

## A NEW APPROACH TO NORTH KOREAN HUMAN RIGHTS

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### 1. Background

In recent years, America's North Korea policy has been characterized by a more comprehensive approach that addresses human rights in addition to the nuclear issue. This trend can be seen in the setting forth of human rights and the spread of democracy as the basis of the Bush administration's foreign policy, as well as the adoption by a Republican-led Congress of the North Korean Human Rights Act of 2004 and the introduction of the Advance Democracy Act of 2005. Furthermore, in February of this year Democratic Congressman Tom Lantos introduced the Advance Democracy Act of 2007.

Although the Advance Democracy Act has not yet become law, it shows that the White House and Congress consider human rights and democracy to be a central part of American foreign relations. The Bush administration, realizing that voicing concerns over human rights may have adverse effects on the resolution of the nuclear issue, has shown restraint when it has felt the need to achieve progress at the Six-Party Talks. However, it has also strongly raised such concerns when it sought to increase pressure or justify its tough policy on North Korea. Nevertheless, it is clear that the White House holds the alleviation of human rights concerns as a key precondition for the normalization of relations with the DPRK. This suggests that, if the nuclear issue is settled, human rights will become the primary point of contention between the two countries.

This situation signifies that affairs on the Korean peninsula are entering a new phase. In the past, the primary concern regarding North Korea was nonproliferation of

missiles and nuclear weapons, but the Bush administration has taken issue with its nuclear program and human rights record at the same time. From the DPRK's perspective, it appears that the Bush administration has adopted the nuclear issue and human rights as pretexts for its real intent—to overthrow the regime. This is a chief reason for the hardening of North Korea's confrontational stance.

First, one cannot but recognize the reality that North Korea's nuclear program and human rights record have become issues that concern the international community, and as a result, its image has steadily worsened as “the largest proliferator of WMD [weapons of mass destruction] in the world” and “worst violator of human rights.” Since 2003, the UN Commission on Human Rights has adopted resolutions against North Korea for three years running, and in November 2005 the General Assembly also passed a human rights resolution against the DPRK. This suggests that South Korea is faced with several difficult tasks: working toward the peaceful resolution of the U.S.-DPRK confrontation, making human rights part of the public debate, and improving the human rights situation in North Korea.

Human rights in the DPRK are severely restricted, mostly due to systemic attributes such as the absence of civil and political authority, but also because of the crisis of survival brought about by dire economic conditions and the continuing standoff with the U.S. The former is caused primarily by North Korea's self-styled form of socialism, while the latter arises from its economic collapse, the occurrence of natural disasters, continued economic sanctions led by the U.S., and its hostile relations with South Korea, Japan, and the U.S. However, these are not two separate issues: nations that face external threats or extreme economic hardship often tighten domestic control in order to maintain their systems. For example, the U.S., which has prided itself on its human rights record, adopted several measures restricting basic rights, not only against foreigners but also its own citizens, as part of its post-9/11 “war on terror.” The point is that internal and external reasons for the violation of human rights in North Korea must be considered in conjunction.

It is also important to note the sensitivity surrounding human rights and peace on the Korean peninsula. Raising the issue of human rights for the political purpose of justifying a tough North Korea policy not only suggests a disregard for human rights, it also threatens the very peace that is the basis for protection and advancement of human rights. Conversely, the perspective of “peace first, human rights later” passes over the fact that human rights cannot be withheld, which lends political fodder to those who do not support a peaceful resolution to the problem of North Korea. Therefore, the greatest task for those who do advocate a peaceful solution is to accurately diagnose the threat to peace and human rights caused by the politicization of the latter, to stop the cycle of negative reinforcement between the two, and to set forth theories and policies that advance peace and human rights in a positive cycle.

With this framing of the issue as background, this paper summarizes American policy on North Korean human rights, focusing on the Bush administration, and analyzes how this issue will influence U.S.-DPRK relations in the future. In particular, the paper points out that, unlike the Bush administration’s approach, which has changed according to political necessity, the pressure and influence of Congress and citizens’ groups have been increasing. Based upon this analysis, the paper then recommends steps that South Korea can take to help resolve the issue.

## **2. American Policy on North Korean Human Rights**

The issue of human rights was not a priority in North Korea policy from the outset of the Bush administration. American policy on North Korea as presented by President Bush on June 6, 2001 addressed three areas of military security—the nuclear program, missiles, and conventional arms—not human rights. However, after Bush’s inclusion of North Korea in the “axis of evil” with Iraq and Iran, human rights in the DPRK began to be discussed with increasing frequency and importance. This phenomenon can be interpreted as a means of justifying the axis-of-evil speech and of

vindicating those who oppose negotiating with North Korea.

The Bush administration then began to elucidate its position that normalization of relations with the DPRK would not happen before its concerns about human rights were alleviated. In an address at the Heritage Foundation on March 12, 2004, Mitchell Reiss, then Director for Policy Planning at the State Department, emphasized that “We do not simply seek a D.P.R.K. without WMD, but the transformation of the D.P.R.K. into a ‘normal’ state.” He explained, “The United States is committed to achieving a more ‘normal’ relationship with a ‘normal’ North Korea,” listing the improvement of human rights as one of the criteria. Similarly, at a Senate hearing on July 15, 2004, James Kelly, then Assistant Secretary of State for East Asian and Pacific Affairs, stated, “[T]o achieve full integration into the region and a wholly transformed relationship with the United States, North Korea must take other steps in addition to making the strategic decision to give up its nuclear ambitions.” Such steps included resolving the human rights issue, addressing its status as a state sponsor of terrorism, eliminating its non-nuclear WMD programs, discontinuing exports of missiles and missile-related technology, and alleviating concerns over its conventional forces.

The Bush administration’s tough stance on North Korean human rights, in conjunction with Congress’ passage of the North Korean Human Rights Act, served to further worsen U.S.-DPRK relations. The bill, which passed unanimously in both the House and Senate, gave North Korea due cause for concern about the threat of collapse. Its purpose is “(1) to promote respect for and protection of fundamental human rights in North Korea; (2) to promote a more durable humanitarian solution to the plight of North Korean refugees; (3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea; (4) to promote the free flow of information into and out of North Korea; and (5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.” In order to achieve these objectives, Congress appropriated \$96 million over the four years from 2005 to 2008. Of this amount, \$80 million was set aside to

support groups working with North Korean refugees, and the remaining \$16 million was set aside to support groups working on human rights issues and to increase the number of hours of radio broadcasting to North Korea from four to twelve. This raised the suspicion that the North Korean Human Rights Act was intended to induce a large exodus of North Koreans and thereby bring about the regime's collapse.

However, in the process of debate, some of the tougher language of the bill was softened. For example, the clauses on "a regional human rights dialogue with North Korea...engaging all countries in the region" and the contingency of "nonhumanitarian assistance to North Korea...on North Korea's substantial progress [on human rights]," originally expressed as obligations of the government, were revised to the level of "the sense of Congress," allowing for governmental discretion. It appears that the revision was the result of concerns that such clauses would restrict America's foreign policy, such as its participation in the Six-Party Talks. On October 18, 2004, Bush signed the bill into law, saying that "North Korea remains one of the most repressive countries in the world and stands in stark contrast to the march of freedom elsewhere in the region."

During its second term, the Bush administration plainly stated that the improvement of human rights in North Korea was a condition for normalization of relations. North Korea responded to this and the North Korean Human Rights Act with strong opposition. On October 4, soon after the Senate's passage of the bill, the DPRK issued a statement through a spokesman for the Ministry of Foreign Affairs: "The U.S. is creating the basic environment for regime change," demonstrating its mistrust of the bill and sense of threat. As the DPRK-U.S. confrontation, on top of existing differences over the nuclear program, expanded to include the issue of human rights, the Six-Party Talks were put on hold indefinitely.

The discord did not ease up as the Bush administration entered its second term. Indeed, it named human rights and democratization as key elements of peace, security, and economic cooperation, and clearly set forth the "end of tyranny" and "spread of

freedom” as the basis for foreign policy in its second term. This could be seen in Bush’s inaugural speech on January 20, 2005 and the State of the Union address on February 2. In these two speeches, Bush emphasized that world peace and prosperity depended on the spread of freedom. At her Senate confirmation hearing on January 18, previous to the inaugural speech, Secretary of State Condoleezza Rice identified six “outposts of tyranny”—North Korea, Cuba, Myanmar, Iran, Belarus and Zimbabwe—and said, “[we hope to] make the six-party mechanism work for...dealing with the broader problem of managing this dangerous regime.”

At the same time the Bush administration increased its criticism and placed greater priority on North Korea’s human rights situation and political system, it also revealed its intention to include human rights on the agenda of the Six-Party Talks. For example, Michael Kozak, Acting Assistant Secretary for Democracy, Human Rights, and Labor, stated that “while those talks are focused on the nuclear issue, they are not completely divorced from human rights issues...we need to pursue both denuclearization and human rights at the same time.” This stance, which met with fierce opposition from the DPRK, was an important backdrop to the delays in reopening the multilateral talks.

However, as the reopening of the six-party forum appeared imminent in May 2005, the Bush administration showed signs of change in its position. It faced criticism that addressing the nuclear issue and human rights at the same time only postponed the restart of the Six-Party Talks and worsened the nuclear situation. An atmosphere of restraint began to form as those who favored negotiations gained strength over the neocons. In order to create a favorable environment for the multilateral talks, the White House refrained from criticizing the North Korean regime and Kim Jong Il and put the issue of human rights on the back burner.

Reflecting this atmosphere, the Bush administration made efforts not to provoke North Korea before and after the fourth round of the Six-Party Talks. Originally scheduled for July 19, the First North Korean Human Rights Conference and

the appointment of a special envoy on human rights in North Korea were postponed, most likely due to considerations of the fourth round of talks, which were scheduled to open on July 26. Furthermore, Washington emphasized that the appointment of the special envoy, which took place on August 19 during the fourth round recess, was unrelated to the Six-Party Talks. According to a senior administration official, “North Korean human rights and the nuclear program are two separate issues, and the appointment of the special envoy should not have a negative effect on the nuclear issue.”

However, after the signing of the September 19 Joint Statement, the U.S. reversed its attitude of restraint. Beginning in December 2005, U.S. Ambassador to South Korea Alexander Vershbow criticized North Korea as a “criminal regime” on several occasions. The State Department did not refute the statements, saying that the ambassador’s comments on North Korea reflect American policy.

The U.S. started to grant asylum to North Korean refugees in March 2006, the first time since the North Korean Human Rights Act came into effect. In April and August of 2006, the U.S. also accepted North Korean refugees with South Korean citizenship. This expansion of granting asylum is explained by criticism that the American government was not taking steps to actually improve human rights in North Korea. Also, it seems that this was a card to pressure Pyongyang, which was boycotting the Six-Party Talks at the time.

Looking at the general flow of events, we can make two observations about the Bush administration’s attitude toward North Korean human rights. First, in comparison with the previous administration, the Bush administration has made human rights an important part of its North Korea policy, and it has linked human rights to the normalization of relations. Second, it has also used the issue as a means of securing leverage. In other words, the Bush administration has taken up human rights concerns at times for the purpose of justifying its policies on North Korea and at other times for increasing pressure on the DPRK. At still other times it has approached the issue on

tiptoe, wary of negatively impacting the resolution of the nuclear problem and the Six-Party Talks.

It is important to note that the pressure of Congress and citizens' groups has been steadily increasing, a trend that has been amplified by the overall drift of American politics to the right after 9/11 and the surge of Christian fundamentalism. In light of the considerable influence that Congress and the media have on American foreign policy, it is expected that such trends in American society will have a significant impact on U.S.-DPRK relations. Furthermore, there is no distinction between Republicans and Democrats regarding the tough stance on North Korean human rights, which is reinforced by the more moderately inclined citizens' groups.

America's North Korea policy and the conservative currents in U.S. society, in tandem with South Korean traditionalist groups that are reluctant to improve inter-Korean relations, have touched off a debate within South Korea. Specifically, the budget of the U.S. government supports South Korean groups that are working on North Korean human rights and democratization, which has incited the anti-American press and thus negatively affected U.S.-ROK relations. Representative of this conflict is the vehement opposition of South Korean liberal groups to American offers of financial support, made at the North Korean Human Rights Conference that was held in Seoul in December 2005.

### **3. A New Approach to North Korean Human Rights**

The issue of North Korean human rights must be viewed through two different lenses: the first is "objective reality," which recognizes the gravity of the human rights situation, and the second is "political reality," in which conservative groups utilize the issue to justify their hard-line DPRK policy and even to bring about the collapse of the regime. This means that South Korea must take tangible steps to improve the human rights situation in North Korea while reining in the movement of conservative groups

inside and outside the country. However, South Korea's ability to tackle the issue is rather weak. The government has shown impatience while emphasizing the special nature of inter-Korean relations, and the National Assembly and civil society are locked in conflict between conservative and liberal forces.

Given these two realities, how can South Korea deal with North Korean human rights? The issue can be approached on a general and specific level, with distinctions made between the roles of the principal actors—namely, the government, the National Assembly, and civilian groups. The general level provides the theoretical and rational background for handling the human rights issue, while the specific level deals with actual policies and steps. Just as the influence of Congress and citizens' groups in the U.S. is increasing, the National Assembly and civil society in South Korea must take on a greater role. To this end, a new approach to North Korean human rights is needed, which is as follows.

First, it is important to consider the right to peace, which forms the fundamental basis for human rights. Many international organizations, starting with the UN, and human rights groups have pointed out the intertwined nature of peace and human rights. However, viewing the right to peace as an integral part of human rights is a relatively recent phenomenon that originated with the General Assembly's adoption of the Declaration on the Right of Peoples to Peace on November 12, 1984. Through the declaration, the General Assembly reaffirmed that the "principal aim of the United Nations is the maintenance of international peace and security," and that "life without war serves as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms." Indeed, the absence of war was named as a necessary condition for the protection of human rights, which serves as the basis for the universality, indivisibility, reciprocity and interdependence of human rights.

However, the reality on the Korean peninsula is that the relationship between peace and human rights is mutually obstructive rather than mutually supportive. The

majority of voices leading the debate on North Korean human rights, including that of the U.S., is more interested in the justification of policy and inducement of the DPRK's collapse rather than the protection or advancement of human rights. Meanwhile, North Korea is indifferent to the improvement of human rights but shows great sensitivity to the raising of the issue. Its unique system, completely different from that of the outside world, makes the simultaneous pursuit of the advancement of human rights and peace-making on the Korean peninsula a particularly difficult task.

The only way to solve this dilemma is to create a system of positive development between peace and human rights. That is, it is essential to develop approaches and policies that make possible a mutually supportive relationship between the two. Both conservative elements that have raised the issue of human rights for strategic purposes and progressive elements that have turned a blind eye to human rights abuses under the slogan "peace first, human rights later" must reflect on this point.

Second, the most effective and concrete way to improve human rights in North Korea is to moderate and end the hostile relations between the two Koreas, North Korea and the U.S., and North Korea and Japan, which have continued even after the end of the cold war. North Korea has only strengthened its rigid structure in response to external threats and the continued confrontations, a trend that has increased as DPRK-U.S. and DPRK-Japan tensions have intensified. This in turn has led to the strengthening of its system of wartime readiness, the diversion of resources to the military, increasing domestic controls, and mistrust of foreign concerns over human rights. In fact, the threats and sanctions employed by the Bush administration have restricted North Korea's security and right to development, and therefore are not unrelated to the worsening human rights situation.

Third, given that military force is not a realistic option, the Kim Jong Il regime must be considered a party with which to dialogue and negotiate, not a government to be replaced or overthrown. The theories of regime change that have resurfaced during the Bush administration suffer from four fundamental shortcomings: 1) there is no way

to distinguish between the government and the people when approaching North Korea; 2) the primary victims of political, economic, and military sanctions against the DPRK are the average citizens, and it is uncertain whether such sanctions would even bring about the regime's collapse; 3) clamoring for regime change increases the danger of war on the Korean peninsula; and 4) there is no guarantee that the government that would replace Kim Jong Il would be any more peaceful or respectful of human rights. Indeed, when South Korea and the rest of the world, believing that the Kim Jong Il regime would collapse in the mid- to late 1990s, made halfhearted attempts to improve relations and provide aid, millions of North Koreans died of starvation as the government strengthened its system.

Furthermore, China would not support any attempt to bring about regime change; in fact, such an approach would only strengthen DPRK-China relations. China, which perceives American concerns over its human rights record to be motivated by a desire to curb its rise and gradually bring down its system, most likely views the U.S. attitude toward North Korean human rights in a similar light. In particular, from China's perspective, American policy on North Korean human rights is only fanning the flames by encouraging the influx of North Koreans into its territory.

Like it or not, there is no choice but to engage in dialogue and negotiations with the Kim Jong Il regime, simply because it has the final word on the human rights issue as well as the nuclear issue. Therefore, America and the international community should focus its efforts on building trust for dialogue and contact, not on naming and shaming the North Korean government.

Fourth, humanitarian aid, including the provision of food, should not be used as leverage in attempting to induce changes in North Korea's behavior. Making humanitarian aid contingent on other conditions is equivalent to treating North Koreans' right to life and food as a mortgage, and is certainly not a humanitarian action. Looking at past experience, the most effective means of inducing change in North Korea's actions is not the reduction or discontinuation of humanitarian aid but rather the

increase. For example, food aid played a positive role in securing North Korea's cooperation on the American visit to the Keumchangri reactor in 1999 and the Japanese kidnapping issue in 2000. On the other hand, the reduction or discontinuation of food aid created mistrust and worsened relations, as exemplified by the nadir in DPRK-Japan relations after the latter halted shipments of food and the deterioration of inter-Korean relations in July 2006 after South Korea withheld food and fertilizer shipments as punishment for the missile test.

Fifth, a substantial part of the human rights problems in North Korea is a result of the excessive pursuit of militarism, a phenomenon that arises in capitalist and socialist societies alike. Taking interest in the individual is impossible in an environment where the precedence of state security over all other values, the militarization of labor and the budget, and exhaustive military spending are accepted as perfectly natural.

In the end, approaching the human rights issue with the attitude of denying the North Korean system is likely to exacerbate the problem, not resolve it. The situation requires the wisdom to resolve the issue by overcoming the militarism and skewed competition of legitimacy between the two Koreas. The process of resolving the human rights issue through a balanced, joint effort can become the foundation for developing a mutually beneficial relationship between peace and North Korean human rights.

#### **4. Policy Steps**

While the above discussion dealt primarily with North Korean human rights on a general, epistemological level, it is important to also consider tangible policies and steps to implement the general approach. As previously mentioned, this can be divided according to the levels of government, legislature, and civil society, but the most important task is for South Korea to address human rights in North Korea with

good faith and a calm disposition. It is also important to convince North Korea that engaging in dialogue to resolve the issue is beneficial to itself and preferable to being exposed to the U.S.-led politicization of human rights. With this as background, the South Korean government must make inter-Korean dialogue on human rights a mid- to long-term goal and pursue certain policies to this end. Some concrete tasks for the government are as follows.

First, the government must adopt an improved set of human rights principles. The government's existing principles, which emphasize the special nature of the Korean peninsula and "peace first, human rights later," are rather defensive and should be revised as follows: 1) Recognition of the universality and fittingness of human rights; 2) pursuit of both peace and improvement of human rights on the Korean peninsula; 3) approaching the issue with respect for sovereignty, not isolation or pressure; 4) highest consideration for the North Koreans' right to live and expansion of humanitarian aid; 5) working to restore the DPRK's right to peace and development; and 6) promotion of inter-Korean dialogue on human rights.

Second, the South Korean government must actively make known that its policies of reconciliation and cooperation have contributed in no small way to the improvement of the human rights situation in North Korea. South Korean aid to the North, expanded during the Kim Dae-jung administration, alleviated the worst of the food crisis, and 10,885 people have participated in the eleven reunions of separated families held between 2000 and 2005. Furthermore, over 90% of the 5,694 North Korean refugees living in South Korea entered the country after 1999, when the policies of reconciliation and cooperation began in earnest. Although the extent may not be completely satisfactory, such policies have been comparatively successful in improving the human rights situation in North Korea. The Roh administration's policies, based on North Korean participation, have contributed in this regard. A systemic and rational mutual understanding is necessary to cultivate a broader Korean sense of sympathy.

Third, South Korea must persuade the U.S. and Japan that North Korean human rights should be approached through improved relations. Raising the issue of human rights in a hostile relationship only brews mistrust and incites opposition, which makes the improvement of relations and human rights that much more difficult. Normalization of relations, which in turn will lift the restrictions on North Korea's right to peace and development, should be pursued in tandem with attempts to improve human rights.

Fourth, along similar lines, working simultaneously towards improved relations and improved human rights is much more effective than "naming and shaming," for several reasons. If the financial sanctions are lifted and relations are normalized with the U.S. and Japan, North Korea will have no choice but to take steps to improve human rights, since it will become more difficult to control and manage its society. Furthermore, this would refute criticism that Washington and Tokyo are using human rights as a political tool and create the backdrop for international cooperation. Lastly, attempting to resolve the human rights issue will be more effective when dealing with a North Korea that is part of international society, rather than an isolated DPRK. As North Korea's entry into the global community picks up speed, it will understand and have greater incentive to adhere to international standards. This will also serve as a foundation for the cooperation of international society on the issue of North Korean human rights.

Finally, South Korea must endeavor to persuade the North through all levels of inter-Korean dialogue. It is not an exaggeration to say that North Korea, which rejects human rights concerns and reacts to them with mistrust, does not possess a perspective on human rights. Documenting the discussion of human rights in the international community and conveying concerns about North Korea's human rights record to Pyongyang can strengthen the basis for inter-Korean dialogue on the issue. Furthermore, before entering the phase of official governmental talks, the DPRK Foreign Ministry's Chosun Human Rights League and South Korea's National Human

Rights Commission can explore the possibility of dialogue. It is important to bear in mind that, given North Korea's unique process of policy-making, Kim Jong Il must agree to address human rights as part of inter-Korean talks. South Korea must find a means of directly persuading Kim, whether through a special envoy or an inter-Korean summit. Of course, in order to achieve this, Seoul must also actively build trust between the two Koreas.

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