

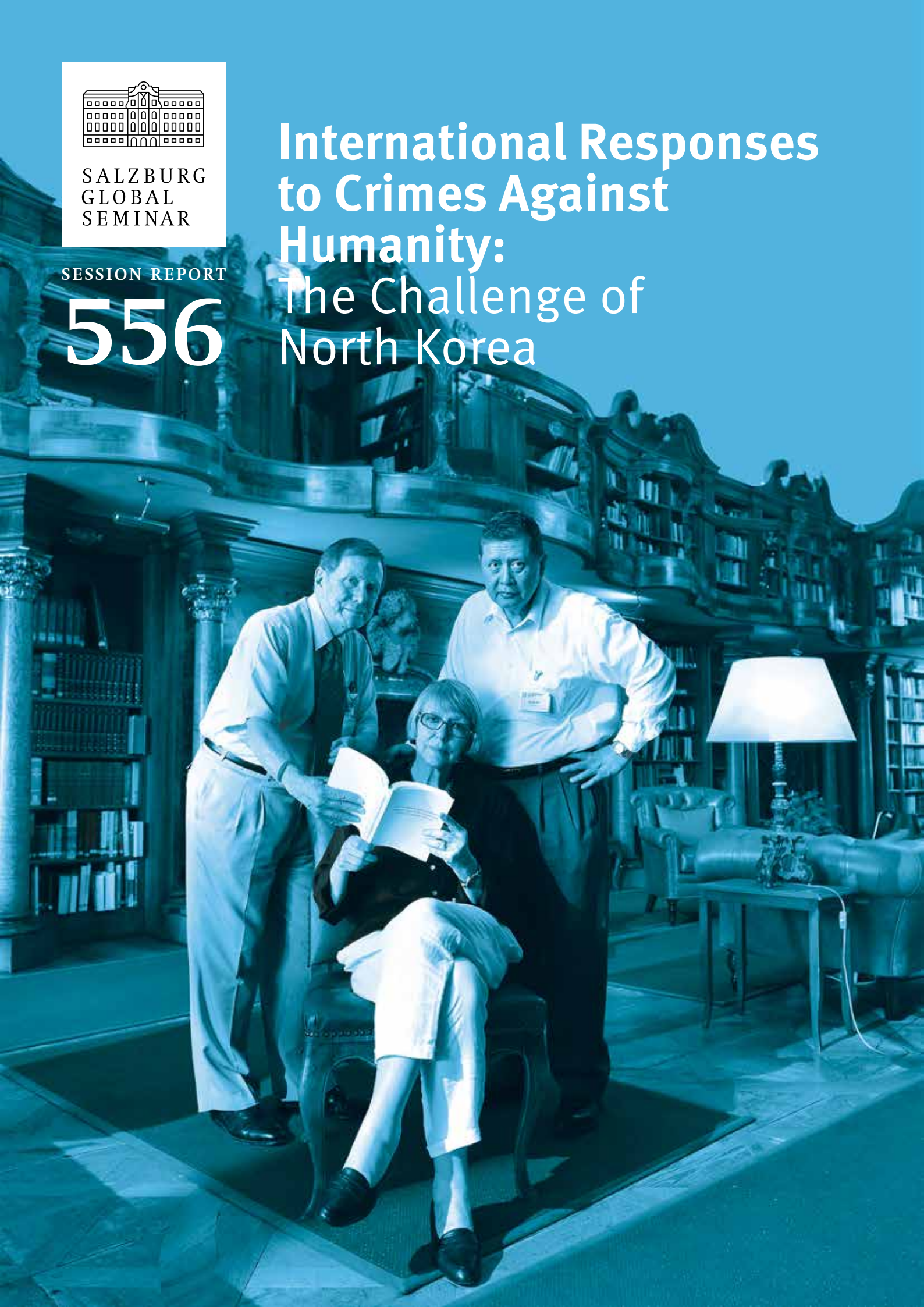


SALZBURG  
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SESSION REPORT

556

# International Responses to Crimes Against Humanity: The Challenge of North Korea



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**Session 556**

Salzburg, June 2 to 7, 2015

# **International Responses to Crimes Against Humanity: The Challenge of North Korea**

SALZBURG  
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## Introduction

Following the end of World War II and the revelations of the depth of the horrors committed during the war and through the Holocaust in particular, the international community pledged to take steps to prevent genocide and crimes of that scale in the future. The record since then has, unfortunately, been mixed at best. The world is again faced with a situation in which the crimes being perpetrated against a specific group of people are so severe that the international community is being asked to intervene to stop further violence – this time, in the Democratic People’s Republic of Korea (DPRK, or North Korea).

North Korea has been on the global agenda for years, but primarily because of security issues linked to nuclear and other offensive weapons. There have been concerns about suffering inside the country under the abuse of successive dictators, but as it is one of the most closed countries in the world, obtaining comprehensive and verifiable information about the extent of the abuses has been a significant barrier to determining steps that could be taken. In some quarters there has been reluctance even to investigate human rights abuses.

In March 2013, the United Nations Human Rights Council established a Commission of Inquiry (COI) to investigate gross human rights violations in North Korea. The COI’s report, released in February 2014, documented “wide-ranging and ongoing crimes against humanity” and called for “urgent action by the international community, including referral to the International Criminal Court”<sup>1</sup>. There is no definitive understanding of how to stop mass human rights abuses and related atrocities. Certainly in the case of North Korea, the international community has taken steps to break the silence. Through the COI it has named the atrocities that have taken and/or continue to take place, and is now determining what steps to take to alleviate the suffering of the people of North Korea. As outlined in the Outcome Document of the UN’s 2005 World Summit<sup>2</sup>, North Korea, a member state of the United

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1 United Nations Office of the High Commissioner for Human Rights, Press Release on North Korea, 17 February 2014: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14255&LangID=E>

2 Resolution adopted by the General Assembly – 2005 World Summit Outcome [www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/60/1](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/60/1), p. 30 (paragraphs 138-140).



Members of the UN Commission of Inquiry on Human Rights in North Korea – Michael Kirby, Sonja Biserko and Marzuki Darusman – in the Max Reinhardt Library of Schloss Leopoldskron, venue of the Salzburg Global Seminar symposium

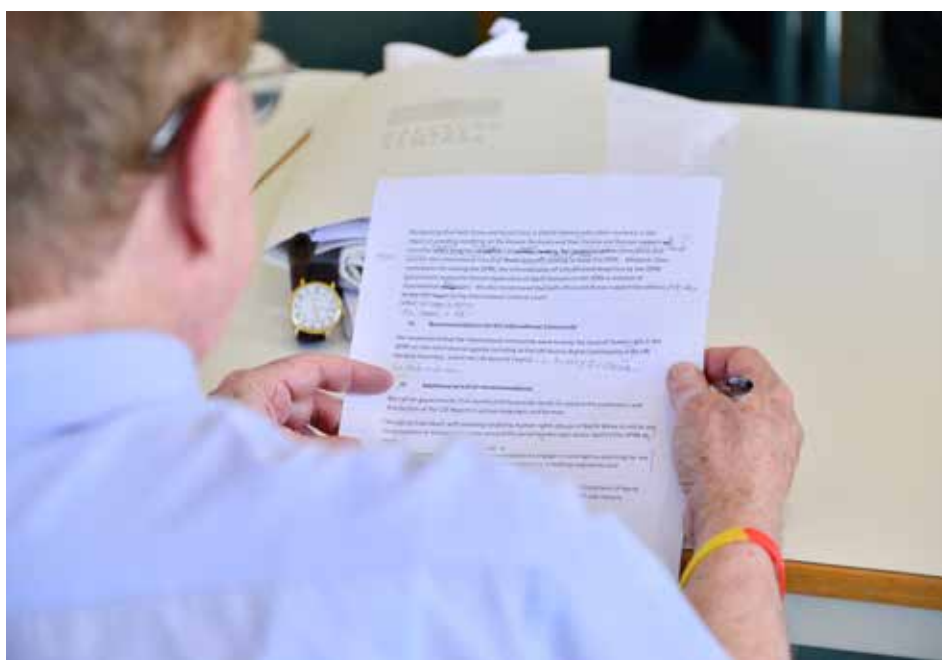
Nations, and signatory to multiple international treaties and conventions<sup>3</sup>, has a Responsibility to Protect populations living within its borders from crimes against humanity; but as the regime is clearly failing to do so, the international community also has a responsibility to take steps to protect those populations.

The challenge facing the international community now is how to address the ongoing crimes being perpetrated by the North Korean regime. What steps should be taken, by which actors, remains unclear. Peace should not contradict justice, but in practical terms, many see real tensions between these two objectives. There are those who suggest that the COI report, by clearly demonstrating the depth of the crimes being perpetrated by the DPRK leaders, has rendered any sort of engagement with their regime unthinkable. Others, however, suggest that further pressure on, and isolation of, the regime could, in fact, result in even harsher treatment of ordinary people – and that an overriding responsibility to relieve suffering requires an effort to engage the regime and find incentives to induce it to promote positive change. Decisions taken, whether by individuals, institutions or governments, have very real consequences for peoples' lives.

<sup>3</sup> See: [treaties.un.org](https://treaties.un.org)  
For an explanation of the Responsibility to Protect, see p. 22 of this report and [www.responsibilitytoprotect.org](http://www.responsibilitytoprotect.org)

The symposium – *International Responses to Crimes Against Humanity: The Challenge of North Korea* – in Salzburg was designed to take up this essential challenge in North Korea. There is no consensus on what should be done – neither about what is most likely to bring about positive change for the people of North Korea “today”, nor about how to provide a modicum of justice for the millions of victims, whether living or already perished. These goals, while intertwined, often lead to rather different opinions on what is most likely to be effective. Among the diverse experts that convened for the Salzburg symposium, there was a broad range of opinion spread across a continuum of possible actions from a very strong accountability stance to one that gives priority to engagement and cooperation.

The following report seeks to provide a summary of many of the key points raised, highlight the diverse perspectives expressed, and reflect the range of strategies discussed, without suggesting there was unanimity around any of the recommendations or cataloging a complete record of the very deep and complex discussions that were held. This is a glimpse, at best, into the range of issues and opinions that were examined and shared over a very intense five day gathering – but one that can help elucidate core challenges related to the case of the DPRK and highlight various concrete strategies that are being, or could be, adopted in an effort to improve the lives of people living in North Korea.



Michael Kirby helps draft the “Salzburg Statement”

**“ The conclusions and recommendations of the commission [should] not pass from the active attention of the international community. Where so much suffering has occurred, and is still occurring, action is the shared responsibility of the entire international community. ”**

Report of the Commission of Inquiry on human rights in the Democratic People’s Republic of Korea, p. 21  
[www.ohchr.org/EN/HRBodies/HRC/ColDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx](http://www.ohchr.org/EN/HRBodies/HRC/ColDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx)

## Background

Salzburg Global Seminar, founded in 1947 to encourage the revival of intellectual dialogue in post-war Europe, has as its mission to challenge current and future leaders to solve issues of global concern. As part of that mission Salzburg Global, in 2009, began an initiative on *Holocaust Education and Genocide Prevention* to better understand not only the breadth and value of Holocaust education and remembrance efforts globally, but to seek to better understand practical strategies to support genocide prevention.

Salzburg Global Seminar, with support from the National Endowment for Democracy, the Open Society Foundation, and other partners, and in cooperation with the Citizens Alliance for North Korean Human Rights, convened a special symposium from June 2 to 7, 2015 on *International Responses to Crimes Against Humanity: The Challenge of North Korea*. The symposium brought 45 experts from a wide range of professional fields and experience, from 20 countries, spanning six continents. The symposium, convened under the Chatham House Rule<sup>4</sup>, sought to have a diverse set of key actors review and analyse the recommendations included in the report of the UN Commission of Inquiry (COI) on Human Rights in the Democratic People’s Republic of Korea (DPRK, or North Korea), examine specific ways in which the international community can best respond to the ongoing crisis in North Korea, and then propose action-oriented recommendations specific to various policymakers and practitioners based on their areas of expertise and activity. As was stated at the opening of the symposium, while a range of recommendations already exist, pro-active next steps need to be determined; hence the need to bring diverse voices and perspectives together to seek productive solutions. All three members of the COI – Michael Kirby (Australia), Sonja Biserko (Serbia), and Marzuki Darusman (Indonesia) – participated in the symposium and Justice Kirby served as Chair, taking an active role in developing the agenda and in disseminating the ideas that emerged.

<sup>4</sup> Note: Given the sensitive nature of the symposium, it was held under the Chatham House Rule. “When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” – See more at: [www.chathamhouse.org/about/chatham-house-rule](http://www.chathamhouse.org/about/chatham-house-rule)



## *The Commission of Inquiry*

In 2013 the UN Human Rights Council mandated a Commission of Inquiry into the “systematic, widespread and grave violations of human rights” in the DPRK, with the daunting task of gathering testimonies, collecting evidence and documenting abuses committed. The COI, under difficult circumstances and time constraints, conducted as thorough an investigation as possible. The North Korean government was unwilling to cooperate and took active measures to hinder the investigation. There were concerns, in fact, for the safety of the COI principals and of those assisting their investigation. In a somewhat unusual step, the principals decided to limit special security measures and to conduct their investigation in as open and transparent a manner as possible. They also opted to share the results of the investigation first with the media, and wrote the report in an accessible style in order to build greater public awareness of, and interest in, the situation in North Korea.

The Commissioners found clear evidence of “crimes against humanity” and recommended that the State be referred to the International Criminal Court (ICC)<sup>5</sup>. As outlined in the report, some of the most extreme and disturbing violations include, “extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation.” The report goes on to admonish the international community to “accept its responsibility to protect the people of the Democratic People’s Republic of Korea from crimes against humanity, because the Government of the DPRK has manifestly failed to do so.”



Marzuki Darusman



Sonja Biserko

## **Creation of COI**

While the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea was established in March 2013 by the United Nations Human Rights Council, there was considerable effort in the preceding years to advance the cause of mandating the COI. The government of North Korea repeatedly failed to cooperate with the UN, and with the Human Rights Council in particular. At the same time, international human rights organizations were raising the alarm about the situation inside the country. They urged the UN to investigate the situation and take steps to help protect the rights of the population living under what was clearly among the most repressive of governments. Based on deep concerns about the domestic situation in the country, the Human Rights Council mandated a “Special Rapporteur on the situation of human rights in the DPRK” in 2004. The international NGO community continued to play an active role, in particular seeking to bring refugees and survivors in contact with diplomats and dignitaries and getting first hand testimony heard by members of the Security Council and by the High Commissioner for Human Rights as a means to demonstrate that the situation in North Korea went far beyond “standard” human rights violations and required urgent action by the international community.

<sup>5</sup> The International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The ICC is based on a treaty, joined by 123 countries (as of April 1, 2015). The jurisdiction and functioning of the ICC are governed by the Rome Statute. For details see: [www.icc-cpi.int](http://www.icc-cpi.int)

## Tensions in International Responses to North Korea

Judge Kirby outlined a number of the challenges in how the international community should respond to the crimes being committed against the North Korean people by their own leaders.

- Universal Human Rights and Geopolitical Realities:*  
The COI recommendation to refer North Korea to the ICC was an appeal to the core principles of the UN, but voting is often politicized and based on complex power plays and, at present, there is relatively little chance of the referral passing a Security Council vote.
- Accountability “versus” Engagement:*  
There is high interest in bringing justice to those victimized by the State, but equally high levels of concern that in the quest for justice, many more people will be even more deeply victimized. Multiple States and other non-State actors are calling for positive engagement with the leaders, believing this will bring better results than further ostracizing the regime.
- Security and Human Rights:*  
Some actors are concerned that seeking to raise human rights concerns might deflect necessary attention from, and international agreement on, dealing with nuclear concerns.



Joanna Hosaniak and Thomas Kellogg

The COI concluded that the regime, which they identified as totalitarian, has no parallel in the contemporary world. The most significant features are the use of terror as a means of governance, the use of political prison camps as a tool of enforcement, and the debasement of the individual as an operational principle. The Commission found that the regime goes well beyond authoritarianism, using access to food as a means of control and ensuring loyalty to the regime.

While the COI recommended referring North Korea to the ICC, that step has not yet been taken. North Korea is not a State party to the Rome Statute, which established the ICC, so it would require that the UN Security Council (SC) vote refer North Korea to the ICC. This step faces considerable geopolitical difficulties and, at this time, there is little confidence that such a motion would receive the support from the nine members required and avoid a veto from any of the five permanent members, given the attitudes of Russia and China.

Following the presentation of the COI report in March 2014, the UN Human Rights Council officially endorsed it. Through a procedural motion [not subject to veto], the Security Council requested a briefing on the COI findings. Despite political maneuverings by North Korea to rally support within the General Assembly, the COI report was referred to the Security Council by

the General Assembly in September 2014, and in December was added to the SC agenda for formal review. The North Korean regime has taken a number of steps to try to distract attention from the report and to appear more cooperative. These steps have included releasing select foreign prisoners; cooperating with the UN Human Rights Council Universal Periodic Review<sup>6</sup> process; and active lobbying of key UN member States requesting that they not support a referral to the Security Council. They have also taken more aggressive steps, such as seeking to have the Special Rapporteur on the situation of human rights in DPRK, Marzuki Darusman, who was also a member of the COI, removed from his post, and seeking to shout down the testimony of a North Korean refugee when he was giving testimony at the UN. These measures seem to prove that the regime is concerned about the report and what further steps may be taken by the international community to intervene.

As the COI Chair Michael Kirby conveyed it, his goal was to do all in his power to ensure that the situation in North Korea be placed squarely on the global agenda and to put the North Korean regime on notice that the world is watching what they do to their own people and will hold them to account. That said, he also recognized that there are different perspectives on what is the most effective way to improve the human rights situation in North Korea and noted that there are multiple challenges and tensions that still need to be resolved on how to bring about positive and lasting change for North Koreans [see **Tensions in International Responses to North Korea** sidebar].

### *Where Things Stand at Present*

The COI report has been presented not only to various key UN bodies, but also broadly disseminated to the public. The Commissioners purposefully sought to make the report readable in order to build support for action among a wide range of actors beyond the UN system. Their hope is that the report will be made available to a broad reading public in English and Korean, at a minimum, and ideally in other languages.

The Commissioners noted that the report has had an impact already, including on the actions of the North Korean regime – both positive and negative. As indicated, DPRK officials launched what could be called a “charm offensive” within international diplomatic circles, and were more cooperative with the UN Human Rights Council than they had been previously. There

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<sup>6</sup> For information about the Universal Periodic Review process, see: [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx)

- *Power Differences between Perpetrators and Victims:* The voices of victims are often drowned out by those of the perpetrators – in the case of North Korea, the regime. Too often victims are “voiceless” especially in the international system. The voices of victims in North Korea have, now, been heard, and the COI and ongoing efforts of many civil society and human rights organizations are helping to amplify those voices.
- *Intra-Korean Contact:* The challenges facing regular contact across the North-South border on the Korean peninsula are significant, largely because of resistance in the North. At present, there is not even an official peace treaty – only an operating armistice, with flares in cross-border tensions possible at any time.
- *Resolving Abductions:* As the Korean conflict moved to an armistice, many men were forcibly taken into North Korea. There were also forced seizures in Japan. These issues remain unresolved.

are also reports that the treatment of disabled people, those with physical and mental challenges, has improved, as evidenced by the visibility of these people on the streets in Pyongyang. As one participant in Salzburg noted, in the past the regime pretended that people with disabilities simply did not exist and they were hidden from public view, or worse. At the same time, however, there has also been an increase in – seemingly – ad hoc executions even among military elites, and an increase in violence against certain segments of society.

The role of the Special Rapporteur – currently Marzuki Darsuman – remains active and he continues to play a key role in keeping North Korean human rights issues on the UN and other global agendas. He continues to gather evidence and encourage testimony from witnesses inside the DPRK, as well as those who have escaped. In addition, the UN High Commissioner for Human Rights established a **special UN field office in South Korea** in June 2015<sup>7</sup> to continue to investigate human rights abuses in North Korea, including through data collection, gathering of evidence, and taking testimonies from refugees and other relevant individuals.

The coalition of non-State actors that helped to bring attention to the human rights situation in North Korea also continues to play an active role in advocating for change, whether within and through the UN system or through other mechanisms that exist to support international justice and humanitarian relief. While these actions follow different paths, there is agreement that international attention needs to stay on the human rights situation in the DPRK and all efforts need to concentrate on supporting the people of North Korea (as well as protecting people in other states from weapons developed or deployed by the DPRK).



Camila Asano



Lynn Lee

<sup>7</sup> For information on the field office see: [seoul.ohchr.org/EN/Pages/ABOUT%20US.aspx](https://seoul.ohchr.org/EN/Pages/ABOUT%20US.aspx)

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## The Challenge of Dealing with North Korea: Key Issues

Despite the success of the COI in raising media attention and public awareness about human rights abuses in North Korea, many activists noted that their own governments, regardless of where located, were not necessarily convinced that the situation in North Korea should be considered an international priority or that it is a matter of concern to their own countries.

A number of participants in Salzburg noted that more could be done to activate civil society in their countries and thus bring pressure to bear on their governments to take more active roles in supporting efforts within the UN and related international systems. There was a general feeling that civil society organizations would be interested to take up the cause if more was done to bring the North Korean situation to their attention. Strategic countries could be selectively targeted. It was pointed out that in Sub-Saharan Africa in particular, many countries might see value in advocating for North Korea to be remanded to the ICC given recent criticisms across the continent that the ICC seemed to be focusing exclusively on African countries. It might be possible to leverage political considerations in this way to increase support for the COI recommendation that the Security Council refer the DPRK to the ICC.

Another significant challenge relates to the **secretive and closed nature** of the DPRK regime. Gathering evidence, verifying information and gaining access to first-person testimony from people inside the country are all extremely difficult. Even the ideological underpinnings that drive and support the power structures within the country, the decision-making processes, alliances, and so forth are not entirely clear. The Commissioners also indicated a lack of clarity on the financial infrastructure of the regime and how, despite being nearly cut off from international trade and markets, it continues to fund a massive military, among other priorities. Lack of such insights, and the general opaque character of the regime, make it more difficult to craft effective strategies for change. The COI, for example, lacked sufficient time and the right resources/contacts to create a comprehensive list of the closest advisors and influencers of Kim Jong-un, or of others in political or military decision-making roles. This information would be essential for any future prosecutions, but could also be used in seeking to identify potential defectors and informants in order to gather more evidence.

*“ The DPRK unquestionably uses terror as a means of governance. Political prison camps are the primary means of enforcement, effectively debasing the individual as a matter of operational principle. The regime manipulates access to food as a means of socio-political control, demanding loyalty to the regime before distributing food. This is not just about inflicting cruelty on people, but is a unique system even within the history of totalitarianism. ”*

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Marzuki Darusman



Mark Tokola

The impression of many governments, heretofore, was that North Korea was a **“failing” State** and, for that reason, there was little or no long-term planning on how to deal with the DPRK government. Many participants acknowledged that, within their own governments, there was no serious thought given to possible 10-year plans as most had not thought the State would endure that long. Only recently is there broad acknowledgement that, despite the often miserable conditions within the country, the DPRK is not, in fact, a failed State and major changes in the near future cannot be taken for granted. How does that affect various approaches to the regime? Given that there is still no peace treaty between North and South Korea, many questions remain open on how to resolve ongoing tensions on the peninsula. Are there reform levers that can be moved within the DPRK? If so, what are they? Where and how might pressure be applied to instigate reforms? At the same time, it was generally agreed that some kind of “contingency” planning should be carried out in case of sudden upheavals or unanticipated openings within the regime. But how can this be undertaken without further exacerbating the problems faced by ordinary citizens inside the country? Many fear that any indication of contingency planning could result in even harsher crackdowns and more crimes against the North Korean people.

As noted, until now, most international attention on North Korea has focused on concerns related to nuclear and other military weapons. Opinions differ on how to prioritize human rights issues alongside **conventional security concerns**, or at least without compromising international leverage on security matters. More than one participant pointed out that security can be more

broadly cast to include human rights issues, and noted that some very significant, albeit non-traditional, security concerns – including spread of disease, refugee crises, and so forth – arise directly from major human rights violations. Can human rights and security concerns be strategically linked in international responses to the DPRK in order to make more effective progress in both arenas? Some would argue that true “security” is, in fact, impossible, absent respect for basic human rights.

Perhaps the most significant challenge of all, however, is the question of how to pursue both **peace and justice**. Will further pressure on the regime result in an improvement of the situation, or is it more likely to result in even harsher treatment of people inside the country? Some argued that, even in the latter case, increasing the pressure was still, ultimately, the better course of action – both in terms of upholding international human rights standards and insisting on justice for victims of the regime and because, even if it causes more pain within the country in the near term, it would leave the regime no alternative but to accept change in the longer term. Some participants noted that many of those they heard from within the DPRK urged the international community to cut off all aid since it only served to prolong the rule of the current regime. Strategies to bring the leaders of a criminal regime to justice may simply not be compatible with those aimed at assisting the people being victimized by that regime; yet the lines separating these strategies, and even those separating perpetrators from victims, may not always be clear.

Despite these complex challenges, the hope is that by exchanging views, experiences and opinions, even when they are seemingly at odds, one can find ways by which coordination (or awareness, at a minimum) can broaden the range of available effective options, while ensuring that human rights in North Korea do, at a minimum, remain squarely on the global agenda.



Casey Karr



Grigore Scarlatoiu



Robert R. King

## Special Focus: One North Korean Refugee's Story

Salzburg Global was honored that an escapee from DPRK, Jihyun Park, agreed to join the symposium. Jihyun's mission is to make people in other countries aware of the plight of North Koreans subject to the brutality of the North Korean system. While what follows is Jihyun's personal story, it is emblematic – as the COI report shows – of the inhumane treatment to which the majority of the population in North Korea is subject.

Jihyun's story begins in 1995, when famine was killing enormous numbers of people in North Korea<sup>1</sup>. Even those who until then had been doing relatively well financially, her own family included, found themselves increasingly vulnerable, and often desperate to escape disease and starvation. Traffickers were willing to smuggle people, women and girls in particular, across the border into China, as it proved a lucrative, if dangerous, business<sup>2</sup>. For those willing to be trafficked, it was the only way to find any sort of income and, often, the only lifeline available. In 1998,

Jihyun herself, in failing health and unable to keep her own father alive, found a trafficker to take her and her brother over the border.

Once in China, Jihyun was separated from her brother and told that she must "marry" a Chinese man, or her brother would be sent back. She found that marriage, in this case, meant being viewed by dozens of prospective buyers – men willing to pay a substantial sum of money to purchase a so-called bride. But these women are more like slaves: they have no rights, no voice, and are subject to violence with no recourse and no one to assist them. Since they are there illegally, they cannot go to the authorities. If found, they are almost certain to be repatriated and the punishment that awaits them in the DPRK is even worse than the treatment they endure in China. Jihyun was eventually secured by a Chinese farmer for the equivalent of 500 British pounds; not long thereafter, her brother was forcibly repatriated regardless.

Jihyun gave birth to a son a year later. Life with the man who had bought her had deteriorated so much that she gave birth in a small guard's hut on her own. A hospital was out of the question for someone without legal status.

1 While estimates vary quite significantly, it is estimated that anywhere from 600,000 to 2,500,000 people died due to the famine in the 1990s. Likewise, there are no reliable data on the number of people who fled, but some estimates suggest that as many as 300,000 succeeded in escaping. Many people fled the country in an effort to avoid starvation themselves, others to find work to help support family members who had stayed behind.

2 As border controls have tightened, evidence suggests that the majority of current refugees are women. According to US State Department reports, in North Korea "The most common form of trafficking involves North Korean women and girls subjected to involuntary servitude after willingly crossing the border into the People's Republic of China (PRC)." Further, "traffickers reportedly lure, drug, detain, or kidnap some North Korean women upon their arrival. Others offer them jobs, but subsequently force the women into prostitution, domestic service, or agricultural work through forced marriages. According to one report, some women in the North Korean defector population are subjected to sexual slavery." For more information see: [www.state.gov/j/tip/rls/tiprpt/2015/index.htm](http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm)



Her son, although born in China to a Chinese father, had no official recognition, and therefore no rights or status. Children born to North Korean refugees in China are generally unregistered (registration could mean exposing the mother to the authorities and likely deportation), and therefore not recognized by the State, which denies them access to education, among many other basic citizenship rights. Even so, she felt her son fared better being born in China. She described the particular horrors that women face if they are repatriated whilst pregnant, being subjected to forced abortions or beaten so badly that they lose the baby. Infanticide is the most common outcome for women who are brought back pregnant.

She worked very hard to keep herself, her son and her husband-captor fed and sheltered over the next few years. But in 2004 she was caught by the Chinese authorities and, after brief internment in a Chinese prison, was repatriated to North Korea and sent to a labor camp. She was not allowed any contact with her son. She survived the daily brutality and humiliation of the camp until the point at which she contracted an infection that was so severe they “released” her, so that she would be left alone to die on the street. She was eventually helped by a herbalist and able to make a second escape attempt. Once again she found traffickers willing to get her across the border and back into China.

Reaching her son was not easy and the initial contact was even more difficult since he had been told that she abandoned him. He had also been badly mistreated by his father. She determined that the only hope for her and her son was to get out of China and they joined with others heading for Mongolia. It was yet another chilling escape and only through the kindness of a stranger who helped her and her



Jihyun Park

son get through the dangerous border fences did they make it out of China.

Jihyun eventually made it to the United Kingdom in 2008, ending a ten-year search for freedom. She was given asylum and continues to live in the UK today with her current husband – the same man who helped to save her and her young son – and with the two more children she has had with him. She stated that she only actually recognized happiness in the UK once she finally felt she could live safely together with her family.

During an evening discussion with symposium participants, Jihyun urged them to investigate human trafficking in North Korea and to look beyond the claims of “voluntary” trafficking. She also urged that gender issues receive greater notice, reminding the other participants of the crimes of infanticide and forced abortions, as well as other punishments

and vulnerabilities that are gender specific. The COI report specifically references the abhorrent practice of infanticide and highlights the particular abuses associated with human trafficking, especially for women and girls. Bringing these crimes to greater public attention is the necessary first step to countering them, and Jihyun urged everyone to seek ways to put an end to these crimes.

As the discussion closed, it was pointed out that Jihyun is a rare exception not only because of her strength, but because she is willing to be a public voice on behalf of North Koreans. The number of refugees who are willing to speak in public is relatively small; and the number of women refugees who are willing to go public and speak about the particular abuses that women are subject to is even smaller. Her courage inspired the participants, just as it inspires others who learn her story.

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***“We need to capture more stories from North Korean refugees, especially in literature. People need to be able to feel and understand their experiences – it should be visceral and emotional!... North Korean human rights literature will bring lessons for humanity to this generation of people. I could see that [an] author who could capture and communicate North Korean human rights issues will win Nobel Literature Prize... When there are enough concerned voices in the global community, violations will stop and young people of North Korea will have a better future. ”***

Jae-Chun Won

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Jihyun was one of approximately 320 North Korean refugees that provided testimony to the Commission of Inquiry (while she has spoken publicly, many required confidentiality due to security concerns).

She currently works as the North Korean outreach and project coordinator at the European Alliance for Human Rights in North Korea (EAHRNK).

Jihyun’s personal memoir, as well as the memoirs of other North Korean refugees, are available on the EAHRNK website:

[www.eahrnk.org/projects/memoirs](http://www.eahrnk.org/projects/memoirs)

A video interview of Jihyun telling her story to Amnesty International UK can be accessed on YouTube: [https://youtu.be/DMn2\\_2TxiSw](https://youtu.be/DMn2_2TxiSw)

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## Potential Strategies and Actions

The participants reviewed a broad range of potential strategies and actions that either are being, or could be, taken by a variety of key actors. A number of participants reminded the gathering that the establishment of the COI and its report form only one step – albeit an incredibly important one – in a larger process that began with advocacy efforts more than a decade ago, and continues beyond the presentation of the report and beyond even possible referral to the ICC. The ultimate goal is to fundamentally change things on the ground for the lives of the people living in North Korea.

As was remarked more than once, strategies are difficult to determine when it seems that outside actors, whether individuals, organizations or governments, care more for the wellbeing of people inside North Korea than the regime itself does. What follows is not an exhaustive list, but seeks to highlight the strategies that seemed to raise the greatest interest and/or discussion during the symposium. They are grouped by type of actor.

### *United Nations System*

As outlined above, considerable action is being undertaken within the UN system. Since 2004 there has been a **Special Rapporteur** on the situation of human rights in the DPRK. The Special Rapporteur, appointed by the Human Rights Council, is to investigate and report on human rights in the country and on the government's compliance with its obligations under international human rights law. The Special Rapporteur submits an annual report to the Council and also to the General Assembly. This ensures that the DPRK human rights concerns remain on the UN agenda.

In addition, following the creation of the Commission of Inquiry in 2013 and presentation of its findings to the General Assembly in 2014, the UN Security Council has also added a review of the human rights situation in North Korea to its agenda. While it has not yet happened, there remains the prospect for the Security Council to refer North Korea to the International Criminal Court, as was recommended in the report of the COI.

Under the **Responsibility to Protect (R2P)**, the Security Council has within its mandate to ensure that people, wherever they reside, are protected from crimes against humanity. The first level of responsibility resides with national governments, in fact. But if the government demonstrates that it is unable,

*“ If the Commission of Inquiry had had more time to discharge its mandate, what would the international community like to have seen included? This can inform the ongoing role of the Special Rapporteur and future steps that might be taken by the UN system. ”*

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Marzuki Darusman

## Responsibility to Protect (R2P)

“Recognizing the failure to adequately respond to the most heinous crimes known to humankind, world leaders made a historic commitment to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity at the United Nations (UN) 2005 World Summit. This commitment, entitled the Responsibility to Protect, stipulates that:

1. The State carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing.
2. The international community has a responsibility to assist States in fulfilling this responsibility.
3. The international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes.

If a State fails to protect its populations or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, including the collective use of force through the UN Security Council.”

Quoted from the International Coalition for the Responsibility to Protect

For more information about the Responsibility to Protect, see [www.globalr2p.org](http://www.globalr2p.org)



Jennifer Welsh

or unwilling, to protect its people, then the international community has the responsibility to take steps to protect those people. The first response of the SC is to remind the government in question that it has primary responsibility for the people living within its borders. However, if a State manifestly fails to protect those within its borders, then there is, indeed, a responsibility on the part of the international community to intervene. The R2P is meant to provide a “floor” of decency, below which no State should be allowed to fall. The 2005 commitments were not, in fact, new legal obligations; rather, a restatement of political obligations that already exist within the UN system.

As some described it, the fact that the COI invoked R2P in describing the situation in North Korea was vital because it served to remind the world that crimes against humanity can be committed as well during times of “peace”. By invoking R2P, the COI report elevated the concept of **collective** responsibility. Responsibility for action on behalf of the North Korean people rests not only with the Security Council, but across the international community. However, only the Security Council has the power to refer North Korea to the International Criminal Court and to impose international sanctions.

The COI report strongly urged the UN to be more creative and bold in its approaches to the situation in North Korea. The perceived tension between international security and human rights standards, as identified by Judge Kirby at the outset, is often played out among diplomats and other public officials within the UN system. But many participants felt the perception was, in fact, false and that these two goals should not be viewed through the lens of a zero-sum game, whereby gains in one area lead to losses in the other. The COI challenged the UN Secretariat to put the core values of the UN into practice across the system.

During the Salzburg symposium, there was considerable discussion about the possible benefits and risks associated with pushing for a vote within the Security Council regarding a **referral to the International Criminal Court**. There was little disagreement that at least one of the permanent members of the SC would veto any referral to the ICC. Some participants felt, however, that holding the vote, regardless of outcome, would be a positive step. Even if the referral is vetoed, the process of calling the vote could have multiple benefits, including keeping up the public and political pressure on the regime. It would provoke deeper discussion within the SC of what can and should be done to address the ongoing abuses in the country. It would have the benefit of raising the debate and also could require that each SC member clarify its vote, increasing transparency around concerns that States may have in remanding the case to the ICC and providing more opportunity for civil society organizations to lobby key States and seek to build more support for action on behalf of people in North Korea.

Other participants pointed out that even if North Korea is referred to the ICC, potential prosecutions would affect a very limited number of individuals, and would not, in the eyes of many, provide a sense of justice given the depth and breadth of decades of atrocities. Prosecutions could only look back as far as 2002 when the ICC was established, and many serious crimes would simply not be considered under ICC jurisdiction. There were also concerns that given the lack of information regarding chain of command and decision-making authority within the regime, it may turn out that only Kim Jong-un and perhaps a very few of his closest advisors would be charged. However, as part of a larger approach to accountability and transitional justice, many participants felt that the ICC could still play a critical role. The fact-finding and evidence-gathering processes involved in the ICC would lead to the collection of data that could be used by other actors and through other

**“ The COI’s invocation of R2P in the context of the DPRK is very significant, given the signal it sends about the collective responsibility to act. There is a great need for a variety of actors – including but not limited to the UN Security Council – to act on their shared responsibility to protect the North Korean population from the gravest violations of international human rights and humanitarian law. ”**

Jennifer Welsh



Jae-Chun Won



William Schabas



Param-Preet Singh

*“ The international community has a duty to ensure that a comprehensive plan to bring to justice those most responsible for crimes against humanity, committed over decades, is put in place. In order to do so, the UN should start mapping perpetrators to particular crimes and examining accountability options. Preparing the ground for justice, will send a clear message to the North Korean leadership that the international community will no longer tolerate such crimes. This in itself could create pressure that could trigger change on the ground and at the very least will ensure that victims’ calls for justice are heard. ”*

Juliette De Rivero



Juliette De Rivero

mechanisms to support international justice. It could also initiate a mapping process, tracking and documenting serious crimes and also identifying ways to try to reach and protect victims. By initiating these processes, the steps required to bring about justice would begin in earnest.

As referenced previously, the Office of the High Commissioner for Human Rights has mandated a special UN field office in South Korea, which began operating in June 2015<sup>8</sup>. The primary role of the field office is to continue to investigate and gather evidence of human rights abuses in North Korea. Given that a majority of refugees from North Korea are settled in South Korea, the office will be well-positioned to gather more testimonies and continue data that will be relevant for any future prosecutions or similar legal measures. Many participants also recommended more widespread and strategic use of the **COI report** itself. The report tells a compelling, if horrifying, story that is educational and includes a clear set of recommended actions that can be taken. The report is relevant not just within the UN system, but to all stakeholders that care about minimal human rights standards being upheld. There was a general consensus that having the report published and available to the general public could have a positive effect in terms of raising awareness and provoking more support for addressing human rights crimes in North Korea. At least one participant committed to using the COI report for teaching about human rights law, and suggested it could become the basis for a case study and used more broadly in legal studies courses. In addition, the fact that the report “names and shames” the supreme leaders of the DPRK could also be useful if more people inside North Korea could know about it.

8 For information on the field office see: [seoul.ohchr.org/EN/Pages/ABOUT%20US.aspx](http://seoul.ohchr.org/EN/Pages/ABOUT%20US.aspx)

The leaders are presented as infallible – it is a critical component of the cult of leadership and allegiance that operates in the DPRK – and if people realize that there are legitimate grounds on which to criticize them, it could help to support reform processes within the country.

Further to the UN, some participants noted that **ESCAP, the UN Economic and Social Commission for Asia and the Pacific**<sup>9</sup>, is also playing an active role. ESCAP includes influential countries in the region such as Russia and Mongolia. Through ESCAP, North Korea is already cooperating on a select number of cross-border initiatives. Among those currently active are cross-border transportation links, studies on air quality, and tracking of migratory bird patterns in the region. If the UN human rights upfront strategy is implemented, then all of the representatives involved in these efforts from the UN side can and should be seeking opportunities to raise human rights issues with their North Korean contacts.

The final key component within the UN system that received significant focus was the **“human rights up front”** program recently introduced by Secretary-General Ban Ki-moon. This is an operational principle that works across the UN system and reminds each staff member that s/he is meant to be watching out for and applying universal human rights standards across all areas of work, regardless of their particular individual role. Thus no UN staff member has any excuse for turning a blind eye to human rights abuses that may be happening around them, but rather, that all are called to look for and identify abuse when and where it happens. If this culture becomes pervasive, it could have a positive effect through a wide range of UN personnel whose work takes them to the DPRK or requires them to interact with its government and people. At a minimum, it adds to the general “name and shame” pressure that is building on the North Korean regime, and could also help to provide additional data and evidence about human rights abuses in the country.



Richard Morris



Angela Mudukuti



Gordon Flake

9 For details, see: [www.unescap.org](http://www.unescap.org)



Jean-Fabrice Pietri and  
Myong-Hyun Go

### *Other Intergovernmental and Individual State Actions*

The primary regional body discussed was the Association of Southeast Asian Nations, or **ASEAN**<sup>10</sup>, which is both an economic and political organization. Neither the ROK nor the DPRK are members of ASEAN, but both participate in the ASEAN Regional Forum (ARF)<sup>11</sup>. The ARF was established to facilitate multilateral dialogue across the Asia-Pacific region. Many consider it an important vehicle for engaging with the DPRK. They have made a concerted effort to bring North Korea into the body and seek to provide a “safe” space for constructive engagement. From their perspective, it is essential to have a mechanism through which North Korea interacts with its neighbors. Should there be upheavals or ruptures within the DPRK, some noted that having a trusted body that can conduct dialogue with representatives of the regime in times of crisis would be important. ARF representatives can also seek to promote positive changes in human rights through indirect measures, including, for example, through economic engagement.

Participants discussed the potential value of **sanctions** as a tool for promoting human rights. At present, the sanctions imposed on North Korea are strictly related to security and not to human rights concerns. While there is a general feeling that they may be having some limited positive effect, there was much less support for imposing sanctions related to the human rights situation.

<sup>10</sup> For details, see: [www.asean.org](http://www.asean.org)

<sup>11</sup> For details, see: [aseanregionalforum.asean.org](http://aseanregionalforum.asean.org)



To get support for sanctions, whether imposed by the UN or by one or more “like-minded” states, is complicated and they need to be carefully targeted to bring about the desired effect. There was concern that seeking to apply further sanctions at this time could have a negative effect on normal citizens. Not only would that be directly harmful to peoples’ wellbeing, it could also be used by the regime to build further paranoia and mistrust within the country about the intentions of the global community.

Another strategy that could be pursued by select States is to seek to prosecute high-level leaders of the regime for crimes against humanity under **universal jurisdiction**. Some countries have domesticated the Rome Statute – the statute that created the International Criminal Court – and could, in theory, seek to build cases against North Korean leaders. As with potential prosecution within the ICC, however, the number of people that could be named is very small, details need to be gathered about them, and strong evidence-based cases need to be built. In addition, actually arresting the named individuals would be difficult, if not impossible. However, many participants felt that the strategy could be useful to continue to build pressure and remind those at the top of the regime that they are not exempt.

There was also interest in using training and **exchange schemes** targeting mid-level and upcoming civil servants as a means to build more ties between North Korea and the rest of the world. Exchange schemes are also taking place via business organizations and cultural organizations. Many participants felt that these are generally low risk and could, over time, have a stronger positive effect. Cautions were raised, however, that the regime determines who is allowed to participate in such schemes and they are tightly controlled. Nevertheless, there was a feeling that programs involving training young entrepreneurs in business and technology, in particular, would likely have a positive effect as participants suggested that market openings and promoting more interest in and support for economic reform could ultimately have a deeper impact than other reforms.

Other points of leverage identified related to bilateral relations between governments that maintain diplomatic ties with North Korea and have **embassies in Pyongyang**. While opinions differed regarding how much influence is possible, most agreed that these were avenues to continue to explore and seek to be more creative. For example cultural events, including showing films, inviting and supporting professional and/or cultural exchanges, and using small grants for local projects, could all be explored more strategically. Some participants suggested that governments might threaten to close their embassies and stop economic support, but others felt this would only serve the interests of the regime and it would be better to maintain a presence on the ground and do as much as possible to monitor the situation, collecting information as possible.



Junya Nishino



Yves Doutriaux



Chad O'Carroll

In addition to general discussion of what governments can do, participants focused on possible measures that could be taken by a few specific countries, including Japan, Russia and China. There is a separate section related to the potential role of South Korea.

While **Japan** played an important role in supporting the COI and approving its report to the Human Rights Council, it has become increasingly focused on security matters. At present, Japanese strategies for addressing security issues and human rights are not intertwined, and security is the clear priority. In so far as it does address human rights issues, Japan has mainly shown interest in a relatively narrow set of concerns related to people who have been abducted from Japan by the North Korean regime. The numbers are disputed, with some estimating it could have reached into the hundreds. In 2002, the North Korean government admitted to 12 abductions, returned five of the abductees alive, claimed the others had died in captivity and issued a perfunctory apology to the Japanese government. Japan remains dissatisfied and continues to press for more information about a greater number of people that it claims were abducted. While this issue appears to be at an impasse, some participants felt that Japan could use it as a mechanism to bring a case against the regime. While the focus would be narrow, it could help in the overall push for greater accountability and justice. Participants cautioned, however, that it may be difficult to get cooperation on such sensitive issues until the current very high tensions between Japan, South Korea and China begin to relax.

While the **Russian government** has expressed concern about the human rights situation in North Korea, it has also indicated that security and stability are higher priorities from its perspective, and, generally, it does not agree with singling out individual countries for investigation, preferring to use the

universal periodic review process within the UN Human Rights Council. The Russians have a strong preference for engagement, referring to their own experience during Soviet times when external pressure generally served to harden positions and attitudes. There is expressed concern that seeking to pressure the North Korean regime may well lead to greater intransigence and possibly harsher conditions, whereas engagement and trust-building could lead to opportunities to influence the regime to make positive changes. Too much pressure could lead to a series of disasters, including military conflict. Russia would also prefer to deepen economic ties and gently push for reform through economic and trade levers. It sees change as most likely resulting from incentives, rather than accountability or deterrence measures. Probably the most influential country in the region vis-à-vis North Korea is **China**. There are many points at which China relates to, and supports, North Korea. While participants confirmed that China also prioritizes security and stability over all other issues, many felt that there are potential opportunities given China's growing frustration with the DPRK regime. Relations with the current leadership have noticeably cooled. The costs to China, politically and economically, are increasing and they are interested in closer relations with South Korea as a key trade and economic partner. In addition, it was suggested that as China's economy grows, the Chinese are increasingly interested in, and value, the rule of law at home, and perhaps also abroad – this might be leveraged to encourage them to place more pressure on North Korea. The geopolitical concerns are complex for China given not only tensions in the region, but also the US military presence on the Korean peninsula. China has little interest in US forces moving any closer to their border, which could be the result if the DPRK were to collapse and Koreans appealed to the US to help restore peace and stability.

For the international community, one of the most worrying issues is the treatment of North Korean refugees in China. China is the first destination for most of those escaping from North Korea. Many may wish to stay in China, others are seeking transit to other locations. China, in most cases, continues to view these people as illegal economic migrants, rather than as political refugees, and returns them to North Korea, at which point they are subject to incredibly harsh punishment. As border controls have tightened, it is increasingly women who have managed to cross into China (smuggled or trafficked, as the case may be. If they are found and returned, they may be forced to leave any children they have borne in China behind; if they are pregnant when returned, they may be forced to abort the child, or are physically mistreated to the point that the baby dies. To date, relatively little headway has been made in changing China's policy related to return of North Koreans, but some participants expressed hope that this may be changing and could be a point of leverage.

*“ Unfortunately, there is an obvious tension between the principles of universal human rights, the basis of the UN system, and the geopolitical realities that too often trump States' commitments to human rights. ”*

Michael Kirby

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### *Republic of Korea (ROK, or South Korea)*

Without question, the Republic of Korea was considered to be the most important bilateral relationship for the DPRK. The South Korean government has largely dealt with North Korea on a bilateral basis, but that is beginning to change, with more attention given to regional bodies, like ASEAN, and other regional relationships including Japan and China.

The relationship between South and North Korea is complex, and is further complicated by domestic political considerations in the ROK. As noted, while there is an armistice between South and North, there is no peace treaty in place. South Korea, in fact, claims that people living in the North are citizens of the ROK and have the same rights as their fellow citizens in the South. This presents its own potential challenges in international law, including why the ROK does not do more to press prosecutions of crimes committed by the DPRK against “its” citizens. Indeed, it raises the question whether the ROK itself could also be held responsible for failure to take sufficiently active steps to protect “its” people living in the North. While no one seriously suggested such a case would be made, it does point to the complicated problems raised by the lack of clarity in the relationship between the two countries and particularly in South Korean views of the North.

Because the South generally welcomes refugees from the North as “its own,” the international norm is to “repatriate” most North Korean refugees to South Korea, regardless of where they may wish to go (with the exception, noted above, of China, which still most repatriates North Koreans to the DPRK.) The attitude has been that Koreans living in the North and South share the same language, culture, values, etc., and thus that, so long as they are helped to meet economic challenges, North Koreans can generally adapt to life in the South more quickly than in other places. The government provides five years of support for refugees with the assumption that after that time they are integrated and no longer need support. It is, however, becoming increasingly clear that this is not the case. The cultural differences are much greater at this point than most people have been willing to concede. This has implications for how the South considers prospects of reunification in future. Until now, the general attitude has been that the regime in the North was on the verge of collapse and when the time came, the government in the South could – more or less – step in and oversee a reunification process. Now that decades have passed, the South Korean government is acknowledging the possibility that it could be decades more before any significant changes occur and they need to set policies for a longer time horizon and ones not predicated on simple visions of reunification.

These realizations are also aided by generational changes in leadership. As younger generations grow up without memories of the war or how things

**“ There are approximately 30,000 refugees from the North living in South Korea and yet almost no documentaries or coverage of their stories in the media. I think it’s very important to spread more and better information about the human rights situation in North Korea so that it could be shared amongst the general public, especially in schools. ”**

Jung-Hoon Lee



Jung-Hoon Lee

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were before the separation, their attitudes to the North are different from those of the previous leaders. Some fear that there is a sense of apathy, or disinterest, among younger people about the situation in the North. Others dismissed that idea, noting that there is a high level of concern and engagement, it just is not demonstrated through traditional domestic political challenges that older generations recognize.

There was considerable discussion about divisive domestic politics in South Korea and how this affects the ability of the government to take clear policy decisions and actions related to the human rights situation in the North. Participants acknowledged that, in some ways, the goals of the main political parties are similar vis-à-vis the North. But their preferences for how the policies are implemented and what mechanisms are used become points of contention and block decisions being taken. Examples included funding to support refugees from the North, with one party insisting that a government ministry should control and disseminate the monies, and the other arguing for a different mechanism; similarly, collection of documentation and records has been held up because of political disagreements over who should control the process. Perhaps most seriously, the domestic political disagreements have held up a bill in parliament focused specifically on dealing with human rights issues in the DPRK. There is some hope that greater international attention to the situation in North Korea will help to facilitate solutions within South Korea, and the UN field office may be able to play an informal role.

Another point of contention, and contradiction, is ROK's **National Security Law**, which was created "to suppress anti-State acts that endanger national security

**“ NGOs were instrumental in establishing the COI and South Korean NGOs in particular, which ensured victims’ voices were at the fore. The COI, though, is a step in the search for transitional justice. It is not as simple as establishing legal accountability and then moving on. We need to consider how to help prepare those in North Korea and South Korea for transitional justice and also ensure we are all mindful of ‘accountable engagement’ . ”**

Joanna Hosaniak

and to ensure nation’s security, people’s life and freedom”<sup>12</sup> and more or less casts North Korea (though unnamed) as an enemy State. It points to an aspect of the domestic political debate in which some human rights groups feel that there are those who are willing to ignore human rights abuses at home even as they advocate for rights for those living in the DPRK, and would also point to the contradictions in how the South Korean government talks about a commitment to human rights, even while constricting rights at home. Ultimately, the participants generally agreed that the case of North Korea is distinct and that it is not constructive to blur the focus on the truly massive crimes being perpetrated on a daily basis against an entire people by linking them to the much lesser, even if real, human rights violations committed by the regime in the South. The scale and depth are of such different magnitude that while all agreed it was important to continue to advocate for universal application of human rights standards, and seek transitional justice for the peninsula, one could not “compare” the challenges in the South to those in the North. Therefore strategic energy should remain focused on the DPRK.

As mentioned above, one of the key strategic concerns identified by the Special Rapporteur related to separated families, Prisoners of War (POWs), and abductees. Many felt that these issues, which are practical in nature and are focused largely on a very aged population, could provide a vehicle which could be a means for the North and South to begin a productive dialogue. At present, there is little confidence in Kim Jong-un and his regime; many contend that Kim Jong-un has clearly been erratic and combative and many South Koreans feel there is simply no counterpart with whom to deal in the North. But given the relatively low risk involved in helping separated families to see one another, there was still hope that this could be a wedge issue to restart productive dialogue<sup>13</sup>.

### *Civil Society Actions*

The discussions related to potential roles for civil society organizations revealed some of the deepest tensions among the participants, representative of the divisions among the broader set of stakeholders. The differences spanned a wide range of actors, including those from humanitarian organizations, human rights advocates, service providers, media, and others. There was no disagreement about the shared goal to ultimately improve the lives of the people of North Korea. But as mirrored above, the discussion

<sup>12</sup> An unofficial translation of the National Security Law can be found at: [www.hartford-hwp.com/archives/55a/205.html](http://www.hartford-hwp.com/archives/55a/205.html)

<sup>13</sup> For an example of recent family visits allowed see: [www.theguardian.com/world/2014/feb/20/north-south-koreans-relatives-separated-decades-reunions](http://www.theguardian.com/world/2014/feb/20/north-south-koreans-relatives-separated-decades-reunions)



Christopher Kim



James Burt

*“ States are better at hard security. Civil society can focus on nontraditional aspects of security like refugees, disability rights, children’s rights, freedom of information, and so forth. These are arguably equally as important as traditional security measures. ”*

James Burt

differed considerably on what approaches to take, not just in terms of effectiveness, but also from an ethical stance.

Perhaps in one of the starkest questions raised, participants were asked if they would willingly have worked inside Nazi-occupied territories – would they have worked to try to save individual lives while arguably costing many more lives by prolonging the time the regime could maintain power? One participant argued that any steps taken inside a country ruled by such a regime, even if undertaken on humanitarian grounds, ultimately served to help the regime, and likened that to the quandary about working in North Korea. There are those who feel that it is impossible to provide support of any kind, in any fashion, that helps the regime even indirectly. But most of those convened in Salzburg felt that the human price of such a stance, paid by people living inside the DPRK, is simply too high. Many also questioned whether isolating the regime would have a positive effect in any case.

For humanitarian and direct service organizations working in North Korea, there is a serious challenge in that they are allowed little or no independence. Access to any population within the country is tightly controlled. Providers cannot move freely within the country and it is the regime that decides which people they can interact with. The regime also generally claims credit for any services or benefits that people receive.



Eun-Kyoung Kwon

Some noted, however, that people often know the origins of assistance they receive and this can help build a greater sense of trust with the outside world. While there remained a relatively high level of skepticism about the ability of civil society organizations to provoke lasting change on the ground for North Koreans, some participants felt there were opportunities related to specific issues that could be leveraged, including around nutrition programs and medical assistance, especially vaccinations and similar large scale programs. But even on these points serious divisions remained. Some participants felt that providing nutritional support, for example, was ultimately counter-productive if it had the effect of preventing or delaying regime change.

It is difficult to overstate just how little contact most people in North Korea have with the world beyond their borders. Media and contact of any kind are very tightly controlled – with little to no access to the Internet or other digital media, for example – and all information and messages are crafted in a way to maintain total allegiance to the regime. More than one of the strategies recommended related to this point, with strong recommendations to seek to use wider radio broadcasting as a means to open the world more for North Koreans, especially those living near the border regions; seek ways to use social media to share information across the border; and attempt more cultural outreach, whether through films, events, or other mechanisms. It was considered important to make full use of every opportunity to expose North Koreans to the broader world and to share information that has not been filtered by the regime.

In the “other direction” (not just sharing “international voices” in/with North Korea, but also sharing information, culture, etc., from North Korea with



the rest of the world), it was also recommended that more should be done to amplify the voices of North Koreans and literature, documentaries, film and other mechanisms could help to share not only the stories of individual North Koreans, but also build a greater sense of awareness about, and interest in, the collective story of the North Korean experience, so to speak.

Civil society organizations (CSOs) also have a critical role to play in supporting the refugee community, whether they are resettled in South Korea, or other countries. Many participants felt that CSOs could do more to advocate within their own countries on behalf of North Koreans, whether in seeking to make it easier for refugees to be accepted and settled in their countries, and/or, as referenced previously, in lobbying their governments to support international peace and justice processes through the UN and related systems. This could be enhanced by creating transnational coalitions and by focusing on select countries that could have more influence in international processes and/or with North Korea directly, including the so-called BRICSAM countries (largely emerging and middle-income countries including Brazil, Russia, India, China, South Africa and Mexico).

Many participants suggested that selecting a few key issues could be an important strategy. In addition to refugee services, participants noted that family reunifications could be a wedge issue that could lead to greater openings and opportunities and might be worth special attention. In addition, first person testimonies of those whose families were split, relating the effect that that has had, would be important evidence to collect, especially given that most of those with distinct memories are already aged. Another positive strategy would be to enable and encourage those who have experienced trauma either under the DPRK regime, or due to family separations, and so forth, to share their experiences and stories, not only as a means to help these victims deal with their trauma, but also to provide a record for future generations.

There is no question that CSOs and human rights advocates in particular will continue to play a key role in keeping up the momentum that has been gained following the release of the COI report and the attention it has garnered. They will build on successes in advocacy, seek new opportunities to provide humanitarian assistance, and continue to support strategies for transitional justice. Many acknowledge the power of the COI report as a key step in larger justice processes, and also hope that it will lead to more openings to help improve the situation on the ground inside the DPRK.

**“ The report from the COI is very valuable for North Korean human rights NGOs in South Korea as most of us have zero access to the North. The report is a turning point – moving from discussion to problem-solving. We have also tended to think of this as an inter-Korean problem and the COI report makes it clear that this is a global matter. ”**

Eun-Kyoung Kwon

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*“ The circle of North Korean experts in Washington is well-informed and committed, but, frankly, we rarely have the opportunity to exchange views with even our European counterparts, let alone South American and African colleagues. Successfully dealing with North Korea will require international cooperation. The Salzburg symposium enabled a uniquely global conversation. ”*

Mark Tokola

## Conclusion

As stated at the outset, there is no roadmap for the international community on how to end mass human rights abuses and crimes against humanity and bring about justice for people who are victimized by their own governments. Salzburg Global Seminar convened this group of diverse experts in an effort to facilitate broader international discussions and focus on practical steps that can be taken to help end mass atrocities in the DPRK, and seek to put into practice lessons shared from atrocities of the past to help limit violations happening today.

In addition to the plenary discussions, participants met multiple times throughout the symposium in smaller focus groups in order to more deeply analyze important issues and craft targeted strategies. Each group presented consolidated recommendations that were focused on specific actors across the international system. Many of these are reflected throughout the report and a select cross-section have been included in the Salzburg Statement (see Appendix I) which was publicly released following the symposium.

Among the participants there were very real divisions and tensions in terms of what actions they are taking, those they advocate, and what they feel should not be done because it only exacerbates the challenges. Despite these varying, and sometimes seemingly opposing, views and priorities, it was clear at the end of the symposium that there are opportunities to better coordinate strategies and actions, at both policy and practice levels, and ensure that human rights abuses in North Korea remain squarely on the global agenda.

It was universally agreed that the world cannot ignore what is happening in North Korea and there is a clear collective responsibility to bring relief to the deep and prolonged suffering of ordinary people. Even as discussions and debates continue, actions are also being implemented by many different actors across the system in an effort to work collectively to stop the crimes against the people of North Korea. We are all part of that collective and are all urged to identify ways that we, too, can help address these atrocities – and not have to add North Korea to the list of cases where the international community has done too little.

In closing, the three COI Commissioners confirmed their shared hope that the Salzburg symposium “will have contributed – even if only in a small part – to the day when the shadow will be lifted from DPRK and human rights in Korea will be assured to all of its people.”



1. Schloss Leopoldskron, home of Salzburg Global Seminar and venue of the symposium

2. Jihyun Park and Eun-Kyoung Kwon

3. Junya Nishino, Myong-Hyun Go and Jae-Chun Won

4. Sonja Biserko (c) speaks with Camila Asano (l) and Juliette De Rivero (r) during a working group

5. James Burt speaks from the floor during a plenary session as Michael Kirby and Sirun Pitsuwan look on

6. Jennifer Welsh takes notes during a working group

## Appendix I:

## The Salzburg Statement on the Human Rights Situation in the Democratic People's Republic of Korea



From June 2 to 6, 2015, Salzburg Global Seminar session 556 convened against the backdrop of the findings and recommendations of the United Nations Commission of Inquiry (COI) report on human rights violations in the Democratic People's Republic of Korea (DPRK).

Participants, including the three COI Commissioners – Michael Kirby, Marzuki Darusman, and Sonja Biserko – addressed steps that could be taken regarding the COI's finding of reasonable grounds to establish that crimes against humanity have been committed, enlivening the responsibility to protect, the duty of principled engagement, and the obligation to secure accountability for human rights violations in the DPRK.

The symposium benefited from the valuable contributions to the discussion by participants from six continents, with expertise encompassing civil society, policy making, legal, judicial and academic fields, sharing a common commitment to universal human rights. The participants agreed to consider how, within their own respective spheres, to use these discussions to inspire their work in the advancement of the protection of human rights in the DPRK and the quest for accountability. They call on others to do likewise.

*The views expressed in this statement reflect general consensus among participants and should not be taken to represent those of all participants or of any organization with which they are affiliated.*

## Salzburg Statement on the Human Rights Situation in the Democratic People's Republic of Korea (North Korea)

### A CALL TO ACTION

#### The following action priorities were discussed:

- Renewing the call to the UN Security Council for referral of the situation in the DPRK to the International Criminal Court;
- Securing the DPRK's compliance with its international obligations, including the Responsibility to Protect accepted by all UN Member States in 2005 and the provision of access to UN special mandate holders and other UN personnel;
- Supporting the field-based structure of the UN Office of the High Commissioner for Human Rights in fulfilling its mandate;
- Raising awareness of the issue of human rights in the DPRK among international and regional organizations, and encouraging them, as well as national governments, to adopt and promote the recommendations of the COI as their own positions;
- Disseminating the COI report globally by expanding access in various languages, new formats and media, including reader-friendly translations;
- Increasing outreach and education about the DPRK's human rights situation, especially among the younger generation, including in the Republic of Korea (South Korea);
- Increasing dissemination of information within the DPRK, including by accessible radio broadcasts;
- Mobilizing civil society, notably in the global South, to engage on human rights in the DPRK as an issue of common global concern;
- Facilitating international transit of North Koreans seeking to leave the DPRK and avoiding their repatriation to the DPRK;
- Building the capacity of North Korean refugees and empowering their voices, including for raising public awareness around the world of the human rights situation in the DPRK;
- Addressing the issue of missing and abducted persons and separated families on a humanitarian and non-political basis, consistent with universal human rights;
- Exploring the availability and use of court systems in various jurisdictions around the world, including those affording universal jurisdiction, with a view to securing the accountability of any persons or institutions in the DPRK found liable under international law;
- Undertaking further research on the DPRK, including governance structures and individuals in positions of authority, and the treatment of vulnerable groups;
- Promoting people to people exchanges, and identifying a high profile UN goodwill ambassador; and
- Increasing attention to the treatment of overseas laborers from the DPRK, including by encouraging adherence by recipient states to international labor and anti-slavery standards.

## Chair

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# Salzburg Global Seminar

Salzburg Global Seminar was founded in 1947 by Austrian and American students from Harvard University. Convinced that former enemies must talk and learn from each other in order to create more stable and secure societies, they set out to create a neutral international forum for those seeking to regenerate Europe and shape a better world. Guided by this vision, we have brought over 31,000 participants together from 160 countries for more than 500 sessions and student academies across cultural and ideological barriers to address common challenges. Our track record is unique – connecting young and established leaders, and supporting regions, institutions and sectors in transition.

Salzburg Global's program strategy is driven by our Mission to challenge present and future leaders to solve issues of global concern. We work with partners to help people, organizations and governments bridge divides and forge paths for peace, empowerment and equitable growth.

Our three Program Clusters – Imagination, Sustainability and Justice – are guided by our commitment to tackle systems challenges critical for next generation leaders and engage new voices to “re-imagine the possible.” We believe that advances in education, science, culture, business, law and policy must be pursued together to reshape the landscape for lasting results. Our strategic convening is designed to address gaps and faultlines in global dialogue and policy making and to translate knowledge into action.

Our programs target new issues ripe for engagement and “wicked” problems where progress has stalled. Building on our deep experience and international reputation, we provide a platform where participants can analyze blockages, identify shared goals, test ideas, and create new strategies. Our recruitment targets key stakeholders, innovators and young leaders on their way to influence and ensures dynamic perspectives on a given topic.

Our exclusive at Schloss Leopoldskron setting enables our participants to detach from their working lives, immerse themselves in the issues at hand and form new networks and connections. Participants come together on equal terms, regardless of age, affiliation, region or sector.

We maintain this energy and engagement through the Salzburg Global Fellowship Network, which connects our Fellows across the world. It provides a vibrant hub to crowd-source new ideas, exchange best practice, and nurture emerging leaders through mentoring and support. The Network leverages our extraordinary human capital to advise on critical trends, future programs and in-region implementation.

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