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Trends in the International Community's North Korean Rights Approach and Policy Directions

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Abstract

The new Yoon Seok-young government believes values and norms are important for its foreign policy. The Yoon government has also indicated a strong determination to improve the human rights situation faced by the North Korean people – emphasizing the role of international cooperation and solidarity in doing so. It is important to closely analyze the strategies pursued by international actors including the UN and other states in order to develop a detailed plan for cooperation that will help improve the effectiveness of the government's North Korean human rights policy.

To play a leading role in the improvement of North Korea's human rights situation through international solidarity, the government must set firm principles and adhere to a consistent set of policies. In so doing, it should be able to gain the trust and support of the international community. However, while holding to firm principles, it is also important to consider tangible results, which is an actual improvement of human rights situation in North Korea, and be willing to show flexibility when seeking to implement policy.

The government should be able to foster international solidarity and improve the actual human rights situation for the North Korean people, by establishing clear principles, creating a detailed plan to implement policy, and constructing an efficient policy implementation framework.

※ The views expressed in this paper are entirely those of the author and are not to be construed as representing those of the Korea Institute for National Unification (KINU).

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1. Foreign Policy Strategy and North Korean Human Rights Policy

The new government has set out the core aim of its foreign policy strategy as acting to preserve and further develop the rules-based international order as a ‘global pivotal nation which contributes to liberty, peace, and prosperity (Policy Goal No. 5).’ President Yoon Seok-young stressed in his inaugural address that the Republic of Korea (below ‘South Korea’) “as a trusted member of the international community” would play a leading role with respect to universal values, especially freedoms and human rights.

At the same time, the new government also declared that it was determined to improve North Korea’s human rights situation. In order to do so, it stressed the need for international cooperation and solidarity above all else. It is important to conduct close analysis of the strategies pursued by the international community including the UN and separate states. From here, the task will be to create a detailed plan to strengthen solidarity in order to ensure the effectiveness of human rights policy. This article will examine the strategies and activities aimed at improving North Korean human rights pursued by the international community. It will then set out the basic direction for the effective pursuit of human rights policy through international solidarity.

2. Global North Korean Human Rights Strategy and Trends

a. The UN’s Strategy and Directions

One of the key features of the international community’s approach to improving North Korean human rights is the centrality of ‘accountability’ in the activities of the UN Commission of Inquiry (COI), established in 2013. The UN has sought to boost international interest in and support for the accountability agenda, and continues to provide an institutional basis for dealing with the problem of accountability.

First, a range of UN institutions continue to deal with the issue of accountability. Their activities include: UN Human Rights Council and General Assembly Human Rights resolutions, reports of the UN High Commissioner for Human Rights submitted to the UN Human Rights Council (Promoting accountability in the Democratic People's Republic of Korea) and verbal reports (in 2019 and 2021), and the Navigating Avenues for Accountability in the DPRK workshop (hosted by the UN Human Rights High Commissioner in Seoul, December 8, 2021).

Second, the UN Human Rights High Commissioner in Seoul was set up in June 2015 to “strengthen the monitoring of North Korea’s human rights situation and promote the preservation of evidence in order to hold human rights violators accountable.”

Third, pursuant to the resolution passed by the UN Human Rights Council in 2016, an ‘independent group of experts on accountability’ was set up to explore appropriate approaches to seek accountability and recommend practical mechanisms of accountability.

Fourth, the UN Human Rights Council decided to set up an office in Seoul to monitor cases of human rights violations within North Korea, especially cases that constitute crimes against humanity, and strengthen record-keeping capacity of human rights office in Seoul. The Council did so to implement the recommendations of the independent panel of experts with a North Korean human rights resolution it passed. A part of the OHCHR office in Seoul’s activities included the creation of a Central Information and Evidence Repository.

Another characteristic trend is the UN Security Council (UNSC), which handles security and peace issues, putting the North Korean human rights issue on its agenda between 2014 and 2017. Since then, in 2020 and 2021, there were private discussions in the UNSC, but it has not been able to discuss the North Korean human rights issue publicly since 2018.

b. Individual States' Strategies and Trends

(1) Sanctions targeting human rights violations

Of late, another characteristic feature of the strategic approaches to North Korean human rights issues is the sanctioning, by individual states or organizations such as the US and the EU, of specific individuals and groups for their alleged involvement in human rights abuses. These sanctions take two forms.

Firstly, there are states like the US who single out North Korea with specific human rights sanctions. The North Korea Sanctions and Policy Enforcement Act of 2016 (H.R.757), which came into force in February 2016, created the legal basis to sanction North Korea for its weapons of mass destruction and human rights abuses. The law stipulates that the US government can sanction those responsible for censorship and serious human rights abuses within North Korea. To date, on six separate occasions (March and July 2016; January, August, and October 2017; December 2018), the US Treasury has designated 31 individuals, including Kim Jong Un, and 13 institutions.

Secondly, there are organizations like the EU and states like the UK that have implemented human rights sanctions regimes that target all countries deemed to be human rights abusers. They have made North Korea subject to these sanctions regimes. The EU has created a framework to resolve serious human rights problems across the world with targeted and limited measures – a global sanctions regime that mandates asset freezes. Under this regime, the EU designated Chong Gyong Thaek (Minister of State Security), Ri Yong Gil (Minister of Social Security) and the Central Prosecutor's Office. The UK Parliament passed the Sanctions and Anti-Money Laundering Act in 2018, and has since designated the Seventh Department of the Ministry of State Security (responsible for operating political concentration camps), and the reeducation bureau of the Ministry of Social Security (responsible for operating reeducation camps).

(2) Grants

If a North Korean human rights foundation is set up, as agreed upon by the ruling and opposing parties and articulated in the Article 10 of North Korean Human Rights Act, it must consider the grants provided by the US government to support improving the human rights situation in North Korea. In 2021, the US State Department focused on providing financial support to programs that seek to facilitate the free flow of information into and out of North Korea. Alongside this, the State Department also funds programs that seek accountability for large-scale human rights abuses inside North Korea. The Notice of Funding Opportunity released on the State Department's website lists four funding priorities, an expanding number.¹⁾ These priorities are listed below.

- (1) Fostering accountability for serious human rights abuses and transnational repression
- (2) Advancing the rights of women and girls
- (3) Promoting the rights of persons with disabilities
- (4) Strengthening labor rights and protections

The National Endowment for Democracy (NED) also funds North Korean human rights organizations' activities. Its funding for freedom of information makes up the bulk of its program support, and the following five represent its major priorities.

- (1) Promoting freedom of information
- (2) Recording North Korean human rights abuses, raising awareness of the North Korean human rights issues, and activities aimed at promoting accountability
- (3) Strengthening North Korean refugee student leadership and promoting

1) Bureau of Democracy, Human Rights, and Labor, "DRL Notice of Funding Opportunity(NOFO): Advancing Human Rights and Fundamental Freedoms in the Democratic People's Republic of Korea," Funding Opportunity Announcement, April 20, 2022, <<https://www.state.gov/drl-notice-of-funding-opportunity-nofo-advancing-human-rights-and-fundamental-freedoms-in-the-democratic-peoples-republic-of-korea-dprk-or-north-korea/>> (Accessed June 3, 2022).

their participation in human rights and democracy-related activities

(4) Improving North Korean refugee political leadership

(5) Activities to develop North Korea's market economy

(3) Pursuit of laws to support Korean American family reunification

US Congress has continued to show interest in Korean American family reunification issues. This has taken shape with the introduction of bills. For instance, the Divided Families Reunification Act (H.R.826) was introduced in the 117th Congress and was passed by the House of Representatives on July 19, 2021. After its passage through the lower house, it was immediately introduced in the Senate by Democratic Senator Mazie Hirono, with bipartisan support, as the Korean War Divided Families Reunification Act (S.2688). At present, it is currently pending review by the Senate Foreign Relations Committee.

Another feature of US Congress's involvement in the issue of family reunification is to be found in the North Korean Human Rights Reauthorization Act 2022. This act extends the powers granted under the existing North Korean Human Rights Act. The family issue is dealt with in section 8 of the reauthorization act introduced in the House ('Sense of Congress Regarding Korean-American Divided Families'). Both the Divided Families Reunification Act and the North Korean Human Rights Reauthorization Act 2022 stipulate that the US government should pursue cooperation with the South Korean government on Korean American family reunions. Although not yet appointed, the US Special Envoy on North Korean Human Rights Issues is expected to play an important role in such efforts.

(4) Critical views of South Korea's ban on leaflet balloons in the US

The US administration and Congress have expressed interest in the amendment to the Act on the Development of North-South Relations banning the sending of balloons (with leaflets or other items attached) into the North.

Both have expressed concern about the law, linking it to North Korean human rights issues and freedom of speech within South Korea.

US State Department's 2020 Country Reports on Human Rights Practices: Republic of Korea, Section 2 'Respect for Civil Liberties' A. Freedom of Expression discusses the amendment to the Act on the Development of North-South Relations. The report utilizes the notion of freedom of expression in accounting for the controversy in South Korea over such an amendment, which bans the act of disseminating or moving leaflets across the inter-Korean border to North Korea. Further, the bipartisan Congressional Tom Lantos Human Rights Commission held a hearing entitled 'Civil and Political Rights in the Republic of Korea: Implications for Human Rights on the Peninsula.' As can be seen in the title, the hearing was related to North Korean human rights, but it actually focused on the exercise of rights within South Korea.

(5) International Interest in South Koreans detained in North Korea

The 2017 UN General Assembly resolution on North Korean human rights includes the following: "[the General Assembly] Strongly urges the Government of the Democratic People's Republic of Korea to respect fully all human rights and fundamental freedoms and, in this regard: [...] (g) To provide citizens of other countries detained in the Democratic People's Republic of Korea with protections, including freedom of communication with, and access to, consular officers in accordance with the Vienna Convention on Consular Relations."²⁾ Following this, the EU and the US have shown interest in South Koreans detained in North Korea. In particular, in 2021, the US State Department, in its annual country report on North Korea's human rights situation mentioned the fact for the first time in section 1, part d entitled 'Arbitrary Arrest or Detention' that six South Koreans are detained in North Korea. The core issue cited is the provision of protections of rights and protections under the Vienna

2) United Nations, General Assembly, *Situation of human rights in the Democratic People's Republic of Korea*, 72/188 (19 December 2017), available from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/462/47/PDF/N1746247.pdf?OpenElement>.

Convention, which South Korean detainees lack.

c. North Korea's Position

The North Korean Foreign Ministry has released a number of statements attacking the international community's accountability agenda and human rights sanctions. It has alleged that this is part of a 'hostile policy targeting the North,' which violates the country's sovereignty, and a political provocation aimed at interfering in its internal affairs. Pyongyang alleges that the UN's North Korean Human Rights resolutions, its pursuit of accountability and its human rights-related sanctions are instigated by the US, or else done in cooperation with the US in order to advance its hostile policy towards the North.

Further, the North Korean Foreign Ministry's spokesperson issued the following attack about the UK's North Korea human rights sanctions: "This act of the UK is a despicable political scheme which follows in the footsteps of the U.S. hostile policy towards the DPRK."³⁾ Pyongyang has also asserted that a strategy of pressure presents a threat to the North Korean system and regime, and is an insult to the 'supreme dignity' of the country, with 'sovereignty being human rights.'

As mentioned above, the accountability agenda and sanctions against human rights abuses and abusers have been put in place both by the UN and unilaterally by individual states. Each member state of the UN is subject to the Universal Periodic Review process with respect to their human rights situation, and is required to cooperate with the submission of reports under international human rights treaties. All UN member states are subject to the process, and North Korea actively participates. The North sees the treaty bodies concerned as not being particularly political, so it is relatively cooperative with submitting country reports pursuant to human rights treaties.

However, with respect to the International Covenant on Civil and Political

3) "Answer of Spokesperson for DPRK Ministry of Foreign Affairs," 『Korean Central News Agency』, 2020.7.11.

Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), North Korea submitted its second set of reports in 2000 and 2001 respectively, but has not submitted its third round of reports. In 1997, after a sub-commission of the UN Commission on Human Rights adopted a resolution on North Korean human rights, Pyongyang reacted negatively and declared it was leaving the ICCPR. In September 2014, North Korea's Association for Human Rights Studies similarly denounced UN human rights-related work. Conversely, the country continued to show itself to be relatively proactive in submitting reports as part of its obligations under the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of Persons with Disabilities. Further, North Korea allowed Catalina Devandas Aguilar, the then-United Nations Special Rapporteur on the Rights of Persons with Disabilities, to visit the country from May 2-9, 2017 for the first time. The Special Rapporteur's visit was part of a special process under the UN Human Rights Council's mandate on the rights of persons with disabilities.

3. Directions in Policy Targeting North Korean Human Rights

The new government has indicated a strong determination to play a leading role in improving North Korean human rights in solidarity with the international community. The Moon Jae-in government prioritized inter-Korean relations and peace. In the process, its policies were criticized for evincing passivity and a lack of coherence with respect to the North Korean human rights issue. Leadership on the North Korean human rights issue through international solidarity will require the establishment of a firm sets of principles and adherence to a consistent set of policies. By doing so, the government can attain the trust and support of the international community. However, there is a need to demonstrate flexibility in the pursuit of policy, even while adhering to strong principles, in order to achieve real improvements in North Korea's human rights situation.

There is no need to worry in advance about how the North might react. But actually improving the human rights situation faced by the North Korean people will still require nuanced understanding of the North Korean authorities' attitude. On the basis of this, the government should be wise in how it designs a detailed strategy for solidarity composed of multiple levels and approaches. First, a strategy must be formulated that expands cooperation and solidarity with the international community. This strategy should account for the positive and cooperative attitude Pyongyang has demonstrated with respect to UPR submissions made pursuant to international human rights treaties in at least some areas, and also help improve inter-Korean relations.

At the same time, the government must clearly set out views on how it will seek solidarity regarding the international community's human rights strategy, and to what extent. In particular, it is important to do this with respect to the approaches that North Korea rejects – human rights resolutions targeting Pyongyang, the accountability agenda, human rights sanctions et al. – i.e., what Pyongyang considers part of a 'hostile policy.' Having taken such a clear position, the government will need to draw up a detailed strategy to promote solidarity with the international community regarding what North Korea calls the world's 'hostile policy.'

Further, the government must put together a multi-level approach that connects actors including the UN, separate countries and international NGOs and their varied strategies and fosters solidarity in concrete ways. With respect to North Korean human rights resolutions and accountability, it may be more realistic for the government to consider supporting multilateral approaches. Rather than announcing the official stance separately at the government level on a resolution of human rights in North Korea or on matters of accountability, it is more desirable and realistic to show endorsement by participating in UN human rights mechanisms alongside other member states, such as co-sponsoring North Korean human rights resolutions.

The government's policy framework to advance North Korean human rights must be repaired in order for Seoul to play a leading role as a 'global pivotal

state' through international solidarity. Relevant government agencies, including the Ministry of Unification and the Ministry of Foreign Affairs, need to be brought together in a North Korea Human Rights Policy Consultative Group (tentatively named). The Group should work on a thorough review and adjustment of policy to make future policy efficient. The government must strengthen its North Korea human rights diplomacy going forward by utilizing such an approach. In order to do so, a North Korean human rights foreign policy framework must be established around the Ambassador-at-large on North Korean Human Rights position (currently vacant) to work with the UN, individual states, and international NGOs.

In particular, detailed plans for cooperation between Seoul and Washington need to be put in place. These should account for legislative trends, including the North Korean Human Rights Reauthorization Act 2022, the Family Reunification Act et al., and critical views of South Korea's approach to North Korean human rights within the United States. A channel for discussing cooperation centered on the Ambassador-at-large on North Korean Human Rights and the US Special Envoy for North Korean Human Rights Issues (also currently vacant) should be established.

Of late, in the human rights field, the role of human rights NGOs has expanded alongside international organizations such as the UN. When an international solidarity plan is drawn up, a framework that shares responsibilities with human rights NGOs needs to be created. In order to do so, principles and the direction for public-private cooperation should be put in place, and a framework that facilitates an efficient division of labor created. First of all, the government should set up such systems to work with domestic North Korean human rights organizations, but in such a way that can expand cooperation internationally with a detailed framework for role-sharing. Regarding role-sharing, if a North Korean human rights foundation is established, funding principles and specific plans must be put in place for offering financial support to North Korean human rights organizations, in cooperation with the US.

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The government should strengthen policy infrastructure to improve North Korean human rights and put in place measures to increase domestic and international support for North Korean human rights policy. The reason why a North Korean human rights foundation has not yet been established is that there is a need to raise awareness about such a project with the Korean people and build support for it. Opposition party cooperation is also needed, through popular support. Domestic, inter-Korean and international (cooperation with the US) factors are bound up with the ban on balloon launches to North Korea. To minimize the negative impacts of the ban on domestic conflicts, inter-Korean relations, and international solidarity, it is necessary to consider inter-Korean agreements, domestic and overseas public opinion, and to carefully approach the issue of amending the law.

The government must show itself to be wise in pressing forward with international solidarity, and succeed in establishing clear principles, developing detailed plans for actual policy implementation, building an efficient policy implementation framework, and actually improving the human rights of North Koreans. © KINU 2022