

Statement by Francis Boyle, Professor of International Law at the Univ of Illinois School of Law,  
on the illegality of Trump's threats against North Korea

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To be read at Refuse Fascism protests on November 11

1. The US government threats of “preventive warfare” against DPRK are illegal and criminal. The Nuremberg Tribunal in their Judgment of 1946, which the US helped organize, condemned “preventive war” when the lawyers for the Nazis made the argument on their behalf. This is an illegal and criminal threat in violation of international law. According to the World Court in its Advisory Opinion (1996) on the Threat or Use of Nuclear Weapons, the legality vel non of a threat stands or falls on the same legal grounds as if the threat were carried out.

2. The repeated US government threats to “destroy” or “annihilate” DPRK are an international crime under the 1948 Genocide Convention to which the United States is a party. These genocidal threats are also illegal and criminal under the rationale of the 1996 World Court Advisory Opinion mentioned above.

3. The United States has an absolute obligation under UN Charter article 2(3) and article 33 to open “negotiation” with DPRK in good faith in order to produce a peace resolution of this dispute. Instead, the US government has repeatedly rejected these obligations under the UN Charter.

4. The proposal by Russia and China for a “dual-freeze” is an excellent basis to produce good faith and direct negotiations between USA and DPRK as required by the UN Charter.

5. The United States is deliberately provoking DPRK, ratcheting up these provocations in the hope that they will provoke the DPRK to commit an act of aggression against the United States that the USA can then use as a pretext for war. Pursuant to the terms of their mutual self-defense treaty, China has stated that if the US attacks first it will defend DPRK, but that if DPRK strikes first, China will remain out of any war. So the United States is trying to provoke

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DPRK into striking first.

6. It is an extremely dangerous situation. It is really up to the United States to take the first step down the Ladder of Escalation that it has constructed here. Instead it appears that the Trump administration is going to escalate up the Ladder of Escalation in the hope and expectation that DPRK will capitulate. This is what International Political Scientists call a Game of Chicken— with cosmic consequences. Who will blink first? Anything can go wrong.

Thank you so much for being here today to prevent World War III.

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