

5TH KINU-USIP WASHINGTON WORKSHOP

The Outlook for the North
Korean Situation &
Prospects for U.S.-ROK
Cooperation After the Death
of Kim Jong-il

Korea Institute for National Unification

5TH KINU-USIP WASHINGTON WORKSHOP

The Outlook for the North
Korean Situation &
Prospects for U.S.-ROK
Cooperation After the Death
of Kim Jong-il

Korea Institute for National Unification

5TH KINU-USIP WASHINGTON WORKSHOP

The Outlook for the North Korean Situation &
Prospects for U.S.-ROK Cooperation After the Death of Kim Jong-il

Printed May 2012
Published May 2012

Published by Korea Institute for National Unification(KINU)
Publisher President, Korea Institute for National Unification
Editor Center for Unification Policy Studies

Registration number No.2-2361(April 23, 1997)
Address Korea Institute for National Unification, 1307, Hancheonro (Suyudong), Gangbuk-gu,
Seoul 142-728, Korea
Telephone (82-2) 900-4300; (82-2) 901-2625
Fax (82-2) 901-2543
Homepage <http://www.kinu.or.kr>
Price Won 6,000 (US\$ 6)
Design · Print ORUEM Publishing House (82-2) 585-9123

Copyright Korea Institute for National Unification, 2012

All KINU publications are available for purchase at all major bookstore
in Korea.

Also available at Government Printing Office Sales Center
Store (82-2) 734-6818; Office (82-2) 394-0337

The outlook for the North Korean situation & prospects for U.S.-ROK cooperation after the
death of Kim Jong-il / Korea Institute for National Unification. - - Seoul : Korea Institute for
National Unification, 2012

p. ; cm. - - (KINU collection of conference papers ; 12-01)

ISBN 978-89-8479-654-6 93340 : ₩6000

340,911-KDC5
320,9519-DDC21

CIP2012002503

5TH KINU-USIP WASHINGTON WORKSHOP

The Outlook for the North Korean Situation & Prospects for U.S.-ROK Cooperation After the Death of Kim Jong-il

The analyses, comments and other opinions contained in the this Monograph are those of the authors and do not necessarily represent the views of the Korea Institute for National Unification.

5TH KINU-USIP WASHINGTON WORKSHOP

**The Outlook for the North Korean Situation
&
Prospects for U.S.-ROK Cooperation After the
Death of Kim Jong-il**

- **CO-ORGANIZERS:** U.S. Institute of Peace & Korea Institute for National Unification
- **DATE:** Wednesday, March 28, 2012
- **TIME:** 9:00 AM-5:00 PM
- **LOCATION:** U.S. Institute of Peace (2301 Constitution Ave. NW)
- **FORMAT:** Closed, Off-the-Record, Invitation-Only

■ OBJECTIVES

The 5th KINU-USIP Washington Workshop, hosted by USIP's Korea Working Group, will assess the situation in North Korea following the death of Kim Jong-il; examine the North Korean nuclear problem and the security of the Korean Peninsula; explore ways to improve human rights in North Korea through international cooperation; and analyze the rise of China and implications for U.S.-ROK cooperation.

The guiding objectives of the ongoing KINU-USIP Washington Workshop series are:

- To foster deeper mutual understanding of evolving political, security, and economic issues on the Korean Peninsula
- To exchange views on specific ways to address these pressing policy issues

■ PROGRAM

(WEDNESDAY, MARCH 28)

- 08:30 AM - 09:00 AM REGISTRATION
- 09:00 AM - 09:15 AM OPENING SESSION
 - Welcome Remarks: Dr. Richard Solomon (President, USIP)
 - Opening Remarks: Dr. KIM Tae-Woo (President, KINU)
 - Group Photo

PANEL 1: Assessing the Situation in North Korea After the Death of Kim Jong-il

- Moderator: Dr. John Park (USIP)
- 09:15 AM - 10:00 AM PANELISTS (15 minutes per Panelist)
 - ROK Presenter: Dr. PARK Hyeong-Jung (KINU)
 - U.S. Presenter: Bruce Klingner (Heritage Foundation)
 - Discussant: Scott Snyder (Council on Foreign Relations)
- 10:00 AM - 10:45 AM GROUP DISCUSSION

PANEL 2: Examining the North Korean Nuclear Problem and the Security of the Korean Peninsula

- Moderator: Dr. Patrick Cronin (Center for a New American Security)
- 10:45 AM - 11:30 PM PANELISTS (15 minutes per Panelist)
 - U.S. Presenter: Dr. Jonathan D. Pollack (Brookings Institution)
 - ROK Presenter: Dr. PARK Jong-Chul (KINU)
 - Discussant: Abraham Denmark (National Bureau of Asian Research)
- 11:30 AM - 12:15 PM GROUP DISCUSSION
- 12:30 PM - 01:30 PM LUNCHEON KEYNOTE ADDRESS
 - Introduction by: Dr. Abiodun Williams (USIP)
 - Keynote Speaker: Amb. Robert King (U.S. Special Envoy for North Korean Human Rights Issues)

PANEL 3: Exploring Ways to Improve Human Rights in North Korea Through International Cooperation

- Moderator: Dr. Andrew Yeo (Catholic University)
- 01:30 PM - 02:15 PM PANELISTS (15 minutes per Panelist)
 - ROK Presenter: Dr. CHO Jung-Hyun (KINU)
 - U.S. Presenter: Greg Scarlatoiu (U.S. Committee for Human Rights in North Korea)
 - Discussant: William Kim (Voice of America)
- 02:15 PM - 03:00 PM GROUP DISCUSSION
- 03:00 PM - 03:15 PM COFFEE BREAK

PANEL 4: Analyzing the Rise of China and Implications for U.S.-ROK Cooperation

- Moderator: Dr. John S. Park (USIP)
- 03:15 PM - 04:00 PM PANELISTS (15 minutes per Panelist)
 - U.S. Presenter: Dr. John S. Park (USIP)
 - ROK Presenter: Dr. PARK Jae-Jeok (KINU)
 - Discussant: Dr. Katy Oh (Institute for Defense Analyses)
- 04:00 PM - 04:45 PM GROUP DISCUSSION
- 04:45 PM - 05:00 PM WRAP-UP REMARKS Dr. KIM Tae-Woo (President, KINU)

■ PARTICIPANTS

KINU-led Delegation

- KIM Tae-Woo (President, KINU)
- PARK Jong-Chul (Senior Research Fellow, KINU)
- PARK Hyeong-Jung (Senior Research Fellow, KINU)
- PARK Jae-Jeok (Research Fellow, KINU)
- KIM Soo-Am (Senior Research Fellow, KINU)
- LEE Keum-Soon (Senior Research Fellow, KINU)
- CHO Jung-Hyun (Research Fellow, KINU)
- HAN Dong-Ho (Research Fellow, KINU)
- M. Rose Shaw (Research Associate, KINU)
- KIM Min-Kyoung (Administrative Officer, KINU)

USIP-led Delegation

- Richard Solomon (President, USIP)
- Abiodun Williams (Senior Vice President, Center for Conflict Management, USIP)
- John S. Park (Director, Korea Working Group, USIP)
- Sarah Bessell (Senior Program Assistant, Center for Conflict Management, USIP)
- Amb. Robert King (U.S. Special Envoy for North Korean Human Rights Issues)
- Bruce Klingner (Senior Research Fellow, Heritage Foundation)
- Scott Snyder (Senior Fellow for Korean Studies & Director of the Program on U.S.-Korea Policy, Council on Foreign Relations)
- Patrick Cronin (Senior Director of the Asia-Pacific Security Program, Center for a New American Security)
- Jonathan D. Pollack (Senior Fellow, John L. Thornton China Center, Brookings Institution)
- Abraham Denmark (Senior Project Director for Political and Security Affairs, The National Bureau of Asian Research)
- Andrew Yeo (Catholic University)
- Greg Scarlatoiu (Executive Director, U.S. Committee for Human Rights in North Korea)
- William Kim (Voice of America)
- Katy Oh (Institute for Defense Analyses)

■ CONTENTS

● PANEL 1 **Assessing the Situation in North Korea After the Death of Kim Jong-il**

- North Korea after Kim Jong-il 3
 — **PARK Hyeong-Jung** (Senior Research Fellow, KINU)

- Assessing the Situation in North Korea After the
 Death of Kim Jong-il 13
 — **Bruce Klingner** (Senior Research Fellow, The Heritage Foundation)

● PANEL 2 **Examining the North Korean Nuclear Problem and the Security of the Korean Peninsula**

- February 29 and March 16: North Korean Security and
 Diplomatic Strategy after the Death of Kim Jong-il 29
 — **Jonathan D. Pollack** (Senior Fellow, John L. Thornton China Center, Brookings
 Institution)

- U.S.-North Korea Talks and North Korea's Missile
 Launch Plans: Prospects and Policy Directions 39
 — **Park Jong-Chul** (Senior Research Fellow, KINU)

● **PANEL 3** **Exploring Ways to Improve Human Rights
in North Korea Through International
Cooperation**

- How to Improve Human Rights of North Koreans in China and in North Korea: Focusing on the Recent North Korean Escapee Case **55**
_CHO Jung-Hyun (Research Fellow, KINU)
- Exploring Ways to Improve Human Rights in North Korea through International Cooperation **65**
_Greg Scarlatoiu (Executive Director, U.S. Committee for Human Rights in North Korea)

● **PANEL 4** **Analyzing the Rise of China and
Implications for U.S.-ROK Cooperation**

- The Rise of China & Implications for U.S.-ROK Cooperation **79**
_John S. Park (Director, Korea Working Group, USIP Project Director, Belfer Center, Harvard Kennedy School)
- The Rise of China and the US-led Asia-Pacific Alliance Network: Policy Suggestions for South Korea in the Context of the ROK-US Cooperation **97**
_PARK Jae-Jeok (Research Fellow, KINU)

PANEL 1

Assessing the Situation in North Korea After the Death of Kim Jong-il

North Korea after Kim Jong-il

_ **PARK Hyeong-Jung** (Senior Research Fellow, KINU)

Assessing the Situation in North Korea After the
Death of Kim Jong-il

_ **Bruce Klingner** (Senior Research Fellow, The Heritage Foundation)

North Korea after Kim Jong-il

PARK Hyeong-Jung

Senior Research Fellow, KINU

■ Summary of the Assessment

- North Korea is still ruled by Kim Jong-il
 - No changes in political arrangement as well as in domestic and foreign policy

- In late 2008 KJI pushed forward a new line of policy and political arrangements
 - The implementation started in 2009 and will be finished on April 15, 2012

- Passing through major events in mid April,
 - The main line of policy will only experience tactical adaptation,
 - Regarding political arrangement, the agencies of the central party will be promoted

- The future stability of the regime will be dependent on how much it could achieve its major policy objectives
 - Above all regarding foreign currency earning, and nuclear and humanitarian diplomacy to extract concessions and assistances.

■ Continuities of Policy and Politics

- Looking back, KJI must have pushed forward a new political project in late 2008 with the target date of April 15, 2012.
 - The reordering of central power in favor of power succession and the construction of 'strong and powerful state' has started in 2009 in earnest.
 - Foreign and domestic policy has become much more aggressive since early 2009.

- The construction of ‘strong and prosperous country’ must have been code name for accomplishing power succession in 2012.
- The major components of the KJI’s political project will be continued beyond April 15.

■ KJI’s Political Project in Eight Points since Late 2008

1. Its central object has been to construct a power base for Kim Jong Eun.
2. KJI wanted to replace the old coalition of core lieutenants with a new one.
 - The coalition of military generals and party officials, who have played predominant roles in the period of ‘military politics’ between 1995 and 2004, were gradually replaced by a new group of generals and party officials till the party delegates’ conference in September 2010.
3. Foreign and South Korea policy has turned out to be much more aggressive since 2009.
4. The regime tried to strengthen the state sector of the economy, while weakening the market and civilian sector.
 - KJI increased drastically the number on the spot guidance on state firms for heavy and chemical industries since 2009 till his death
5. The regime has continued anti-reformist policy.
 - The ‘grand surge’ of manpower mobilization has been the central word for economic policy during the period.

- On the other hand, it has manufactured slogans such as CNC, Knowledge economy, Industrial Revolution in a New Age, breakthrough with most advanced technologies etc.
6. The regime has taken various measures for mobilizing foreign currencies for the expenditures of the KJI's political project.
 - To increase mineral export to China, to take advantage of super hyper inflation(about 13,000-20,000 in two years), various actions for extracting foreign currency from domestic economy, compulsory allotment of food and foreign currency donation for party-state officials, manipulation of export and import licenses, etc.
 7. The regime has noticeably strengthened internal security capacities and crack-down measures against various anti-socialist phenomena.
 8. The regime has tried to strengthen friendly relations with China, while, whenever there is opportunity, making use of the USA to check Chinese influence.

* The eight policy points above will be continued in the near future.

■ Constructing a New Political Arrangement for Kim Jong Un

- With the death of absolute leader, KJI, North Korea entered an era of political uncertainties,
 - produced by increased mistrust between the new leader and elites and competition among powerful agencies and factions.
- KJI seemed have recognized the challenge and decided

- to re-boost the central party agencies to increase transparency in high politics, and to regulate power competition among factions, while, may be, giving up some of the new leader's absolute power.
- "The dictator's dilemma can only be solved if the ruler generates incentives for members of the ruling coalition to vest their interests in the survival of the dictatorship, and this requires establishing some credible limits to dictatorial abuses."(Megaloni)
- The new leadership decided to hold a Party Delegates' Conference in mid April.
- Whether or not this political project will be successful remains uncertain

■ Continuities in Economic Policy

- North Korea may have to introduce 'buffer period' before starting a new economic mobilization after the three year phase of 'grand surge of mobilization' for the 'construction of strong and powerful state.'
- Otherwise, the main features of economic policy will remain the same as between 2009 and April 15, 2012.
- As in the recent past, <strengthening the state sector with anti-reform policy + expansion of foreign currency earning activities> will remain the two pillars of North Korean economic policy.

■ The Main Components of Future Economic Policy

- <Anti reform + expansion of foreign currency earning activities (especially with China) + increase in revenue from foreign assistance> +
- <Strengthening of the state sector + weakening of the market and private sector> +
- <attempts to reduce dependence on China + efforts to diversify economic relations (with South Korea, Japan and the USA etc.)> +
- <priority distribution for regime loyal members + priority expenditure for regime survival essential undertakings + increased rhetorical emphasis on enhancing livings of the people (because of increased concerns on rebellion)> +
- <introduction of measures to increase 'tax' income of the government + increased levy of 'extra tax burdens' on the population + manipulated expansion of market to guarantee income levels of the loyal members>

■ Foreign and South Korea Policy

- Setting agendas for 2013 and beyond
 - 2012 is a year for tactical moves to set the strategic agendas for negotiations in favor of North Korea with new administrations of South Korea and the United States in 2013 and beyond
- North Korea would like
 - To keep the leadership of the agendas and processes regarding

‘North Korea issues’ and show off capacity for strategic autonomy from any country

- To make the new administrations in South Korea and the United States highly aware of the urgency of negotiation
- To improve relations and conclude peace agreement with the US as equal nuclear powers
- To accumulate valuable cards to play and sell with exorbitant profits during the upcoming negotiations in 2013 and beyond

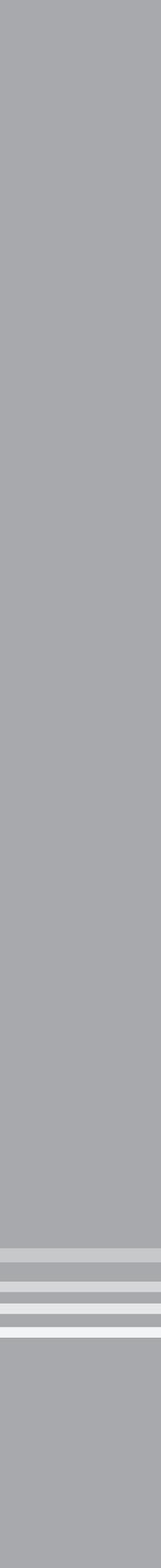
■ Major Challenges and Prospects for Future Stability

- How much the regime would be successful in the various foreign currency earning activities
- Whether the competing groups in and between the military and the party-civilians could find a new stable political and economic settlements
- How much the regime would be successful to keep the balance between fear and reward among the regime loyal groups and among the population

■ How Much Successful to Achieve the Regime’s Strategic Objectives

1. To expand nuclear weapons capacity and to be acknowledged as a nuclear power
2. To realize normalization of diplomatic relations with the U.S. as those between nuclear weapons states

3. To consolidate hierarchial inter-Korean relations, such as South Korea supports North Korean regime through economic and political assistance.
4. To sustain the regime without economic reform through expansion of foreign currency earning businesses.
5. To consolidate the regime through internalization fear among the population while politically manipulating allocation of money spinning opportunities to regime supporters proportional to their contribution for regime survival.



Assessing the Situation in North Korea After the Death of Kim Jong-il

Bruce Klingner

Senior Research Fellow,
The Heritage Foundation



North Korea's dynastic leadership succession is well underway with no apparent threat from potential challengers or popular uprising. New North Korean leader Kim Jong-un has survived the initial transfer of power that followed his father Kim Jong-il's death in December 2011.

Jong-un has been given senior leadership positions and is, at least officially, solely in charge. It is likely, however, that North Korea is being ruled by a collective leadership, with Jong-un more reliant on other leadership elites than his father.

The likelihood for a sustained regime, and therefore stability, is greater than had Kim Jong-il died after suffering a massive stroke in August 2008. At that time, the North Korean constitution had no provision for leadership transition nor had any succession plan been announced. At that time, there would have been greater potential for a contested grab for power. During the intervening three years, North Korea implemented a leadership succession plan to anoint Jong-un.

However, sudden leadership change—with attendant stability risks—remains a very real possibility. The North Korean ship of state has never had such an inexperienced hand on the tiller as it attempts to sail through the treacherous waters of economic failure and international isolation. If Kim Jong-un remains as the captain, he may find he's in command of the Titanic unswervingly headed toward destruction.

Even an initially successful succession could deteriorate into a power struggle, with fissures amongst the senior leadership arising over time. Credible reports of coup and assassination attempts during Kim Jong-il's reign show the strong potential for a sudden event that would have a devastating impact on North Korean stability.

Factors leading to an imminent overthrow or collapse could even now be present. Given the nature of the informational black hole that is North Korea, little is known of what is going on behind the scenes. The absence of an independent domestic or foreign media presence in North Korea prevents timely identification of even normally observable indicators such as growing popular anti-regime unrest.

It is likely that even the United States Intelligence Community will have difficulty predicting or identifying rapid leadership change. As such, Washington—in conjunction with its allies—must establish contingency plans to facilitate rapid and effective response to sudden change in North Korea.

The North Korean regime has shown remarkable resilience over the past 15 years, and once again could belie repeated predictions of its imminent demise. North Korea's neighbors, fearful of the consequences of collapse, could alter their policies to reduce pressure on a faltering regime.

Even a stable North Korea can be destabilizing to regional security, as shown by its pledge to launch long-range missile in mid-April that would violate UN Security Council resolutions. North Korean threats to U.S. national interests stem not only from instability brought on by regime collapse but also from continuing its belligerent behavior, whether led by Kim Jong-un or another ruler. Pyongyang has routinely used threats, provocations, and military attacks to gain its objectives.

Whether Kim Jong-un remains in power or not, there is now even greater uncertainty about the North Korean regime's stability and future policies than ever before. The inherent contradiction between Pyongyang's February 29 pledge of a moratorium on nuclear and missile tests and its March 16 announcement of a forthcoming missile launch raise questions as to the coherence of North Korean decision-making. It is these uncertainties that trigger heightened concerns in the corridors of power in Washington and Seoul.

■ Different Leader, Same Policies

North Korean policies will continue unchanged, whether it is Kim Jong-un in the driver's seat or any viable challenger. There is no evidence that North Korea will pursue a less aggressive foreign policy or be less

repressive regime under Kim Jong-un than his predecessors.

Indeed, all indicators are that the North Korean ship of state will stay on its present course. Pyongyang's affirmation of its *songun* (military first) policy is a clear indicator that North Korea's policies won't change under Jong-un. Pyongyang also indicated it would continue to resist fulfilling its Six Party Talks denuclearization requirements, "As recognized by the world, the DPRK is a full-fledged nuclear weapons state and its nuclear deterrent is the revolutionary heritage which can never be bartered for anything."¹⁾

Pyongyang also emphasized in the New Years editorial that it would not soften its hardline stance against South Korea. The 2011 Joint New Years Day editorial, which followed North Korea's two deadly attacks against South Korea in 2010, had advocated reducing tensions through dialogue and joint cooperative projects.

■ Will the Succession Hold?

Leadership transition is one thing, but ruling a decrepit country and its complicated interactions with the outside world is another. Regardless of who is in control, North Korea will continue to face dire challenges that would test any leader, particularly a young and inexperienced one:

- Abysmal economic conditions, including endemic food shortages and widespread malnutrition;
- Failed economic system and policies;
- Government resistance to economic reform and opening up the country since both are perceived as increasing the risk of regime stability;

1) KCNA, "CPRK Blasts Lee Myung-bak's New Year Address," January 5, <http://www.kcna.co.jp/item/2012/201201/news05/20120105-52ee.html>.

- Global donor fatigue after 15 years of massive North Korean food requests without the regime taking any steps to reduce recurrence of need;
- Few allies and near total isolation from the outside world;
- Extensive international sanctions;
- More brittle system than 1994 when Kim Jong-il formally assumed power.

Kim Jong-un is a pale reflection of his father and grandfather. He has little experience or accomplishments and has not had the decades of grooming and establishing a power base that Jong-il enjoyed before assuming control from his own father, Kim Il-sung. Kim Il-sung had delegated authority for North Korea's security services and nuclear weapons programs to Kim Jong-il years before he died. During the last years of his father's life, Jong-il was, for all intents and purposes, already running the country.

Stabilizing factors

Despite these factors, Pyongyang has for years demonstrated a remarkable ability to overcome domestic and foreign pressures that appeared to reflect unavoidable regime collapse. Sudden regime change would be difficult due to the pervasiveness and brutality of North Korea's security services against not only the populace but even the senior echelons of power. Chang Song-taek, Kim Jong-il's brother-in-law and often referred to as the "second most powerful man in North Korea," was twice purged from office.

The North Korean elites perceive a vested interest in maintaining and defending the current system, including the transfer of power to Kim Jong-un, seeing their fate as inexorably linked to that of the regime. The North Korean leadership perceives altering policies or relaxing control as extremely dangerous, assessing it was the cause of the downfall of

the Soviet Union, Eastern Europe, and move recently in the Middle East. Regime collapse risks North Korea's absorption by South Korea and tribunals for members of the leadership.

Outside Factors for Stability

Kim Jong-il's death could, in the long-term, theoretically provide an opportunity for reducing the regime's brutal oppression of its populace as well as reduce North Korea's threats to its neighbors. But for the foreseeable future, the United States as well as North Korea's neighbors will be more concerned with averting potentially catastrophic consequences of instability within a nuclear-armed country than with seeking to instigate regime change.

China and South Korea—the latter particularly under a progressive (liberal) government—would actively seek to prevent North Korean instability, including by sending large- deliveries of food and fuel to avert humanitarian disasters. Beijing would also oppose U.S. efforts to impose additional pressure on Pyongyang. Even though the United States finds the North Korean regime loathsome, Washington will not try to induce regime collapse or overthrow of the government.

■ Potential for Popular Uprising Low...But Rising

North Korea's harrowing economic conditions and growing social disparity create the conditions for social unrest, exacerbated by the populace's increasing access to outside information. Public protests and riots reacting to the regime's forced currency revaluation in 2009 showed a greater willingness to confront the regime and an increased potential for even more extensive rebellions in the future. The public response was strong enough to force a policy reversal by the regime. The security services were able to quell the protests, but issued a rare warning of a

massive crackdown and retaliation against subversive activities, which were seen as rising beyond the danger level.²⁾

Despite the regime's rigid controls against infiltration of news from the outside world, information is increasingly seeping into the country. There are now one million cell phones in North Korea, albeit only those of elites or smuggled Chinese cell phones can access outside the country. In addition, foreign radio broadcasts, propaganda delivered from South Korea via balloons, and smuggled DVDs and computer thumb drives all pose a threat to the regime's monopoly on information.

However, North Korea will remain more susceptible to regime change from an internal power struggle by members of the elite rather than from a popular revolutionary movement. Currently, an "Arab Spring" uprising is extremely unlikely. Even the most repressive Arab regime was exponentially a more open and less controllable society than North Korea.

Despite some inroads, the penetration of outside media remains minimal. There are no social media networks in North Korea that would enable communication of independent information or organizing mass demonstrations. Foreign media are non-existent in North Korea or extremely tightly controlled, preventing transmission of images of protest and uprising that proved influential in the Arab uprisings.

Nor is there any opposition or resistance movement for the populace to rally around. There are no identifiable reformers within the existing government that advocate alternative policies. Nor is there any opposition figure (e.g. Aung San Suu Kyi, Lech Walesa, or Vaclav Havel) or opposition party to provide a competing ideology.

2) "Signs of Unrest," *The Korea Herald*, February 16, 2010.

■ Stability in the Near-Term

During 2012, continued regime cohesion under Kim Jong-un is most likely. He will be able to rely on his bloodline and initial transference of titles for legitimacy as ruler. Jong-un will also be able to eliminate potential challengers through purges, though excessive culling risks triggering attacks by those fearful for their own safety.

Beyond that, however, Kim Jong-un will have to do more than simply consolidate power. He will need to develop his own source of legitimacy, either through foreign policy successes or improving the country's economic situation.

The elites will continually assess Kim Jong-un's ability to protect their equities. Over time, senior leaders may conclude Jong-un's shortcomings are sufficient justification for contesting his succession. Elite resistance to Jong-un's rule could manifest itself in outright opposition or in usurping his power and leaving him a mere figurehead.

Even as the ongoing leadership succession progresses, there will be jockeying for influence *within* the existing leadership structure, as occurred when Kim Jong-il was alive. This will continue even if it does not pose a challenge to Jong-un. Over time, however, it could change to competing for power vis-à-vis Kim Jong-un. It will be difficult, even for the U.S. Intelligence Community, to discern the difference, making accurate, timely predictions of an unplanned leadership change extremely unlikely.

If the Wheels Came Off the Bus

A failed succession brought on by coup or assassination of Kim Jong-un could result either in collapse of the regime while the North Korean government remained functional or in collapse of the entire state. The succession could deteriorate into rivals calling on military units for support, leading to armed clashes.

If the situation became so dire as to bring about the collapse of the regime, it could lead to North Korea's loss of control over its nuclear weapons, greater risk of rogue elements selling weapons of mass destruction to other rogue governments and terrorist groups, fighting among competing factions, economic turmoil, and humanitarian disaster.

Low-probability but high-impact scenarios would be a power vacuum; civil war among warring factions; or internal unrest extensive enough that it leads Beijing or Seoul to intervene, particularly if concern over control of North Korea's nuclear weapons arises, raising the potential for miscalculation and armed confrontation. North Korea's neighbors might fear that the instability could create an "explosion" (aggressive actions toward South Korea or Japan) or an "implosion" (regime collapse).

■ Even a Stable North Korea Can be Destabilizing to Regional Security

What is less recognized are the dangers that North Korea will pose even with a successful succession. Kim Jong-un will maintain the policies that North Korea has pursued since the 1940s, including threats, provocations, and military attacks. Kim Jong-un will be as aggressive—and perhaps even more so—than his father Kim Jong-il.

An additional danger is that, because Kim lacks the experience that his father had before he was anointed, there is a greater potential for miscalculation by North Korea. Jong-un may stumble over a policy redline that his father would have known to not cross, precipitating a strong U.S. or South Korean military response. He may not realize that, as a result of the attacks on the Cheonan and Yeonpyeong Island, Seoul has moved the redline by making it more likely it will retaliate to a NK provocation than before.

After the attacks in 2010, President Lee brought in a new, tougher defense minister, changed the rules of engagement, augmented military

forces and sensors in the West Sea, and gotten tacit permission from Washington to be allowed to use Korean F-15s without prior U.S. concurrence—all of which makes it much more likely that South Korea will retaliate to a future North Korean provocation.

It is important to distinguish between North Korea's *leader*, and North Korea's *policies*. The succession could fail—by having Kim Jong-un replaced by a challenger or cabal of the leadership elites—but the system survives to continue threatening the region.

■ What the United States Should Do:

The United States should not refrain from additional discussions with North Korea to probe if Pyongyang is willing to denuclearize in return for economic and diplomatic benefits. Such negotiations will be lengthy, arduous, and potentially unsuccessful. But they may also provide a means to first cap and then reduce a growing security threat to the United States and its allies.

However, engagement should not be perceived as a means to empower non-existent reformist elements in Pyongyang or as a panacea for preventing North Korean provocations. The regime chooses to ramp up tension, which it sees as increasing its leverage, when it perceives it is being ignored or to increase its leverage for attaining its objectives, regardless of whether it is sitting across a negotiation table.

■ Diplomacy

If North Korea launches a missile, the U.S. should:

- Suspend plans to ship 240,000 tons of nutritional assistance to North Korea as delineated in the February 29 agreement.

- Submit a new U.N. Security Council resolution requiring more extensive sanctions on North Korea for yet another U.N. resolution. The new U.N. resolution should invoke Chapter VII, Article 42 of the U.N. Charter, which allows for enforcement by military means. This would enable naval ships to intercept and board North Korean ships suspected of transporting precluded nuclear, missile, and conventional arms, components, or technology. To date, China has insisted that U.N. resolutions adopt the weaker Article 41 provisions.
- Demand that all U.N. member nations fully implement existing U.N. resolution requirements to prevent North Korea's procurement and export of missile-related and WMD-related items and technology and freeze the financial assets of any involved North Korean or foreign person, company, or government entity. Any violating government, business, bank, or individual should be subject to sanctions.

Even without a missile launch, the U.S. should:

- **Insist that North Korea commit to complete and verifiable denuclearization.** Since the breakdown of Six Party Talks in 2008, Pyongyang has repeatedly vowed to never give up its nuclear weapons which is inconsistent with the Six Party Talks agreements. Nor should Washington allow Pyongyang to use brinksmanship and threats to redefine the parameters of the negotiations.
- **Require that future Six-Party Talks agreements be sufficiently detailed** to explicitly delineate linkage between North Korean steps toward denuclearization and economic and diplomatic benefits to be provided. Acquiescing to vague text provides a false sense of advancement and allows Pyongyang to exploit loopholes and avoid its denuclearization commitments.
- **Maintain sanctions** until the behavior that triggered them has

ceased, rebuffing Pyongyang's entreaties to abandon punitive measures to "improve the negotiating atmosphere. Diplomacy and pressure tactics should both be part of a comprehensive strategy.

- **Ensure Seoul is not left on the sidelines.** When engaging North Korea, Washington must condition any bilateral progress on Pyongyang resuming inter-Korean talks.
- **Expand public diplomacy** to promote greater North Korean exposure to the outside world through both overt and covert means. Washington and Seoul should facilitate formal government, academic, and cultural exchange programs while concurrently using a variety of distribution methods to expose the citizenry to the true nature of the regime.

■ Security

- **Develop multilateral contingency planning for effective crisis response.** The U.S., South Korea, and Japan should coordinate their national contingency plans for North Korean scenarios and conduct joint exercises to identify shortfalls.
- **Affirm unequivocal commitment to defending South Korea and Japan** through the promise of extended deterrence comprised of conventional forces, missile defense, and the nuclear umbrella.
- **Maintain a robust forward-deployed military presence in South Korea and Japan.** Such a presence is necessary to defend critical allies and maintain peace in Northeast Asia. The U.S. should augment training exercises in South Korea, including U.S. combat units deployed from the United States and U.S. forward bases in Asia in future training exercises on the Korean Peninsula.
- **Fully fund U.S. defense requirements.** Reducing U.S. military capabilities undercuts America's ability to defend its allies, deter security threats, and respond quickly to aggressive actions or

natural disasters in Asia. The United States cannot cut defense spending by \$1 trillion over the next decade and still maintain its current level of deterrence and defense commitments.

- **Continue U.S. missile defense development and deployment** and call on South Korea to deploy a multi-layered missile defense system that is interoperable with a U.S. regional missile network.
- **Encourage Japan to maintain its missile defense efforts.** Previous North Korean missile launches spurred Tokyo to accelerate its missile defense plans. More recently, however, the Democratic Party of Japan—led government has expressed greater skepticism of missile defense than previous administrations.

■ Conclusion

The North Korean situation is not static; the country is deteriorating, increasing the risk for sudden change. In many ways, it appears the regime cannot survive, though North Korea has long outlasted many previous predictions of its demise. The leadership succession appears to be on track, but the United States must prepare for a sudden North Korea collapse with its attendant security, political, and economic challenges.

But, even as experts debate whether Kim Jong-un will remain the captain of the North Korean ship of state, it is even more important to focus on the likelihood that the ship will continue to follow the same dangerous policy course.

Although the demise of Kim Jong-il provides an opportunity for change on the Korean Peninsula, it is a transition fraught with uncertainty, nervousness, and potential danger. As such, Washington and its allies should be prepared to continue facing a bellicose, belligerent North Korea using provocations and charm offensives to achieve its objectives.

PANEL 2

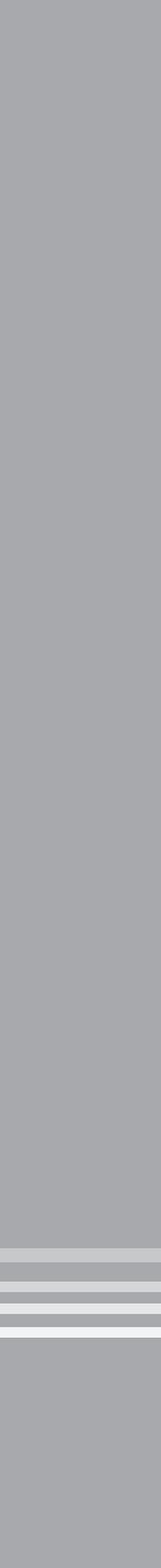
Examining the North Korean Nuclear Problem and the Security of the Korean Peninsula

February 29 and March 16: North Korean Security and Diplomatic Strategy after the Death of Kim Jong-il

Jonathan D. Pollack(Senior Fellow, John L. Thornton China Center, Brookings Institution)

U.S.-North Korea Talks and North Korea's Missile Launch Plans: Prospects and Policy Directions

Park Jong-Chul(Senior Research Fellow, KINU)



February 29 and March 16: North Korean Security and Diplomatic Strategy after the Death of Kim Jong-il

Jonathan D. Pollack

Senior Fellow, John L. Thornton China Center,
Brookings Institution



The US and North Korean policy statements of February 29 and North Korea's March 16 announcement of a planned satellite launch for mid-April have again injected DPRK nuclear and missile policies into the policy debate about post-Kim Jong-il North Korea. In the initial months following Kim's death, North Korea said little about its plans for additional nuclear and missile development, though a major article published shortly after Kim Jong-il's death described the nuclear and satellite programs as part of the elder Kim's "great legacy," and another claimed that Kim Jong Un personally commanded the satellite and nuclear tests of 2009.

But the absence of major statements or disclosures about the nuclear program antedates the mourning period for the elder Kim and the formal accession of Kim Jong Un to top leadership in the North. Since the visit of two private US delegations to the Yongbyon nuclear complex in November 2010, no foreign experts have been known to visit there. After seven consecutive years in which Dr. Siegfried Hecker of Stanford University was invited to the DPRK (often including site inspections at Yongbyon), he was unable to secure a visa in 2011. Any new insights into the North's nuclear activities since late 2010 have been limited almost entirely to commercially-generated overhead imagery on construction of a prototype light water reactor at Yongbyon. There have also been attempts by prominent nuclear specialists (including Siegfried Hecker and Olli Heinonen, formerly with the International Atomic Energy Agency) to estimate North Korea's potential production capacity for highly enriched uranium (HEU). The renewed diplomatic discussions between Washington and Pyongyang since the summer of 2011 (though discussing the "pre-steps" needed to resume nuclear diplomacy) did not generate widespread expectations of the resumption of multilateral diplomacy. The latter activity had been essentially moribund since the DPRK's decision to walk away from the Six Party Talks in December 2008.

It was not until the parallel US and North Korean announcements

of February 29 that speculation about renewed nuclear diplomacy (possibly including the resumption of the Six Party Talks) became widespread, though primarily among analysts and media commentators, not by governments. US negotiators remained very cautious in their expectations. They did not describe February 29 as a major breakthrough, though Washington was surprised that North Korea had been prepared to resume diplomatic exchanges in very short order after Kim Jong-il's death. On paper, Pyongyang appeared to meet the conditions that might lead to renewed multilateral talks, pledging a moratorium on nuclear tests, long-range missile launches, and uranium enrichment at Yongbyon, while also stating it would allow IAEA personnel to return to Yongbyon to verify the cessation of uranium enrichment. US officials also claimed that North Korea agreed to allow the IAEA to confirm the disablement of the gas graphite reactor at Yongbyon, and hence the cessation of any additional reprocessing of weapons grade plutonium, though this commitment went unmentioned in the DPRK's pronouncement.

Any expressions of cautious optimism proved fleeting. North Korea's March 16 announcement of a planned satellite launch directly contradicted the understandings that had been reached in Beijing only weeks earlier. Pyongyang insisted that its pledge to forgo long-range missile tests did not extend to "a satellite test for peaceful purposes," claiming that a satellite launch was its "sovereign right." On March 27, a Ministry of Foreign Affairs spokesman left open the possibility of a future missile test, stating that the DPRK had "no reason" for a launch "at this time," thereby implying that a test might take place at an unspecified future date. The spokesman also characterized a satellite launch as part of the "strategic behest" of Kim Jong-il that the DPRK had long been planned.

There are two competing explanations of the sharp discontinuities in North Korean behavior between late February and mid-March. One hypothesis asserts that uncertainties related to the younger Kim's accession to power have resulted in friction, conflicts of interest, or

breakdowns in coordination among North Korean policy makers. According to this interpretation, those involved in the negotiations in Beijing fully grasped the essence of the agreements reached with US officials, but these understandings were rejected by major power wielders in Pyongyang. Few assert that Kim Jong Un was central to any such decisions, even though North Korean negotiators in Beijing invoked the authority of the new leader in their talks with American counterparts, claiming that the Beijing accord had been blessed by him.

Thus, widespread doubts persist among many observers about Kim Jong Un's power atop the system. To most officials and analysts, it seems inconceivable that a young, untested leader abruptly thrust into top leadership possesses power remotely akin to that of his deceased father. President Obama gave voice to such sentiments in remarks at the Nuclear Security Summit in Seoul, declaring that no one knows "who's really calling the shots" inside North Korea today. The president is thus among the doubters about Kim Jong Un's role in North Korean decision making, suggesting that real power resides in the hands of those to whom the young Kim defers. By this logic, Kim is either being manipulated by more powerful figures or bureaucratic constituencies vying for power atop the system, or he adheres to the judgment of a collective leadership overseeing his transition to more lasting authority and power atop the system.

This interpretation, however, presumes that North Korean negotiators on their own initiative and without full consulting with superiors in Pyongyang made major concessions on matters of vital importance to the DPRK. But there were no new faces among those negotiating in Beijing. These officials are long-term survivors within the North Korean system, wholly cognizant of their brief, and fully mindful of and attentive to the limits of their authority. To be sure, the death of Kim Jong-il quite possibly injected a measure of uncertainty into North Korean decision making. The passing of a long dominant leader presumably recalibrated working relationships at the apex of the system. Kim was above all a micro-

manager unprepared to cede power to others. He continued to rely on a small circle of very close associates, including his sister, brother in law, and senior military and public security officials. Neither Kim Jong Un nor anyone else appears intent on abruptly disrupting these arrangements, even though some leadership realignments are likely to be announced at the Party Conference and Supreme People's Assembly scheduled for April.

The principal alternative explanation of North Korean behavior treats February 29 and March 16 as two faces of the same coin, and having little if anything to do with debate or differences within the leadership. Ever since Pyongyang's nuclear and missile tests of 2006, North Korea has sought to secure acceptance of its claims to standing as a nuclear-armed state outside the Non-Proliferation Treaty, a status that the United States and others have repeatedly rejected. But this test of wills has not prevented North Korea from periodically probing to see if Washington's policy stance might shift. Displays of tactical flexibility in negotiations by North Korea would thus reflect one of two possibilities. Pyongyang either calculated that the US was increasingly concerned about the implications of open-ended nuclear weapons development in the North, or that the US might be intent on exploring the possibilities for a redefined relationship with the post-Kim Jong-il leadership. In either event, Pyongyang concluded that it could protect the programs and activities deemed vital to its security interests, all the while seeking a political "reset" with the United States that has long eluded it.

Thus, it seems possible that North Korea believed that the United States was more intent on reaching an agreement in Beijing than leaders in Pyongyang and on that basis would not raise major objections or impose additional costs on the North for actions such as another attempted satellite launch. If so, this was a profound misreading of American thinking, raising yet again how US strategy is understood within the insular confines of North Korean decision making, whether under Kim Jong-il or under his son.

The strong objections of the US and other powers to the DPRK's planned satellite launch has presumably disabused North Korea of any expectations it could pocket its nuclear gains while somehow making political inroads with Washington. But it has not convinced Pyongyang to alter its plans. Indeed, there is every reason to conclude that the North's determination to proceed with the launch is rooted even more deeply in domestic circumstances—i.e., the need to commemorate the centennial of Kim Il Sung's birth, to memorialize the recently deceased Kim Jong-il, and to validate the elevation of Kim Jong Un to formal leadership. The test also assumes technical importance, in as much as all three previous attempts to either launch a satellite or test a long-range missile have failed, though the results have improved over time. By disclosing the launch in advance and claiming it fully accorded with legal stipulations governing the peaceful uses of outer space, North Korea hoped to circumvent UN Security Council sanctions that denied it the right to undertake any rocket or missile tests employing ballistic missile technology. Regardless of North Korea's artful effort at political justification (including claiming major technical distinctions between a satellite launch and a ballistic missile test), few have found Pyongyang's case convincing.

The operative questions are what might happen in the aftermath of the satellite launch, irrespective of its success or failure. The United States has yet to state how it might respond to the launch, though it is already clear that in the event of the launch Washington will not proceed with the commitments outlined in the February 29 agreement, including nutritional assistance and steps to enhance people to people contact with the DPRK. It seems possible, for example, that the US will attempt to impose additional sanctions on the North, preferably through the Security Council but unilaterally or in conjunction with the ROK and Japan if China and Russia prove unwilling to assent to such moves. The issue then becomes how North Korea chooses to respond to heightened pressure.

The precedents here bear careful consideration. The three previous

efforts to test a launch vehicle or long range rocket occurred in 1998, 2006, and 2009. The 1998 test correlated closely with Kim Jong-il's formal elevation to top leadership following a three year period of mourning for his father, and it resulted in missile negotiations with the United States, including a suspension of additional tests while negotiations continued. The Agreed Framework (including halting steps in the KEDO process) also still remained in place, so Pyongyang did not further disrupt extant agreements.

The aftermath of the ballistic missile test of 2006 and attempted satellite launch of 2009 proved much more worrisome. In both instances, the missile and rocket activity was soon followed by nuclear weapons tests, nominally in response to sharp criticisms of the DPRK's conduct or sanctions imposed on the North. Though the language evident in the announced plans for April was not nearly as harsh or threat laden as that evident in 2006 or 2009, there was a preprogrammed quality to the March 16 announcement that seems reminiscent of both previous instances. But other than unspecified "countermeasures" that the North has briefly noted following international condemnation of its planned launch, there have not been any hints that North Korea is contemplating another nuclear test. Still, to use the adage from old US television commercials, with North Korea all prices are subject to change without notice.

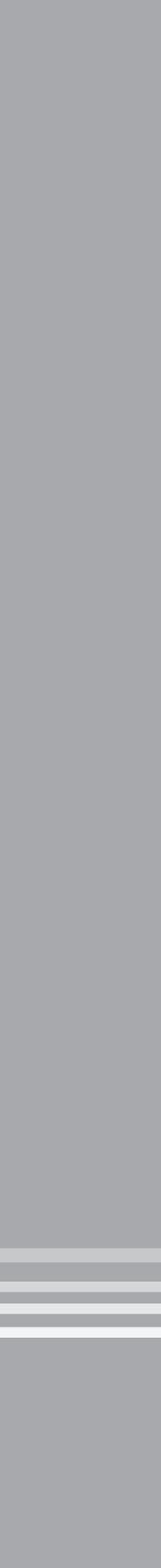
Even amidst its defiance of the outside world, Pyongyang knows that its actions (in particular another nuclear test) would not be cost free. One inhibition, for example, may well be the upcoming elections in South Korea, especially the December election of the next ROK president. Pyongyang perceives a growing possibility that the successor to President Lee Myung-bak would be someone much more to its liking. But another nuclear test could abruptly diminish support for any candidate advocating accommodation with the North, though some believe that a third test could heighten fears of a major crisis on the peninsula, thereby increasing support for a candidate pledging to reduce tensions and heighten engagement with the DPRK.

If there is another nuclear test, the fissile material employed in the test assumes great importance. Since 2009, when Pyongyang announced pursuit of an enriched uranium program that it had long denied (purportedly to produce low enriched fuel for its prototype light water reactor), and especially since disclosure of a modern centrifuge facility at Yongbyon in late 2010, suspicions have mounted that North Korea has one or more covert facilities where highly enriched uranium production could be underway. If North Korea is able to produce HEU for a weapon, it will be yet one more instance where it has openly deceived the outside world, including China, its most important economic and political benefactor. Unambiguous evidence of an HEU capability might well trigger renewed debate within China about its support for the North, though it is far from certain that it would engender a major policy reassessment in Beijing.

A demonstrated capacity to produce highly enriched uranium at undisclosed and thus unmonitored locations (thereby substituting for its very limited supply of plutonium) could over time enable a more fully operational weapons program and (quite possibly) a capacity to produce HEU for export. Even if these consequences may seem a distant possibility and still depend on actions that North Korea has yet to undertake, it is not too soon to weigh these possibilities, assess their larger strategic implications, and contemplate policy responses to limit the risks such a production capability to regional security and to the non-proliferation regime as a whole.

For now, the ROK, the United States, and other affected powers much watch and wait for North Korea's next moves. Despite its isolation and continuing economic dysfunction, North Korea appears determined to act according to its own policy logic and self-defined interests, mired in circumstances very much of its own choosing. All affected states need to communicate openly and candidly about how to deal with a state that plays by its own rules, even as it claims to pursue fuller relations with the international system. The biggest misjudgment would be to assume

that North Korea is in such a weakened state that it has no capacity to act autonomously, regardless of the potential consequences. The acute limits in knowledge of the North remain deeply disquieting, and should sober all those grappling to understand where North Korea might next be headed.



U.S.-North Korea Talks and North Korea's Missile Launch Plans: Prospects and Policy Directions

PARK Jong-Chul

Senior Research Fellow, KINU



■ Evaluation of the Third Round of U.S.-North Korea Talks

Since the summit meeting between the United States and China in January 2011, there have been ongoing efforts to resume the Six-Party Talks through a three-step approach, beginning with talks between North and South Korea, followed by U.S.-North Korea talks, and ultimately concluding with formal Six-Party Talks. In accordance with these plans, two rounds of inter-Korean talks and two rounds of U.S.-North Korea talks were held. The third round of U.S.-North Korea talks was scheduled to be held around December 22, 2011, but had to be postponed due to the death of Kim Jong-il. After Kim's death, efforts to resume U.S.-North Korea talks recommenced early this year.

The talks between the U.S. and North Korea proceeded along a two-track approach. The talks unfolded through two stages which were closely interconnected. First, the third round of U.S.-North Korea talks on denuclearization were held in Beijing on February 23-24, 2012, and on February 29 the agreements from these talks were announced. North Korea was promised food aid and improved relations with the U.S. in return for implementing "preliminary measures for denuclearization." Second, the U.S. and North Korea held talks on food aid for North Korea in Beijing on March 7-8, 2012, where they reached an agreement on 240,000 tons of food aid (twenty thousand tons per month) to be delivered to North Korea over the course of one year starting from April. The two sides also discussed other topics such as the areas of distribution, the number of monitoring agents, and the method of monitoring.

The U.S. and North Korea have reached a turning point for resuming the Six-Party Talks by making an agreement on denuclearization and improving relations between the two states within a broad framework. With the upcoming U.S. presidential elections, the Obama administration is faced with the Iranian nuclear issue and therefore in need of a new agreement to manage the North Korean nuclear issue. North Korea, for its part, needs to improve its relations with the U.S. and procure food aid

to establish its succession regime. This recent agreement was the result of a provisional compromise in which the two nations were able to find common ground out of necessity.

The U.S. and North Korea were able to reach an understanding on the issues of preliminary measures for denuclearization, food aid, and

<The positions of the U.S. and North Korea
on the U.S.-North Korea agreement>

<Areas of Agreement>		
<ul style="list-style-type: none"> • 5 preliminary measures on denuclearization: ceasing UEP operations, re-admitting the IAEA inspection team, enacting a moratorium on nuclear testing and missile launching, committing to implement the September 19 Joint Statement, affirming compliance with the armistice • 240,000 tons of food aid (including additional aid) • Improvement of relations: U.S. reconfirmation of its lack of hostile intentions towards North Korea, confirmation that sanctions placed on North Korea are not aimed at North Korean civilians, improvement of U.S.-North Korea relations, and expansion of interpersonal exchanges 		
<Points of disagreement>	U.S.A.	North Korea
Moratorium period	None given	While productive dialogues continue
Targets for inspection	Yeongbyeon UEP facilities; disablement of the 5MW reactor and associated facilities:	Yeongbyeon UEP facilities only
Level of inspection	Verification and monitoring	Monitoring
Additional food aid	The need for additional aid will be considered	Efforts will be made for additional aid
Agenda for Six-Party Talks	None given	Lifting of sanctions on North Korea, provision of light water reactors, peace treaty

improving relations. Still, there are differences of opinion between the two states concerning the moratorium period, the targets for inspections, the level of inspections, additional food aid, and the agenda for the Six-Party Talks. Thus there is still the potential for further conflict.

First, the U.S. and North Korea appear to disagree on the targets for inspection and the method of inspection. North Korea has limited inspection to the UEP facility at Yeongbyeon. Despite the possibility that UEP facilities might exist in areas other than Yeongbyeon, inspection of other areas was not mentioned. Also, while the U.S. sought to confirm the disabling of the 5MW nuclear reactor and related facilities, North Korea made no mention of this. Furthermore, the U.S. clarified that inspection should take the form of verification and monitoring, whereas North Korea only mentioned monitoring. Therefore, differences of opinion exist concerning the method of inspection.

Concerning agenda of the Six-Party Talks, U.S. and North Korean interests differ. The U.S. wishes to resume the Six-Party Talks to focus on implementing the agreed-upon preliminary measures for North Korea's denuclearization. North Korea, however, hopes to strengthen its negotiating position by taking the lead in setting the agenda for the Six-Party Talks. By proposing that the sanctions issue be added to the agenda of the Six-Party Talks, North Korea revealed that the lifting of sanctions was one of its key goals in joining talks with the U.S. North Korea also demanded that the issues of light water reactors and a peace treaty be put at the top of the agenda for the talks. The issue of providing light water reactors was mentioned in the September 19 Joint Statement, but this topic can be discussed only once North Korea confirms its commitment to denuclearization. North Korea has also expressed its willingness to comply with the armistice and presented the peace treaty issue as a priority. But the North Korean military has proclaimed several times (in 2003, 2006, and 2009) that it is not bound by the armistice. It is assumed that North Korea's current display of willingness to comply with the armistice is aimed at justifying discussion of a peace treaty between

North Korea and the U.S.

■ North Korean Intentions behind the Missile Launch

North Korea recently announced plans to launch a terrestrial observation satellite, Kwangmyongsong 3, on the 100th birthday of Kim Il Sung on April 15. This announcement has put the brakes on implementation of the agreement from the U.S.-North Korea talks. It is expected that North Korea will try to separate its agreement with the U.S. from the Kwangmyongsong 3 launch by claiming that Kwangmyongsong 3 is not a warhead-tipped missile but a rocket loaded with an artificial satellite. But missiles and rockets are indistinguishable, so ultimately the launching of Kwangmyongsong 3 by North Korea would nullify the agreement between the U.S. and North Korea.

Internal and external factors seem to have influenced North Korea's announcement of its plans to launch a missile despite the bilateral agreement. First, North Korea must have decided that launching a missile is necessary to prove its own status as a powerful and prosperous nation. With its current lack of accomplishments that can be presented as proof of its status as a powerful and prosperous nation, a missile launch is a relatively convenient action that can be presented as an accomplishment.

Second, more importantly, the launch would help North Korea to establish the succession regime of Kim Jong Un. North Korea's two previous long-range missile launches, in 1998 and 2009, were closely linked with the succession of Kim Jong-il and preparations for Kim Jong Un's succession, respectively. The launch date of April 15, the 100th birthday of Kim Il Sung, also reflects the political aspects related to Kim Jong Un's power succession.

Third, North Korea aims to develop its missile capabilities while carrying out negotiations with the U.S. As it has already proven that it is capable of developing nuclear weapons by conducting nuclear tests,

North Korea will try to establish its missile capabilities as a *fait accompli* through its missile development efforts. In addition, North Korea can maximize the effectiveness of missile program by developing it in parallel with nuclear development. It is possible that this announcement reflects an effort to balance the competing influences of the North's diplomatic corps, which favors negotiations with the U.S., and the military, which is pushing for stronger military capabilities.

But, as with the North's nuclear development programs, it is difficult ascertain whether its missiles are being developed for the purpose of possession or negotiation. North Korea will not easily give up its goal of acquiring the status of a nuclear power armed with missile technology. But at the same time, the North Korean regime also aims to guarantee its own survival, improve relations with the U.S., and procure economic rewards by using its nuclear and missile capabilities as negotiating cards. North Korea develops its nuclear and missile capabilities both for possession and negotiation; which aspect is given greater emphasis depends on the situation.

Fourth, by selecting the Yellow Sea between South Korea and China as the route of the missile launch, North Korea may have revealed an intention to curb China and threaten South Korea. It is possible that North Korea selected a missile launch route which passes through Chinese home waters in order to check its own increasing economic and diplomatic dependence on China. Also, it is conceivable that North Korea is trying to claim dominance in its relationship with South Korea by displaying signs of aggression.

What is difficult to understand is North Korea's true intentions. Why did North Korea announce its plans to launch the missile 17 days after it announced a major agreement with the U.S.? The first hypothesis is that North Korea made a miss calculation that it could simultaneously pursue the agreement with the U.S. and plans for a missile launch. North Korea probably predicted that it could claim that the missile is merely a satellite and, with China's quiet tolerance, evade pressure from the international

community. But this assumption is an over-simplified prediction of the reaction from the U.S. and the international community.

The second hypothesis is discord within North Korea. It is conceivable that the Foreign Ministry and the military are pursuing separate policy lines without coordinating with one another. If this hypothesis is correct, then we can postulate that there is some confusion over policy and control has grown lax within the ruling elites of North Korea.

The third hypothesis concerns the relative benefits of launching a missile. It is possible that North Korea believes that this launch is more important and is willing to risk losing the chance for food aid and better relations with the U.S. North Korea may think that after this missile launch it will be able to withstand the breakdown of the agreement with the U.S. and intensified pressure from the international community, and after some time build up the circumstances for renewed talks. At the same time, it is also possible that North Korea assessed that the potential benefits it could gain through future missile exports as a result of this display of its missile capabilities will be greater than the costs.

At the moment, it is too early to evaluate the accuracy of these hypotheses. But one thing is certain—North Korea's missile launch will have enormous consequences. Whatever its intentions or calculations may have been, North Korea has lost a measure of trustworthiness as a result of its announced plans for a missile launch. Also, it has made it more difficult to predict the outcome of agreements between North Korea and the U.S. The Obama administration will conclude that this represents a counterattack from North Korea and will move to cancel aid to North Korea, while the Republicans' hard-line stance toward North Korea will gain momentum. Also, China and Russia will find it more difficult to side with North Korea after the missile launch raises tensions on the Korean peninsula.

■ Future Outlook

Scenario 1: North Korea cancels the missile launch

The international community and related nations are actively devising response measures against North Korea's planned missile launch. The U.S. State Department and Department of Defense have released statements condemning this missile launch as a breach of United Nations Security Council Resolutions 1718 and 1874, which prohibit any activity involving projectile missiles. These statements also made clear that if North Korea pushes ahead with its missile launch, food aid will not be provided to North Korea.

The U.S. will attempt to halt North Korea's plans for the missile launch through diverse channels. It will use its channels in New York and Beijing to try to convince North Korea to stop the missile launch. Of special interest is the position of China. The U.S. hopes that China will apply pressure on North Korea to stop the missile launch. In 2009 China defended North Korea, saying that it is North Korea's sovereign right to launch long-range missiles. China supports the talks between North Korea and the U.S. in hopes that they will help stabilize the succession regime of Kim Jong Un and allow the Six-Party Talks to resume, so North Korea's missile launch is an uncomfortable issue for China as well. China does not want tensions to rise on the Korean peninsula during its own power transition period, so it may make efforts to convince North Korea to desist. If China wishes to prevent a catastrophe, it must appeal to North Korea to halt its plans for a missile launch.

If U.S. pressure and China's mediation efforts succeed and North Korea cancels its missile launch, then the agreement between North Korea and the U.S. can be restored. But even then, it will be difficult to recover the trust that has been violated. If the North Korea-U.S. agreement is restored, then a key issue will be the order of implementation of the preliminary measures for denuclearization and the U.S.' provision of

food aid. The two sides will have to adjust their divergent positions on the timing of the IAEA inspection team's visit to North Korea and the provision of food aid. The U.S. wants the sequence to run as follows: the IAEA inspection team returns, the team observes the halting of UEP operations, and finally the first batch of food aid arrives. North Korea, however, prefers to have the food aid delivered first, followed by the halting of UEP operations and the return of the IAEA inspection team. If the IAEA inspection team monitors the shutdown of UEP operations, the six parties can initiate contacts for restarting the Six-Party Talks. Under these circumstances, we can expect an intense tug-of-war to ensue concerning the timing of the Six-Party Talks and their agenda.

Scenario 2: North Korea goes ahead with the missile launch

If North Korea pushes forward with its plans for a missile launch despite the efforts of the U.S. and China, the situation will become more complicated. First, there will be conflict over the facts and outcome of North Korea's missile launch. North Korea will try to draw a distinction between rockets and missiles and claim its right to develop rockets for peaceful purposes, while at the same time disseminating propaganda about its successful launch of an artificial satellite regardless of the results.

But the U.S. will equate North Korea's rocket launch with a missile launch and therefore will nullify the recent bilateral agreement and bring the issue before the UN Security Council. In the ensuing UNSC discussion, the positions of China and Russia will be crucial. Even though China disapproves of North Korea's missile launch, it will probably balk at approving a UNSC resolution. In that case, a non-binding Chairman's Statement may be announced instead.

There are many foreseeable difficulties in reestablishing conditions for talks if North Korea carries through with its plans for a missile launch. In the face of strong criticism of North Korea's actions, it will not be easy to find a way back to negotiations with Pyongyang. Moreover,

with the failure of the Obama administration's first attempt at bilateral negotiations with the North, they will find it even more difficult to muster the motivation to pursue new talks during a presidential election campaign.

■ Directions for U.S.-ROK Cooperation

Preparing for Future North Korean provocations against South Korea

It is important to be prepared for the possibility that North Korea may commit acts of aggression against South Korea in hopes of exerting influence over the general and presidential elections in South Korea and changing Seoul's North Korea policy. North Korea may attempt to raise tensions in the Yellow Sea by launching missiles into it and thus turning the area into a conflict zone. If a missile is launched into the airspace over the Yellow Sea, tensions will inevitably rise, especially after previous incidents in the area such as the sinking of the Cheonan battleship and the attack on Yeonpyeong Island. Through such actions, North Korea aims to increase conflict over North Korea policy within South Korea. Also, by turning the Yellow Sea area into a conflict zone, North Korea can emphasize the necessity of a peace treaty. It is therefore necessary to strengthen U.S.-ROK cooperation to prevent North Korean aggression against South Korea and devise response measures against North Korean acts of aggression.

U.S.-ROK cooperation in response to North Korea's missile launch

If North Korea carries out its plans for a missile launch, then the international community must present a united front in response,

emphasizing the fact that North Korea's action violates UNSC resolutions and the recent U.S.-North Korea bilateral agreement. Cooperation between Washington and Seoul will be needed to present this problem to the UNSC. Most importantly, cooperation between Washington and Seoul will be needed to obtain Chinese support for the UN resolution. South Korea must actively pursue dialogue with both the U.S. and China to gain China's support for U.S.-ROK cooperation.

Dealing with North Korea's increased nuclear capability

Even if the Six-Party Talks resume, it will take a great deal of time to achieve the complete denuclearization of North Korea. Therefore, we must procure accurate intelligence to confirm the nuclear capabilities of North Korea. In order to effectively utilize the joint intelligence capabilities of South Korea and the U.S., we must maintain cooperative channels between the Defense Ministries and intelligence organizations of both nations and strengthen their ties to one another. If the IAEA inspection team is able to approach the North Korean facilities for uranium enrichment, then they must accurately assess North Korea's uranium enrichment capabilities. Also, they need to verify the existence of any secondary enrichment facilities outside of Yeongbyeon. To achieve this, we must establish a close cooperative system with the IAEA. In addition, we must devise practical measures in preparation for North Korea's procurement of nuclear weapons. We must work to enhance trust in the U.S.'s capability to provide extended deterrence through the U.S.-ROK extended deterrence committee.

U.S.-ROK cooperation on North Korea policy

North Korea has so far excluded South Korea and focused on dialogue with the U.S. In 2011, two inter-Korean dialogues on nuclear weapons preceded North Korea-U.S. talks. But the U.S.-North Korea

talks held in December 2011 and February 2012 were not preceded by any inter-Korean talks. Furthermore, North Korea wishes to discuss a peace treaty along with denuclearization at its talks with the U.S. North Korea has selected a double strategy whereby it discusses both nuclear and security issues with the U.S. but only non-military issues with South Korea. At a seminar held at Syracuse University in March, the North and South Korean delegates to the Six-Party Talks did not take the opportunity meet together separately.

In consideration of these developments, South Korea and the U.S. need to cooperate closely on North Korea policy. The two states must maintain channels of dialogue at every level including the ministerial level and balance differences of opinion through various channels including civilian contacts and the 1.5-track approach.

South Korea and the U.S. must cooperate to provide mutual support in the following areas. First, in order to achieve denuclearization and improve U.S.-North Korea relations, inter-Korean relations must be improved. In order to make tangible progress toward denuclearization and improve U.S.-North Korea relations, North Korea must be constantly reminded that inter-Korean dialogue is absolutely necessary. Second, South Korea and the U.S. must devise a road-map for the process of denuclearization. The two states must devise joint responses to the U.S.-North Korea agreement and North Korea's missile launch and negotiate with North Korea after reaching agreements with related nations concerning these measures. Third, South Korea and the U.S. must devise close cooperative measures concerning the peace treaty and other issues that affect South Korea's security, and South Korea must participate in negotiations with North Korea that deal with these issues. Fourth, South Korea and the U.S. must balance their differences of opinion concerning the deportation of North Korean escapees. Most importantly, South Korea and the U.S. must cooperate on diplomacy towards China on this particular issue.

Maintaining core principles in North Korea policy

North Korea's hostility toward South Korea has recently intensified. After the death of Kim Jong-il, North Korea's verbal attacks on South Korea have taken on a harsher tone, and the North has rejected calls for inter-Korean dialogue in response to various issues such as the sending of condolences, joint South Korea-U.S. military exercises, North Korean escapees in China, and attempts to influence the South Korean general elections.

South Korea will maintain its core principles concerning North Korea policy. South Korea's North Korea policy is based on solid principles: resolving North Korea's nuclear problem, normalizing inter-Korean relations, requiring North Korea's opening and reform, applying the principle of reciprocity in the inter-Korean relation, furthering human rights and democratization in North Korea.

In implementing its North Korea policy, South Korea endeavors to uphold its principles while also showing flexibility. The purpose of flexibility is to ease tensions, encourage change within North Korea, and create circumstances conducive to progress in inter-Korean relations. For this reason, South Korea will continue to provide humanitarian aid for the most vulnerable in North Korea and pursue cultural and artistic exchanges. At the same time, South Korea is presenting North Korea with a window of opportunity, urging it to accept dialogue and cooperation.

PANEL 3

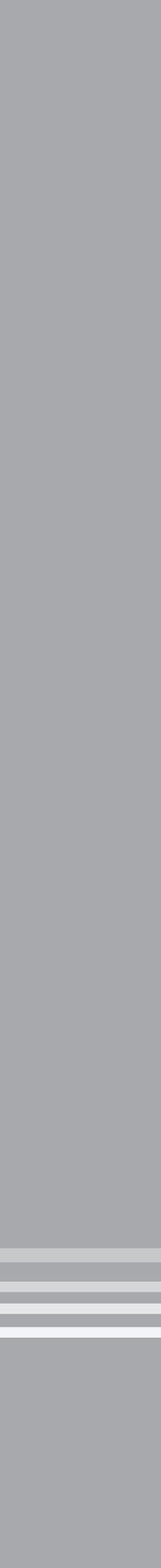
Exploring Ways to Improve Human Rights in North Korea Through International Cooperation

How to Improve Human Rights of North Koreans in
China and in North Korea: Focusing on the Recent
North Korean Escapee Case

_ **CHO Jung-Hyun**(Research Fellow, KINU)

Exploring Ways to Improve Human Rights in
North Korea through International Cooperation

_ **Greg Scarlatoiu**(Executive Director, U.S. Committee for Human Rights in North Korea)



How to Improve Human Rights of North Koreans in China and in North Korea: Focusing on the Recent North Korean Escapee Case

CHO Jung-Hyun

Research Fellow, KINU

■ Linkage between North Korean Refugee Issue and North Korean Human Rights

Human Rights of North Korean escapees can be regarded as one of the North Korean human rights issues. Human rights violations relating to refugees and asylum-seekers can occur at three different stages: before their escape, during their stay within neighbouring States, and after a forced repatriation. The first and last phases are directly connected with the human rights situation in their mother country, here, North Korea. The second stage is also a North Korean human rights issue, because the victims are North Koreans, and the main host country, China, is cooperating with their homeland with respect to their forced return.

In this context, this paper focuses on the recent North Korean escapee case in China as a North Korean human rights issue.

■ The Recent Case in China

It has been reported that since early this month, many North Korean escapees in China have been arrested by Chinese police and currently face forcible repatriation back to North Korea. According to estimates by North Korean human rights groups, the number of detainees has been steadily growing and presently stands at around 80 people, scattered in places such as Yanji, Shenyang, Changchun, Longjing, Helong, Qingdao, and Zhengzhou. The South Korean government has asked China for confirmation of the actual situation, urging China's observance of international conventions; but China has officially offered only very formal and concise statements in response. Regarding the request to stop forcible deportations, on 20 February Chinese Foreign Ministry Spokesman Hong Lei reiterated China's basic position that it "has been handling the issue in accordance with domestic law, international law, and humanitarian principles." Then, what are the specific contents of this

“international law” that China refers to, without any detailed explanation, among the standards by which it handles such situations?

■ The Obligation of *Non-Refoulement* under the 1951 Refugee Convention

The 1951 Convention Relating to the Status of Refugees (the “Refugee Convention”), to which China acceded on 24 September 1982, stipulates in Article 33 that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” This Article specifies the so-called principle of *non-refoulement* of refugees, and even though it uses the term “refugee,” the contents are generally interpreted to include not only those formally acknowledged as refugees but also those whose refugee status has not yet been determined but who still have a possibility of being recognised as refugees, *i.e.*, “asylum-seekers.” Therefore, the Chinese practice that it considers “all” of the North Korean escapees simply “economic migrants” or “illegal immigrants” without any proper procedures for determining refugee status, and sends all of them back to North Korea in spite of a very high risk of having their “life or freedom...threatened,” is a clear violation of its obligations under the 1951 Refugee Convention.

If these North Koreans could undergo proper procedures to assess their refugee status, the majority would qualify on the grounds that they face a high likelihood of “political” punishment upon repatriation, and thus they have a “reasonable possibility” of persecution based on their “imputed political opinion.” This type of refugee is an example of the so-called “refugee *sur place*,” *i.e.*, one who becomes a refugee on the spot after his/her flight.

■ The Obligation of *Non-Refoulement* under the 1984 Convention against Torture

The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Convention against Torture”), which China signed on 12 December 1986 and ratified on 4 October 1988, also provides for the principle of *non-refoulement*. Article 3 states that “No State Party shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” This applies not only to refugees (asylum-seekers) but to all human beings, and thus its target scope is broader than that of the aforementioned Refugee Convention. Also, the principle of *non-refoulement* under Article 3 applies to both “torture” and the somewhat weaker “other inhuman treatment” or “ill-treatment,” giving it a considerably wide scope. Furthermore, in addition to the acts of “expulsion” and “return” prohibited by Article 33 of the Refugee Convention, the Convention against Torture also explicitly forbids “extradition.” Thus, China’s policy of “blanket” arrest and return of all escapees back to North Korea without proper procedures, even when there are “substantial grounds for believing that [they] would be in danger of being subjected to torture [or ill-treatment],” is a clear violation of its obligations under the 1984 Convention against Torture.

Further, even though China claims it has an obligation to repatriate escapees under its bilateral extradition treaty with North Korea, which is a confidential one, if that treaty conflicts with the prohibition of torture and the related principle of *non-refoulement* that are *jus cogens* (peremptory norms) of international law, then it is null and void in principle. China has also established its position that the principle of *non-refoulement* under Article 3 of the Convention against Torture takes precedence over its extradition obligations under bilateral treaties, a position that it has affirmed repeatedly in its periodical reports to the Committee against

Torture in October 1992,¹⁾ May 1999,²⁾ and February 2006.³⁾

■ Other Obligations under International Law

China's refusal to grant North Koreans access to a refugee status determination process due to their illegal entry, its refusal to grant the UN High Commissioner for Refugees (the "UNHCR") access to North Korean escapees, and its discrimination between North Korean escapees and the 300,000 Indochinese refugees residing in China, are clear violations of Articles 31, 35, and 3 respectively of the 1951 Refugee Convention. Furthermore, China is also a party to the 1966 Convention on the Elimination of All Forms of Racial Discrimination, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the 1989 Convention on the Rights of the Child, and the 1966 International Covenant on Economic, Social and Cultural Rights, all of which corroborate China's international obligations regarding North Korean escapees. All monitoring committees of these various conventions have already urged China to change its treatment of North Korean escapees.

The Chinese authorities shall observe their obligations under the "international laws" stated above. At the same time, considering their self-professed "humanitarian principles," it should stop the inhumane practice of sending North Korean escapees back by force to probable persecution and torture. As a State Party to core international human rights treaties, if China shares a minimal recognition of human rights as a universal value of mankind, then it should understand why the international community is so concerned about the forcible repatriation of North Korean escapees. As it rises to become a responsible global power, China

1) UN Doc. CAT/C/7/Add.14 (18 January 1993), para. 73 (about Art. 3).

2) UN Doc. CAT/C/39/Add.2 (5 January 2000), para. 12 (about Art. 3).

3) UN Doc. CAT/C/CHN/4 (27 June 2007), para. 45 (about Art. 3).

is compelled to show its resolution to comply with international human rights conventions. The Korean and the US governments may also need to remind China of its forgotten obligations under international law.

■ How to Cooperate to Solve This Problem?

What has made China keep the current “blanket” arrest and forced repatriation policy, in spite of the wide international criticism towards its violation of various international obligations? China’s great concern over North Korean instability, especially after the demise of Kim Jong-il, might be the main reason for it. Based on mutual consensus and agreement, especially since 2008 when the Beijing Olympic Games were held and also Kim Jong-il was reported to suffer a stroke, the Chinese crackdown on North Koreans has been tightened, and cooperation with the South Korean government has reached a stalemate. For example, since then, the Chinese side has not permitted North Koreans in the South Korean diplomatic premises to travel to South Korea, including family members of the “prisoners of the Korean War.”

Since last year, there have been various serious reports about tighter border control from both sides (China and North Korea), tighter Chinese crackdowns including using fake asylum-seekers, shooting incidents around borders towards escapees from the North, and tougher persecution of family members of North Korean escapees, such as expulsion from their hometown into a remote mountainous area, etc.

It is to a degree understandable from a geopolitical perspective why China is trying to protect North Korea. However, if we do not totally give up the vulnerable people’s fate and human rights, Korea, the US, and the rest of the international community need to do something effective to persuade China (including the next leadership) to change its traditional position towards North Korean escapees.

Active and constant utilisation of multilateral human rights monitoring mechanisms

In the past, international politics and international law dealt only with State-to-State relations and State-to-State disputes. Human rights issues, which deal with State-to-Individual problems, were traditionally a matter of domestic jurisdiction. Although human rights are not regarded as just a domestic matter now, but have already been internationalised since the creation of the UN more than a half century ago, bilateral human rights dialogues may still be regarded as an unpleasant intervention in a traditionally domestic matter with some ulterior political motives on the part of the intervening country. In that sense, multilateral discussions may be more effective for improving human rights situations.

In dealing with the current North Korean escapee case, the South Korean government has changed its old policy of “quiet” (bilateral) diplomacy towards China into “open” diplomacy (including multilateral, such as through the UN Human Rights Council). Considering the current situation surrounding the North Koreans and the fact that there is no apparent alternative, it seems to be a proper and timely decision. Since it has started this multilateral open diplomacy, South Korea needs to hold to this position continuously, uncomplicated by political issues such as nuclear weapons and missiles and economic issues such as bilateral economic relations with China. If not, as before, the North Korean escapee issue can be totally ignored or marginalised. The South Korean and the US governments need to show the true sense of human rights constantly through multilateral processes, irrespective of the different political positions of different governments. And in this case, the relevant arguments should be based on well-prepared international standards and norms, not based on nationalistic or emotional appeals.

If necessary, we should consider how to cooperate with seemingly less biased middle power States, such as the Netherlands and Switzerland, in addition to our traditional allies, such as the EU and

Japan. Actually, Canada, the Netherlands and Switzerland have publicly criticised the Chinese practice in relations to North Korean escapees in the UN Human Rights Council.

Strengthening bilateral negotiations with China

In order to produce more satisfying concrete outcomes, bilateral negotiations are still of the utmost importance. We must think of more sources for persuading the Chinese side. The rising international status of China clearly asks it to assume greater international responsibility. In the long run, observing international obligations may be more beneficial to China in terms of soft power. The recent practice of China, not only regarding North Korea, but also in relation to Sudan and Syria, does not comport well with its international status and reputation.

The Russian case can also give a good comparison and implication to China. Even Russia, that actually shares some common national interests with China such as a close relationship with North Korea, domestic ethnic minority problems, and fear for mass influx of refugees, gave up its forced return policy after its infamous forceful repatriation of seven North Koreans, in spite of the UNHCR's intervention, in December 2000. Now Russia permits North Korean escapees' access to the UNHCR office in Moscow. China may also need to consider utilising the UNHCR office in Beijing, given its delicate relationship with the North Korean regime.

A more hopeful idea is that China would influence North Korea to change its persecution and torture policy towards returned North Koreans. This would result in the removal of one of the root causes of the North Korean escapee problem and another way to improve North Korean human rights.

Strengthening public diplomacy on North Korean escapees

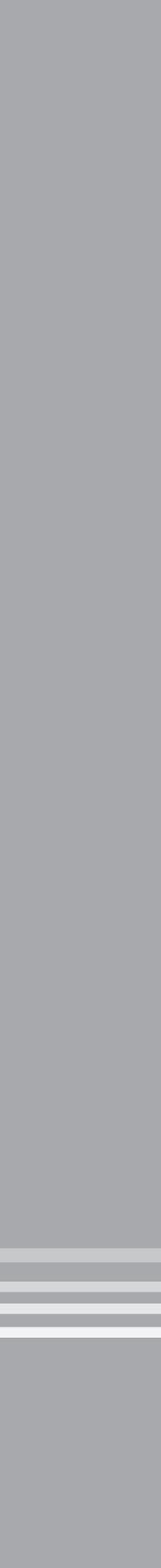
The importance of public opinion in democratic societies cannot

be exaggerated. Recently, even in China, the government has tended actually to be affected by the general public. It is really interesting that, according to a press report, a netizen poll on a Chinese website showed that about 70~80% of the participants opposed the current practice of their government relating to forced return of North Koreans. Not only the Chinese people in China, but also many other Chinese populations studying and working in foreign countries including US and South Korea, can influence the position of their government.

Therefore, we need to strengthen our public diplomacy in terms of the North Koreans, not only towards China, but also towards those inside our societies. Raising public awareness is absolutely required, through communicating correct information and analysis about North Korean escapees and the relevant brutal policy of its neighbouring ally. In this regard, the Korean Wave could be a good tool. For example, South Korean actor Cha In-pyo and some idol singers' active participation in the anti-return movement actually attracted positive responses from the Chinese people. The role of NGOs is also really important in this respect.

■ Concluding Remarks

Human rights issues are not likely to be resolved in the short term. If the problem exists within another country's territory, it becomes much more difficult to address. However, considering the fast development of international human rights over the last 60 years, it makes no sense for us to give up human rights as a universal value of mankind at this point. It cannot help but take long time. Until then, we need to strategise well how to harmonise between multilateral and bilateral human rights diplomacy, and how to harmonise efforts on both the governmental and non-governmental levels, especially in dealing with the North Korean escapee case and the North Korean human rights issues.



Exploring Ways to Improve Human Rights in North Korea through International Cooperation

Greg Scarlatoiu

Executive Director,
U.S. Committee for Human Rights in North Korea



■ The North Korean Regime, a Remorseless Human Rights Violator

As a U.N. member state since September 1991, North Korea is a party to the Universal Declaration on Human Rights. North Korea acceded to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) on September 14, 1981. In addition to the International Bill of Human Rights (the Universal Declaration and the two Covenants), North Korea has acceded to two other human rights treaties: The Convention on the Rights of the Child (date of accession: September 21, 1990); and The Convention on the Elimination of All Forms of Discrimination against Women (date of accession: February 27, 2000).

North Korea is bound to protect the human rights enshrined in the International Bill of Rights. Nevertheless, egregious breaches of practically every political, economic, social and cultural right embedded in the International Bill are being perpetrated in North Korea. Over 200,000 prisoners are still being imprisoned in North Korea's vast gulag system, under horrendous circumstances. North Korea's grave human rights violations include: extra-judicial killings and imprisonment, cruel and unusual punishment, torture, and even rape and infanticide—in particular in the case of North Korean women defectors apprehended and forcibly repatriated by the Chinese authorities. Food distribution has been employed as a means to control the people of North Korea, and the granting of economic, social and political opportunities is still dependent, by and large, on North Korea's social classification system—*Chulshin Songbun*—based on loyalty to the Kim regime.

■ Available Legal Strategies

On March 20, 2001, North Korea submitted a human rights report

to the UN Human Rights Committee, for the first time in 16 years. The report covered implementation of the ICCPR. The April 9, 2009 revision of the DPRK Constitution specifically spelled out human rights protection. This was a noteworthy breakthrough in the DPRK attitude towards human rights since 1993, when the UN Subcommittee on Human Rights adopted a resolution calling for the submission of country reports and the improvement of the human rights situation in North Korea. At that time, North Korea threatened to withdraw from the ICCPR. Nevertheless, the goal of DPRK reporting under the ICCPR was not to take steps to improve the human rights situation in North Korea, but to fend off reports on human rights violations, by U.N. agencies, government agencies, and international NGOs.

The North Korean regime must be reminded that the world is monitoring its compliance with internationally accepted human rights standards. International human rights NGOs, experts and advocates who conduct investigations and research on North Korea's human rights violations should constantly inform the UN Special Rapporteur on the North Korean Human Rights Situation and the U.S. Special Envoy for North Korean Human Rights Issues on their finding and recommendations. Providing well-founded information to the Special Rapporteur is one of the most effective means of input into the UN political process.

International NGOs should strive to promote public discussion of the North Korean human rights violations in UN forums, in particular within the UN treaty bodies tasked to implement the international human rights instruments that North Korea has ratified: the Human Rights Committee (tasked with ICCPR implementation); the Committee on Economic, Social and Cultural Rights (in charge of ESCC implementation); the Committee on the Elimination of Discrimination against Women (tasked to implement the Women's Convention); and the Committee on the Rights of the Child (in charge of implementing the Children's Convention). A clear role that international NGOs can play is to supply information to

committee members, to draw a committee's attention to particular issues, and to ensure that other relevant NGOs are promptly informed.¹⁾

In addition to bringing human rights violations to the attention of the relevant implementing bodies, possible courses of action to be undertaken by NGOs could include: providing sufficient evidence for the prosecution of members of the North Korean regime by the International Criminal Court (ICC); lobbying a UN member state to bring a resolution addressing North Korean human rights violations before the UN Security Council; continuing to press the Human Rights Council to address the human rights situation in North Korea; and identifying the requisite evidence, as well as a suitable plaintiff who could have standing to file a case under the U.S. Alien Tort Claim Act (ATCA), within the U.S. legal system.²⁾

None of the approaches mentioned above are devoid of potential flaws. Reporting under treaty bodies relies on state reporting, a rather weak form of supervision. Referring North Korea to the ICC may be challenging if one or more permanent members of the Security Council (P5) oppose such course of action. A UN Security Council resolution can easily be vetoed by a P5 member who is not necessarily sympathetic to addressing North Korean human rights issues. Membership in the UN Human Rights Council, determined by rotation and region has often been controversial, and submissions to this body perceived as a less than effective approach.³⁾

In March and December 2011, the UN General Assembly adopted resolutions on North Korean human rights for the sixth straight year,

1) See, generally, Hurst Hannum, *Guide to International Human Rights Practice*, Fourth Edition.

2) Paolo Cammarota, Joe Crace, Kim Worly and Haim Zaltzman, *Legal Strategies for Protecting Human Rights in North Korea*, U.S. Committee for Human Rights in North Korea (HRNK) and Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates, November 28, 2007, pp. 103-104.

3) *Ibidem*.

citing member states' concern about continuing reports of "systemic, widespread, and grave violations of civil, political, economic, social, and cultural rights" and concerns about "all-pervasive and severe restrictions on the freedoms of thought, conscience, religion, opinion and expression, peaceful assembly and association." In March 2012, the UN Human Rights Council (HRC) adopted a resolution against North Korea's human rights record for a fifth year in a row.⁴⁾ HRC resolutions have condemned North Korea's failure to clarify whether it accepted any of the 167 recommendations received under the HRC Universal Periodic Review (UPR) session of its record in December 2009.⁵⁾

In addition to available international remedies or the ATCA in the United States, one may resort to available municipal remedies to address in particular the issue of abductees taken by the North Korean regime since June 15, 1950, including not only South Korean abductees and POWs never returned to South Korea, but also citizens of 12, possibly 13 other countries: China, France, Guinea, Italy, Japan, Jordan, Lebanon, Malaysia, The Netherlands, Singapore, Thailand and Romania—the disappearance of 24 year old U.S. citizen and BYU student David Sneddon in 2004 in Western China appears to indicate that abduction by North Korean agents may be a plausible explanation.⁶⁾

The respective countries' personal jurisdiction over their citizens abducted by North Korea provides a basis for legal standing in domestic courts. The territorial jurisdiction of countries on whose territory abductions were conducted, or where conspiracies to abduct were concocted, can also apply to submit abduction cases to the jurisdiction

4) Human Rights Watch, *UN Rights Council: North Korea Condemnation Goes Unopposed*, <http://www.hrw.org/news/2012/03/23/un-rights-council-north-korea-condemnation-goes-unopposed>, accessed March 24, 2012.

5) Human Rights Watch, *World Report 2012: North Korea*, <http://www.hrw.org/world-report-2012/world-report-2012-north-korea>, accessed March 21, 2012.

6) Yoshi Yamamoto, *Taken! North Korea's Criminal Abduction of Citizens of Other Countries*, a Special Report by The Committee for Human Rights in North Korea, 2011, p. 122.

of municipal courts. For example, Romanian artist Doina Bumbea was residing in Italy when she was lured by North Korean agents into going to an art exhibition in the Far East before being abducted.⁷⁾ North Korean intelligence operatives in Copenhagen plotted to lure and abduct South Koreans studying in Europe.⁸⁾ At the very least, submitting abductions to the jurisdiction of municipal courts in EU member states in particular may ultimately result in preventing certain North Korean officials from traveling to Europe, an outcome which may enhance the leverage of human rights advocates and experts seeking to remedy the North Korean human rights situation.

■ The Role of International Partnerships

National and international NGOs addressing North Korean human rights share not only a common goal, but also common limitations, in particular the inadequate availability of resources. Forging international partnerships is essential in building the capacity to advocate and inform the relevant international and national bodies on North Korean human rights violations. Such partnerships can be instrumental in addressing the main North Korean human rights violations, and also in seeking a solution to individual cases, under the rare circumstances when the names of the victims of North Korean human rights abuse are known. Human rights NGOs, operating with limited resources, need to identify their comparative advantage within the broader international human rights NGO community to multiply and maximize the impact of their efforts.

One such coalition is The International Coalition to Stop Crimes

7) Charles Jenkins, *To Tell the Truth*, Kadokawa Shoten, 2005, p. 97.

8) Yoshi Yamamoto, *Taken! North Korea's Criminal Abduction of Citizens of Other Countries*, a Special Report by The Committee for Human Rights in North Korea, 2011, p. 25.

against Humanity in North Korea (ICNK). Formed in September 2011, the coalition comprises 40 organizations worldwide, including both advocacy organizations such as Amnesty International, Human Rights Watch, the International Federation for Human Rights, and Liberty in North Korea (LiNK) and organizations focused on research and public outreach, such as the Committee for Human Rights in North Korea (HRNK). The ultimate goal of ICNK is to spur the establishment of a UN Commission of Inquiry to investigate Crimes against Humanity in North Korea. While staying focused on this overarching goal, the coalition has also focused on individual cases, by prompting an international campaign aimed to rescue the wife and two daughters of Dr. Oh Kil-nam, held against their will by the North Korean regime since 1986.

■ Gauging the North Korean Reaction

On January 9, the day after the January 8 birthday of Kim Jong-un, North Korea announced a special amnesty to prisoners, the first in over six years, to be issued beginning on February 1. It is not clear how many prisoners North Korea released, or what types of offenses were forgiven. For decades, North Korea has adamantly denied the existence of political prisoners or political prisoner camps. Granting amnesty to some political prisoners could have garnered positive international reactions. Nevertheless, the new leadership of North Korea doesn't seem to be more concerned with human rights than the previous one.

The North Korean regime could at least have paid attention to a relevant precedent: Burma, for half a century a ruthless military dictatorship and human rights violator released some 200 political prisoners in late 2011 and 300 in January 2012—the largest political prisoner release ever in Asia. The subsequent international reaction indicated that, while they result in intensified international calls for the release of all political prisoners, mass releases of political prisoners have

the potential to end isolation and open the door for constructive dialogue with the international community and visits by senior foreign officials.

While he could certainly benefit from such developments, Kim Jong-un's dilemma is that he will be unable to depart from his father's legacy until he has fully established himself as the new ruler of North Korea. The longer he spends strengthening his position with the help and protection of hardliners, based on the same system of brutal repression, the less of a chance he will have to break away from his father's legacy and move North Korea towards becoming a more humane society.⁹⁾

Should Kim Jong-un's regents advise him to send out some signals that North Korea may consider discussion of human rights issues, what signs should the international community be looking for? Such signs may include: North Korea taking steps to accept and establish a dialogue with the UN High Commissioner for Human Rights; inviting the UN Special Rapporteur on Human Rights for a visit—which would be a radical departure from North Korea's current rejection of the Special Rapporteur as part of an alleged subversive plot by the international community; agreeing to take steps to implement the 2009 UPR recommendations; providing information to the relevant UN human rights bodies; announcing that political prisoners have been granted amnesty; allowing the International Committee of the Red Cross (ICRC), the World Food Program (WFP) or UNICEF to inspect political prisoner camps; admitting to the existence of abducted foreigners beyond the admission made to Japanese Prime Minister Koizumi in 2002, providing a full accounting of those held and securing the release of those still alive; ceasing to harshly punish defectors who are apprehended trying to leave the country or are forcibly returned by other countries; allowing ordinary citizens to gain access to UN human rights documents, in particular the International Bill

9) Greg Scarlatoiu, *The Magnanimous Comrade: Kim Jong-un's Amnesty*, The Peninsula, Korea Economic Institute, <http://blog.keia.org/2012/01/the-magnanimous-comrade-kim-jong-uns-amnesty/>, accessed March 24, 2012.

of Rights; and allowing fully transparent distribution and monitoring of nutritional and food aid meant to reach the most vulnerable segments of its population.¹⁰⁾ Most regrettably, so far North Korea has sent none of these signals.

■ The Crucial Role of Enhanced Information Flows

It is essential that the people of North Korea be informed, as much as possible, on the human rights they are awarded as citizens of a UN member state in the 21st century, and on the extent of the human rights violations happening in their country. Whether through the public broadcasters in the United States, Voice of America (VOA) and Radio Free Asia (RFA), the South Korea-based broadcasters such as Free Radio North Korea, Open North Korea, Radio Free Chosun, CD-ROMs, or DVDs, human rights experts and advocates must continue to identify ways to impart that information to the people of North Korea. One must keep that avenue open, to try and inform North Koreans on the human rights awarded to them under international law, and also to help maintain their morale and resilience, by showing them that the world is concerned and cares about their plight.

Although, officially, all personal radios must have a fixed dial and be registered with state security offices, programming by stations including VOA, RFA and broadcasters based in South Korea may have a listenership of around 30% in North Korea. The number of radios smuggled from China has been on the increase. The North Korean authorities continue to attempt to jam foreign broadcasting, but face serious limitations in their efforts, as jamming is energy-intensive and North Korea is experiencing

10) Roberta Cohen, *Human Rights Progress in North Korea: Is It Possible?* in 38 North: Informed Analysis of North Korea, <http://38north.org/2012/03/rcohen032012/>, accessed March 22, 2012.

endemic energy shortages.

In recent years, the amount of information entering North Korea has been on the increase. This development is the result of the marketization that has taken place in the country. Such marketization is by no means an intended top-down reform program, but rather a function of state failure. Small informal markets provide ordinary people a coping mechanism that enables them to survive. During the informal marketization of North Korea, supply chains have developed from China to North Korea's capital city of Pyongyang, and MP3 players, CD-ROMs, DVDs and thumb drives have been entering North Korea. Statistical data included in a 2010 survey of North Korean refugees and travelers by the Broadcasting Board of Governors indicate that 27% of respondents have listened to foreign radio, 48% have come in contact with foreign DVDs and other video material, while 27% have watched foreign TV.

Information is also being passed from one member to the next along such supply chains. It appears that the "Korean Wave," exceptionally popular elsewhere in Asia and beyond, has also reached North Korea. One member of a group of nine North Koreans who sailed for five days before being picked up off the west coast of Japan on September 13th, a squid fisherman, said that he was inspired to leave his home by South Korean dramas.¹¹⁾

In January 2008, Egyptian company Orascom Telecom Holding was awarded a license to establish a 3G mobile network in North Korea. When launched in December 2008, Koryolink had 5,300 subscribers. In its half-year earnings report for January-June 2011, published on August 10th, Orascom stated that the number of subscribers in North Korea had reached 660,000. By the end of 2011, Orascom claimed to have about 1 million subscribers in North Korea.

Separate from the expansion of the Koryolink network, citizens of

11) Tayuka Suzuki, "Video Images of Good Life in South Korea behind Defection Decision," *Asahi Shimbun*, September 20, 2011, <http://ajw.asahi.com/article/asia/AJ2011092011296>, accessed March 21, 2012.

North Korea have also been using Chinese cellular phones smuggled across the border into North Korea. Koryolink appears to have launched 3G internet service via Apple iPad in Pyongyang via a special SIM card for foreign residents and very limited numbers of North Koreans. In the future, internet access is likely to continue to be restricted to foreign residents and those close to the Kim regime. The percentage of North Koreans possessing computers not connected to the web is estimated to be around 3% of the entire population.

Based on data collected through interviews with North Korean defectors and the proven track record of success in winning the ideological confrontation during the Cold War, radio broadcasting will continue to be one of the few media available to grant the people of North Korea access to information from the outside world. Computers not connected to the internet, thumb drives, DVDs, CD-ROMs and MP3 players have become increasingly available, although access to such devices is still relatively limited. Efforts to increase the flow of information into North Korea should take into account the increasing availability of such vehicles. Ultimately, it may be the increased availability of information that will result in better awareness on the part of North Koreans and the improvement of the human rights situation.

Effective international approaches to improving the disastrous human rights situation in North Korea should combine research, publications, public information campaigns and outreach with seeking international partnerships to inform the relevant UN treaty bodies and national jurisdictions on the human rights violations falling under their competence. In addition to increasing international awareness of human rights violations in North Korea and seeking legal remedies, maintaining and increasing the inflow of relevant quality information into the reclusive state may ultimately be the key to solving North Korea's human rights conundrum.

PANEL 4

Analyzing the Rise of China and Implications for U.S.-ROK Cooperation

The Rise of China & Implications for U.S.-ROK Cooperation

John S. Park(Director, Korea Working Group, USIP Project Director,
Belfer Center, Harvard Kennedy School)

The Rise of China and the US-led Asia-Pacific Alliance Network: Policy Suggestions for South Korea in the Context of the ROK-US Cooperation

PARK Jae-Jeok(Research Fellow, KINU)

The Rise of China & Implications for U.S.-ROK Cooperation*

John S. Park

Director, Korea Working Group, USIP
Project Director, Belfer Center, Harvard Kennedy School

* DISCLAIMER: The views expressed in this briefing are those of the author & do not reflect views of USIP, which does not advocate specific policies.

■ How Has China Been Rising?

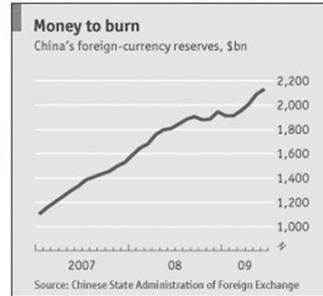
China's Yin & U.S.' Yang

- China's "under-consumption" and "over-saving" facilitated U.S.' "over-consumption" and "under-saving" for much of the 2000s
- China produced cheap consumer goods for U.S. market which kept inflation low and helped extend the pre-2008 financial crisis period of U.S. economic growth. U.S. consumption fueled the boom of factories and job creation in China
- Rapid expansion of U.S. federal debt in the coming years will likely lead to higher interest rates, slower private sector expansion, and US\$ depreciation, which would further drive up interest rates
- U.S. is in a "debt trap" due to many years of "over-consumption" and economic mismanagement. China, however, is in a "saving trap" due to many years of "under-consumption", over-investment in manufacturing and excessive reserve accumulation

* SOURCE: Pieter Bottelier, Johns Hopkins SAIS

***The Global Financial Crisis:
China's Strategic Opportunity***

- **Going forward, gap between U.S. and China will shrink as PRC government stimulates more domestic consumption and deploys its \$2 trillion foreign reserves via sovereign wealth fund investment vehicles**
- **China Investment Corp. (CIC) — a \$298 billion PRC sovereign wealth fund — has committed to invest about \$1 billion with Oaktree Capital Management LP**
- **CIC has begun making a wave of investments directly into hedge funds around the world. Oaktree is expected to invest CIC's money over the course of several years in distressed debt & other fixed-income assets in the U.S.**



SOURCE: "Oaktree to Receive \$1 Billion from CIC"; *The Wall Street Journal*, Sept. 26, 2009

■ China—The New Franchise Player?

China's Rapid Economic Gains Fuel its Growing Influence

- China's rapid economic rise has fueled its growing military spending & commercial diplomacy in natural resources-rich countries in Africa, Southeast Asia, and South America. In Northeast Asia, PRC investments in DPRK mines have grown significantly since 2005
- From climate change to proliferation to the financial crisis, China is being viewed as the new "Franchise Player" (FP). In professional U.S. sports, an FP is the most dynamic and talented athlete whose mere presence on a team creates the impression that it has a "shot at the championship"—i.e., success & effectiveness

- In a similar manner, China is being viewed as an FP by the U.S. and others in dealing with security issues in the North Pacific environment. The primary security issue in this region is the chronic DPRK imbroglio

Beijing Seeks to Manage Expectations

- In response to U.S. calls for Beijing to use its FP capabilities to do more in pressuring the DPRK, China has stated that it is not an FP and that it lacks the ability to resolve the DPRK nuclear issue
- China has consistently pointed out that the nuclear imbroglio is, in essence, a U.S.-DPRK matter and that only Washington & Pyongyang can resolve it
- PRC will seek to assist both principal parties by creating an environment conducive to denuclearization through its chairmanship of the Six-Party Talks process. Poor track record
- PRC points to the Six-Party Talks as evidence of its actions as a responsible global actor & stakeholder. Public diplomacy benefit
- Under the surface—in a parallel manner—PRC has been tailoring its growing commercial & economic capabilities to bolster stability in the North Pacific security environment...

■ Us' "Mutual Interests" & PRC's "Core Interests"

Background

- US & PRC had common security threat—Soviet Union. This

allowed the two to significantly reduce earlier confrontations over Taiwan & Vietnam

- For PRC, this arrangement provided fertile ground for eventual normalization, and economic reform and opening. “New China” was launched during this important period
- As Kissinger points out, growing interdependence between the two economic giants has occurred without an overarching strategic design
- We’re now seeing rise of different internal PRC voices as economic rise continues

USIP's Track 1.5 Dialogues

- Since 2008, USIP has been running comprehensive US-PRC policy dialogues on complex security, economic, energy & political issues
- We have observed how US officials frame their comments through lens of “mutual interests” & PRC officials through “core interests”
- Understanding nuances of each lens helps explain some motivations for and limitations of key US & PRC policy statements & actions

US' “Mutual Interests”

- US leaders point out that global challenges like proliferation (DPRK & Iran), economic rebalancing, climate change constitute

“mutual interests” requiring US & PRC cooperation if progress is to be realized

- US reasserts that it does not seek a G2 with PRC
- Cooperating on “mutual interests” is a key element of US’ concept of PRC acting like a responsible stakeholder

PRC’s “Core Interests”

- PRC’s narratives regarding its national security are infused with references to its “core interests”—Taiwan, Tibet, Xinjiang (territorial and sovereignty issues)
- PRC’s policy-making process remains opaque, but 2010 incidents in South China Sea provide valuable insights. PLA declared S.C. Sea now constituted PRC “core interest”
- Dai Bingguo’s “Stick to the Path of Peaceful Development”—over 60 references to “peace.” Set tone for Hu Jintao’s state visit (Jan. 2011) & resetting of equilibrium among internal PRC groups

Divergent Perceptions

- If US side sees PRC as a little over confident, arrogant or aggressive, PRC side sees US as less able to handle complex issues
- These issues range from revitalizing its economy to dealing with growing foreign policy challenges (e.g., stabilization & reconstruction efforts in Afghanistan, countering proliferation in DPRK & Iran)

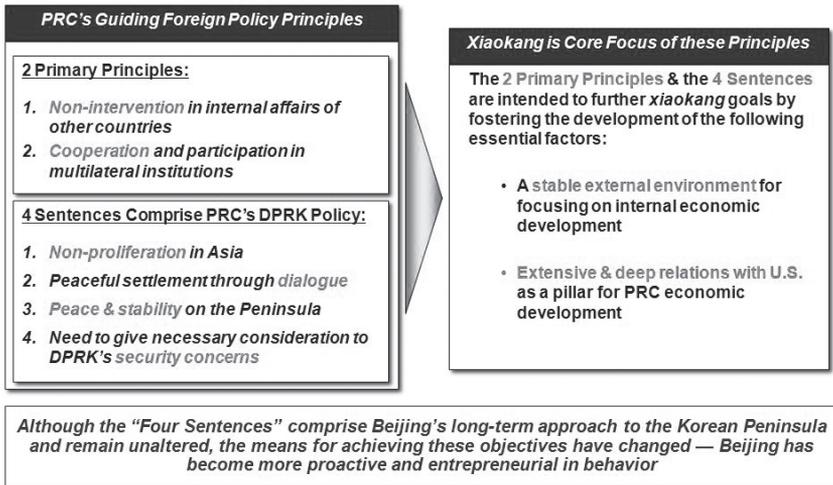
- Formative reactions in PRC to US financial crisis—triumphal vs. alarm

Current Reality

- In describing the future of warfare, former SecDef Gates stated “it will be exceedingly complex, unpredictable, and... ‘unstructured’...”
- That description is equally apt for the future of US-PRC relations as it continues to evolve against the background of a rapidly changing international order
- While conflict is not inevitable, the challenge will be managing the multitude of complex tensions & frictions in an “unstructured” environment

■ China Tailors Its Foreign Policy Principles to Ne Asia

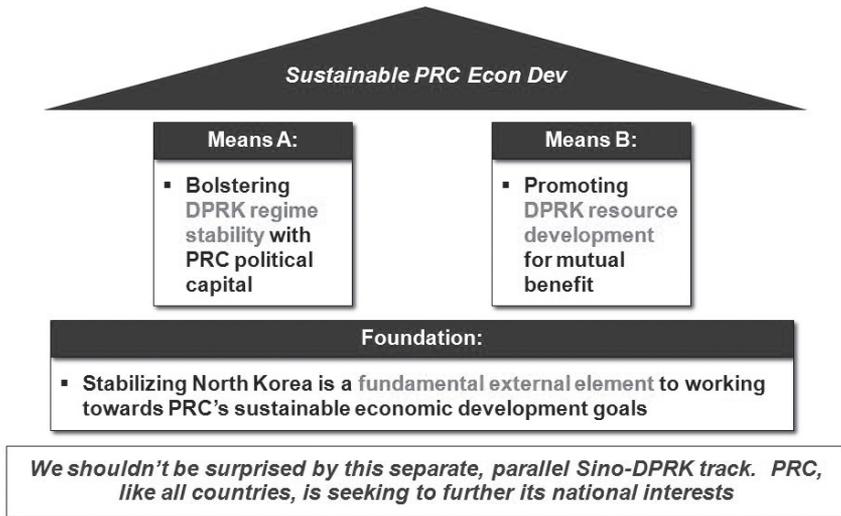
Centrality of Xiaokang in PRC's Foreign Policy Principles



SOURCE: Interviews with senior Central Party School, CICIR & CPC International Department officials

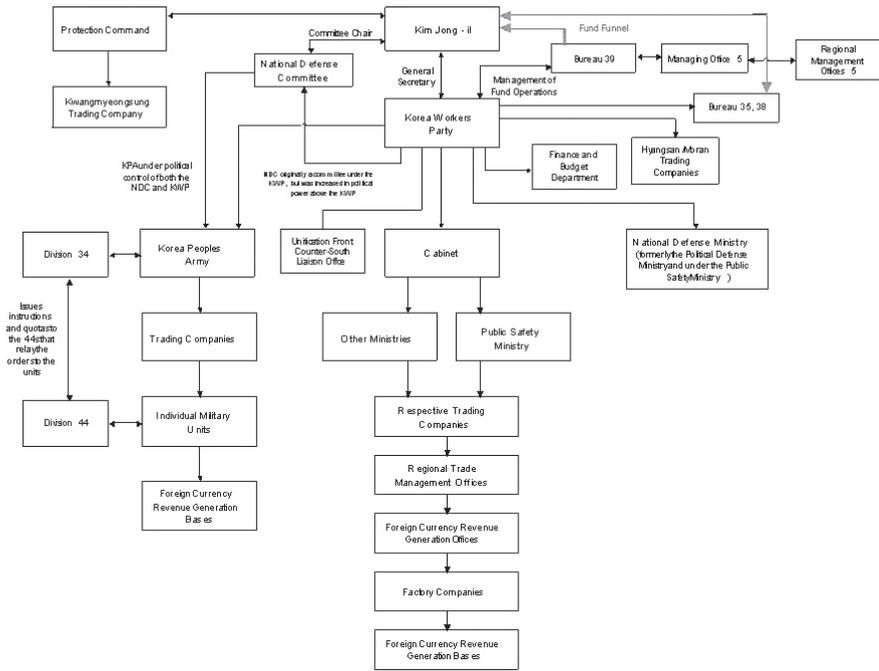
■ China's Parallel Track with North Korea

Fostering Sustainable Stability in the North Pacific Security Environment



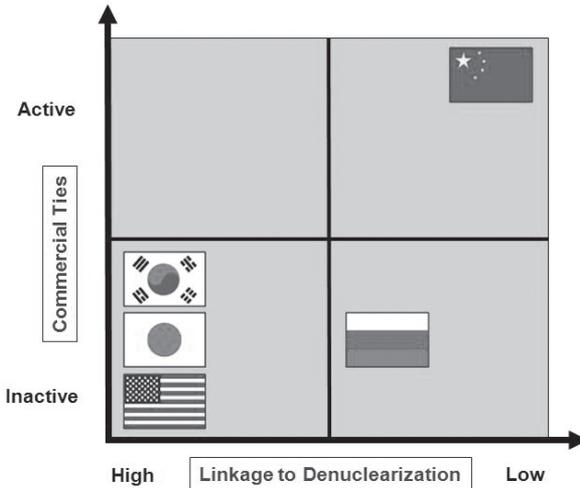
SOURCE: Interviews with senior Central Party School, CICIR & CPC International Department officials

■ What Mechanism Is PRC Using? North Korea, Inc.



SOURCE: John S. Park, "North Korea, INC," *USIP Working Paper*, May 2009

■ China, Inc. Has Been Active with North Korea, Inc.



While financial sanctions continue to dominate Washington's approach to dealing with Pyongyang, PRC state-owned enterprises have been deepening their interactions with DPRK state trading companies

■ China's Nuclear Posture & Policy

Enter the Nuclear Dragon

- 1955: Launches NW program
- 1964: Conducts first successful nuclear test. Later conducts 45 tests - including thermonuclear & neutron
- 1984: Joins IAEA, but supplies design info & material to Pakistan
- 1992: Accedes to NPT as NWS

- 1995-6: Series of tests prior to PRC signing CTBT results in a smaller & lighter warhead design for a new generation of ICBMs
- 2002: Ratifies IAEA Additional Protocol - first NWS to do so
- 2004: Joins NSG

Challenges

- A key uncertainty is how military modernization efforts will reshape PRC's strategic nuclear capabilities
- U.S. & ROK concerned about lack of transparency with PRC nuclear arsenal & doctrine as it diversifies & modernizes arsenal
- U.S. deployments of MD & space weaponization will likely influence China's future military development
- PRC is first NWS to adopt a nuclear "no first use" policy and official pledge not to use NW against NNWS - 2010 Defense White Paper
- DoD estimates Second Artillery Corps has 130-195 deployed nuclear-capable ballistic missiles

■ Recent PRC Developments: Modernization, Space & Cyber

Modernization

- While PLA Navy's Xia- and Jin-class ballistic missile submarines

appear set, their associated Ju-Lang-1 (JL-1) and JL-2 (variant of DF-31) do not appear to be ready

- PLA Air Force conducted first test flight of the J-20, China's Stealth Fighter, in January 2011 during a visit by then SecDef Gates
- PLA is currently transitioning from relatively inaccurate, liquid-fueled, silo/cave-based missiles (DF-3, DF-4, DF-5) to more accurate, solid-fueled, mobile missiles (DF-11, DF-15, DF-21, new DF-31 ICBM & JL-2 SLBM)

Space

- Top U.S. intelligence officials assert PRC's growing space program may pose serious military threat to U.S.
- LTG Burgess (DIA Director): "The space program... supports China's growing ability to deny or degrade the space assets of potential adversaries and enhances China's conventional military capabilities." —Testimony before Senate Armed Services Committee on 02-16-2012
- Translation: PRC continues to develop technology designed to destroy or disable satellites—e.g., January 2007 ASAT test

China's Growing Cyberwar Skills

- China's cyber warfare skills could pose a threat to U.S. military in a conflict—U.S.-China Economic & Security Review Commission Report

- “Operations against computer networks have become fundamental to Beijing’s military and national development strategies over the past decade” (March 2012)
- Keyboard-launched tools that China could use in a crisis over Taiwan or in the South China Sea could delay or degrade a potential U.S. military response—partly because of vagaries of int’l law and policy surrounding nation-state responses to apparent network attack

Exchange of (Cyber) Fire

- In October 2011, Office of National Counter intelligence Executive stated in a declassified report to Congress that “Chinese actors are world’s most active & persistent perpetrators of economic espionage”
- A report from a government-run online security group in China claims that there has been a “massive increase” in cyber attacks from “foreign hackers”
- 11,851 foreign IP addresses had controlled 10,593 Chinese websites in 2011. It said Japan was top source of attacks, followed by U.S. & ROK

■ What Is the Impact of PRC’s Rise on U.S.-ROK Cooperation?

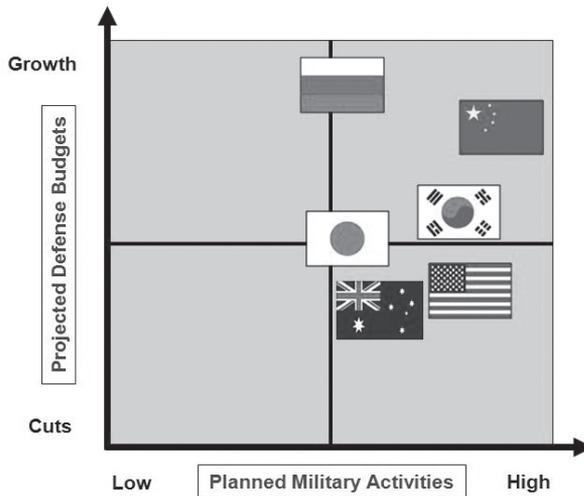
New Challenges & Opportunities for U.S. & ROK

- PRC’s economic and military rise is creating new opportunities

and challenges for U.S.-ROK cooperation:

- Challenge: CPC-WPK “institution-building” to further Beijing’s goal of stabilizing fragile DPRK regime is eroding U.S.-ROK ability to deal with DPRK
- Challenge: PRC’s military modernization is creating turbulence for U.S.-ROK
- Opportunity: Economic interdependence between ROK-PRC and U.S.-PRC creates unique common ground. U.S.-ROK centers of innovation under KORUS FTA in ROK can provide bulwark against PRC’s “indigenous innovation” policy

■ Fiscal Challenges & Opportunities for Allies



While defense spending is projected to decline overall for the allies, it will increase for China. The allies can only “do more with less” by realizing the potential of networking. A key determining factor will be organizational behavior

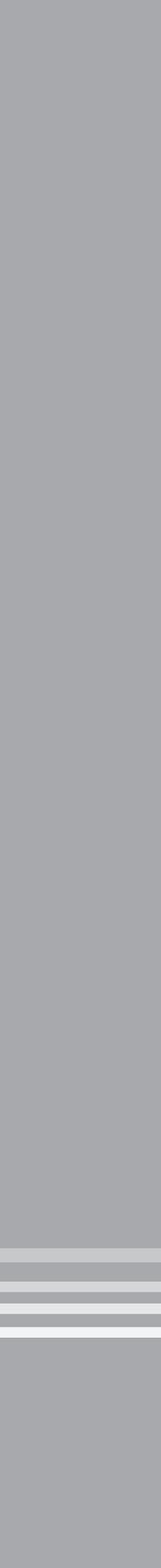
■ New Regional Reality: Budget = Strategy

Networking

- Defense planning/strategy has long been closely tied to budget realities in individual capitals
- For U.S.' QDR, Budget = Strategy. Result: proactive approach to designating threat/adversary for upcoming 4 years & programming spending accordingly
- This approach proved to be vulnerable to Black Swan events like 9/11 and the ensuing GWOT
- Main macro U.S.-ROK challenge now is shaping the environment for PRC's peaceful development. Networking is key

Budget Constraints Provide Focus

- New normal has become managing the multitude of complex tensions & frictions in an “unstructured” environment... with less resources
- Budget constraints common to the allies could provide the focal point for operationalizing the concept of networking
- Key question regarding agenda of cooperation among the allies: What multilateral alliance mechanism(s) would facilitate efficient coordination of resources to do more with less? This budget necessity could be the initial basis for regional security architecture



The Rise of China and the US-led Asia-Pacific Alliance Network: Policy Suggestions for South Korea in the Context of the ROK-US Cooperation

PARK Jae-Jeok

Research Fellow, KINU



■ Introduction

The United States has been maintaining the so-called 'hub-and-spoke alliance system' in the Asia-Pacific that is comprised of the alliances with Japan, South Korea, Australia, the Philippines and Thailand. In operating the hub and spoke alliance network in the post-Cold War period, the United States has been facilitating mini-lateral linkages of individual alliances through multilayered bilateral processes. It also helps its allies to assume an increasingly greater role in responding to a 'specific threat.' These two features are well reflected in the 'new defense strategic guideline' the US Department of Defense published on January 5, 2012 and the subsequent US defense budget decisions on January 26. On the other hand, China perceives the US-led alliance system as existing to contain itself and strongly asserts that such a network is an outmoded relic from the Cold War. Accordingly, the perception gap between the United States and China on the role of the hub-and-spoke alliance system has increasingly widened.

In this context, I first elaborate on the afore-mentioned two features of the United States' operating the Hub-and-Spoke alliance system in the post-Cold War period. Then, I point out that the two characteristics have been serving as a factor for the Sino-US conflicts on the one hand and US allies' concerns over the credibility of the US security guarantee to them on the other hand. Given the circumstances, I make several policy suggestions for South Korea in the context of the ROK-US security cooperation.

■ The Features of the United States' Operating the Hub-and-Spoke Alliance System

One of the main features of the United States' operating the hub-and-spoke alliance system is that the United States has been facilitating

the linkage among individual alliances. The United States managed the hub-and-spoke exclusively during the Cold War, meaning that it controlled its allies on a one-on-one basis without interlocking the five alliances. However, in the post-Cold War period, the United States has been operating its Asia-Pacific alliances more inclusively, employing individual alliances for consulting on and coordinating regional security matters.

The Trilateral Strategic Dialogue (TSD) among the United States, Japan and Australia is a good illustration. The TSD began as the Trilateral *Security* Dialogue in 2001 with Australia's initiation and was promoted to the level of a strategic dialogue in 2006. The three states adopted non-traditional security issues as the main agenda of the TSD and have conducted joint military exercises. During the Cold War, the US-Japan alliance and the ANZUS were operated separately. Also, the security cooperation between Japan and Australia was nominal. However, as the TSD links the two alliances, the security cooperation between Japan and Australia has been on the rise. This trend was well attested in the Sydney Declaration for Australia-Japan Creative Partnership in 2001, a Memorandum on Defense Exchange in 2003, the Australia-Japan Security Declaration in 2007, and a defense memorandum in 2008.

The United States has been seeking a linkage of the US-Japan and the US-ROK alliances, as reflected in the remarks of Assistant Secretary of State for East Asian and Pacific Affairs, Kurt Campbell, before the Senate Foreign Relations Committee in March 2011, when he stated, “[The United States] will take ambitious steps to increase trilateral cooperation to further develop a more integrated Northeast Asia security architecture.” In that context, it should be noted that, in January 2012, the three states agreed to hold annual talks among defense ministers. Also, 150 troops of the USFK for the first time participated in a joint military exercise between the United States and Japan held from January 24 to February 5. These episodes indicate that the United States has been attempting to link the US-Japan and the US-ROK alliances, as a result of which South

Korea and Japan are tied in a 'virtual alliance' relationship. Japan has been positive on such US efforts, while South Korea has been cautious.

In terms of the US-led alliances in Southeast Asia and the Pacific, unlike during the Cold War, the United States tends to invite third parties when it conducts joint military exercises with its ally. Indeed, the annual military exercises of the US-Philippines and the US-Thailand alliances have now been increasingly conducted in a multilateral setting. Other ad-hoc military exercises for counter-terrorism and disaster relief have been mostly conducted in a multilateral format as well.

Another major feature of the United States' operating the hub-and-spoke alliance system is that it helps its allies enhance their military capabilities necessary to respond to a specific threat. In the post-Cold War period, especially after 9/11, US military strategies have been changing from specific threat-based to more general capabilities-based in character. The threat-based military strategy focuses on dealing with a particular adversary in a specific region of the world, while the capabilities-based military strategy focuses on confronting an (as yet unidentified) adversary that has a wide range of capabilities available to it.

Accordingly, the United States has transformed its overseas armed forces in a way that they became 'lighter' and more flexible for expeditionary missions at a distance. At the same time, the United States has been enhancing the role of its allies in deterring or defending against a specific threat. Only when the problems degenerate into a situation that would overwhelm allies' capabilities and undermine the US-led regional order would the United States intervene, utilising selected US military assets deployed around the world.

The United States finds the following benefits in assisting its allies to handle regional problems on their own. First, as the United States exercises leadership through its alliances rather than as the primary actor, it "averts the impulse to counterbalance American power." Second, it steers allies away from 'strategic apathy.'¹⁾ Third, it helps the United States reduce its military spending.²⁾

In sum, in operating the hub-and-spoke alliance structure, the United States has been interlocking its bilateral alliances into more multilateral-like frameworks and enhancing its allies' capabilities in responding to a specific threat. However, China has been condemning such a US posture. The first feature contributes to China perceiving the hub-and-spoke as a 'mini-NATO' that is designed to contain itself. The second feature causes US allies to feel concern over the credibility of the US security guarantee to them.

■ China's Reaction to the Linkage of the US-led Alliances

The United States insists that the US-led alliances constitute the bedrock of its own regional strategy and military presence. At the same time, it claims that they go beyond being instruments of threat response to becoming a more complicated network of regional multilateral order-maintenance and order-building.

In particular, the hub-and-spoke system generates its 'general interest' as a *hedge* against the emergence of an undesirable multilateral order in the region, with an undesirable order for the United States and its regional allies being defined as the erosion of the US benign hegemonic status in the region (i.e., the rise of any competing regional hegemonic power). The United States and its allies oppose exclusive East-Asian regionalism. They have been pursuing an inclusive Asia-Pacific multilateralism in which countries such as the United States, Australia and New Zealand participate. For example, by expanding the membership of the afore-mentioned TSD, the United States hopes to

1) Elizabeth Sherwood-Randall, *Alliances and American National Security*, Strategic Studies Institute (Carlisle, PA: U. S. Army War College, 2006), pp. 15-18.

2) According to the defense budget decision announced in January 2012, the United States will cut defense spending in the next decade USD4,870 million. Such a cut would be the first one since 1998.

develop it into a more comprehensive multilateral security institution.

However, China strongly criticizes the linkage of the US-led alliances. China perceives the interlocking of the US-led alliances as an attempt to contain itself. Using the same example cited above, China asserts that by expanding the membership of the TSD to include India, the United States intends to launch a quad-lateral strategic dialogue aimed at encircling China. In this sense, what elicits strong opposition from China is the joint naval military exercises between the United States and India, which were started in 1994. Japan and Australia have often participated in it since 2007. China has been raising a voice against their participation.

China's criticism against the increasing linkage of the US-led alliances has recently been deepened. China strongly condemned that the US aircraft carrier, *George Washington*, took part in joint drills between the United States and South Korea in November 2010 (in the aftermath of the sinking of a South Korean navy vessel by North Korea) and between the United States and Japan in December 2010 (after the confrontation between China and Japan over the Senkaku islands). In the latter case, China also expressed strong opposition to South Korea's participation as an observer.

China also worries that the United States has been strengthening security relationships with countries that are engaged in territorial disputes with China in the South China Sea. Those countries include Vietnam, Taiwan, the Philippines, Malaysia, and Brunei. On the one hand, the United States has consolidated security relationships with its Southeast Asian and Pacific allies—the Philippines, Thailand and Australia. For example, after the territorial dispute between China and Vietnam was re-ignited in May 2011, the United States conducted a large scale military exercise with the Philippines in June 2011. Also, the United States promised substantive military and economic aid to the Philippines in November 2011 upon the 60th anniversary of the US-Philippines alliance. Moreover, in the same month, the United States and Australia revealed a plan that US Marines will be stationed in Australia

for six months of every year.³⁾ On the other hand, the United States has been enhancing its security relations with such countries as Vietnam and Myanmar that have not been cooperative with the United States. China views US efforts to improve security relations with Southeast Asian states as the United States' 'aggressive return to Southeast Asia.'

Though China is unlikely to change its perception on the hub-and-spoke, the United States nonetheless does not want China to perceive the linkage of the US-led alliances as a scheme of China containment. It worries that, if these divergent views are left unresolved, the US alliance system could become a catalyst for a new security dilemma and intensified geopolitical competition between the Asia-Pacific regional powers. The United States hopes to prevent a new Cold War along the stark confrontational lines of the US-Japan-South Korea versus China-North Korea-Russia. It also hopes to avoid a clash between China's 'core national interests' and US leadership in the region. To accomplish this, the United States acknowledges the necessity of improving its security relations with China. Nevertheless, the United States claims that, unless China reverses its biased attitudes toward North Korea and ceases adopting an aggressive foreign policy in the South China Sea, it has no choice but to invoke the balancing mechanism of the US-led alliance network. Thus, the vicious cycle in which the United States and China point fingers at each other continues.

■ The Public Reaction to the 'New Defense Strategy'

On January 5th 2012, the US Department of Defense published a 'new defense strategic guideline' focusing on US military strategy in the Asia-Pacific, especially in response to the rise of China. Public reaction in South Korea to the new defense strategic guideline was not positive. Some

3) An initial force to be deployed will number 250 in 2013, growing to 2,500 by 2016.

media statements have been released expressing concern that the United States has given up the 'Two Major Theatre-War Doctrine' strategy. The statements also pointed out that the credibility of the US security guarantee to the Korean peninsula has been reduced, and that the United States will demand a widening of the strategic flexibility of the USFK.

After the 'new defense strategic guideline' was published, the Department announced the US defense budget decisions and a military adjustment plan on January 26th. The announcement expressed the United States' determination to readjust its military assets in accordance with the reduced national defense budget. Upon hearing the announcement, some media questioned the capabilities and the willingness of the United States to perform Operation Plan 5027.

Such public reactions, however, overlook the fact that the new defense strategy is in line with other defense strategies that the United States has promulgated, especially those following 9/11. Since experiencing this national tragedy, the United States has shifted the pattern of operating its overseas troops in a way that emphasises their strategic mobility and flexibility in order to secure power projection capabilities against its adversary's "anti-access/area denial" and to respond effectively to non-traditional threats such as terrorism. The new defense strategy is based on the same starting point, therefore criticisms and concerns relating to it are not particularly new or special.

First, as stated in the new defense strategic guideline, there is no mention of abandonment of 'the Two-Major Theatre-War Doctrine.' The guideline states that "As a nation with important interests in multiple regions, our forces must be capable of deterring and defeating aggression by an opportunistic adversary in one region even when our forces are committed to a large-scale operation elsewhere." The misunderstanding regarding "the Two-Major Theatre-War Doctrine" arises from downplaying the meanings of "detering" and "defeating." On February 6th, Secretary of Defense Leon Panetta commented that if the United States ever faces a situation where it must fight both North Korea and Iran

simultaneously, the United States would be prepared to win both wars at the same time.

USFK's strategic flexibility is also one of the requirements on which the United States has continuously insisted within the management policy of its overseas armed forces, which has been based on the 'transformation strategy' since 9/11. Indeed, US Secretary of State Condoleezza Rice and South Korea's foreign minister Ban Gi-Mun agreed on the strategic flexibility of the USFK in January 2006.

Also, concern over the capabilities and the willingness of the United States regarding performing Operation Plan 5027 is not heightened by the new defense strategy. In the post-Cold War era, the United States has continuously pursued an alliance burden sharing in which its allies assume a greater role in deterring and defending against a specific threat, while the United States undertakes a supporting role.

■ Conclusion: Policy Suggestions for South Korea

Taking the circumstances described above into consideration, South Korea should adopt the following strategies. First, given that China is concerned over the linkage of the US-led alliances in the region, South Korea should use the possibility of connecting the US-ROK alliance to the US-Japan alliance or enhancing security cooperation between Korea and Japan as a point of leverage with China. That is, South Korea should make the Chinese aware that, if China continues to pursue a biased attitude in favour of North Korea, South Korea will be left with no other choice than cooperating with the United States in linking the US-led alliances in the region. On that ground, South Korea can ask China to change its biased attitude toward North Korea. To achieve this, South Korea has to continue maintaining a strong alliance with the United States and keep low-level military exchanges with Japan, but *avoid substantial military cooperation with Japan*. If substantial military cooperation with Japan is implemented,

South Korea could lose its leverage to alter China's biased attitude toward North Korea.

Secondly, South Korea should emphasize that aggrandising South Korea's conventional military capabilities is consistent with US defense strategies that attempt to enhance its ally's capabilities in deterring and defending against a specific threat. On that ground, South Korea may ask the United States for the transfer and the procurement of state of the art US military technology and weapons. In more detail, if the United States requests an increase of South Korea's burden sharing for maintaining the USFK, South Korea should negotiate with the United States to earmark the increased share invested for improving South Korea's independent military operational capabilities against North Korea. Also, South Korea should ask for a lift of the restrictions on high-tech weaponry export from the United States to South Korea to the level proffered to US allies in Europe.

Lastly, South Korea should put forth efforts to allay the increasing fears of its citizens. To arrest the recurrence of exhausting disputes over the strategic flexibility of the USFK agreed to in 2006, South Korea should request of the United States restraint in mentioning such greater mission flexibility. Also, in order to eliminate concerns among the public over the capabilities and the willingness of the United States in performing Operation Plan 5027, South Korea should request that the United States reconfirm the agreement between the two states regarding OPLAN 5027. To make the United States cater to the interests of South Korea, South Korea should make the Americans aware that the spread of unnecessary anti-American sentiment is detrimental to the US-ROK alliance, as experienced in the early 2000s. If the alliance becomes deteriorated, it could land a heavy blow to US attempts to link the US-led alliances in the region.

5TH KINU-USIP WASHINGTON WORKSHOP

The Outlook for the North
Korean Situation &
Prospects for U.S.-ROK
Cooperation After the Death
of Kim Jong-il

www.kinu.or.kr

