

# A Truth Commission for a Future North Korea

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## Introduction

*“Truth will ultimately prevail where there is pains to bring it to light”.*

*George Washington*

Dramatic and unexpected changes may well occur inside North Korea in the near-term. A stability that was once assured under Kim Jong-il has failed to weather the transition to Kim Jong-un, allowing the Organisation and Guidance Department of the Korean Workers’ Party — once a shadow operator — to step into the spotlight and take decisions on behalf of its nominal ruler. But this new configuration has given rise to internal power calculations and ill-judged policy choices, allowing a veil of legitimate rule to slip. If the execution of Jang Song-taek in December 2013 spoke of a ruler who did not hold absolute power, then Hwang Pyong-so’s visit to Incheon in October 2014 put the world on notice that Kim Jong-un will never hold power. As North Korea scrambles, its strategies no longer elicit the effects of old. Self-interests that now govern the state are not being relinquished for the good of regime stability. Diplomatic cohesiveness, a hallmark of Pyongyang’s institutional pride under Kim Jong-il, is collapsing under its own weight and that of global sanctions. Flows of outside information, goods, and ideas send ever-larger ripples through a North Korean society that worships the dollar, not the Kim family. North Korea is quickly pulling up the drawbridge in the hope of saving the Republic of Pyongyang: the *real* North Korea.

Signs of turbulence have not gone unnoticed by key decision-makers in East Asia. Stirred by the realities of state-collapse in Syria and elsewhere, major powers with a stake in the Korean peninsula have, to varying degrees, begun to plan for inevitable change — whether they desire that change or not. China’s signalling of discontent with Pyongyang is profound and runs much deeper than its relationship with United Nations Security Council sanctions. The amassing of People’s Liberation Army troops and military hardware, including tanks, close to the border with North Korea in recent years is an unspoken, if begrudging, acceptance that change is coming to its borderlands. This far-sightedness has its strategic problems, but it also brings with it certain opportunities — for instance, China’s inability to develop its North Eastern

region can be transformed by access to the East Sea and South Korea. As narratives change, both Beijing and Washington may quickly recognise that the denuclearisation of the Korean peninsula is an issue that can only be solved when new leaders emerge in Pyongyang. The July 2015 agreement on Iran's nuclear programme remains relevant, but it will only be brokered when a new North Korean power configuration emerges. For the United States, planning for an unknown geostrategic environment places new pressures on its foreign policy across Asia. In this context, a Terminal High Altitude Area Defence system based in South Korea is far more than a tool to exert leverage on the current North Korean Government: it is designed to anchor Washington in a future Korean peninsula and the East Asian region. In South Korea, domestic matters are now urgently being dealt with. A time-honoured political narrative of unification is being infused with an inflexible language and bolstered by public policy. The closure of the Kaesong Industrial Complex and the passing of the North Korea Human Rights Act in the National Assembly point to a hurried recognition that change — a change that Seoul is desperate to spearhead and steer towards unification — is afoot. Questions remain as to whether Seoul's moves are sufficiently practical; for instance, does the international community require another database on human rights violations to sit alongside those of the United Nations field office in Seoul and the Database Centre for North Korean Human Rights? A tripartite policy of political pressure on the current North Korean Government, the establishment of people-to-people contacts with future North Korean actors, and tangible preparations for transition would surely be a more practical approach.

Nevertheless, with transformation fast approaching it is in the interests of China, the United States, South Korea, and the United Nations to take immediate steps to address a series of existential challenges that will face the region and a new North Korean government, which, in all likelihood, is likely to be bereft of compass points and searching for direction. Concerns over mass refugee flows, factional violence, nuclear insecurity, the dispersal of conventional arms, and a considerable humanitarian disaster are no longer conjectural — they are to be glimpsed on the horizon. Although the world cannot know how North Korea will change or who will assume power, it is unlikely that any regional actor will desire regime-collapse, suggesting that a transitional or temporary government will assume power for an undefined period.

Providing an alternative leadership with tailor-made policy options has the potential to mitigate the very worst effects of instability.

When planning for a future Korean peninsula, a reckoning of social justice must be accounted for. The recent case of South Sudan reminds us that a newly established government that fails to adequately address historic abuses can quickly suffer under the weight of its own history and leave a legacy of social, economic, and political instability. Regional powers can ill afford for North Korea to descend into mass civil unrest. In preparation, the international community should begin planning for a transitional justice mechanism that moves beyond comparative examples, current research, and an existing judicial bias for the International Criminal Court. The prosecutions of those suspected of crimes against humanity is necessary, but justice extends beyond The Hague and it is unfeasible and undesirable to put the North Korean nation on trial given the often blurred lines between victim and perpetrator. Nor is it certain that victims will find peace through prosecutions of a small number of political elite. Rather, victims will require a mechanism that befits an entire nation; that recognises North Korea's abuses as *sui generis*; that works within prevailing structures to effect extra-structural change; that offers a dedicated form of social accountability; and that swiftly leads society past sixty years of authoritarian rule towards a stable and peaceful future.

In such a situation, we must look to a Truth Commission. Focusing on victim testimony rather than justice *per se*, Archbishop Desmond Tutu, an architect of South Africa's own Truth and Reconciliation Commission, imagined the process as a 'third-way' between the mass trials of Nuremberg and Tokyo and the wholesale amnesties of transitional justice processes in Latin America. Unlike criminal trials, a Truth Commission will reach out to tens or hundreds of thousands of North Koreans to fully document and acknowledge their experiences, potentially becoming a facilitator of catharsis, a platform for social self-examination, a tool for future judicial action, an early building block for nation-building, or an arbiter of restorative justice for victims. A fine line exists between national amnesia and mass retribution and all forms of transitional justice must deal with imperfect realities, but on balance a Truth Commission appears the most suitable *modus vivendi* for North Korea.

## A Truth Commission for North Korea

Justice for North Korea is not inevitable; it must be established, supported, and executed. Preparing the groundwork for a Truth Commission (TC) that can be adopted by a future North Korean leadership is just one way of ensuring that a moral obligation and legal duty, as set out in both North and South Korean domestic law, treaty law, general international law, and customary international law, is fulfilled.

TCs are state-sanctioned, short-term, and internationally recognised non-judicial bodies that investigate past abuses through the sharing of victim testimony in public hearings, before providing a final public report and a series of recommendations. Coming in various forms, TCs are headed by a small group of commissioners, aided by a large organisational and research workforce, and are often just one component of a comprehensive transitional justice strategy. Generally operating for two to three years, commissions have, by and large, exerted a significant political impact upon societies with histories of human rights violations.

Although TCs are frequently heralded as necessary periods of reckoning for societies emerging from periods of mass violence, they are not suitable for all scenarios. Some governments, such as that of Zimbabwe, have co-opted TCs for their own ends, whilst other commissions, such as that of South Korea, have fallen victim to inter-political manoeuvring. Much will depend upon the dynamics of Pyongyang and the available leverage of committed external actors, but if hurdles can be overcome, a TC will institute a form of democratic institutionalisation never before seen in North Korea, provide ordinary citizens with an opportunity to speak truth to power, and allow a new leadership to come to terms with its institutional legacy.

Will North Korea be ready for a TC? While a scenario for change in North Korea cannot be predicted, four important elements should exist. First, a transitional North Korean Government must permit and support an examination of past abuses. Second, a transitional North Korean Government must have ended its predecessor's authoritarian practices, closed the country's concentration camp network, and begun repurposing tools of state repression, such as the Ministry of People's Security and

the Ministry of State Security. Third, the international community must have completed a consultative phase in readiness for a TC and pooled sufficient funding for its operation. Fourth, North Korean victims and exiles must actively support and participate in the commission's work. Without their input, the commission will face a legitimization crisis and fail to fully account for North Korea's past.

## Strategic Choices for a North Korean Truth Commission

Effective TCs are preceded by consultation phases that are designed to suit a country's specific needs, organisational strengths and weaknesses, and lasting opportunities for state-society relations. These consultations explore and establish a mandate, ground the commission in law, identify commissioners and staff, conduct training, seek funding, and begin a public outreach campaign. On average, this process takes between three and six months, suggesting that the groundwork for a North Korean TC is pressing. To the extent that a consultation cannot be held with an unknown future North Korean leadership, the input of North Korean victims in South Korea and worldwide will be required throughout the process. The following overview highlights key steps of a consultation phase:

### *Point 1. Establish the mandate of the commission*

Drafting the TC's mandate is foundational. Be it to ensure justice, to allow truth to emerge, to foster peace and reconciliation across society, or to enhance security and stability, a well-defined mandate will establish the identity of the commission and spark widespread social and political interest in planning for dramatic change in North Korea.

The purpose of a mandate is threefold: First, to set out the commission's functions; Second, to establish its purpose of inquiry; Third, to delineate any powers and processes that must be adhered to within a clear framework that empowers commissioners and staff to fulfil their duties. Although national governments are typically the legitimising and legal sources for mandates, in the case of North Korea a provisional mandate should be issued by an international body so that the process of establishing a commission can begin. As North Korea transitions away from its current ruling system, negotiations on the transfer of the mandate to the new administration can occur.

Consultations on the mandate should be led by experienced individuals from the fields of international law, transitional justice, human rights, humanitarian law, and post-conflict reconstruction, alongside an advisory panel of North Korean exiles.

Open to public participation, consultations should strive to be transparent, democratic, and accountable and must be subject to the popular will of North Korean refugees; it would be inconceivable for a mandate to be issued without the participation of those it seeks to help. In many cases, consultations will include workshops, public hearings, debates, and fact-finding missions to the sites of former international TCs. Given the high proportion of social media usage in South Korea and the level of internet penetration, it would be advisable for the consultation to include outreach on platforms such as Kakao, Facebook, Twitter, and CyWorld, and for communication with victims to be channelled back through these sources. Ease of access and engagement with the North Korean diaspora beyond South Korea will be aided by an online process.

*Point 2. Define the focus of the investigations*

Two core features of the mandate will be the establishment of the commission's purpose and the objectives of its investigation. The purpose, sometimes referred to as the 'preamble', of the TC will present the motives for the commission and set out its mission, its legal grounding, its methodology, and its investigative priorities. Objectives should be simple and easy to interpret, such as: *Establish the truth about crimes and violations of human rights; Clarify the persons and institutions answerable for crimes; Identify the reasons for abuses; and Establish which groups suffered abuses.* If a mandate fails to be descriptive or is too far-reaching, its scope is likely to be unachievable. For example, the mandate of the Truth and Reconciliation Commission of Liberia set an objective of promoting peace, reconciliation, and security through investigations that spanned violations of domestic civil law to international humanitarian law — an objective that was as exhaustive as it was unattainable.

With a view to the work of the United Nations Commission of Inquiry on North Korea, the nine substantive human rights violations identified for investigation — violations of the right to food; violations associated with prison camps; torture and inhuman treatment; arbitrary arrest and detention; discrimination, in particular in the systemic denial and violation of basic human rights and fundamental freedoms; violations of the freedom of expression; violations of the right to life; violations of the

freedom of individual movement; and enforced disappearances, including in the form of abductions of nationals of other states — should serve a commission well.

*Point 3. Interpret the geographic scope of investigations*

A consultation phase must establish whether the commission will investigate and receive testimony concerning violations that were perpetrated by North Korean agents outside of North Korean territory, such as those committed against North Korean workers abroad. Political sensitivities will likely arise over this particular issue, namely abuses committed in China and Russia, but this is no reason not to pursue the matter. If initial conversations with international actors suggest that this issue will stall progress for a TC, areas of investigation may be deferred to a separate process, such as a newly established North Korean National Human Rights Commission.

*Point 4. Enshrine the temporal scope of the commission and the time-span of investigations*

Setting a start and end date for the commission is in the interest of the North Korean state and society and will ensure that the TC maintains momentum. Recent commissions, such as those of Peru, East Timor, Liberia, and Sierra Leone, operated for a period of between two and three years, but given that North Korea's future political situation remains unknown, a functioning period for the TC ought to be flexible and allow for short-term extensions.

A specified time period for the commission's investigations must also be established within the mandate. Commissions generally consider extensive periods of abuse — for example, East Timor's investigations covered twenty-five years, Peru's covered twenty years, and Liberia's covered twenty-four years — and will set time-spans that accord with periods when the most severe abuses were conducted. Setting this temporal span of investigations at an early stage is important since it allows the commission's legal experts to establish when treaty laws, general international laws, and customary international laws became applicable to North Korea's actions; for example, what may not have been a crime in 1948 may have become a crime in later years.

*Point 5. Account for victim populations*

Historically, TCs have failed to adequately address the participation of women and children in their investigations, staffing, or final reports. Only 17% of testimonies in South Africa's Truth and Reconciliation Commission focused on violations endured by women, leaving lasting social scars and patterns of gender-based violence in society. Sri Lanka's truth-telling mechanism was also largely ignorant of the experiences of women and entrenched an existing discrimination of Tamil women through their exclusion. This is not only regrettable for the victims, but also for future societal relations. Commissions carry lasting political ramifications and offer societies an opportunity to bring marginalised women into the public and political spheres, establishing access to justice and laying foundations for fundamental social change. North Korea's TC should mainstream gender awareness across all of its operations — from the writing of a mandate and the recruitment of commissioners and staff to the creation of hearings and the questions asked of witnesses. During the consultation phase, aid may be sought from the United Nations Office of the High Commission of Human Rights, who part-funded a gender unit for Peru's TC, the United Nations Development Fund for Women, who trained staff in gender matters for Sierra Leone's commission, and civil society, who can mobilise and train female North Korean refugees to become staff on steering committees, statement-clerks, or expert advisers.

A commission must also account for the fact that women are far less likely to testify about violations committed against themselves than those borne by male relatives, primarily owing to fears of social discrimination and shame. A number of initiatives may be trialled in the consultation phase to combat this concern, such as the use of non-governmental workshops to familiarise women with the TC's methodology; an outreach programme on media platforms that are accessed by North Korean women; the use of community leaders and networks to foster trust in the TC's process; the appointment of specialist female commissioners that can head thematic or individual hearings for women; and an enshrining of gender as a key organising principle for the commission.

*Point 6. Establish the powers of the commission*

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The powers that a transitional North Korean Government grants to a commission will determine its effectiveness and signal the willingness of the new leadership to embrace changes to the country's human rights landscape. At the very least, a North Korean TC will require the ability to summon individuals for interview, provide protection to witnesses, issue penalties to those who refuse to fully cooperate, and to call upon public authorities to aid with the coordination of hearings. Many commissions have held powers of subpoena, allowing commissioners to compel testimony from key witnesses. Given the necessary restructuring of North Korea's Ministry of People's Security, this power is unlikely to be extended to a North Korean commission.

*Point 7. Execute the commission's recommendations*

When crafting a mandate, explicit reference should be made to the duty of a transitional North Korean Government to consider the implementation of a TC's recommendations. Attempts to impose a mandatory implementation of recommendations will not be possible or necessarily desirable during the consultative phase and may create constitutional and legal challenges when a new North Korean Government is established. Instead, a commission's mandate should require a North Korean Government to give careful consideration to its recommendations and to issue a public response to the recommendations within a period of six months after receipt of the final report.

*Point 8. Appointing commissioners*

The credibility of commissioners lends weight to a TC. If commissioners are perceived to be independent of governmental and international pressures and are widely respected in their professions, a TC's functioning is less likely to be overshadowed by organisational controversy. For example, El Salvador's commission was headed by commissioners from Venezuela, Colombia, and the United States, in addition to a wholly international staff, whilst Salvadorian civil society was sidelined. Twenty-three years on from the release of El Salvador's report, few recommendations have been implemented, successive governments have failed to

acknowledge its findings, and El Salvadorian society remain largely divorced from it process.

Given the unavoidable dearth of respected and impartial North Korean judges, lawyers, human rights experts, social psychologists, and gender experts, a North Korean TC will have to consider a ‘hybrid commission’ (a TC made up of commissioners of different nationalities). The success of the United Nations Commission of Inquiry, which was headed by nationals of Australia, Indonesia, and Serbia, strongly suggests that international commissioners should be considered, but a preference for nationals from the Korean peninsula is preferable. Following the identification of potential commissioners (recent TCs have operated with an average of eleven commissioners), consultations should be held with North Korean refugees to gauge public support.

*Point 9. Staffing the commission*

Commissions tend to command operational staffs of between 250-500 members, which generally include: a chair; an executive director; a communications team; an administrative and human resources unit; legal advisors; an investigations unit; specialists in international law, human rights, gender violence, political structures, health, and mental health; translators; statement-clerks; data-entry specialists; and security teams — although the explicit functions of personnel will correspond with the North Korean TC’s mandate. Commissions with sufficient time and resources can carefully select staff and provide specialist training during a consultative process. In 2006, Liberia’s TC trained over three hundred personnel as statement-clerks, investigators, and coordinators in preparation for its testimony sessions, which is a practice that should be replicated with North Korean refugees currently residing in South Korea.

*Point 10. Raising funds for a commission*

Every commission must raise sufficient funds to cover its operational costs. Less costly than an international tribunal (the International Criminal Court has a 2016 budget of \$173 million and a staff of over seven hundred), TCs may be seen as

extremely cost-effective mechanisms when measured against the number of individuals that they represent, costing an average of \$8.5 million per year of their operation. With increased budgets, commissions are able to travel more widely within a country, employ a greater number of staff, and engage with a higher volume of witnesses; for instance, South Africa's highly successful commission was provided with an annual budget of \$18 million and was staffed by over three hundred personnel for its lifetime. In contrast, Chile's less successful TC was provided with a budget of \$1 million that funded sixty members of staff, whilst El Salvador's commission operated on \$2.5 million with just thirty staff.

In many situations, a host government will fund a portion of a commission's work, but in the case of North Korea funds are likely to be scarce and it is hoped that the international community will offer significant financial aid. During the commission's consultative phase, a fund-raising strategy should be agreed upon and international donors approached, whilst South Korea should establish an addendum to its North Korea Human Rights Act that calls for capacity building and funding in readiness for transitional justice in North Korea.

### *Point 11. Media Training*

Communicating with victims and a wider national and international public is an essential component of commissions. Despite its ease of reading, Michael Kirby, Commissioner of the United Nations Commission of Inquiry on North Korea, has called for his report to be simplified for a general audience and distributed more widely across different media platforms.

In a scenario where North Korea's public broadcasting systems are unable to be restructured to sufficiently aid a commission, thoughts may extend to the expansion of South Korea's media networks into the North. This merits careful consideration, but a consultative stage can explore such an option and prepare a communication strategy through the establishment of a Media Centre. A Media Centre would conduct training workshops for broadcasters, editors, and journalists on the functioning of a North Korean TC; establish a reporting code-of-conduct (especially for the coverage of witness testimonies and hearings) that must be abided by if access to the TC is to be

allowed; an official channel for the commission's dissemination of information on its workings; and to create partnerships with refugee-led media, such as New Focus, who would distribute knowledge about the commission's consultative phase across the refugee community.

## Operational Considerations: The repurposing of North Korea's *inminban* system

Reconstruction of states that are defined as *post-conflict*, *post-collapse*, or *transitional* have historically been complex and multidimensional efforts. Despite some successes, a common denominator is often a lack of security that undermines efforts to establish political institutions, regain order, rebuild economies, and increase capacities. Post-Qaddafi Libya serves as a recent example of reconstruction plagued by insecurity, allowing non-state actors to degrade political authority and greatly hinder economic reforms. Within these situations of political, economic, and military upheaval, the primary victims are often ordinary citizens.

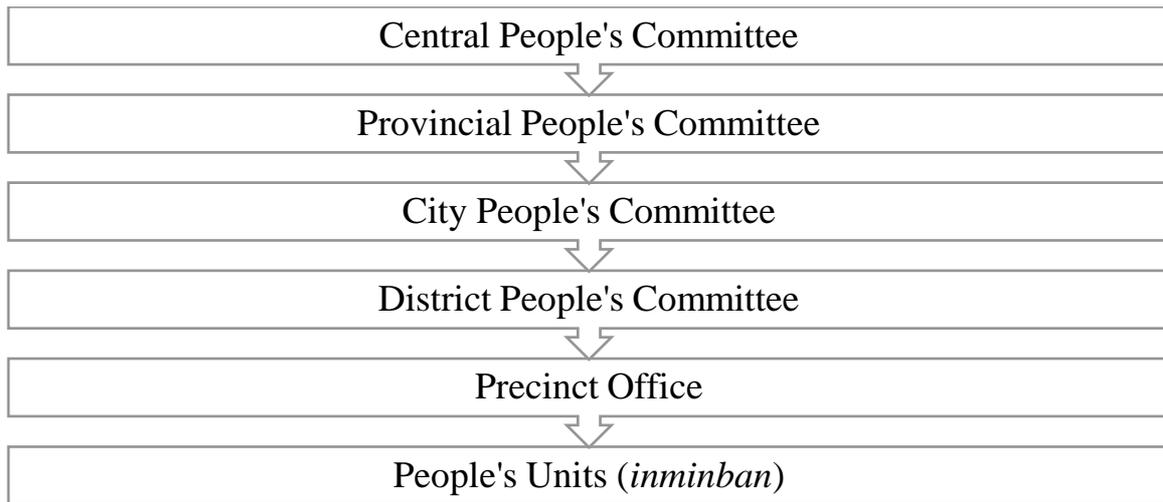
Given that we cannot know how change will come to North Korea, it is difficult to foresee how transitional reconstruction will transpire or impact the population. But North Korea is not a structurally failed-state. A strong framework of public institutions are embedded into the social fabric and will likely endure as the country enters into a transitional phase. The vast majority of these institutions cannot continue in their current forms, but this fact does not necessitate their destruction and the upheaval of North Korean society. Instead, it requires a considered repurposing of institutions that can gradually be transformed for a new nation.

A North Korean TC would benefit from access to an existing structure that can reach into every corner of society and to every locality of the country. That institution is the *inminban* system. Translated as 'people's units', *inminban* are the smallest administrative unit in North Korea and currently exist as a surveillance arm of the Korean Workers' Party to govern organisational Party life-conduct beyond the workplace. An *inminban* is comprised of the residents of twenty-five to thirty households living in an apartment block or small residential area and membership is compulsory. An *inminban's* primary purpose is political, consisting of weekly meetings that take place after work and on weekends, participation in mobilisation campaigns, and the monitoring of neighbours. An effective, if much abused, means of communicating commands from the Party into the homes of every North Korean, *inminban* are ruthlessly efficient means of binding ordinary citizens to the state.

Within North Korea, there are 5.8 million households, ten provinces (including Pyongyang), twenty-four cities, thirty-two districts, and one hundred and fifty-two counties. This equates to the existence of roughly 190,000 *inminban* spread throughout the country's rural dwellings, urban apartment blocks, and residential areas. Some *inminban* in rural areas will have given way to market economy forces and corruption, but their structures remain intact.

Each *inminban* — so around twenty-five to thirty households consisting of two to four inhabitants — is headed by two cadres: an *Inminban* Overseer and a Heads-of-Household Overseer. *Inminban* Overseers are often housewives that are socially astute, capable of administrative duties, and possess records of each individual within their respective areas. Their duties include holding and supervising meetings, monitoring the dwellings and movements of local residents, and mobilising residents for campaigns. Heads-of-Household Overseers, who are generally male, carry out similar tasks, such as organising meetings for heads of households and calling heads of households for mobilisation. A Heads-of-Household Overseer is typically appointed on the basis of social prestige.

While an *inminban* is the smallest administrative unit in North Korea, the smallest management unit is the Precinct Office. A Precinct Office is formed to manage *inminban*, guide *Inminban* Overseers, and to lead and mobilise *inminban* within defined residential areas. Whilst *inminban* deal directly with residents, Precinct Offices deal only with *inminban* as groups. Overseers and Party Secretaries within a Precinct Office are appointed by District People's Committees and this pattern is replicated further up the hierarchy in City and Provincial People's Committees, ensuring that a line of command runs directly from Pyongyang to every citizen.



The perturbing nature of the current *inminban* system conceals its potential for re-appropriation by a North Korean TC. Given that a commission must quickly establish a field-based organisational structure for statement taking, public hearings, investigations, and public outreach, the *inminban* system, which operates in every province, city, and town, offers a direct link to each North Korean citizen.

In real terms, a commission can use the *inminban* system to take statements directly from survivors and victims of North Korea’s human rights abuses. This process is generally advertised to a population in advance and consists of individual private meetings between victims and statement-takers. Trained statement-takers may be placed in sub-regional offices and journey to precincts and districts within their given ward. This process would last for up to one year — for example, South Africa’s commission took over 21,000 statements — and be followed by further research from provincial investigation units and a series of public hearings that may last between three and six months. Hearings, which are often televised and reported by national and international media, should be conducted in a handful of accessible locations in each province over a combined period of several months. Commissioners can either call witnesses to testify at hearings based upon their suitability as representative cases or hold themed hearings that focus upon particular issues, such as gender-based violence, the concentration camp network, or abuses by a particular state institution. These processes — statement taking, investigations, and public hearings — should be supported by localised outreach units that oversee logistics and communicate information about the commission to the public.

Repurposing North Korea's *inminban* system to suit these requirements will be challenging, but not impossible. Many elements of its operational system are well suited to a functioning transitional justice mechanism, not to mention the cost-savings that will come with the utilisation of an existing network. *Inminban* are an effective and recognisable means of organising residents from each area to attend statement-taking sessions, to advertise public hearings, to provide investigators with information on individuals, and to communicate information on the commission. Under the *inminban*, there has been little freedom of movement, meaning that experiences of abuse are localised and specific. Barring promotion, demotion, or bribery, North Koreans born in Pyongyang's suburbs will still live in those suburbs, whilst those born in rural areas of Kangwon will still live in those areas of Kangwon. If an individual has moved away from a locality, an *inminban's* overseers, local surveillance officers from the Ministries of People's Security and State Security, and a City or District People's Committee will have logged their movement, which aids statement-taking and creates comprehensive accounts of localised violations.

Existing attitudes towards the *inminban* will need to be addressed through extensive outreach and publicity campaigns, but to a certain extent the repurposing of the *inminban* structure may become a means of reappropriation, whereby North Koreans can reclaim a formerly abusive practice and utilise the institution in their favour.

## Policy Recommendations

In a future North Korea, transitional justice is unlikely to be high on the priority-lists of a new government or regional states. Military security, economic security, and political security will dominate discussions. But for the international community to neglect social justice is unthinkable. The extent of suffering in North Korea demands moral and legal redress. Moreover, enduring social conflicts in countries that have held TCs, such as Haiti, and formerly transitional states, such as Afghanistan and Iraq, show that societal insecurity intersects with military, economic, and political insecurities to degrade a country. Regional powers and international organisations should take immediate steps to ensure that justice is provided for North Korea.

First, South Korea, China, the United States, Russia, and Japan should form a contact group to begin dialogue on systemic change. Notwithstanding the publicly entrenched positions that each state has adopted towards Pyongyang, a stable future North Korean Government is in the interests of all actors, whilst the continuation of a nuclear North Korea is not. There exists no precedent for the signalling of intentions or the commencement of private dialogue between the regional powers on such an issue, so a qualified intermediary — such as The Joseon Institute — will be best placed to carry out this function. Dialogue and potential cooperation would not of course be confined to transitional justice: talks on military, economic, and political guarantees would be essential.

Second, dialogue on the planning and initiation of the consultation phase for a North Korean TC should be held. It is unlikely that states or international organisations will be willing to publicly lead such an initiative, but a structure and various forms of support should be made available to non-governmental organisations to fulfil this task. Both South Korea and the United States should designate significant funding for the planning of a consultation phase, whilst South Korea, Canada, Japan, and the United States may look to add addendums to their North Korea Human Rights Acts to legislate for continued support.

Third, a comprehensive and targeted information campaign in print, online, television, and radio should be implemented to ensure that stakeholders, and especially North Korean exiles and North Koreans in-country, receive knowledge about the transitional justice mechanisms that will be used in years to come.

## Conclusion

When a major transition in North Korea occurs, certain challenges will need to be immediately addressed: the provision of food and water; healthcare; education; electricity; transportation; a communications network; and national security. Justice for twenty-five million North Koreans is unlikely to feature as an imminent need for a population that will require the most basic of provisions. But planning for justice is far from premature. For a North Korean state to function, it will rely upon stability and support from society. The social chaos that has gripped post-Qaddafi Libya compels regional stakeholders to plan for a smoother transition in North Korea.

A North Korean TC cannot be imposed upon a new North Korean Government or its people by the outside world. Planning for a transitional justice mechanism should be conducted with the aims of handing ownership over to North Korea and assisting a new leadership come to terms with its appalling legacy of human rights violations. For now, this is a task that falls upon the international community, but will soon involve the North Korean people. Transformations are rarely predictable, but where change can be glimpsed on the horizon, contingency planning can never happen soon enough.