

Prioritizing Human Rights in NK Denuclearization Policies of US Presidential Candidates

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With the latest nuclear weapons test by North Korea occurring only weeks before the first presidential debate,¹ the urgency for presidential candidates Hillary Clinton and Donald Trump to address this imminent danger has never been greater. However, in their responses to the provocation, neither candidate has linked human rights to denuclearization of North Korea. By focusing solely on the security threat, their policy solutions are placed outside the context of the ultimate priority, which—even above inducing regime collapse or denuclearization—should be ensuring the wellbeing of the North Korean people.² To better assess the candidates' competing recommendations, the impact of denuclearization strategies on North Korean citizens must be taken into consideration.

Contemporary South Korean Policy

We can start to connect denuclearization and human rights by examining the measures historically taken by South Korean counterparts. Since 1998, South Korea has approached the problem of North Korean human rights violations through two diplomatic strategies that are distinct in their adoption of different human rights norms. These are generally understood as engagement strategy and security strategy.³ By mapping the US presidential candidates' policies regarding engagement and security strategies, it may be possible to then forecast the effects on North Korean human rights.

Engagement strategy that sought to maintain dialogue and cooperation with North Korea was championed first by president Kim Dae-jung and then by his successor Roh Mu-hyun, both from the progressive wing. During this ten-year period from 1998 until 2008, South Korean policy towards the North was concerned largely with what Chonbuk National University Professor Moon Kyungyon has called Economic, Social, and Cultural Rights (ESCR) over Civil and Political Rights (CPR). The difference between the two is the area of North Korean life affected; ESCR includes issues such as food security and adequate housing that require solutions

¹ Choe Sang-hun and Jane Perlez, "North Korea Tests a Mightier Nuclear Bomb, Raising Tension," *New York Times*, Sept. 8, 2016, <http://www.nytimes.com/2016/09/09/world/asia/north-korea-nuclear-test.html>.

² Glyn Davis, "Statement before the Subcommittee on Asia and the Pacific of the House Committee on Foreign Affairs," US Policy Towards North Korea - US Department of State, July 30, 2014, <http://www.state.gov/p/eap/rls/rm/2014/07/229936.htm>

³ Evans J.R. Revere, "Facing the Facts: Towards a New U.S. North Korean Policy," Center for Northeast Asian Policy Studies - The Brookings Institution (2013): 3-10, <https://www.brookings.edu/wp-content/uploads/2016/06/16-north-korea-denuclearization-revere-paper.pdf>. Engagement strategies were defined by the 1998 Agreed Framework and several iterations of the Agreed Framework that structured Six-Party Talks. Security strategies most concerned with deterrence of a North Korean nuclear threat became dominant after North Korea twice tested Taepodong-2 ballistic missiles and its withdrawal from Six-Party Talks in 2009.

more closely associated with humanitarian aid, while CSR is related to issues like freedom of expression and fair judicial processes, or what is conventionally thought of as human rights.⁴

Kim Dae-jung's legacy Sunshine Policy defines this period because it humanized North Koreans as brothers and sisters. As a result of this pathos appeal, it was also characterized by a concerted national effort to deliver food aid and material goods to improve the lives of North Korean citizens. Despite major breakthroughs and stability in bilateral relations, in 2006 North Korea attempted its first ballistic missile launch breaking the Non-Proliferation Treaty and later withdrawing from the Six Party Talks altogether.

To many observers, appeasement had failed and it was believed that North Korea had simply taken advantage of South Korea's goodwill. This led to the next security policy era driven by the conservative administrations of Lee Myung-bak and current President Park Geun-hye. This period is characterized by highly tense relations during which a majority of North Korea's nuclear weapon and ballistic long-range missile tests have occurred, several small-scale military conflicts broke out, and Kim Jong-un was named supreme leader and Chairman of the Korean Workers' Party following his father's death. Both Presidents Lee and Park prioritized a CSR or human rights-focused agenda that cut all non-conditional humanitarian aid and large-scale engagement programs.⁵ This was constricting for humanitarian aid NGOs that were no longer permitted to make contact with or deliver unsanctioned support to the belligerent neighbor. However, in this new diplomatic stance, the CSR human rights NGO sector was allowed more freedom to operate. These NGOs help combat North Korea's limitation of access to information and cultivate political unrest within North Korea, leading to defections and increased regime instability. Interestingly, politically-oriented human rights NGOs were not always given this freedom during the Kim Dae-jung's Sunshine-policy era, as stability was prioritized over provocative political overtures.⁶

Effect of US Denuclearization Policy on Human Rights

To be clear, the purpose of this analysis is not to make the case for prioritizing political human rights over humanitarian aid. Both have complicated moral and strategic consequences and the value of their inclusion in foreign policy is dependent on fluid context. What can be achieved through this historical analysis, however, is a fuller understanding of the implications of US presidential candidates Hillary Clinton and Donald Trump's proposals for ending North Korea's nuclear weapons program. Again, this is crucial because even if Kim Jong-un turned over his nuclear arsenal to the UN International Atomic Energy Agency tomorrow, millions of North Koreans would still be starving or suffering in gulags as they did for decades before the nuclear program existed.

One item on which both candidates at least partially agree is the need for China's enhanced role in restraining North Korea. Historically, China has been averse to any

⁴ Moon Kyungyon, "South Korean Civil Society Organizations, Human Rights Norms, and North Korea," *Critical Asian Studies* 46, no. 1 (2014): 65-89, DOI: 10.1080/14672715.2014.863578.

⁵ *ibid.*

⁶ Kang Chol-Hwan (North Korea Strategy Center founder and president), interview by Alexander Borowski, October 17, 2016.

destabilization of North Korea and ignores its obligations to abide by non-refoulement agreements.⁷ Despite international pressure to intervene, China hopes to avoid the consequences of a Kim regime collapse, such as an influx of fleeing North Korean refugees and geopolitical repositioning on the Korean peninsula. We therefore have no reason to expect China to take on the burden of denuclearizing or invading North Korea, as Trump has advocated for.⁸

Clinton, on the other hand, has expressed a willingness to force Chinese multilateral cooperation by using the United States' Terminal High Altitude Air Defense (THAAD) as leverage.⁹ Because China would prefer to denuclearize North Korea rather than see its neighbors arm themselves with THAAD,¹⁰ the missile system may be useful for coercing China to cut off aid to North Korea in an effort to force North Korean cooperation on denuclearization.¹¹ In relation to its allies, the United States would find that the current South Korean security strategy is well-aligned with this policy. There is, however, an associated risk: this policy maintains focus on denuclearization and strategic deterrence without consideration for North Korean human rights. China's own human rights abuses against North Korean refugees might even be overlooked. To avoid this, the international community must reinforce the idea that international cooperation is beneficial to China and that by similarly abiding by agreements related to refugees and human rights, diplomatic gains could be realized.

Clinton has also proposed engaging North Korea in much the same way the Iran nuclear deal was brokered last year.¹² Though similar to the failed Leap Day Agreement in 2012, renewed negotiations without pre-conditions for denuclearization could at the very least give the United States diplomatic access to North Korea.¹³ This would be an opportunity to reintroduce human rights issues, an opportunity that was previously unavailable due to the strict conditions set by the Non-Proliferation Treaty and President Park's current security strategy. Also distinct from South Korean engagement strategies of the past, the goal of this engagement policy would be human rights, not unification or humanitarian assistance. Excluding the denuclearization issue

⁷ T. Kumar, "China's Repatriation of North Korean Refugees," *Testimony before Congressional-Executive Commission on China* - Amnesty International USA, Mar. 5, 2012, <http://www.amnestyusa.org/news/news-item/china-s-repatriation-of-north-korean-refugees>.

This principle was first established in Article 33 of the 1951 Convention Relating to the Status of Refugees.

⁸ JH Ahn, "China should go into North Korea' – Donald Trump," *NK News*, Sept. 27, 2016, <https://www.nknews.org/2016/09/china-should-go-into-north-korea-donald-trump/>.

⁹ Neil Connor, "Clinton vowed to 'ring' China with missiles over North Korea threat, leaked emails say," *Telegraph*, Oct. 14, 2016, <http://www.telegraph.co.uk/news/2016/10/14/clinton-vowed-to-ring-china-with-missiles-over-north-korea-threa/>.

¹⁰ Zheng Jiyong, "Chapter 7: The North Korea Problem and China," *The North Korean Crisis and Regional Responses* - East-West Center (2015): 100-113, <http://www.eastwestcenter.org/system/tdf/private/northkoreacrisis.pdf?file=1>.

¹¹ Jay Lefkowitz, "A North Korea Strategy for the Next U.S. President," *Wall Street Journal*, Sept. 29, 2016.

¹² Josh Rogin, "Clinton Plans to Use the Iran Playbook on North Korea," *Bloomberg*, May 17, 2016, <https://www.bloomberg.com/view/articles/2016-05-17/clinton-plans-to-use-the-iran-playbook-on-north-korea>.

¹³ Jane Harman and James Person, "The U.S. needs to negotiate with North Korea," *Washington Post*, Sept. 30, 2016, https://www.washingtonpost.com/opinions/global-opinions/the-us-needs-to-negotiate-with-north-korea/2016/09/30/c1f0123e-85b2-11e6-92c2-14b64f3d453f_story.html?utm_term=.98b49e20d136.

from negotiations would be contentious, but denuclearization could still be achieved in the long-run through bargaining for incremental improvements in political freedoms.

Kim Tae-woo, professor at Konyang University and former President of the Korea Institute for National Unification, theorizes that North Korean citizens may feel more empowered to resist the regime's control if political freedom is gradually ceded by the Kim regime. According to Professor Kim, civil disobedience in its most extreme form would eventually force the Kim regime to make a choice between funding its weapons program and appeasing the North Korean people to maintain internal stability.¹⁴ While it is unclear how much sacrifice would be required of the North Korean people to achieve this, it is certain that the Kim regime does not bend to external force. Promoting domestic upheaval appears to be one of the only remaining options.

Lastly, Trump has proposed that South Korea and Japan begin their own nuclear programs should they decline to contribute more funding to the US military and US forces withdraw.¹⁵ With additional nuclear weapons in a more threatening proximity, China would be motivated to continue propping up North Korea as a buffer against South Korea and Japan for security and diplomatic benefits.¹⁶ North Korea would also commit more heavily to external security over internal political stability. In the resulting "cold war" stand-off scenario, human rights in North Korea would continue to decline as even more funds are siphoned away from the public economy for militarization.

Trump's proposal to walk away from the United States' Northeast Asia alliances and aggressively confront China on economic issues would harm the core of the long-term strategy needed to end North Korean nuclearization. Despite all the differences among South Korea, Japan, and China, encouraging trilateral cooperation in promising areas of agreement, like trade and energy security, is the first step in coalition-building and convincing China to pursue the common interest of denuclearizing North Korea.¹⁷ This confidence-building among allies has been correctly identified by Clinton as the more pragmatic course of action. Reassuring allies of our commitment to treaties signals solidarity and more importantly, puts pressure on China to take action towards North Korea.

Over the last several decades of hostility with North Korea, it has become clear that new solutions are needed and long-term problems require long-term solutions. Trump's proposals are by definition novel, but only because no one has ever before suggested a course of action so reckless and ill-conceived. It will be up to Clinton to prove if she can develop her strategy into something truly unique that is inclusive of human rights. The North Korean people need a change, not just something different for the sake of being different, but a real strategy that puts their lives at the center of the discussion.

¹⁴ Kim Tae Woo, "Human Rights in North Korea: The Real Key to Denuclearization," *The Diplomat*, July 25, 2016, <http://thediplomat.com/2016/07/human-rights-in-north-korea-the-real-key-to-denuclearization/>.

¹⁵ Choi Ha-young, "S.Korean media, experts criticize Trump's U.S. withdrawal remarks," *NK News*, Mar. 28, 2016, <https://www.nknews.org/2016/03/s-korean-media-experts-refute-trumps-u-s-withdrawal-remarks/>.

¹⁶ Bosco, *The National Interest*.

¹⁷ Kim Suk-hi, "The Survival of North Korea: A Case for Rethinking the U.S.-North Korea Nuclear Standoff," *North Korean Review* 11, no. 1 (2015):108-110, <http://search.proquest.com.proxyau.wrlc.org/docview/1681111391?pq-origsite=summon&accountid=8285>.