

Trump Threatens Genocide, Crimes Against Humanity in North Korea

By [Prof. Marjorie Cohn](#)

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Donald Trump threatened to “totally destroy North Korea” in his address to the United Nations General Assembly on September 19. That threat violates the UN Charter, and indicates an intent to commit genocide, crimes against humanity, the war crime of collective punishment and international humanitarian law. Moreover, a first-strike use of nuclear weapons would violate international law.

By threatening to attack North Korea, Trump is endangering the lives of countless people. In the past, he has indicated his willingness to use nuclear weapons and Kim Jong-un has threatened to retaliate. The rapidly escalating rhetoric and provocative maneuvers on both sides has taken us to the brink of war.

Trump’s threat prompted North Korean foreign minister Ri Yong-ho to state,

“Given the fact that this [threat] came from someone who holds the seat of the US presidency, this is clearly a declaration of war.”

Ri added,

“Since the United States declared war on our country, we will have every right to make counter-measures, including the right to shoot down United States strategic bombers even when they are not inside the airspace border of our country.”

Such a move by North Korea would violate international law. But that does not justify US law-breaking. Two wrongs do not make a right. Moreover, the use of military force by either country would prove disastrous.

The UN Charter Requires Peaceful Dispute Resolution

After two world wars claimed millions of lives, the UN Charter was adopted in 1945 “to save succeeding generations from the scourge of war.”

The Charter mandates the peaceful resolution of international disputes and forbids the use of force except in self-defense or with Security Council authorization.

Article 2 requires that UN members “settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.” Peaceful means are spelled out in Article 33: Parties to a dispute likely to endanger international peace and security must “first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.”

In 1953, after one-third of North Korea’s population was decimated, the United States and North Korea signed an armistice agreement. But the US never allowed a peace treaty to be adopted. North Korea has repeatedly advocated the signing of a peace treaty to formally end the Korean War. To this day, 30,000 US troops continue to occupy South Korea.

The US has also refused to pursue the “freeze-for-freeze” strategy suggested by China and Russia. Under this plan, North Korea would freeze its nuclear and missile testing, and the US and South Korea would end their annual, provocative joint military exercises. Vassily Nebenzya, Russia’s ambassador to the UN, said this path would offer “a way out” of the current situation.

Instead, the US has engineered punitive sanctions against North Korea, which have only strengthened the latter’s resolve to develop usable nuclear weapons. Since 1953, North Koreans have lived in fear of annihilation by the United States.

In his speech to the General Assembly, on top of his threats toward North Korea, Trump also issued a veiled threat to pull out of the Iran nuclear deal. That sends a dangerous message to North Korea that the US cannot be trusted to abide by its agreements.

The UN Charter Prohibits Threats and Preemptive Use of Force

Article 2 of the Charter states that all members “shall refrain in their international relations from the *threat* or use of force against the territorial integrity or political independence of any state.” Trump’s threat to totally destroy North Korea violates that mandate. In addition, the preemptive use of force violates the Charter.

The only exceptions to the Charter’s prohibition of the use of force are self-defense or approval by the Security Council.

Self-defense, under Article 51 of the Charter, is a narrow exception to the Charter’s prohibition of the use of force. Countries may engage in individual or collective self-defense only in the face of an armed attack. In order to act in lawful self-defense, there must exist “a necessity of self-defense, instant, overwhelming, leaving no choice of means, and no moment for deliberation,” under the well-established *Caroline Case*.

North Korea has not attacked the United States or another UN member country, nor is such an attack imminent.

Moreover, the Security Council has not authorized any country to use military force against North Korea. The council resolutions that establish sanctions against North Korea end by stating the Council “*decides* to remain seized of the matter.” That means that the Council, and only the Council, has the authority to approve military action.

Both Trump’s threat to use military force against North Korea and the mounting of a

preemptive strike would violate the Charter.

The Crime of Genocide

By stating the intention to totally destroy North Korea, Trump has threatened genocide.

The crime of “genocide,” as defined in the Rome Statute for the International Criminal Court, is committed when, with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, any of the following acts are committed: killing members of the group, causing serious bodily or mental harm to members of the group, or deliberately inflicting on the group conditions of life calculated to bring about its destruction in whole or in part.

Trump’s threat to totally destroy North Korea, if carried out, would destroy, in whole, the national group of North Koreans. That would amount to genocide.

Crimes Against Humanity

Under the Rome Statute, “crimes against humanity” include: the commission of murder as part of a widespread or systematic attack against any civilian population; or persecution against a group or collectivity based on its political, racial, national, ethnic or religious character, as part of a widespread or systematic attack against any civilian population.

Trump’s threat to totally destroy North Korea, if realized, would constitute a widespread and systematic attack against the civilian population of North Korea, which would amount to a crime against humanity.

The War Crime of Collective Punishment

The crime of “collective punishment” is a grave breach of the Fourth Geneva Convention, which is considered a war crime. Collective punishment means punishing a civilian for an offense he or she has not personally committed.

If Trump were to make good on his threat to totally destroy North Korea, he would be punishing the civilian population for offenses committed by the North Korean government. This would constitute the war crime of collective punishment.

Destroying North Korea Would Violate Distinction and Proportionality

The United States has a legal obligation to comply with the requirements of proportionality and distinction, two bedrock principles of international humanitarian law, as delineated in the First Protocol Additional to the Geneva Conventions.

“Proportionality” means an attack cannot be excessive in relation to the anticipated military advantage sought. “Distinction” requires that the attack be directed only at a legitimate military target.

The total destruction of North Korea would violate the principles of proportionality and distinction.

First-Strike Use of Nuclear Weapons Violates International Law

In its 1996 advisory opinion, “Legality of the Threat or Use of Nuclear Weapons,” the International Court of Justice (ICJ) determined that “the threat or use of nuclear weapons

would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law.”

The ICJ went on to say,

“However ... the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake.”

That means that while the use of nuclear weapons might be lawful when used in self-defense if the survival of the nation were at stake, a first-strike use would not be.

Donald Trump’s apocalyptic threat against North Korea violates international law. It also imperils the lives of untold numbers of people. We must urge Congress to prevent Trump from launching a catastrophic war.

Marjorie Cohn is professor emerita at Thomas Jefferson School of Law, former president of the National Lawyers Guild and deputy secretary general of the International Association of Democratic Lawyers. Her books include [The United States and Torture: Interrogation, Incarceration, and Abuse](#); [Cowboy Republic: Six Ways the Bush Gang Has Defied the Law](#) and [Drones and Targeted Killing: Legal, Moral, and Geopolitical Issues](#). Visit her website: MarjorieCohn.com. Follow her on Twitter: [@MarjorieCohn](https://twitter.com/MarjorieCohn).

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