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State Department Reform Should Retain Emphasis on North Korean Human Rights

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Secretary of State Rex Tillerson announced that the State Department would like to eliminate the Special Envoy for Human Rights in North Korea by folding the position into the role of the Under Secretary of State for Civilian Security, Democracy and Human rights.¹ Given North Korea's recent belligerent nuclear and missile activities, the Administration cannot take its eye off North Korea, including its significant human rights violations. The Administration and Congress must find a way to retain the specialized function of the Special Envoy, if not the position itself.

The State Department is in need of reform in order to make it as effective and efficient an instrument of foreign policy as possible.² This necessarily demands rationalizing staffing and eliminating redundant special envoy positions. In the current context, however, the decision to eliminate the Special Envoy will deepen concerns that U.S. interest in human rights, and its links to national security, are diminishing. Rogue leaders like Kim Jong-Un use human rights abuses—public executions, threats of being sent to prison camps, and diversion of goods and resources—to maintain their grip on power. Though not always viewed as such, human rights policy is of strategic value to U.S. diplomacy, espe-

cially in the case of North Korea. It is important that the U.S. maintain focus on this point.

Addressing human rights issues is a core component of any successful strategy toward North Korea. Since North Korea is a top foreign policy priority of the Trump Administration, an individual of ambassador-level rank should be charged with addressing Pyongyang's human rights violations. The Administration's proposal would retain the Special Representative for North Korea Policy, but eliminate the Special Envoy for Human Rights in North Korea. Some Members of Congress have expressed concern that this might lessen the attention paid to human rights in North Korea. A compromise solution would be to merge the two positions. Since the Special Envoy for Human Rights in North Korea is statutorily mandated, the easiest path would be for Congress to support the consolidation and broaden the responsibilities of a renamed "Special Representative for North Korea Policy and Human Rights" to encompass human rights, diplomatic, and other aspects of U.S. policy toward North Korea.

Background on the Special Envoy for Human Rights in North Korea

Section 107 of the North Korean Human Rights Act (NKHRA) of 2004 created the Special Envoy position.³ The NKHRA is up for reauthorization this year, but technically expired on August 12.⁴ The act specifies that the Special Envoy be a full-time position that holds the rank of ambassador. The primary role of the Special Envoy is to "coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea."⁵

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The act specifies the following duties of the Special Envoy:

- Diplomatic efforts to engage with North Korean officials on human rights grounds;
- Promoting globally the human rights and political rights of North Korean citizens;
- Partnering with NGOs;
- Recommending recipients for the grants disseminated through the NKHRA;
- Reviewing strategies for protecting human rights in North Korea; and
- Producing a report on activities conducted by the Special Envoy to advance human rights in North Korea.⁶

Two individuals previously served as the Special Envoy: Jay Lefkowitz and Robert King. Lefkowitz focused on serving the small population of North Korean refugees resettled in the U.S., encouraging the North Korean government to reform best practices on human rights, and generating international

consensus to address North Korea's human rights issues.⁷ King helped orchestrate U.S. and international support at the U.N. for the seminal Commission of Inquiry (COI) report on human rights in North Korea. The COI report was instrumental in making human rights challenges a normal part of political discourse and U.S. government strategy toward North Korea. The report raised the profile of the issue, forcing many policymakers to incorporate human rights considerations into policy. King also worked with the Broadcasting Board of Governors to advance information access efforts in North Korea.

Why Should the Administration Prioritize Human Rights in North Korea?

While the world's attention is focused on North Korea's sixth nuclear test and its recent testing of inter-continental ballistic missiles (ICBMs), it has focused less on North Korea's ongoing human rights violations.⁸ Those who are focused on these violations often emphasize the significance of human rights challenges to the detriment of addressing security concerns. Both sides miss the fact that, in many regards, the issues are interconnected.

First, the Kim regime uses human rights abuses to maintain its grip on power. The U.N. COI reviewed violations of "the right to food, those associated with

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1. Josh Rogin, "Tillerson Scraps Full-Time North Korean Human Rights Envoy," *The Washington Post*, August 31, 2017, https://www.washingtonpost.com/news/josh-rogin/wp/2017/08/31/tillerson-scraps-full-time-north-korean-human-rights-envoy/?utm_term=.c7ff5175d4f6 (accessed September 11, 2017).
 2. Brett Schaefer, "How to Make the State Department More Effective at Implementing U.S. Foreign Policy," Heritage Foundation *Backgrounder* No. 3115, April 20, 2016, <http://www.heritage.org/political-process/report/how-make-the-state-department-more-effective-implementing-us-foreign> (accessed September 11, 2017).
 3. North Korean Human Rights Act of 2004, Public Law 108-333, <https://www.congress.gov/bill/108th-congress/house-bill/4011/text?q=%7B%22search%22%3A%5B%22H.R.+4011+north+korea%22%5D%7D&r=2> (accessed September 11, 2017).
 4. North Korean Human Rights Act of 2004 (Senate), https://www.rubio.senate.gov/public/_cache/files/c6c56e72-135b-47e5-8435-640dd3050900/54D263A7F1E5C9496641F343A0067803.dav17729.pdf (accessed September 11, 2017), and North Korean Human Rights Act of 2004 (House) https://ros-lehtinen.house.gov/sites/ros-lehtinen.house.gov/files/ROSLEH_009_xml.pdf (accessed September 11, 2017).
 5. North Korean Human Rights Reauthorization Act of 2017, S.1118, 115th Cong., March 11, 2017, https://www.rubio.senate.gov/public/_cache/files/c6c56e72-135b-47e5-8435-640dd3050900/54D263A7F1E5C9496641F343A0067803.dav17729.pdf (accessed September 11, 2017), and To reauthorize the North Korean Human Rights Act of 2004, and for other purposes, H.R.6209, 114th Cong., September 28, 2016, https://ros-lehtinen.house.gov/sites/ros-lehtinen.house.gov/files/ROSLEH_009_xml.pdf (accessed September 11, 2017).
 6. *Ibid.*
 7. U.S. Department of State, "The Activities of the Special Envoy for Human Rights in North Korea," May 2007, <https://2001-2009.state.gov/g/senk/85776.htm> (accessed September 11, 2017).
 8. Anna Fifield, "In Latest Test, North Korea Detonates Its Most Powerful Nuclear Device Yet," *The Washington Post*, September 3, 2017, https://www.washingtonpost.com/world/north-korea-apparently-conducts-another-nuclear-test-south-korea-says/2017/09/03/7bce3ff6-905b-11e7-8df5-c2e5cf46c1e2_story.html?utm_term=.8c2016aa795c (accessed September 11, 2017), and Anna Fifield, "North Korean Nuclear Test Draws U.S. Warning of 'Massive Military Response,'" *The New York Times*, September 2, 2017, <https://www.nytimes.com/2017/09/03/world/asia/north-korea-tremor-possible-6th-nuclear-test.html> (accessed September 11, 2017).

prison camps, torture and inhuman treatment, arbitrary detention, discrimination, freedom of expression, the right to life, freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other states.”⁹ All of these abuses are used to ensure the continuance of the regime.

For example, North Korea has a policy of detaining three generations of a family in a political prison camp if one member of the family commits an alleged political crime.¹⁰ Similarly, the regime also publicly executes individuals caught with a Bible or other forbidden outside information, such as South Korean TV dramas.¹¹ The threat of being sent to a political prison camp or public execution is often enough to silence dissent.

Second, the regime profits from its human rights abuse. In 2012 alone, North Korea spent \$300 million on luxury facilities, \$644 million on luxury goods, and an estimated \$1.3 billion on its missile program.¹² In 2015, the U.N. World Food Program asked foreign donors for only \$111 million in contributions. North Korea is willfully depriving its people of the food and resources they need and diverting those resources to support their weapons programs.¹³

Furthermore, North Korea profits from forced labor abroad. One report by the Asan Institute for Policy Studies suggests that there are nearly 50,000

North Korean workers forced to labor overseas, sometimes without compensation, for as much as 20 hours at a time.¹⁴ These laborers are harbored in at least 16 countries around the globe.¹⁵ While some receive compensation, most workers forfeit the majority of their wages to the Kim regime. The same report noted that workers were not allowed to be paid more than \$150 per month which is between 10 percent and 20 percent of the value of the labor they performed.¹⁶ These overseas laborers were not paid directly and instead were given a cut of what they earned by the North Korean government. Heritage Foundation calculations based on the Asan report suggest that the regime may have profited as much as \$360 million annually from just 50,000 laborers alone.¹⁷

There is a clear connection between the Trump Administration’s priority of targeting the Kim regime’s nuclear and missile weapons programs and addressing human rights violations. The Trump Administration’s current policy of “maximum pressure and engagement” seeks to cut off North Korea’s access to resources that fund its nuclear and missile weapons program.¹⁸ Such a policy should also address the very tactics—human rights abuse—that help enable the Kim regime to maintain its grip on power. That requires having a full-time advocate that makes clear the connections between national security and human rights priorities and serves as

9. United Nations Human Rights Council, *Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea*, No. A/HRC/25/63, February 7, 2015, p. 5, <http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx> (accessed September 13, 2017).
10. David Hawk, “The Hidden Gulag: The Lives and Voices of “Those Who Are Sent to the Mountains: Exposing North Korea’s Vast System of Lawless Imprisonment,” Committee for Human Rights in North Korea, 2012, https://www.hrnk.org/uploads/pdfs/HRNK_HiddenGulag2_Web_5-18.pdf (accessed September 12, 2017).
11. Jessica Chasmar, “80 People Publicly Executed Across North Korea for Films, Bibles,” *The Washington Times*, November 12, 2013, <http://www.washingtontimes.com/news/2013/nov/12/80-people-publicly-executed-across-n-korea-films-b/> (accessed September 12, 2017).
12. Joshua Stanton, “UN Must Confront the Political Causes of North Korea’s Food Crisis,” *One Free Korea*, July 22, 2015, <http://freekorea.us/2015/07/22/u-n-must-confront-the-political-causes-of-north-koreas-food-crisis/> (accessed September 9, 2015).
13. Olivia Enos and Bruce Klingner, “Next Steps for Human Rights in North Korea,” Heritage Foundation *Backgrounder* No. 3071, January 12, 2016, http://www.heritage.org/asia/report/next-steps-human-rights-north-korea#_ftn8.
14. Shin Chang-Hoon and Go Myong-Hyun, “Beyond the UN COI Report on Human Rights in North Korea,” The Asan Institute for Policy Studies, November 3, 2014, p. 21, <http://en.asaninst.org/contents/asan-report-beyond-the-coi-dprk-human-rights-report/> (accessed October 22, 2016), and Congressional Executive Commission on China, *CECC Annual Report 2016*, October 6, 2016, p. 2, http://www.cecc.gov/sites/chinacommission.house.gov/files/documents/AR16%20NKR_final.pdf (accessed October 22, 2016).
15. *Ibid.*
16. *Ibid.*
17. Calculations based on Asan figures: 50,000 workers per year earning \$150/month at 10 percent of the value of their labor for 12 months.
18. Olivia Enos, “Are The U.S. And South Korea on a Crash Course for Collision?” *Forbes*, August 10, 2017, <https://www.forbes.com/sites/oliviaenos/2017/08/10/are-the-u-s-and-south-korea-on-a-crash-course-for-collision/#503ebfe27efa> (accessed September 11, 2017).

the go-between for elements of the government working on national security and human rights issues.

The separation between human rights issues and national security issues is an unnatural one and a result of certain physical realities—that is, of finite minds with limited time, who are incapable of mastering national security and human rights issues simultaneously. Without an advocate for human rights in North Korea, the likelihood of human rights issues slipping through the cracks when it becomes one of a panoply of issues juggled by the undersecretary of state for civilian security, democracy and human rights is very high.

The Way Forward

Congress and the executive should recognize the linkage between human rights and national security challenges, and then evaluate how the State Department can use human rights advocacy to achieve the policy goal of maximum pressure and engagement with North Korea.

- **Merge the roles and responsibilities of the Special Envoy for Human Rights in North Korea with those of the Special Representative for North Korea Policy to create a Special Representative for North Korea Policy and Human Rights.** Because the U.S. does not have an embassy or ambassador in Pyongyang, there is an unusual gap in America’s diplomatic structure with that nation that can be partially filled by a Special Envoy. Congress and the Administration should consolidate the envoy positions into a renamed Special Representative with ambassadorial rank subject to Senate confirmation, and explicitly charged with human rights and broader diplomatic responsibilities. Furthermore, the position should retain the congressional oversight enjoyed by the Special Envoy position to ensure that the representative devotes substantial time and effort to advancing U.S. human rights policy in North Korea.
- **Sanctions identification and implementation on human rights grounds should be an essential responsibility of the ambassador.** During Bob King’s tenure, at least 10 North Korean entities or individuals, including Kim Jong-Un, were sanctioned on human rights grounds.¹⁹ The U.S. President technically has the authority to identify and sanction additional individuals on human rights grounds, but neither Presidents Obama nor Trump have done so. The representative should be required to evaluate on a twice-yearly basis, individuals who already on the sanctions list and identify additional human rights violators eligible for sanctioning.
- **Involve the ambassador in discussions regarding contingency planning in the event of a North Korean collapse or emergency situation.** One of the main challenges with contingency planning is its focus on military objectives without making accommodations for human rights or humanitarian priorities. There is a place for both, and the Special Envoy should serve as the representative of the latter set of priorities.
- **Ensure that the ambassador plays a critical role in pressing the U.N. for updates to the UN COI report.** The report elevated the significance of human rights violations in North Korea in a way that no other report has prior or since. Three years after its publication, it is time to press for an update of the report to ensure its continued accuracy and influence in generating meaningful policy solutions to human rights challenges. The Special Envoy is perfectly placed to serve as a liaison to the U.N. on this subject.
- **Continue to promote information access in North Korea.** Historically, one of the primary duties of the Special Envoy has been to disseminate information in North Korea.²⁰ Without a champion of improving information access in North Korea, these efforts may lapse. There are many areas for improvement in information access, including a need to invest in new technologies to improve information access, and make use of pre-existing tools, such as Netflix or Hulu, to stream American and South Korean TV dramas

19. Elise Labott and Ryan Browne, “U.S. Sanctions North Korean Leader for First Time Over Human Rights Abuses,” CNN, July 7, 2016, <http://www.cnn.com/2016/07/06/politics/north-korea-kim-jong-un-human-rights/index.html> (accessed September 11, 2017).

20. Olivia Enos, “Improving Information Access in North Korea,” Heritage Foundation *Background* No. 3149, December 7, 2016, <http://www.heritage.org/asia/report/improving-information-access-north-korea>.

into the closed society. The Special Envoy or its successor should in conjunction with other elements of State Department, create a strategy for improving information access.

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