how “inclusion of China in addition to North Korea as a shared security concern among the United States, South Korea, and Japan has established a new milestone for strengthened trilateral cooperation.”) [<https://perma.cc/7H2G-NX88>].

⁵⁸ *Id.* at 4.

⁵⁹ Cha & Kim, *supra* note 29 at 4.

⁶⁰ Cha & Katz, *supra* note 3 at 11.

⁶¹ Lee Jong-Ho, *Biden’s Envoy Offers Dual Approach for North Korea Human Rights Uplift*, RADIO FREE ASIA (RFA), 1, 3 (Oct. 18, 2023), <https://www.rfa.org/english/news/korea/julie-turner-nkorea-10182023035004.html> [<https://perma.cc/A47K-LJEX>].

Appointing Julie Turner as the U.S. Special Envoy for Human Rights in North Korea was a long overdue step in the right direction for the U.S. and seems to be quite promising for the mitigation of human rights abuses in the DPRK. Additionally, State Department officials have re-strategized and set their sights on bringing awareness to the dire human rights situation in the DPRK by developing a better stream of information into and out of the DPRK and have also placed emphasis on “accountability for North Korea’s human rights abuses and violations, and countering North Korean transnational repression.”⁶²

Also, as a result of the reentry of the U.S. onto the U.N. Human Rights Council after withdrawing under the Trump administration in 2018,⁶³ the U.S. can now be more involved in retaliating against Russia and China within the U.N..⁶⁴ A revival of Security Council sessions to discuss human rights in the DPRK has also been instigated by officials of the Biden administration.⁶⁵ Great progress was likely to be made when an Arria-formula meeting (an informal meeting of the Security Council)⁶⁶ of the U.S., South Korea, Japan, and Albania regarding the human rights violations situation in North Korea took place in March of 2023. But, in its pursuit to further its own prosperity through facilitation of the human rights abuses, China not only refused to broadcast the U.N. meeting⁶⁷ but also “blocked the council from attaining the required eight votes for a formal session . . . [.]”⁶⁸ thereby diminishing potential progress that could be made if the formal discussion of the situation were to have been broadcasted. Undeterred, the U.S. continued to press for such necessary discussion and finally got the U.N. Security Council to hold a long overdue open session⁶⁹ regarding the DPRK human rights issues on August 17, 2023,⁷⁰ in which the Council specifically spoke about forced labor occurring in the DPRK and the regime’s use of insufficient resources on its illegal weapons of mass destruction, leaving its citizens to struggle with a lack of access to food and medicine.⁷¹

Additionally, hopes for alleviation of the human rights abuses were high at the August 2023 Security Council meeting, as the Council “elected South Korea to a two-year term beginning in 2024, which analysts say could allow Seoul more opportunity to address North Korea’s human rights abuses.”⁷² Further, U.S. Representative to the U.N. Linda Thomas-Greenfield stressed that “[t]he modern world has no place for the DPRK government’s brutality[,] and [that] the international community and [the U.N. Security Council] must continue to speak out against [the]

⁶² Cha & Katz, *supra* note 3 at 10.

⁶³ Roth & Vazquez, *supra* note 49 at 1.

⁶⁴ *Id.*

⁶⁵ Cha & Katz, *supra* note 3 at 10.

⁶⁶ See *Arria-formula Meetings*, SEC. COUNCIL REP. (Dec. 16, 2020), <https://www.securitycouncilreport.org/un-security-council-working-methods/arria-formula-meetings.php> [<https://perma.cc/A94B-6UWA>].

⁶⁷ Senior U.S. Official, *Remarks*, *supra* note 2 at 4.

⁶⁸ Cha & Katz, *supra* note 3 at 10.

⁶⁹ See generally Robert R. King, *The UN Security Council’s First North Korean Human Rights Session Since 2017*, CTR. FOR STRATEGIC & INT’L STUD. (CSIS) (Aug. 30, 2023), <https://www.csis.org/analysis/un-security-councils-first-north-korean-human-rights-session-2017> [<https://perma.cc/M42R-JTT5>].

⁷⁰ Cha & Katz, *supra* note 3 at 10.

⁷¹ Forum Staff, *supra* note 31 at 3.

⁷² *Id.*

injustice and its destabilizing impact on regional and international peace and security.”⁷³ Although it is apparent that the U.S. is interested in participating in the intervention and mitigation of the DPRK human rights abuse issues, it may not have yet acknowledged or is not yet aware of other potential measures it could and should be taking to further alleviate the North Korean human rights violations with the aim of conferring DPRK citizens the inherent rights they are entitled to as human beings under the Universal Declaration of Human Rights.

B. SUGGESTIONS FOR U.S. ACTION IN ORDER TO MAKE FUTURE POSITIVE DEVELOPMENT IN THE AREA OF NORTH KOREAN HUMAN RIGHTS

While some efforts toward mitigation have already been taken by the U.S. against DPRK human rights violations, “there are a number of opportunities on the horizon to advocate for North Korean human rights by reinvigorating existing initiatives, starting new ones, and connecting this issue with others that have been more in the spotlight.”⁷⁴ In order to further intervene and make future development in the area of North Korea’s human rights abuses, there are several measures that the U.S. should consider taking, such as integrating human rights into clarified DPRK policy,⁷⁵ improving the implementation of the CAATSA,⁷⁶ making a connection between the CAATSA and the UFLPA,⁷⁷ utilizing the 2016 NKSPEA to identify Chinese and Russian individuals/organizations complicit in the North Korea human rights abuses,⁷⁸ and ensuring the proper execution of the NKHRA.⁷⁹

First, the Biden administration should develop a more comprehensible policy with the DPRK and ensure that human rights is at the forefront of said policy, so as to avoid any ambiguity.⁸⁰ As of recent, the administration directs much of its attention toward “nuclear negotiations with the Kim regime without preconditions, but [] Biden must also direct his attention to the plight of the North Korean people.”⁸¹ The formulation of new ideas, like proposing better incentives in order to persuade the DPRK to return to negotiations⁸² and prioritize the welfare of its citizens over its military’s nuclear weapons capabilities/push the regime toward improving its human rights record, is key.⁸³ Moreover, maintaining consistency in regards to the U.S. policy of human rights in North

⁷³ Ambassador Linda Thomas-Greenfield, Remarks at a U.N. Security Council Briefing on the Situation of Human Rights in the DPRK (Aug. 17, 2023), <https://usun.usmission.gov/remarks-by-ambassador-linda-thomas-greenfield-at-a-un-security-council-briefing-on-the-situation-of-human-rights-in-the-dprk/> [<https://perma.cc/D27W-TDRF>].

⁷⁴ Cha & Katz, *supra* note 3 at 11 (discussing what steps the U.S. should take in order to assuage the human rights abuses occurring in the DPRK against its citizens).

⁷⁵ *Id.*

⁷⁶ *Id.* at 12.

⁷⁷ *Id.*

⁷⁸ See generally North Korea Sanctions and Pol’y Enhancement Act (NKSPEA), 22 U.S.C. §§ 9201-9269 (2016), <https://www.govinfo.gov/content/pkg/COMPS-11985/pdf/COMPS-11985.pdf> [<https://perma.cc/S8NU-L295>].

⁷⁹ The Comm. for Hum. Rts. in N. Kor., *supra* note 12 at 2.

⁸⁰ Cha & Katz, *supra* note 3 at 11.

⁸¹ Anthony Ruggiero & Greg Scarlatoiu, *Hold Beijing Accountable for Aiding Kim Jong Un’s Crimes*, FOREIGN POL’Y, 1, 3 (Feb. 18, 2022), <https://foreignpolicy.com/2022/02/18/north-korea-kim-crimes-humanity-human-rights-china-refugees/> (discussing that “the United States must retake the high ground it once held at the United Nations by resuscitating the coalition of like-minded member states, including South Korea and Japan.”) [<https://perma.cc/96NH-C67B>].

⁸² Cong. Rsch. Serv., *U.S.-North Korea Relations*, 1, 1 (Apr. 24, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF10246> [<https://perma.cc/7NS2-MBJB>].

⁸³ *Id.*

Korea is paramount in order for its message to be clearly conveyed to human rights violators. Treating human rights issues “as an on-off switch,” like they were throughout the Trump administration, leads the DPRK to incorrectly believe “that human rights are raised only when expedient and turned on only to be used as a weapon for political purposes.”⁸⁴

Therefore, due to the diminished “international consensus on pressuring Pyongyang” as a result of President Trump’s disregard of the DPRK human rights violations,⁸⁵ it may be no easy feat for President Biden to go above and beyond previous administrations and “more forcefully enforce U.S. laws against North Korean transgressions[,]” but doing so is crucial.⁸⁶ The U.S. can no longer continue to give the DPRK and the Kim regime the impression that it does not take the abuse of the human rights of their citizens seriously. Markedly, as 2024 is a Presidential election year in the U.S., it is imperative that a unified and unambiguous policy toward human rights abuses in North Korea be solidified, as “[t]he [Kim] regime has historically ramped up tensions early in a new U.S. [] administration to, as one North Korean defector [said], ‘train them like a dog’”⁸⁷ If measures taken by the U.S. are to be taken seriously by the Kim regime, its human rights policy must be straightforward, assertive, and unwavering in the face of opposition; it must be made clear that the “[d]ownplaying [of] North Korean human rights violations is antithetical to U.S. values”⁸⁸ and that the U.S. cannot and will not stand idly by as North Korea violates the inherent rights of its citizens. To accomplish this, the presidential administration must “restore human rights as an integral component of U.S. policy” and stop “enthusiastically embracing” merely sanctioning Kim Jung Un for his abuses of the inherent human rights of North Korean citizens.⁸⁹ In practice, the U.S. should reinforce its stance against the DPRK human rights violations by abiding by “a policy of deterrence, containment, pressure, and diplomacy[,]” while making sure to do so in the correct “manner[] and degree[].”⁹⁰ Taking of this firm position by the U.S. would show the Kim regime that, although it may have been lenient and somewhat submissive to the DPRK in the past, it has learned from mistakes made by previous administrations and will no longer allow North Korea to tyrannize the U.S. and other countries making efforts to aid North Korean citizens.

Second, the U.S.’s implementation of the Countering America’s Adversaries Through Sanctions Act (CAATSA)⁹¹ needs to be improved. Title III Section 321(b) of the CAATSA, which addresses

⁸⁴ Andrew Yeo & Roberta Cohen, *It’s Time to Refocus On What Biden Can Do On North Korean Human Rights*, BROOKINGS, 1, 3 (Oct. 4, 2022), <https://www.brookings.edu/articles/its-time-to-refocus-on-what-biden-can-do-on-north-korean-human-rights/> [https://perma.cc/599U-VY69].

⁸⁵ See generally Francisco Bencosme, *Trump Smiling with Kim Jung Un on the World Stage Shows Disdain for Human Rights*, TIME, <https://time.com/5541216/trump-kim-human-rights-north-korea/> (discussing the failure of President Trump in “rais[ing] North Korea’s dire human rights record at a major historical summit with Kim Jung Un” and his belief of the DPRK government’s denial of the existence of political prison camps.) [https://perma.cc/FEY6-X2KM].

⁸⁶ Bruce Klingner, *Biden Administration’s Korea Policy Represents Change and Continuing Challenges*, THE J. OF E. ASIAN AFF., vol. 33, no. 2, 5, 6 (2020), <https://www-jstor-org.proxy.libraries.smu.edu/stable/45441170?seq=2> (discussing President Biden’s “traditional “bottom up” bureaucracy and expert-based policy formulation and diplomatic outreach to North Korea rather than impulsive “top down” approach.” [https://perma.cc/ZC5U-8A88].

⁸⁷ *Id.* at 15.

⁸⁸ *Id.* at 20.

⁸⁹ *Id.*

⁹⁰ *Id.* at 22.

⁹¹ See Countering America’s Adversaries Through Sanctions Act (CAATSA), Pub. L. No. 115-44, Title III, § 321(b), 131 Stat. 940 (2017), <https://www.congress.gov/115/plaws/publ44/PLAW-115publ44.pdf> [https://perma.cc/YF3Q-2CCG].

sanctions with respect to North Korea, amended the North Korea Sanctions and Policy Enhancement Act of 2016 and “created a rebuttable presumption”⁹² ⁹³ regarding goods made through the use of North Korean labor. The CAATSA formally states that

any significant goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by the labor of North Korean nationals or citizens shall be deemed to be prohibited under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) and shall not be entitled to entry at any of the ports of the United States.⁹⁴

Although the CAATSA effectively put into words the presumption that any and all forms of DPRK labor qualifies as forced labor, the CAATSA has only prevented a small number of shipments wholly or partly comprised of forced North Korean labor from entering the U.S.⁹⁵ Actions by the U.S. government must be taken in order to increase the effectiveness of the CAATSA, thereby mitigating the DPRK human rights abuses. Upon proper implementation, North Korean forced labor could be spotted and halted more efficiently so as to provide protection to citizens of the DPRK.

One way in which the CAATSA implementation could be improved is by giving special attention to production chains between China, Russia, and North Korea through the allocation of money and resources “to the universal mapping of production chains, including in IT areas, to see where North Korean labor is employed . . . [and] where North Korean-produced goods are [] going.”⁹⁶ Identification of said production chains would enable the U.S. to discover the actual sources of the issue, and go after those individuals/companies directly. Additionally, tip-lines could be utilized in order to obtain information regarding “specific regions and sectors” importing materials/goods into the U.S. made by North Korean laborers in Russia and China.⁹⁷ Again, the U.S. would be able to get to the root of the issue through the use of this information to pinpoint exactly where the forced labor is taking place and where those goods are being shipped. Moreover, if the CAATSA implementation were to be heightened and enforced more aggressively, then U.S. government officials could “dole out punishments to China and Russia for using North Korean forced labor[.]”⁹⁸ which would likely deter them from continuing to use North Korean laborers and thus mitigate some of Russia and China’s contributions to the DPRK human rights violations.

What would work best is for Congress, in combination with stringent implementation of the CAATSA, to impose additional sanctions “against Chinese and Russian companies and individuals who employ North Korean forced labor.”⁹⁹ Sanctions as a form of punishment have been and

⁹² *Countering America’s Adversaries Through Sanctions Act FAQs*, U.S. DEP’T OF HOMELAND SEC. (Feb. 11, 2021), <https://www.dhs.gov/news/2021/02/11/countering-america-s-adversaries-through-sanctions-act-faqs> [<https://perma.cc/8P2P-ZM9Z>].

⁹³ *See generally* Tariff Act of 1930, 19 U.S.C.A. § 1307, <https://www.govinfo.gov/content/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap4-subtitleII-partI-sec1307.pdf> [<https://perma.cc/VV2G-DJMA>].

⁹⁴ CAATSA § 302(a).

⁹⁵ Cha & Katz, *supra* note 3 at 12.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ Cha & Kim, *supra* note 29 at 4.

⁹⁹ *Id.* at 4-5.

should continue to be used by the U.S. against China and Russia but critics point out that they should be utilized in a slightly different manner in order to be most effective. It has been noted that many of the past administrations have “failed to enforce U.S. laws and UN sanctions[.]” whereas President Obama used “timid incrementalism of sanctions enforcement” and President Trump, claiming to come down with an iron first on the issue, used a “strategy [that] was never maximum.”¹⁰⁰ Thus, to ensure that sanctions are not viewed by China and Russia as an excuse to “build up barriers to successful management of [their relationship with the U.S.],” the imposition of sanctions should occur “alongside clear and unchanging conditionality for their removal.”¹⁰¹ Specificity of sanction conditions could likely lead to more “specific objectives to take to the negotiating table[.]”¹⁰² which would promote proper intervention and mitigation of Russia and China’s role in the human rights issues in the DPRK. Some examples of sanctions that the U.S. should implement include punishment of “the 300 North Korean entities violating U.S. laws that President Trump declared [] he wouldn’t take action against, Chinese banks engaged in money laundering [] by identifying them as primary money-laundering concerns . . . , and impos[ing] secondary sanctions against ports aiding North Korean smuggling.”¹⁰³ Therefore, proper implementation of the CAATSA is paramount to identifying the Russian and Chinese individuals’ and companies’ use of North Korean forced labor, thus alleviating the human rights abuses of DPRK citizens.

Third, a connection must be made between CAATSA and the Uyghur Forced Labor Prevention Act (UFLPA).¹⁰⁴ Similarly to the CAATSA, the UFLPA targeted importation of items produced by using forced labor, but with a special focus on the Xinjiang Uyghur Autonomous Region in China.¹⁰⁵ The UFLPA states that the U.S. “prohibit[s] the import of all goods, wares, articles, or merchandise mined, produced, or manufactured, wholly or in part, by forced labor from the People’s Republic of China and particularly any such goods, wares, articles, or merchandise produced in the Xinjiang Uyghur Autonomous Region of China.”¹⁰⁶ Due to the similarities of the two acts, making a connection between them “would help raise awareness of North Korean forced labor and increase enforcement of the CAATSA.”¹⁰⁷ Although the UFLPA is focused on a small pinpoint area in comparison to the CAATSA, the way that the UFLPA is implemented is much more aggressive than it is for the CAATSA as a result of both the Biden administration and Congress being “more focused on Xinjiang than North Korea”¹⁰⁸

If the CAATSA and the UFLPA were to be linked in government officials’ minds, as opposed to being viewed as two distinct and separate acts, the information and knowledge gained from the

¹⁰⁰ Klingner, *supra* note 86 at 14.

¹⁰¹ Rorry Daniels, *Why Sanctions to Punish China and Russia Keep Failing to Achieve US Goals*, USA TODAY (Oct. 14, 2023), <https://www.usatoday.com/story/opinion/2023/10/14/china-north-korea-sanctions-fail-us/71089246007/> (discussing how the application of U.S. sanctions “deepens mistrust and creates avenues for partnerships outside of the U.S.-led global financial system.”) [<https://perma.cc/QE9V-23AM>].

¹⁰² *Id.*

¹⁰³ Klingner, *supra* note 86 at 21.

¹⁰⁴ *See generally* Uyghur Forced Lab. Prevention Act (UFLPA), H.R. 1155, 117th Cong. (2022), <https://www.congress.gov/117/bills/hr1155/BILLS-117hr1155rds.pdf> [<https://perma.cc/4TR4-GSBP>].

¹⁰⁵ Cha & Katz, *supra* note 3 at 12.

¹⁰⁶ UFLPA § 3(1).

¹⁰⁷ Cha & Katz, *supra* note 3 at 12.

¹⁰⁸ *Id.*

UFLPA implementation as well as the experience of Chinese forced labor survivors could “apply to the North Korean context” and greatly benefit how the U.S. government assess its strategy and the measures it could take to intervene in the DPRK human rights violations.¹⁰⁹ Moreover, it has been suggested by the Commercial Customs Operations Advisory Committee (COAC) Forced Labor Working Group that communication and training are paramount in the enforcement of the UFLPA and the “eradication of forced labor[,]” thus the same should be of importance in the implementation of the CAATSA.¹¹⁰ Since more emphasis has recently been placed on the human rights/forced labor issues in Xinjiang, North Korean human rights violations would be able to gain more traction and rightful acknowledgement if the CAATSA were to be thought of in tandem with the UFLPA. Through this linkage, awareness of the horrendous human rights abuse situation of DPRK citizens would move to the forefront and become a more pressing issue for U.S. officials to attempt to mitigate and—hopefully—eliminate.

Fourth, the U.S. must take advantage of the North Korean Sanctions and Policy Enhancement Act (NKSPEA) in order to identify the Chinese and Russian establishments complicit in the human rights abuses in the DPRK.¹¹¹ At the time the NKSPEA was signed into law, it was opined that the act had “the toughest set of sanctions imposed by the Security Council in more than two decades[,]”¹¹² as it essentially bound the president by law to “impose a financial ban and [freeze assets of the DPRK].”¹¹³ In its pertinent part, Section 104(b), the NKSPEA states that

the President may designate under this sub-section any person that the President determines— (A) knowingly engages in, contributes to, assists, sponsors, or provides financial, material or technological support for, or goods and services in support of, any person designated pursuant to— (i) an applicable United Nations Security Council resolution; (ii) any regulation promulgated under section 404; or (iii) any applicable Executive order.¹¹⁴

The acknowledgement of past acts taken by the Obama administration under the NKSPEA would serve as a great blueprint for the current administration to work off of and make customizations to, so that it may obtain guidance from the Obama administration’s use of the NKSPEA “tools” and executive orders to hold the DPRK, Chinese, and Russian human rights violators responsible.¹¹⁵ For instance, pursuant to the NKSPEA, the Biden administration should set their sights on more thorough inspections of cargo coming into the U.S. and the location of where the cargo arrived from (if it came from Russian/Chinese ports), as well as considering ramping up restriction of

¹⁰⁹ *Id.*

¹¹⁰ *Forced Labor Working Group White Paper*, COM. CUSTOMS OPERATIONS ADVISORY COMM. (COAC), 1, 3 (June 29, 2022), <https://www.cbp.gov/sites/default/files/assets/documents/2022-Jun/IE-Forced%20Labor%20White%20Paper.pdf> (discussing the need for the CBP to “develop bi-directional training within the agency to ensure consistency in effective communication, enforcement, and outreach across ports of entry and Centers of Excellence.”) [<https://perma.cc/3XVN-2FPJ>].

¹¹¹ See NKSPEA, 22 U.S.C. §§ 9201-9269.

¹¹² Edward J. Krawland & Peter Jeydel, *US, UN Impose Unprecedented Sanctions on North Korea*, STEPTOE, 1, 1 (Mar. 15, 2016), <https://www.steptoelaw.com/en/news-publications/us-un-impose-unprecedented-sanctions-on-north-korea.html> [<https://perma.cc/X46G-5Z6J>].

¹¹³ *Q&A: North Korea, Sanctions, and Human Rights*, HUM. RTS. WATCH (May 30, 2018), <https://www.hrw.org/news/2018/05/30/qa-north-korea-sanctions-and-human-rights> [<https://perma.cc/AQA2-UN3J>].

¹¹⁴ NKSPEA, 22 U.S.C. §§ 9201-9269.

¹¹⁵ Cha & Katz, *supra* note 3 at 13.

North Korea's financial sector by upholding the marking of the DPRK as a "jurisdiction of primary money laundering concern."¹¹⁶

While the former recommendation has little to no negative affect, the Biden administration (as well as future administrations) should tread lightly in regard to the latter, as doing so could "trigger significant restrictions on financial activity for both U.S. and non-U.S. financial institutions."¹¹⁷ For example, when a country is marked as a primary money laundering concern and another country does not abide by the prohibition of "foreign banks [] using their correspondent accounts with US banks to process [the country's] transactions[,]" it then becomes possible that "[the foreign banks'] correspondent accounts with US banks [will be] closed down, thereby risking loss of direct access to the U.S. financial system."¹¹⁸ But, the more the NKSPEA is properly utilized and serious executive action is taken, the greater the likelihood is that the U.S. will be able to identify and properly discipline both the individuals and entities in Russia and China which are engaged and complicit in the human rights violations occurring in the DPRK.

Lastly, the U.S. must make sure that the North Korea Human Rights Act (NKHRA)¹¹⁹ is properly carried out. The NKHRA was primarily enacted in order to protect/provide aid to refugees from the DPRK. More specifically, the act was designed

(1) to promote respect for and protection of fundamental human rights in North Korea; (2) to promote a more durable humanitarian solution to the plight of North Korean refugees; (3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea; (4) to promote the free flow of information into and out of North Korea; and (5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.¹²⁰

In order for the NKHRA to be implemented to its full potential, the Biden administration must appoint a single office and assign it the responsibility of carrying out the act.¹²¹ If no one office is tasked with rigorously implementing the NKHRA and ensuring that it is properly helping North

¹¹⁶ Krauland & Jeydel, *supra* note 112 at 4 (discussing the authority given to the president under Section 104(b) of the NKSPEA "to sanction persons who knowingly support UNSCR-designated persons, or contribute to, or use proceeds from, bribery and corruption in North Korea[,]" as well as how designating a country as a primary money laundering concern "could increase the risks for foreign financial institutions that conduct business with North Korea.").

¹¹⁷ *Id.*

¹¹⁸ Eda Erol & Leonard Spector, *Countering North Korean Procurement Networks Through Financial Measures: The Role of Southeast Asia*, CTR. FOR NONPROLIFERATION STUD., 1, 20 (December 2017), <https://www.nonproliferation.org/wp-content/uploads/2017/12/op35-countering-north-korean-procurement-networks-through-financial-measures-the-role-of-southeast-asia.pdf> (discussing that "designation of North Korea as a jurisdiction of primary money laundering concern requires foreign financial institutions, including those in Southeast Asia, to be wary of North Korea's sanctions evasion techniques and to protect against North Korean procurement networks' misusing the financial services they provide.") [<https://perma.cc/PTS4-7MQX>].

¹¹⁹ *See generally*, North Korea Human Rights Act (NKHRA), 118 Stat. 1287, 108th Congress (2004), <https://www.govinfo.gov/content/pkg/PLAW-108publ333/html/PLAW-108publ333.htm> [<https://perma.cc/74ZX-E4YE>].

¹²⁰ *Id.* at 4.

¹²¹ The Comm. for Hum. Rts. in N. Kor., *supra* note 12 at 2.

Korean refugees, then its purpose essentially becomes moot and no progress can be made toward mitigating the human rights abuses in the DPRK. Additionally, there are several pragmatic actions that the U.S. Department of State could take in order to further the positive effect of the NKHRA, like providing training to U.S. embassy staff in countries where North Koreans have sought refuge, ensuring there are plenty of Korean-speaking employees of the U.S. embassy in such countries, and establishing a means of communication between the United Nations High Commissioner for Refugees (UNHCR) and the DPRK so that citizens enduring human rights violations under the Kim regime “have some way to contact those who can offer them immediate protection.”¹²²

That being said, the U.S. should take notice that there are a few roadblocks that may need to be overcome throughout the implementation of the NKHRA if it is trying to admit North Korean refugees into the U.S., such as “the long delay the U.S. takes to process North Koreans claims . . . and the feelings of other countries’ governments toward establishing North Korean refugee resettlement program within their countries.”¹²³ Many governments in countries around the DPRK “do not want to damage their relations with Pyongyang or [] become a magnet for refugees.”¹²⁴ But, if the U.S. were to appoint the execution of the NKHRA to one specific office, the increased time and attention put toward the issue may be able to resolve/navigate around the aforementioned barriers to effectively implement the NKSPEA and protect North Korean refugees. Therefore, proper implementation of the NKHRA would likely cause the aid to refugees from the DPRK to be administered more thoroughly and efficiently, thereby promoting the mitigation of the issue of human rights abuses by the Kim regime.

C. POLICY SUGGESTIONS

In addition to the aforementioned suggestions for the U.S. to consider in order to mitigate the North Korean human rights issues and Russia and China’s complicity, there are also some policy measures that the U.S. could take to further its objective such as working with technology companies to discover North Koreans posing as Chinese contractors,¹²⁵ recommending the human rights abuse situation in North Korea to be a topic of permanent discussion by the Security Council,¹²⁶ creating an official asylum plan with other countries for North Korean citizens,¹²⁷ and taking advantage of the depletion of the Kim regime’s surveillance of cellphone usage/access to outside information in order to get helpful information into North Korea.¹²⁸ To be even more

¹²² *Id.* (discussing the practical actions that may be taken by the U.S. Department of State with the aim of furthering the positive effect of the NKHRA).

¹²³ Roberta Cohen, *Admitting North Korean Refugees to the United States: Obstacles and Opportunities*, BROOKINGS, 1, 4-5 (Sept. 20, 2011), <https://www.brookings.edu/articles/admitting-north-korean-refugees-to-the-united-states-obstacles-and-opportunities/> (discussing the potential issues the U.S. could face in the establishment of a North Korean refugee program through its proper implementation of the NKHRA) [<https://perma.cc/V82F-MAZG>].

¹²⁴ *Id.* at 5.

¹²⁵ Cha & Katz, *supra* note 3 at 12.

¹²⁶ Roberta Cohen, *Human Rights in North Korea: Addressing the Challenges*, 22 INT’L J. OF KOREAN UNIFICATION STUD. 29, 44 (2013), https://www.hrnk.org/uploads/pdfs/RCohen_north_korea_Dec2013.pdf [<https://perma.cc/2ABL-JZN7>].

¹²⁷ The Comm. for Hum. Rts. in N. Kor., *supra* note 12 at 2.

¹²⁸ Yuna Kim, *Strengthening Human Rights-Centered Approaches Toward North Korea*, COUNCIL ON FOREIGN RELATIONS, 1, 7 (Dec. 19, 2023), <https://www.cfr.org/blog/strengthening-human-rights-centered-approaches-toward-north-korea> [<https://perma.cc/3BT5-8TZS>].

effective in its fight against human rights abuses, use of both legal and policy measures is key.

First, the U.S. could team up with its technology companies in order to inquire into the issue of workers from North Korea pretending to be Chinese contractors.¹²⁹ According to an advisory provided by the U.S. Department of State, U.S. Department of the Treasury, and the Federal Bureau of Investigation (FBI), instead of employing its skilled information technology (IT) workers and prioritizing the welfare of its citizens, North Korea “dispatches thousands of highly skilled IT workers around the world to generate revenue that contributes to its weapons of mass destruction (WMD) and ballistic missile programs, in violation of U.S. and UN sanctions.”^{130 131} To make matters worse, the majority of “sham” North Korean IT workers are based in of Russia and China¹³², which then aid and abet the DPRK by providing “identification documents to validate the DPRK IT team’s account on freelance IT work platforms.”¹³³

Many measures have been proposed by the Office of Foreign Assets Control, like “verifying invoices and work agreements” by reaching out to clients with information obtained from the entity’s databases instead of the information on forged documentation, “requir[ing] submission of a video verifying identity or conduct a video interview to verify identify . . .” and scrutinizing “newly established accounts.”¹³⁴ Therefore, to mitigate these issues related to the DPRK human rights abuses, the U.S. should pay special attention to the true identity of IT contractors employed by its companies in China and Russia so as to promptly identify any North Korean workers who have been forced by the regime to bring in revenue for the DPRK military objectives, as opposed to the country ensuring inherent rights for its citizens.

Second, if the U.S., as one of the Permanent Five (P5) on the International Criminal Court (ICC), were to either refer Kim Jung Un to the ICC for prosecution¹³⁵ or recommend the human rights abuse situation in North Korea to be an everlasting topic of discussion by the U.N. Security Council, then constant focus could be given toward mitigation efforts of the DPRK human rights issues by “the U.N.’s most powerful body.”¹³⁶ From there, potential for a Presidential statement to be made could emerge “linking the nature of the regime to regional and international peace and

¹²⁹ Cha & Katz, *supra* note 3 at 12.

¹³⁰ *Guidance on the Democratic People’s Republic of Korea Information Technology Workers*, OFF. OF FOREIGN ASSETS CONTROL, 1, 1 (May 16, 2022), <https://ofac.treasury.gov/media/923126/download?inline> [<https://perma.cc/3ZL8-XQPE>].

¹³¹ See generally Jim Salter, *Thousands of Remote IT Workers Sent Wages to North Korea to Help Fund Weapons Program, FBI Says*, AP NEWS (Oct. 19, 2023), <https://apnews.com/article/north-korea-weapons-program-it-workers-f3df7c120522b0581db5c0b9682ebc9b> (discussing “[c]ourt documents alleg[ing] that North Korea’s government dispatched thousands of skilled IT workers to live primarily in China and Russia with the goal of deceiving businesses from the U.S. and elsewhere into hiring them as freelance remote employees.”) [<https://perma.cc/9DHV-PXYF>].

¹³² Off. of Foreign Assets Control, *supra* note 130 at 2.

¹³³ *Treasury Targets Individuals and Entity Supporting the Democratic People’s Republic of Korea’s Weapons of Mass Destruction Program*, U.S. DEP’T OF THE TREASURY, 1, 1-2 (Aug. 31, 2023), <https://home.treasury.gov/news/press-releases/jy1710> [<https://perma.cc/DRC9-GJYB>].

¹³⁴ Off. of Foreign Assets Control, *supra* note 130 at 10.

¹³⁵ See Ilhyeok Kim, *10 Years After the UN Report: The International Community’s Role in Improving Human Rights in North Korea*, THE DIPLOMAT, 1, 5-6 (Feb. 16, 2024), <https://thediplomat.com/2024/02/10-years-after-the-un-report-the-international-communitys-role-in-improving-human-rights-in-north-korea/> [<https://perma.cc/CE4Y-9HYR>].

¹³⁶ Cohen, *supra* note 126 at 44.

security.”¹³⁷ In doing so, the U.S., as well as the international community as a whole, may be more motivated by the prospect of bettering their relations with North Korea thereby nudging them toward exhausting all possible measures that could put an end to the inherent human rights violations of the DPRK. But as is mentioned by human rights specialist Roberta Cohen, the U.S. may be hesitant to do so if it is “concurrently trying to press North Korea to end its nuclear weapons program.”¹³⁸

On the other hand, testimony by Asia advocacy director at the Human Rights Watch (HRW) urged to Congress that “[h]uman rights and weapons proliferation issues cannot be separated, since the North Korea military depends on widespread forced labor and a massive diversion of government resources from basic human needs for arms development.”¹³⁹ Moreover, in agreeance with the Asia advocacy director at HRW, the U.N. special investigator on the DPRK human rights issues, Elizabeth Salmon, has highlighted “the interdependence of international peace and security and human rights.”¹⁴⁰ Therefore, it seems as though the U.S. should take action and recommend the situation to the ICC, along with placing an emphasis on the mitigation of the North Korea human rights issues concurrently with the DPRK’s nuclear weapons issue.

Third, North Korean citizens should have a safe way to leave the DPRK permanently, without fear of getting stuck in countries that are complicit with North Korea human rights violations like Russia and China.¹⁴¹ The U.S. should take initiative in protecting refugees fleeing North Korea as a result of its human rights abuses and “work with South Korea and countries around the world to establish multilateral First Asylum arrangements”¹⁴² In order to provide North Korean citizens the much-deserved assurance that they will not have to return to the country that stripped them of their inherent rights as human beings, the U.S. should engage in negotiations to develop a system “with countries in the region to provide temporary asylum to these refugees with the assurance that they will be permanently resettled elsewhere.”¹⁴³

Moreover, it would be very wise for the U.S. to put an international plan into place with the UNHCR to ensure the safety and refuge of abused North Korean citizens if any regime upheaval or “political destabilization” were to occur.¹⁴⁴ The creation by the U.S. of an official asylum plan with neighboring countries willing to provide aid in efforts to mitigate the DPRK human rights violations would ensure the safety of the North Korean refugees, promote peace, and most

¹³⁷ *Id.*

¹³⁸ *Id.* at 44-45.

¹³⁹ *North Korea: US Should Refocus on Rights Concerns*, HUM. RTS. WATCH (HRW), 1, 2 (Apr. 15, 2021), <https://www.hrw.org/news/2021/04/15/north-korea-us-should-refocus-rights-concerns> [<https://perma.cc/BUJ8-R6YB>].

¹⁴⁰ Edith M. Lederer, *West Spotlights North Korea Rights Abuses; China Opposes*, AP NEWS, 1, 6 (Mar. 17, 2023), <https://apnews.com/article/north-korea-human-rights-china-us-705613bca863c2b48f50bb7547be2d41> (discussing how “peace and denuclearization can’t be addressed without considering the current human rights violations.”) [<https://perma.cc/TNH6-HTER>].

¹⁴¹ See, e.g., *North Korean Refugees and the Imminent Danger of Forced Repatriation From China: Hearing Before the Cong.-Exec. Comm’n on China*, 118th Cong. 76 (2023), <https://www.congress.gov/118/chrg/CHRG-118jhr52477/CHRG-118jhr52477.pdf> [<https://perma.cc/QE3L-L548>].

¹⁴² The Comm. for Hum. Rts. in N. Kor., *supra* note 12 at 2.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

importantly guarantee that North Koreans will not have to return and suffer further human rights abuses by the regime.

Finally, although the DPRK is known to be extremely repressive in its censorship of communication of information into and out of the country, there has recently been “continued growth in the number of North Korean cellphone subscriptions despite the regime’s surveillance.”¹⁴⁵ With this in mind, the U.S. should act on this opportunity of North Korean citizens breaking free from the DPRK control over external information/media and find new ways to “utilize this growing source of information flow into the country, potentially increasing awareness of information consumption among the North Korean population.”¹⁴⁶ In taking such initiative, the U.S. would be able to make great gains in its efforts to alleviate the suffering of North Koreans by making citizens of the DPRK aware of the violation by the Kim regime of their inherent human rights and would enable the U.S. to “develop a more comprehensive and effective strategy to promote human rights in North Korea, bridging the gap between internal and external efforts.”¹⁴⁷ Therefore, it is imperative for the U.S. to make progress in infiltrating the DPRK with information that may be helpful and beneficial to North Koreans while the country’s usually strong censorship is weakened so as to alert them of the human rights abuses they are enduring and spreading the word that the U.S. can and will assist in assuaging these issues.

IV. Conclusion

Even though the U.S. has already begun taking some measures with the aim of intervening in the human rights situation in North Korea, in order for the U.S. to assist in mitigating the human rights abuses in the DPRK, it must further intervene and make a conscious effort to put the abuses issues at the forefront. This could be done by the Biden administration integrating human rights into clarified DPRK policy and placing special attention on the discovery of better incentives to promote Chinese and Russian cooperation, the maintenance of the consistency of its human rights policy, and the importance of standing firm in its position as an avid protector of the inherent rights of citizens of the DPRK.¹⁴⁸

The U.S. may also to mitigate North Korea’s human rights violations by stepping up enforcement of the CAATSA and holding Russia and China responsible by focusing on the production chains between China, Russia, and North Korea, as well as utilizing sanctions in an effective manner through the specification and consistent implementation of sanction conditions to avoid China and Russia putting up barriers to potential U.S. mitigation of its human rights abuses.¹⁴⁹ Additionally, it would greatly help the U.S. in its mitigation efforts if it were to form a connection between the CAATSA and the UFLPA, as doing so could increase awareness of the violations of the North Korean regime and would likely lead the human rights issues within the DPRK become a more pressing obligation for U.S. officials.¹⁵⁰

¹⁴⁵ Kim, *supra* note 128 at 7.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ See generally Cha & Katz, *supra* note 3; Yeo & Cohen, *supra* note 84 (discussing what the Biden administration could do to ensure that human rights are fully and clearly integrated into its policy with the DPRK).

¹⁴⁹ Cha & Katz, *supra* note 3 at 12; Rorry Daniels, *supra* note 101 at 3.

¹⁵⁰ Cha & Katz, *supra* note 3 at 12.

Utilization of the NKSPEA to designate Russian and Chinese entities involved in human rights violations is also an important measure for the U.S. to take to combat the DPRK human rights violations issues, since the U.S. could engage in more thorough inspection of imports and discover products coming in from Russia and China by North Korean force labor and designate such entities as violators of inherent human rights, thus enabling their adequate punishment in the hopes to deter any future similar conduct.¹⁵¹ Additionally, through proper implementation of the NKSPEA, the U.S. has the option to threaten North Korea's financial sector by marking the DPRK as a money laundering concern,¹⁵² if it believes that taking such action would be beneficial and would not lead to significant financial restrictions.

Lastly, full implementation of the NKHRA through appointment of a single office with the responsibility of carrying out the act would ensure that it is properly helping North Korean refugees, thereby furthering the U.S.'s effort in mitigation of the human rights abuses in the DPRK.¹⁵³ Along with the practical measures the U.S. should take in its efforts to assuage the abuse of citizens of the DPRK, policy measures must also be taken. Collaboration of the U.S. with its tech companies to discover North Koreans posing as IT contract workers and intervene in the DPRK's profiting off of doing so,¹⁵⁴ proposal of the human rights abuse situation in North Korea to be everlasting topic of discussion by the U.N. Security Council,¹⁵⁵ creation of an official asylum program in order to provide safety and security to North Koreans,¹⁵⁶ and taking advantage of the depletion of the DPRK control over external information by promoting human rights¹⁵⁷ make up a non-exhaustive list of a few policy measures that could and should be highly considered to be taken by the U.S. in furtherance of its mitigation efforts of human rights violations by the DPRK. The use of the aforementioned legal and policy driven recommendations could enable the U.S. to make great progress toward successfully reducing—and maybe even eliminating—the dire human rights violations situation taking place under the Kim regime in the DPRK. As has been pointed out by a North Korean defector (a citizen of the DPRK who has escaped the country), “[i]f America does not stand up for the abused people in North Korea, then what other country in the world would even care?”¹⁵⁸ Failure to intervene and prioritize the mitigation of these long-standing abuses not only perpetuates the disregard for the welfare of North Koreans, but also inhibits progress toward a solution to world-wide security issues as a result of the unbridled power of the DPRK military forces. If the U.S. does not urgently take effective action against the human rights violations within the DPRK, as well as the complicit Russian and Chinese governments, the international community as a whole is exposed to the dangers that accompany an unrestrained North Korean regime.¹⁵⁹

¹⁵¹ Krauland & Jeydel, *supra* note 112 at 4.

¹⁵² *Id.*

¹⁵³ The Comm. for Hum. Rts. in N. Kor., *supra* note 12 at 2.

¹⁵⁴ Cha & Katz, *supra* note 3 at 12.

¹⁵⁵ Cohen, *supra* note 126 at 44.

¹⁵⁶ The Comm. for Hum. Rts. in N. Kor., *supra* note 12 at 2.

¹⁵⁷ Kim, *supra* note 128 at 7.

¹⁵⁸ Cha, *supra* note 44 at 6 (discussing the need for the U.S. to place its focus on the human rights issue in North Korea).

¹⁵⁹ See generally Shin, *supra* note 6.