

Policy Environment and Directions for North Korean Human Rights*

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The subject of North Korean human rights is not simply a domestic issue in North Korea, but also a policy issue to which the global community must proactively and enthusiastically seek answers. Since the late 1990s, the process of publicizing the issue has changed in the policy environment. Although the conflicting fundamental opinions within South Korea have not been resolved, they have been addressed to some extent. In addition, the issue offers an agenda that has a unique characteristic, since it is intricately interconnected at the domestic, inter-Korean and international levels. The human rights activists' characteristics reflect such complex links. This study provides strategies for the North Korean human rights issue commencing in the year 2013 based on the analysis of the policy environment. Considering the policy environment, future policies on North Korean human rights must be promoted in three manners. First, the policies should be endorsed in such a way that South Korea's domestic conflicts over the issue are minimized. Second, a policy infrastructure must establish so that domestic, inter-Korean and international capabilities are rallied against North Korean human rights. Third, we must manage with the challenges and policy environments efficiently in order to implement specific and practical strategies to improve the human rights conditions in North Korea.

Key Words: North Korea, human rights, rights-based approach, openness, technical cooperation

Introduction

The North Korean human rights issue is not simply an internal matter, but also an important policy challenge that we must deliberate over

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and actively resolve. Although South Korea has strived to improve the human rights conditions in North Korea through various efforts, it has exposed signs of internal conflict due to its role, particularly in intervention methods as well as improved strategic methods in addressing the issue. Despite the fact that fundamental differences still remain, a general consensus has increased while the conflicts based on a variety of controversies have deteriorated. Thus, a policy environment that addresses North Korean human rights has also demonstrated changes.

It is imperative to consider a policy environment where the North Korean human rights issue has been in the process of experiencing public changes. Since the late 1990s, it has become a serious topic in the international community. Thus, the North Korean human rights issue has become internationalized beyond the South and North Korean borders. Regardless of the South Korean government's intervention at the earlier stages, the international community has continuously strived to improve human rights conditions in North Korea through the United Nations, which has overall resulted visible changes.

The South Korean domestic policy environment has also demonstrated some changes toward the issue under two of its governments that hold divergent ideological inclinations — the Roh Moo-hyun and Lee Myung-bak administrations. In this aspect, the North Korean human rights issue has become a powerful topic at the international level. In regard to the internal situation in North Korea, it is highly probable that there will be changes in its policy environment, since Kim Jong-un has officially succeeded Kim Jong-il following his death. After the South Korean presidential elections in December, inter-Korean relations will enter a new phase under which the leadership in both South and North Korea will have changed.

In this process, we must deliberate over the policy environment regarding North Korean human rights at the domestic, inter-Korean and international levels. This study strives to review the relevant policy environments based on the domestic situation in South and North Korea as well as the international situation. This study particularly focuses on the changing environmental factors, such as the continuity

of domestic conflicts and the consensus that forms in arguments under the former progressive as well as the conservative Korean administrations. Based on the analysis of these policy environments, this study strives to provide countermeasures, which can be utilized commencing in the year 2013. However, this study's countermeasures are restricted to the topic of North Korean human rights.

The Policy Environment in regard to North Korean Human Rights

The Domestic Policy Environment

The "North Korean human rights issue" has played as a crucial role in inciting internal conflicts in South Korea. While the progressives have placed an emphasis on human rights, the conservatives have generally prioritized security and order. However, the stances of the progressive and the conservative on the issue have reversed, as the division of the Korean peninsula and North Korean human rights have become interconnected. The progressives have focused on peace and the improvement of inter-Korean relations, while the conservatives have ironically placed a greater emphasis on human rights.¹ Although the divergent views still persist throughout the course of the debates, changes in the "black-or-white" confrontational stances have proven that there are moderate efforts to resolve the disagreement between the two Parties.

The violation of North Korean human rights has been commonly acknowledged with the exception of few cases, and there is a significant consensus on a national level on the need to improve the human rights conditions in North Korea. The perspectives concerning an improve-

1. Park Myung Lim, "An Approach to the North Korean Human Rights Issue in South Korea: Retrospect and Suggestions," in Yoon Young-kwan and Kim Soo-Am (eds), *Improving the North Korean Human Rights: Strategy to a Peaceful Intervention and International Cases* [Bukhaninkwongeseon Aeottukhaehalgeosinga: Pyonghwajeokgaeipjeolyakgwa Gukjesarye] (Seoul: Hanul Publishing Company, 2010).

ment in the strategies to resolve the issue, however, remain divided between the fundamental stance of the strategies that have been implemented under the Roh and Lee administrations respectively.

First, there is a confrontation between individuality and universality. The Roh Moo-hyun government recognized the need and urgency to improve the human rights conditions in North Korea, but it took a stand that strived for the improvement of inter-Korean relations, peace on the Korean peninsula and North Korean human rights through a comprehensive and strategic approach. This strategy is well reflected in the National Security Council standing committee's decision, which was introduced on November 3, 2005. A former administration has once claimed, "Every country can strategically choose its own approach toward the issue by any effective means" in regard to its core stance on North Korean human rights. Thus, the Roh administration declared that it would maintain a policy of promoting a substantial improvement in North Korea's human rights conditions, while also pursuing a policy of reducing tensions and increasing reconciliation and cooperation between the two Koreas. It essentially meant to implement strategies to alleviate the problem in consideration of the unique circumstances surrounding the division of the Korean peninsula. In contrast, the Lee Myung-bak administration has approached the issue based on the emphasis of universality over the unique qualities of the division of the Korean peninsula. It has stated, "Human rights is a universal value that should be dealt as such and distinguished from other issues in humanity." The Lee administration has continued to pursue its strategies, distinguishing the inter-Korean situation and the North Korean human rights issue.²

Second, the controversies regarding strategies for substantial improvements have developed. The Roh administration placed an emphasis on a "quiet" approach for improvement in order to secure the right to survival for North Koreans through humanitarian aid as well as exchanges and cooperation. The Roh administration also

2. Ministry of Unification, *White Paper on Unification 2007*, p. 154; Ministry of Unification, *White Paper on Unification 2009*, p. 162.

reacted passively to any movements in the United Nations that strived to improve the human rights condition in North Korea. In contrast, the Lee administration has directly expressed the need to improve the human rights conditions as a sovereign nation and placed a greater emphasis on an open approach that is centered on advocacy.

Third, there are disagreements among the strategies that aim to improve specific rights based on the protection of fundamental freedoms and cultural rights. In terms of human rights, the Roh administration maintained its stance on the improvement of the right to survival, including the right to food, instead of the right to fundamental freedoms, which would have incited resistance from the North. In particular regard to the right to fundamental freedoms, the Roh administration adopted a strategy to gradually and substantially improve human rights conditions through inter-Korean exchanges and cooperation. This had been accomplished through the cultivation of an awareness of human rights and the formation of a civic society among North Koreans.³ Although the Lee administration has not denied the importance of the right to survival, it has maintained a strategic position on concurrently improving the right to fundamental freedoms. Thus, the two administrations' divergent stances on the right to survival (social rights) and the right to fundamental freedoms contradict each other, and thus far, the three aforementioned confrontational perspectives have persisted without a resolution to the fundamental issues.

The three aforementioned confrontational perspectives have concisely indicated the implementation of the North Korean Human Rights Act. The Grand National Party or the *Hannara-dang*, the ruling party, has openly and actively implemented the Act based on a legal framework rather than by the unique characteristics of the Korean division. The North Korean Human Rights Act, which had been implemented by the *Hannara-dang*, is mainly composed of protecting the North Koreans' right to fundamental freedoms and has approached the topics of transparency in distribution and the close monitoring of

3. Ministry of Unification, *White Paper on Unification 2007*, pp. 153-155.

assistance as well as its wider effects in the North. This stance has been wholly reflected in the Act drafted by the New Frontier Party or the *Saenuri-dang* at the 19th National Assembly. Although the former Democratic Party proposed the “North Korean People’s Livelihood and Human Rights Act” in June 2011, the Party’s change in stance can be perceived as a sign of a limited acceptance toward the *Hannara-dang*’s North Korean Human Rights Act. In contrast, the North Korean People’s Livelihood and Human Rights Act mainly prioritizes social rights, and a major characteristic is the provision that endorses active assistance to the North.⁴ The Democratic United Party did not propose an act relevant to North Korean human rights at the 19th National Assembly, but it has taken a stance on succeeding the North Korean People’s Livelihood and Human Rights Act. Thus, there are some changes to the implementation of the North Korean Human Rights Act, but the divergent perspectives between the two Parties continue to persist and the detailed provision in the Act has further exacerbated the divide.

The International Policy Environment

The international policy environment can be observed through the actions in the United Nations. The UN has developed its strategy to improve North Korean human rights through resolutions. The UN Human Rights Council has consecutively adopted a resolution on North Korean human rights from 2008 to 2012 (from 2003 to 2005 in the former UN Human Rights Commission) as well as in the General Assembly from 2005 to 2011. However, there are some conspicuous characteristics in the process of adopting resolutions in the UN. First, there was an increase in the number of countries that advocated on behalf of the resolution on North Korean human rights at the General Assembly. Concurrently, the number of objections and abstentions has

4. Kim Soo-Am, “Enacting the North Korean Human Rights Act Should be Approached as a Perspective of Human Rights,” Korean Council for Reconciliation and Cooperation, *National Reconciliation [Minjokhwahe]*, Vol. 51, 2011.

decreased.⁵ The changing trend in the voting results clearly indicates that there is an increase in the number of countries that have fully recognized the deteriorating human rights condition in North Korea, and they have sympathized with the cause to improve the situation through the United Nations.

Second, one of the most prominent aspects of the Resolution on North Korean Human Rights is that it was the first time a resolution had been adopted without a vote in the UN Human Rights Council. For years, the resolution had been adopted through voting procedures in the UN Human Rights Council. However, the resolution was ultimately passed without a vote on March 22, 2012. A proposition from one of the Council's member states determines whether a resolution should require votes. In 2012, a consensus had been agreed upon to forgo the voting procedure since Cuba, a country that had requested it every year, did not advocate for the voting process this year. This is due to the fact that there is an overwhelming increase in the number of countries that vote for the resolution every year. Amid this situation, it appears that some opposing countries that used to vote against the resolution considered the voting procedures to be unnecessary.⁶

Given this trend on the voting process for the Resolution on North Korean Human Rights, the resolution is expected to continuously pass in the UN in the following years. There will be a proliferation of interest toward the North Korean human rights among the individual countries. Thus, the issue will be constantly scrutinized under the spotlight and attract widespread attention as the leading human rights issue in the international community.

Furthermore, the role of the non-governmental organizations

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5. Kim Soo-Am, "The Current Status of North Korean Human Rights and the Evaluation of the International Community," *New Asia [Sinasea]*, Vol. 19, No. 1 (Spring 2012), p. 30. The voting results on the resolution of North Korean Human Rights by the UN Human Rights Council are as follows: 30 approvals, 3 objections (China, Russia, Cuba), 11 abstentions.
 6. Lee Keum-Soon, Han Dong Ho, "Trend of the Current Discussions on North Korean Human Rights in the International Community," *An Analysis on Unification [Tongiljeongsebungseok]* 2012-05 (Seoul: KINU, 2012), pp. 2-3.

(NGOs) that focus on North Korean human rights has expanded. NGOs have developed a variety of organizational means to publicize the issue and strengthen its activities through campaigns, testimonies from North Korean defectors, international conference and protests. There are several specific features related to the NGOs' activities. First, domestic NGOs have strengthened their solidarity to improve North Korean human rights situations. For instance, about 50 conservative groups, including the National Alliance of New Right, established an inquiry commission for crimes against humanity on July 24, 2009. In September 2011, the groups also formed the International Coalition to Stop Crimes against Humanity in North Korea (ICNK) in Tokyo, which comprises of over 40 human rights organizations and activists worldwide, including Amnesty International and Human Rights Watch. Second, with the support of international solidarity among the organizations, the topic of repercussions against those, who dictate the violation of human rights in North Korea, has been raised. In regard to this issue, there has been a discussion on implementing a resolution against the North, which had been proposed under the Inquiry Commission at the UN Human Rights Council.⁷ Third, there have been some efforts to strengthen and utilize the Human Rights Council's special procedures, such as delegating the issue to a UN Special Rapporteur. As active participants in the improvement of North Korean human rights, NGOs are expected to expand their role in the future as well.

The Domestic Policy Environment in North Korea

As previously anticipated, the domestic environment in North Korea does not indicate any fundamental changes under the Kim Jong-un regime. First, at the international level, the North Korean authorities have firmly maintained that the UN resolution is a political conspiracy and has even denied the existence of the UN special rapporteur. North Korea's stance is expected to persist in 2013.

7. Lee Keum-Soon, Han Dong Ho, *ibid.*, pp. 15-24.

Second, the human rights situation under Kim Jong-un has deteriorated due to a temporary increase in control at the domestic level. For example, the fourth meeting of the Party Delegate' Conference on April 11, 2012 revealed that affiliates from the public security were at the forefront. In the National Defense Commission, members from the military and public security formed two pillars.⁸ A closer observation of the elites, who support the new leader, suggest that in the short-term, heightened social control is to be anticipated through the use of the public security agencies as a means to stabilize the new regime. Therefore, it appears that there will not be any improvement in the North Koreans' overall civil and political rights, while the people's non-socialist activities in the black market for survival remain ubiquitous and the authorities' control further strengthens. Despite such controls, the law enforcement's corrupt actions by utilizing its right to crackdown has become a routine means of accumulating wealth, and the number of North Koreans who offer bribes in order to avoid punishment has also increased.

While finalizing the power succession in April, Kim Jong-un has also highlighted policies for his people. At the April 15th military parade, he asserted, "The country will not let people tighten their belts." The young Kim's efforts can be perceived as an encouragement of change, since Kim Jong-un appears to understand the limits of strengthening his power through authoritarianism and has placed an emphasis on improving the people's lives. Despite the shift in focus, however, such policies are unlikely to improve the fundamental social rights as long as the budget is limited and the Military-first Policy continues to be employed. Furthermore, disparate access to food and healthcare amongst the working class and the underprivileged will not improve while the discriminatory rationing policy remains in effect.⁹

8. Park Hyeong Jung, "Outline of the Kim Jong-un's Ruling Coalition advanced in this April," *KINU Online Series 2012-18*, April 23, 2012.

9. Kim Soo-Am, Lee Kyu-Chang, "North Korean Human Rights: Major Characteristics and Changes," *KINU Online Series 2012-22*, May 7, 2012.

Third, North Koreans do not even possess an awareness of human rights, let alone the knowledge that their rights are being violated. It appears highly unlikely that such low standards of self-awareness among North Koreans will cultivate in the short-term under the Kim Jong-un regime.¹⁰

South Korea's Policy Directions on North Korean Human Rights

Given the abovementioned policy environments, a policy directed toward North Korean human rights must be implemented at the following three levels. First, a policy must be implemented to minimize internal conflicts in South Korea. Second, a policy infrastructure must be established in order to concentrate the domestic, inter-Korean and international capabilities to improve North Korean human rights. Third, concrete strategies to effectively cope with the challenges in the policy environments and to bring about substantial changes in North Korea's human rights conditions must be implemented.

The Policy Directions on North Korean Human Rights

Basic Directions

Despite the fact that the divergent perspectives on human rights between the Roh Moo-hyun and Lee Myung-bak administrations have persisted, both are in the process of resolving their differences

10. Lee Keum-Soon, Chon Hyun-Joon, *A Study on North Koreans' Awareness on Human Rights [Bukhanjumin Inkwoneuisik Siltaeyeongu]* (Seoul: KINU, 2012); Jiyoung Song, *Human Rights Discourse in North Korea: Post-Colonial, Marxist and Confucian Perspectives* (London: Routledge, 2011), concerning North Korea's official discussion on human rights; Kim Soo-Am, *Democracy and North Korean Awareness and Countermeasures against Human Rights [Minjujueuiwa Inkwonedaehan Bukhaneui Insikgwa Daeung]* (Seoul: KINU, 2007); Kim Seok Hyang, "Analysis on Official and Private Discussions on Human Rights in North Korea," *Journal of Social Science Studies [Sahoekwahakyegunonchong]*, Vol. 27 (Seoul: Ewha Womans University, June 2012).

to some extent. Thus, this changing policy environment must be acknowledged when addressing North Korean human rights.

First, the succeeding government must establish distinct connections between the topic of North Korean human rights as a universal value and unique inter-Korean relations. In addressing the issue, a strategically passive stance based on the unique Korean division must be eliminated. Moreover, persistent efforts to overcome the division through the improvement of the human rights conditions must be required. The succeeding government must address the issue in terms of the universal values as well as the vision for Korean unification. Obviously, a human rights policy toward the North should primarily aim to alleviate the peoples' suffering and rectify their horrendous predicament. In addition to these primary goals, the secondary goals, which contribute to the betterment of inter-Korean relations and the realization of an integrated future through the implementation of a human rights policy in North Korea, must be established while also promoting the development of a North Korean society. When North Korea is more open, inter-Korean relations will likely consolidate in the long-term. When this stance is firmly established in Korea, the different perspectives on this matter that has resulted from the unique division of the peninsula are expected to dissipate to a certain extent.¹¹

Second, a national consensus on the South Korean government's role in North Korea's human rights conditions must be clearly established. The level of South Korea's intervention as well as its role toward the issue must be detailed in a concrete manner. Thus, it will be important to form a firm national consensus on peaceful intervention in addressing the human rights issues. Ultimately, it is the North Korean authorities and particularly the North Koreans, who should play the most important role in this issue. Unfortunately, a domestic policy environment in the North is not prepared to accept the situation,

11. Lee Keum-Soon, Kim Soo-Am, "North Korean Human Rights: Opening and Improvement in the Quality of Life," *The Vision and Future Directions for the Lee Myung-bak Government's Policy toward North Korea [Leemyungbakjeongbueui Daebukjeongchek Bijeonmitchujinbanghyang]* (Seoul: KINU, 2008), pp. 153-154.

and it is highly unlikely that the young Kim's regime will change as a main catalyst for the improvement within the foreseeable future. As previously mentioned, North Koreans do not even possess a form of self-awareness on human rights, and therefore, it will be difficult to anticipate any changes from the bottom of the social hierarchy. Under this circumstance, it is necessary for South Korea to take an active role in improving North Korea's human rights conditions through peaceful intervention.¹² However, it is also important to establish the effects and limits of South Korea's role in peaceful intervention and to understand the reality that South Korea's jurisdiction does not apply in the North. It is obvious that certain limits should be anticipated in this process, even through peaceful intervention. It is crucial to avoid a misguided belief that South Korea can improve its Northern counterpart's human rights conditions as the leading authority. A clearer vision in which South Korea plays a significant role in the process of intervention should be pursued. In regard to inter-Korean integration, the South Korean society must play a far more active role beyond simply being a member of the international community.¹³

Third, an alternative method to minimize internal conflicts in South Korea must be considered by closely analyzing the strengths and weaknesses of the former administrations. Along the same vein, it is crucial to draw implications from West Germany, which played a significant role and provided strategies in improving the human rights conditions in East Germany. West Germany recognized the importance of alleviating the human rights situation in East Germany, so it coped with the issue in a silent but consistent manner in order to achieve tangible results.¹⁴ The succeeding South Korean government

12. Kim Soo-Am, "A Domestic and International Trend on North Korean Human Rights and the North Korean Human Rights Act," *Current Issues and Policies [Jeongsewajeongchaek]* (Seoul: The Sejong Institute, July 2012), 2012.

13. In Yoon Young-kwan and Kim Soo-Am (eds.), *Improving the North Korean Human Rights: Strategy to a Peaceful Intervention and International Cases [Bukhaninkwongaeseon Aeottukhaehalgeosinga: Pyonghwajeokgaeipjeolyakgwa Gukjesarye]* (Seoul: Hanul Publishing Company, 2010), pp. 227-229.

14. Kim Hak Sung, "West Germany's Human Rights Policy to East Germany," in

must closely review the advantages and disadvantages of the previous administrations' perspectives and explore alternatives, instead of simply and unilaterally excluding or renewing their stances. In regard to individuality versus universality, the rights to survival versus fundamental freedoms and humanitarian assistance toward the North, a national consensus on a human rights policy on North Korea should be explored and expanded in a new manner through the close analyses of change in policy environments as well as reviews based on the strength and weakness of the previous administrations and their changing policy environments.

Fourth, the succeeding government must establish a human rights policy, which can practically consider the existence of North Korea. It is important to urge the North Korean authorities that the agenda on human rights is not simply a threat to the regime survival but rather a window of opportunity to deviate from its current isolation from the international community and to promote economic cooperation for development. By conducting technical cooperation through dialogues on the human rights, North Korea should also be able to create its own internal policy environment that can absorb any external shock during the process of adopting the international standards. In terms of gaining recognition from North Korea, it is likely that any form of unilateral intervention strategy to induce changes from the North will fail. It will be necessary to continue making efforts in order to create a favorable external environment for the North that parallels recommendations for internal changes through the elimination of its perceived threats. Therefore, a perspective of co-evolution, which will lay the foundations for inducing internal changes and creating a favorable external policy environment for North Korea, must be established. In order to dispel North Korea's concerns for its own regime survival, the succeeding South Korean administration must

Yoon Young-kwan and Kim Soo-Am (eds.), *Improving the North Korean Human Rights: Strategy to a Peaceful Intervention and International Cases* [Bukhaninkwongaeseon Aeottukhaehalgeosinga: Pyonghwajeokgaeipjeolyakgwa Gukjesarye] (Seoul: Hanul Publishing Company, 2010).

organize a multifaceted cooperative network on human rights with the North Korean authorities should such action be deemed necessary.¹⁵

Fifth, South Korea must explore strategies to justify the legitimacy of its role in improving the human rights conditions in the North by embracing the domestic, inter-Korean and international policy environments. South Korea's role in addressing the "human rights" situation at regional and international levels must be clearly defined. While South Korea has primarily focused on the improvement of North Korea's human rights conditions thus far, it has yet to establish a distinct policy direction for the general human rights diplomacy. Therefore, the succeeding administration must devise a strategy to definite human rights diplomacy, which can contribute to the international community's efforts and consolidate its own human rights diplomacy. In particular, as a developed country with human rights laws in the Asia and Pacific region, South Korea should play a leading role in achieving human rights as a universal value. It is likely that a human rights policy toward the North will be expected to improve under the basis of human rights diplomacy along with the domestic and international support that deviate from the senseless ideological disputes. Therefore, the North Korean human rights issue should be approached under the framework of human rights diplomacy.¹⁶

Establishing a Policy Infrastructure for a Comprehensive Approach

North Korean human rights has experienced changes, as a cascade of interconnected issues under the three domestic, inter-Korean and international environments has been publicized. The issue has also experienced changes in terms of its role as an actor in intervention to one in the improvement of the human rights situations. The North

15. *North Korea 2032: The Strategy to Co-evolution for the Advancement [Bukhan 2032: Sunjinhwaroganeun Gongjinjeolyak]*, co-authored by Ha Young-Sun and Jo Dongho (Seoul: EAI, 2010) for the concept of co-evolution.

16. Lee Keum-Soon, Kim Soo-Am, "North Korean Human Rights: Opening and Improvement in the Quality of Life," pp. 150-151.

Korean human rights issue has become a regular agenda in the United Nations, and it has become one of the most important issues under the Resolution on North Korean Human Rights. In this procedure, there is the increasing number of countries that participate in activities to improve North Korea's human rights situation at their national level. Above all, international as well as domestic NGOs' consolidated efforts and activities as the main actors have largely strengthened their capabilities. One of the most exemplary cases is the International Coalition to Stop Crimes against Humanity in North Korea, which was established in September 2011.¹⁷

As previously mentioned, the North Korean human rights issue has complex characteristics in that it has combined domestic, inter-Korean as well as international policy environments, in addition to its changes as an actor. The succeeding South Korean administration must address the issue as a serious policy in the domestic, inter-Korean as well as international spheres. More importantly, a human rights policy on North Korea must be developed in ways to connect inter-Korean, public-private cooperation and international cooperation with one another. Resolving the issue is a vital obligation for South Korea considering its division from the North and for the international community as a perceived universal value. Thus, the South Korean government, domestic NGOs, international organizations, individual nations and international NGOs must closely cooperate and coordinate with one another in order to successfully improve the North Korean human rights conditions. Given the complex nature of the actors in this issue, a complex as well as multifaceted cooperative network must be established.

If a human rights policy on North Korea is to be effective in the planning and implementation, a policy infrastructure must first be established. In particular, a system for policy cooperation, which

17. Son Gi-Woong, Kim Soo-Am, Lee Keum-Soon, Cho Jung-hyun, Han Dong Ho, *North Korean Human Rights: A Trend in the International Community and North Korea's Countermeasures* [Bukhaninkwon: Gukjesahoe Donghyanggwae Bukhaneui Daeung], Vol. 7, Vol. 1, 2012 (Seoul: KINU, 2012), pp. 13-14.

manages the planning and coordination of human rights policies in a comprehensive manner, must be established amongst the domestic, inter-Korean, international and other participants. As part of the measures, this paper recommends to organization of “The Council for North Korean Human Rights Policy” (tentatively) under the Prime Minister’s Office and strengthen the overall coordination system on the government’s human rights policy. Role sharing between the public and private sectors and a cooperative system to implement an effective policy on North Korean human rights must be established. To this end, the organization of the so-called “Public-Private Council for North Korean Human Rights Policy Cooperation” to discuss the improvement of North Korean human rights among the South Korean government ministries and consultant groups, such as NGOs, must also be required.¹⁸

Specific Policy Directions

Implementing a Complex and Comprehensive Strategy

A complex and comprehensive manner to improve strategies for North Korean human rights must be established with consideration on the complicated nature of North Korean human rights issues and the overall policy environment inside North Korea.¹⁹

Given the closed nature of the North Korean regime, a variety of comprehensive and mutual complementary approaches are required. In particular, we must utilize pressure through direct intervention and strategic engagement in order to effectively improve the North Korean human rights situation. As seen when considering the internal characteristics of the Kim Jong-un regime, pressured strategies must

18. The National Unification Advisory Council, *A Policy Proposal to Implement the Policy to North Korea [Daebukjeongchaek Chujinegwanhan Jeongchaekgeoneui]* (second volume, 2009).

19. Seo Bo-Hyeok, *North Korean Human Rights: Theories and Actual Policies [Bukhaninkwon: Yiron, Silje, Jeongchaek]* (Seoul: Hanul, 2007), chapter 7.

be used to resolve the impending short-term issues through public advocacy. We must induce changes in the North Korean authorities' policies on pending short-term issues through the UN's official procedures, U.S.-Korea cooperation and other bilateral relations, public-private partnerships and international networks. We must maintain engagement strategies to create an internal environment that parallels the induced changes in the North Korean authorities' policies on its impending short-term issues. In order to change their perception and improve human rights, we must move forward with various engagement strategies, such as bilateral human rights dialogue, human rights dialogue as well as technical cooperation with the UN High Commissioner for Human Rights and cooperation with the UN special procedures.²⁰

A chronologically comprehensive and multifaceted strategy must be sought.²¹ As far as the North Korean regime is maintained, there is a need to continue endorsing a strategy that will induce the changes in the North Korean authorities' policies, particularly in regard to violations of human rights issues that are less relevant to system properties in the short-term. For example, violations of human rights in North Korea through inhumane and illegal treatment caused by the violation of their own domestic laws such as the North Korean Criminal Law and Criminal Procedure Code should be improved immediately regardless of North Korean regime change. In particular, the human rights situation in detention facilities, which include the detention house, relocation center, labor camp and labor correctional facility, can be significantly improved if socialist rule of law, which is

20. Lee Keum-Soon, Kim Soo-Am, "North Korean Human Rights: Opening and Improvement in the Quality of Life," p. 152.

21. Specific time series on concrete roadmap, refer to Long-term Policies and Roadmaps for the Improvement of Human Rights in North Korea, National Human Rights Commission of Korea, 2010; Seo Bo-Hyeok, *Domestic and International Trends on the Assessment of North Korean Human Rights and the Roadmap to the Improvement in Human Rights* [Guknaewoe Bukhaninkwon Donghyangpyonggawa Inkwongaeseon Roadmap] (Seoul: Korea Institute for National Unification, 2006).

compliant with North Korean domestic laws, is strengthened. In addition, we request changes to public executions that comply with the Judgment Decision Execution Law so that executions will at least respect human dignity in any way. Thus, regardless of whether the independent socialist transition, if only the socialist rule of law is strengthened, the human rights situation in North Korea can still achieve some degree of improvement. There is a need to move forward with the strategy to strengthen the socialist rule of law, including advocacy and public pressure as well as in the field of human rights through technical cooperation.

Above all, we must establish medium to long-term conditions that foster reform and opening in North Korea as a member of the international community in order to encourage substantial improvement in the North Korean human rights situation. Similarly, South Korea's North Korean human rights policy must pursue the need "to promote positive changes in North Korea." In this process, strategies to substantially improve human rights must be implemented through the human rights norm-friendly openness. In addition, we must develop strategies to create an awareness of basic human rights in North Korean society.²²

Integration of Inter-Korean Exchanges and Improvement of North Korean Human Rights

Commencing in the year 2013, an integrated perspective to concretely link inter-Korean exchanges and the improvement of human rights in North Korea must be established in the process of establishing new inter-Korean relations. In the process of improving inter-Korean relations, specific strategies must be developed that can substantially improve human rights for the North Korean people, which include strengthening humanitarian principles, improvement and integration

22. Kim Soo-Am, "The South Korean Government's Strategies and Policies to Improve North Korean Human Rights," a paper presented at an international conference on North Korean Human Rights hosted by Network for North Korean Democracy and Human Rights, September 25, 2009.

of human rights and support for the rule of law, among others. First, the approach through economic exchanges and process of cooperation must reflect the human rights perspective as a means to improve the human rights conditions in North Korea. In the case of the divided Germany, East Germany was required to fulfill the following conditions: support for the expansion of human as well as communication exchanges, relaxation of procedural stops at the border between the two countries, environment and resumption of cultural agreement talks, among others. The succeeding administration must require systematic improvement in measures for large-scale economic aid, so it can directly and indirectly contribute to the improvement of human rights in North Korea. The commitment to promoting human rights through business activities has been recently acknowledged, so there must be factors for the process of establishing a more favorable environment for business. As seen in the reports, *A Guide for Integrating Human Rights into Business Management*,²³ the United Nations is developing specific programs within the business activities in order to improve human rights. Therefore, a reflection of the concept of human rights must be integrated with our corporate management during the process of developing economic cooperation with the North, so that it can contribute to the improvement of North Korean human rights, as discussed in the global community. Transparency and democratic procedures in our business activities toward the North must reflect the elements of human rights. In particular, it is necessary to promote human rights through the training of workers as well as a welfare system by South Korean businesses in North Korea.

Second, the issue must be approached from the perspective of integrated development and human rights. Commencing in the year 2013, the succeeding South Korean administration will be in the process of redefining inter-Korean relations, while the issue of resuming aid

23. Business Leaders Initiative on Human Rights, UN Global Compact and HUROHCHR, *A Guide for Integrating Human Rights into Business Management*; The Korean Peninsula Forums, *Inter-Korean Relations 3.0: Process of Peace and Cooperation on the Korean Peninsula*, Report on Korean Peninsula Forum 2013: Grand Strategy for Peace and Unification, 2012, pp. 82-83.

will emerge as an important challenge. In revitalizing our support to North Korea, we must formulate a new framework instead of applying previous international standards. Humanitarian principles should be strengthened through emergency relief to North Korea as well as aid for vulnerable social groups. In particular, a monitoring system must be developed based on the needs assessment for North Korean aid plans and enforcement. With the capacity to develop humanitarian assistance to North Korea, development cooperation will be earnestly discussed. In this process, future development cooperation should reflect specific measures for the improvement of the human rights situation, such as expanding the participation of the North Korean people and rectifying gender discrimination. The international community has actively discussed a rights-based approach and has tried to apply it to development cooperation.²⁴ So we will try the ways of application that is suitable to North Korea's situation. Although North Korean development agencies do not explicitly utilize human rights terms, they should implement policies that strengthen the peoples' empowerment from marginalization in the hierarchy. Endeavors to realize human dignity must be upheld. Furthermore, measures to support the development of specific issues, such as the environment, women and children's rights and the healthcare system, must be required in order to improve the overall human rights situation in North Korea.

Support for the Establishment of the Rule of Law in North Korea

In the course of reestablishing relations between North and South Korea, we must to organize specific strategies that will enable us to

24. Office of the UN High Commissioner for Human Rights, "Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation," 2006; Peter Uvin, *Human Rights and Development* (Bloomfield, CT: Kumarian Press, 2004), pp. 122-166; Park Hyeong Jung, Lim Eul Chool, Kim Soo-Am, Kang Dongwan, the 3rd chapter in *Theories and Comprehensive Strategies in Development Assistance toward North Korea [Bukhangaebaljiwoneui Yirongwa Pogwaljeok Jeolyak]* (Seoul: KINU, 2009).

expand aid and establish the rule of law in the North. This support should be implemented at two levels. First, we must urge North Korea to consistently enact and amend domestic laws that conform to the standards of the International Covenants Civil and Political Rights. Second, we must urge North Korea to abide by the domestic laws that they have enacted themselves. In other words, we must establish cooperative measures for inter-Korean relations that support the rule of law as the central agenda in regard to technical cooperation in the field of human rights. As observed in the example of China, an increasing number of social activities will be conducted under contracts in North Korea. As inter-Korean exchanges deepen, there will be a growing need to redesign the legislative system in non-political fields, such as the diffusion of the contract systems. Therefore, we need to first develop a program that will maintain the rule of law in non-political spheres. We must also support human rights education programs, so that authority figures will be better informed of the essential principles of human rights and enforce them. We must offer financial support for the establishment of a legal system and provide education to authority figures. In addition, we must develop a legal cooperative system with the global community, including as the United Nations High Commissioner for Human Rights. Such a system will allow us to promote the rule of law in North Korea.

The Establishment of the North Korean Human Rights Act

The North Korean Human Rights Act is not likely to be passed, as it coincides with the 2012 South Korean presidential election. However, the enactment of North Korean Human Rights Act is expected to be one of the biggest issues nationwide. If the Act is not implemented, then disputes regarding its ratification will be an inevitable outcome regardless of the succeeding government's ideological inclinations. Should the ruling conservatives, who are attempting to establish the bill, retain power, they will stand head to head against an opposition party that will try to stifle them. If the progressives establish the succeeding administration, conflicts will ensue between the opposition

party and conservative groups that call for the implementation of the Act and the passive ruling party. As we have seen above, a consensus in regard to the need for legislation has developed, although the fundamental differences in opinion in regard to the bill do not appear to be resolved. The Democratic United Party is expected to approach the law concerning human rights in North Korea within the framework of “North Korean People’s Livelihood and Human Rights Act,” which was proposed at the 18th National Assembly. We cannot exclude the possibility of negotiations under the condition that the Saenuri Party express negotiability in regard to the details of the proposed bill.

The ruling and the opposition parties should put aside their differences in order to negotiate the implementation of the North Korean Human Rights Act, and these discussions must proceed in the following directions. First, the Act must be adopted under the mutual consent of the two Parties in order to minimize North Korea’s resistance and make the intervention efficient. We can convey our consentaneous will to the North and minimize its resistance only when the Act has been implemented under mutual agreement.²⁵ The mutual agreement will allow us to accomplish practical goals in the medium to long-term, which has been to induce a change in North Korea’s attitude. In this regard, the ruling party and the opposition party must put aside their antagonism to seriously consider the ratification of the Act. Second, we must resolve the conflicting views over the effectiveness of the North Korean Human Rights Act. In terms of efficiency, the Saenuri Party’s approach to the bill is highly focused on the right to freedom, while that of the Democratic United Party is distinctly oriented toward social rights. The international community has approached human rights from integrative perspectives, which encompass the terms of interdependence and integration. Therefore, the North Korean Human

25. The Democratic Chosun Lawyers Association spokesman speaks on behalf of the backlash in North Korea against the enactment of the North Korean Human Rights Act, “South Korean Conservative factions will be solely responsible for the severe repercussions of manipulating the North Korean Human Rights Act,” *Korean Central News Agency*, June 18, 2012.

Rights Act should accommodate the balance between the right to fundamental freedoms and social rights from an integrative standpoint.²⁶ Third, we must also resolve the conflicting views concerning financial support for the groups dedicated to the improvement of human rights in North Korea. If we insist on supporting the “North Korean Human Rights Foundation,” which solely focuses on the improvement of human rights, then it will be a daunting challenge to ensure the ratification of the bill. If a foundation must be established, then we should approach the issue from within the larger framework of human rights diplomacy. As a leading nation in human rights, we must first develop strategies for human rights diplomacy, which can contribute to the improvement of human rights in the Asia-Pacific region. Then, a comprehensive regional foundation must be established in order to support the strategies. Financial support for the groups focused on the improvement of human rights in North Korea should actively participate in such a comprehensive human rights foundation.

Cooperation with the United Nations to Improve North Korean Human Rights

It is highly likely that the UN Human Rights Council will continuously propose the Resolution on North Korean Human Rights. As previously mentioned, the North Korean human rights issue has been discussed as the main agenda in the Resolution on North Korean Human Rights. Therefore, the succeeding government must take the initiative and proactively participate in the discussion of North Korean human rights at the United Nations. North Korea has taken the resolute position that Resolution on North Korean Human Rights is a political conspiracy to overthrow their regime. Apart from the public pressure through

26. Kim Soo-Am, “Domestic and International Trends on North Korean Human Rights and the North Korean Human Rights Act”; Lee Kyu-Chang, “The Needs and Consideration to Implement the North Korean Human Rights Act,” *KINU Online Series 2012-24*, June 21, 2012.

the resolution, our government must play a leading role in achieving cooperation between the UN High Commissioner for Human Rights (UNHCHR) and the North Korean authorities. The North has expressed its intention to accept cooperation with the UNHCHR. However, it has consistently refused technical cooperation with the UNHCHR, since technical cooperation with the UNHCHR is part of the Resolution on North Korean Human Rights, which North Korea does not recognize.²⁷

The UN General Assembly's Resolution on North Korean Human Rights explicitly states that the UNHCHR must establish technical cooperation in human rights with North Korea.²⁸ The Resolution on North Korean Human Rights, which had been adopted by the UN Human Rights Council from 2003 to 2005, also specifies that the technical cooperation of the UNHCHR with the North Korean government. However, such content has been omitted in the Resolution on North Korean Human Rights adopted by the UN Human Rights Council in 2008 and onwards. Thus, we must take the lead in excluding the technical cooperation aspect from process of drafting the content of the Resolution on North Korean Human Rights at the UN General Assembly. With such changes to the Resolution on North Korean Human Rights and the help of the global community, we must strongly urge the North Korean government to technically cooperate with the UNHCHR. We must also play a leading role so that the cooperative ties between North Korea and the UN Special Rapporteurs are strengthened. In particular, we must utilize our diplomatic competency to successfully arrange the Special Rapporteurs' visits to North Korea.

Conclusion

Although the fundamental differences within the South on North Korean human rights remain, they are to some extent resolved as the

27. United Nations document, A/66/343; A/HRC/13/G/7/Rev.1

28. The Resolution on North Korean Human Rights adopted at the United Nations General Assembly in 2011, A/REC/66/174.

issue has become publicized. The issue offers a unique characteristic of the agendas since they are intricately linked at the domestic, inter-Korean and international levels. The human rights activists' nature reflects such complex relations. The issue is routinely discussed at the United Nations while individual nations that sympathize with the cause are on the rise. In particular, the roles of the NGOs that focus on human rights and their solidarity have expanded and strengthened.

Considering the policy environment, future policies on North Korean human rights must be promoted in three manners. First, the policies should be endorsed in such a way that South Korea's domestic conflicts over the issue are minimized. Second, a policy infrastructure must establish so that domestic, inter-Korean and international capabilities are rallied against North Korean human rights. Third, we must manage with the challenges and policy environments efficiently in order to implement specific and practical strategies to improve the human rights conditions in North Korea. Such strategies should be endorsed as follows.

First, the strategies must be endorsed in a detailed and comprehensive manner to reflect North Korea's domestic policy environment and the complexities of the process publicizing the issue.

Second, we must organize a unified perspective to link inter-Korean exchanges and improvement of North Korean human rights in a concrete manner. As we reestablish inter-Korean relations, we must implement specific strategies, which can extend our support for the rule of law in North Korea.

Third, the North Korean Human Rights Act must be adopted by the mutual agreement of the ruling and opposition parties in order to efficiently intervene in the matter with the minimal resistance from the North. We must also resolve our different opinions on the effectiveness of the Act.

Fourth, the succeeding South Korean government must actively and enthusiastically participate in discussions regarding North Korean human rights at the United Nations.

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