



After North Korea's Fifth Nuclear Test: The Case for Smart Pressure and Civil Empowerment

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To the exasperation of the international community, including China, the fifth nuclear test bomb exploded on Friday, September 9, 2016¹. Both Washington and Seoul are increasingly fed up with Kim Jong-un's provocations, but are not sure how to respond appropriately. They see no viable and acceptable path to change on the Korean peninsula as long as the regime remains intransigent about its military-first, economic development-maybe, and human rights-never policy². No one wants to risk war, yet no one wants to acquiesce to an unpredictable nuclear state. Policy options are now limited more than ever, but only smart pressure, through more effectively targeted sanctions and human rights efforts, makes sense in the current situation.

Experts' consensus in the aftermath of the latest nuclear test seems to be that past sanctions evidently have not been successful in affecting regime behavior in any positive way³. As Victor Cha, North Korea Chair at CSIS, notes, sanctions "are supposed to inflict enough pain so the regime comes back to the negotiation table, and that's clearly not working; or it's supposed to collapse the regime until it starves, and that's not working either."⁴ There is now good reason to believe that nukes do not serve Kim Jong-un as deterrence gadgets or bargaining chips, but primarily as life extension devices preserving his domestic legitimacy⁵. This hypothesis suggests that it will be even tougher to bring about any change with President Obama's strategic patience policy and slow

¹ Al Jazeera, "North Korea Nuclear Test: World Leaders React," *Al Jazeera*, September 9, 2016, <http://www.aljazeera.com/news/2016/09/north-korea-nuclear-test-world-leaders-react-160909055255360.html>

² Georgy Toloraya, "Deciphering North Korean Economic Policy Intentions," *38 North*, July 26, 2016, <http://38north.org/2016/07/gtoloraya072616/>

³ John Hudson and David Francis, "Why Did Sanctions Fail Against North Korea," *Foreign Policy*, September 9, 2016, <http://foreignpolicy.com/2016/09/09/why-did-sanctions-fail-against-north-korea/>

⁴ David E. Sanger, Choe Sang-Hun and Jane Perlez, "A Big Blast in North Korea, and Big Questions on U.S. Policy," *The New York Times*, September 9, 2016, <http://www.nytimes.com/2016/09/10/world/asia/north-korea-nuclear-test.html>

⁵ Scott A. Synder, "North Korea's Fifth Nuclear Test and the International Response," *Council on Foreign Relations*, September 9, 2016, <http://blogs.cfr.org/asia/2016/09/09/north-koreas-fifth-nuclear-test-and-the-international-response/>



ramp up of the usual sanctions only. According to a recent study by John Park and Jim Walsh from the MIT Security Studies Program⁶, these sanctions even had the net effect of improving the D.P.R.K.'s procurement capabilities.

It remains to be seen what the next administrations in Washington and Seoul will present to the table after a necessary policy review. Secretary Clinton, for example, calls for expanded sanctions, more pressure on China, and a broadened missile-defense program⁷. In the meantime, however, it is worthwhile to ponder how policymakers can design more effective sanctions and other actions that build on how central the issue of domestic legitimacy appears to be for Kim Jong-un's strategic calculus.

To dismantle domestic legitimacy, the people of North Korea have to become disillusioned from state ideology and propaganda. Targeted sanctions on elite figures and on grounds of human rights abuses in particular make clear that complicity in grave violations of international obligations comes with personal costs and international condemnation. These kind of sanctions should be coupled with supporting information dissemination into North Korea making the case for possible alternatives to nuclear fixation, famine, and gulags. Undermining loyalty by encouraging disappointment would not just threaten Kim Jong-un's one-man power position in the short term, but would make it ever harder for him to justify nukes and a closed off, oppressed society.

Everyone knows this, but is hesitant to admit it: The usual multilateral or unilateral sanctions, most likely coming very soon⁸, are highly unlikely to convince Kim Jong-un that he should suddenly be giving up his nuclear arsenal. That is why the main purpose of upcoming sanctions shouldn't be to produce an environment that is conducive for dialogue and negotiations, but to try to empower civil society and encourage grassroots and elite unrest. Here, addressing the issue of human rights comes into play.

⁶ John Park and Jim Walsh, "Stopping North Korea, Inc.: Sanctions Effectiveness and Unintended Consequences", August, 2016, http://web.mit.edu/ssp/people/walsh/Stopping%20North%20Korea%20Inc_Park%20%20Walsh_FINAL.pdf

⁷ "Statement from Hillary Clinton on North Korea's Nuclear Test," last modified September, 9, 2016, <https://www.hillaryclinton.com/briefing/statements/2016/09/09/statement-from-hillary-clinton-on-north-koreas-nuclear-test/>

⁸ Lee Sung-Eun, "Seoul, Washington search for new sanctions," *Korea JoongAng Daily*, September 12, 2016, <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3023723>

This year, some experiments have already been made with addressing human rights through legislative acts, targeted sanctions, and public statements, but it is too soon to say how effective these really have been. Nevertheless, the rising number of defectors from the most privileged and loyal circles in particular⁹, hints to growing dissatisfaction within the hermit kingdom and may indicate that concerted sanction pressure can work this way. Well-off people in Pyongyang and abroad are starting to feel the economic pressure and are increasingly willing to risk a run. According to the Unification Ministry¹⁰, in the first half of 2016 around 815 North Koreans fled their country, up 15 percent compared to last year, and recent elite defections made headlines worldwide¹¹.

It is a change in the right direction that, for example, H.R. 757 North Korea Sanctions and Policy Enhancement Act of 2016¹², enacted in February 2016 – shortly after North Korea’s fourth nuclear test, or the most recent UNSCR 2270 sanctions approved in March¹³, have tried to identify and punish those individuals who are to be believed to have caused the most harm. Additionally, for the first time ever, Kim Jong-un and other senior officials were individually blacklisted by the U.S. Department of State on grounds of “serious human rights abuses, including extrajudicial killings, forced labor and torture” in July¹⁴, and a North Korea human rights law finally passed the South Korean National Assembly in September¹⁵.

⁹ Park Boram, “Sanctions-squeezed N. Korea witnesses exodus of the elite,” *Yonhap News Agency*, August 17, 2016, <http://english.yonhapnews.co.kr/national/2016/08/17/0301000000AEN20160817010500315.html>

¹⁰ Lee Yong-soo, “N. Korean Defections on the Rise Again,” *The Chosun Ilbo*, August 3, 2016, http://english.chosun.com/site/data/html_dir/2016/08/03/2016080301647.html

¹¹ Jonathan Cheng and Eun-Young Jeong, “North Korean Diplomat’s Defection Gives Seoul a Rare Window into the Elite,” August 18, 2016, <http://www.wsj.com/articles/north-korean-diplomats-defection-provides-south-with-rare-opportunity-1471522644>

¹² “H.R.757 – North Korea Sanctions and Policy Enhancement Act of 2016,” last accessed September 16, 2016, <https://www.congress.gov/bill/114th-congress/house-bill/757/text>

¹³ Richard Nephew, “UN Security Council’s New Sanctions on the DPRK,” *38 North*, March 2, 2016, <http://38north.org/2016/03/rnephew030216/>

¹⁴ Chang Jae-Soon, “U.S. imposes sanctions on N. Korean leader over human rights abuses,” *Yonhap News Agency*, July 7, 2016, <http://english.yonhapnews.co.kr/national/2016/07/06/0301000000AEN20160706013754315.html>

¹⁵ Chang Jae-Soon, “U.S. welcomes S. Korea’s law on N. Korea’s human rights,” September 6, 2016, <http://www.koreaherald.com/view.php?ud=20160907000194>



Remaining on the agenda is a clear statement in support of massive information dissemination efforts. That is why U.S. Congress should now be addressing House Representative Matt Salmon's H.R. 4501 Distribution and Promotion of Rights and Knowledge Act of 2016¹⁶, which updates the successful H.R. 4011 North Korea Human Rights Act of 2004¹⁷, signed into law by President Bush and reauthorized every four years since. Salmon fights for "freedom of information and democracy" in North Korea and wants to support programs that utilize modern technology ("USB drives, micro SD cards, audio players, video players, cell phones, wi-fi, wireless internet, webpages, internet, wireless telecommunications, and other electronic media that shares information") and diverse content materials ("culture, rights and laws") to empower the people.

There are, of course, limits to what both sanctions and civil empowerment can achieve. North Korea can bear high costs and has shown willingness to do so. Smart pressure, however, can sidestep Kim Jong-un as the one determining our strategic choices, and work regardless of whether it influences his behavior or not. To shift the focus from nuclear tests to civil society is to use resources for what we can actually influence from what we clearly cannot.

¹⁶ "H.R. 4501, Distribution and Promotion of Rights and Knowledge Act of 2016," accessed September 16, 2016, <https://foreignaffairs.house.gov/legislation/h-r-4501-distribution-promotion-rights-knowledge-act-2016/>

¹⁷ "H.R.4011 – North Korean Human Rights Act of 2004," accessed September 16, 2016, <https://www.congress.gov/bill/108th-congress/house-bill/4011>