

# Human Rights and Humanitarian Intervention: The North Korean Case

## 인권과 인도주의적 개입 문제: 북한의 경우

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### Abstract

From the publication of the UN Human Rights Commission report in February to the adoption of the UN General Assembly resolution (and referral to the Security Council) in December, North Korean human rights was in 2014 a subject of major international attention. This paper critically assesses the background, framework, and assumptions of these various expressions of global concern, considers the current trajectory of the movement to denounce North Korea and seek punishment of its leaders for their human rights record, and asks whether there might be any alternative.

□ Key words: North Korea, evil, human rights, humanitarian intervention, United Nations

### 초록

2월의 유엔 인권위원회의 보고서 발간부터 10월의 유엔 총회 결의 채택(그리고 안 전보장이사회 회부)에 이르기까지 북한 인권은 2014년에 국제사회의 큰 주목을 받는 주제였다. 이 논문은 이러한 다양한 국제적 관심의 표현의 배경, 틀, 그리고 가정을 비판적으로 평가하고, 북한의 인권 기록 때문에 북한을 비난하고 그 지도자들을 처벌하려는 최근 움직임의 진행과정을 살핀 후, 다른 대안이 존재하는지 질문을 제기하겠다.

□ 주제어: 북한, 악, 인권, 인도주의적 개입, 유엔

## I. Framing the Problem

North Korea is surely the product of extraordinary 20<sup>th</sup> century circumstances, shaped by Japanese colonialism (and resistance to it), post-colonial division, fratricidal civil and then international war and bitter subsequent Cold War antagonism, and it has been subject to perennial sanctions and isolation. Its patriarchal, dynastic social and political order reflects its many unresolved contradictions, and it appears to resist either a Western (“universal” democratic) reform future or a post (or neo-) socialist one. The difficulty of the choice is plain. But the question is whether, by some kind of political DNA, North Korea is also “evil.” Such a view appears to be spreading. It is accompanied by the assumption that international intervention might be necessary to rescue its people, dismantle its political system and remove and punish its current leaders as criminals.

This paper inclines to the view that the “humanitarian intervention” view is unlikely to help advance the goals of democracy and human rights, and that the best prospect for resolution of the so-called “North Korea problem” lies, not in moralistic denunciation of the state for its failings but in a negotiated settlement aimed at “normalizing” relations with the existing regime, even guaranteeing its security while engaging extensively with it on economic, political, social, and eventually military fronts. The record shows that when the former (humanitarian interventionist) view prevails, the situation worsens, when the later (a kind of “realist”) view prevails, resolution is possible and that it has at times been tantalizingly close.

In its current usage, it was President George W. Bush who first applied the adjective “evil” to North Korea when he included the country in the “axis of evil” which he declared in his State of the Union address of January 2002. With North Korea thus its embodiment, Dick Cheney is reported to have said in 2003, unambiguously, “We don’t negotiate with evil, we defeat it.”<sup>1)</sup> US actions came to be based on a combination of something called the “Illicit Activities Initiative,” the brainchild of Vice-President Cheney<sup>2)</sup>, and a design from Donald Rumsfeld’s Pentagon under what was known as “Operation Plan 5030” to subvert North

1) Quoted in Jim Lobe, “Realism strikes root in Washington,” *Asia Times*, 26 June 2004.

2) Funabashi Yoichi, “Chosen hanto dai niji kiki no butaiura,” *Asahi shimbun*, 21 October 2006; *Za peninsura kueshon*, 545, 648.

Korea by ways means short of actual war, including “disrupting financial networks and sowing disinformation<sup>3)</sup>.” The Iraq that Cheney contemplated a decade or so ago no longer exists. Approaches towards normalizing relations with Iran proceed. So only North Korea remains, and the view of it as evil has if anything strengthened.

Supervision of policy shifted from “realists” in the State Department to a highly charged and highly ideological group directed by Vice-President Dick Cheney and coordinated by Under-Secretary for Arms Control Bob Joseph, who were determined to squeeze North Korea on every front, especially in regard to its alleged illegal activities and its human rights record. In keeping with this framework, a “North Korean Human Rights Act” was adopted in July 2004, following a unanimous vote in both Houses of Congress.

In June 2005 the George W. Bush White House fêted (and encouraged a wave of global media attention to) the story of an escapee from the North Korean gulag.<sup>4)</sup> As I noted at the time, it was not that Kang Chol-Hwan’s story did not warrant telling, but that its contextual frame was missing since at almost precisely the same time, another story, of a victim of the South Korean torture state, Suh Sung, was published, telling of an even longer (19 years) horror spell of incarceration and torture in South Korea.<sup>5)</sup> I wrote at the time,

The picture presented by Suh of his long imprisonment in South Korea is almost the reverse image of Kang’s picture of North Korea. Where Kang attributed the brutality and oppression of his gulag to ‘communism,’ Suh attributes his to anti-communism. One is blind to the gulags of the South, and the other is blind to those of the North ...<sup>6)</sup>

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- 3) Bruce B. Auster and Kevin Whitelaw, “Upping the Ante for Kim Jong Il: Pentagon Plan 5030, a New Blueprint for Facing Down North Korea,” *U.S. News and World Report*, 21 July 2003. [www.usnews.com/usnews/news/articles/030721/21korea.htm](http://www.usnews.com/usnews/news/articles/030721/21korea.htm).
  - 4) Kang Chol-Hwan, with Pierre Rigoulet, *The Aquariums of Pyongyang: Ten Years in the North Korean Gulag*(New York: Basic Books, 2001).
  - 5) Suh Sung, *Unbroken Spirits: Nineteen years in South Korea’s Gulag*(New York: Rowman and Littlefield, 2001).
  - 6) “A North Korean visitor to the White House,” *Japan Focus*, 17 July 2005, <http://www.japanfocus.org/~Gavan-McCormack/2096>

The plight of both was rooted in the division of the peninsula between forces representing competing world views, yet the US-led global community was interested only in the suffering of the Northern victim. Suh Sung's story, no less horrendous, remained known only to small, specialist circles.

Shortly afterwards, in August 2005 a special US envoy for North Korean Human Rights was appointed<sup>7)</sup>, and in December, the UN General Assembly adopted Resolution 10437, supported by Japan, the US, and the European Union, condemning North Korea for multiple human rights abuses, listing torture, public executions, the lack of due process, extensive use of forced labour, high rates of infant malnutrition, etc<sup>8)</sup>. US propaganda against the North Korean regime was duly stepped up, radio receivers (later various devices for circulation of film material) secretly infiltrated into the country, and funding substantially increased for anti-regime organizations.

The coordinator of the Bush administration's North Korea Working Group described North Korea as

the only government in the world today that can be identified as being actively involved in directing crime as a central part of its national economic strategy and foreign policy ... in essence, North Korea has become a 'Soprano state' – a government guided by a Worker's Party leadership whose actions, attitudes, and affiliations increasingly resemble those of an organized crime family more than a normal nation.<sup>9)</sup>

Ever since the UN Commission on Human Rights in 2004 established the office of Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, that Rapporteur has issued a steady stream of reports.

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7) See my discussion in "The North Korean problem, Japan and the US: The Politics of hypocrisy," (in Spanish) *Anuario Asia-Pacífico* 2005 (Barcelona, 2006). Posted on *Japan Focus*, May 8, 2006, <http://www.japanfocus.org/-Gavan-McCormack/1909/>

8) "Situation of Human Rights in the Democratic People's Republic of Korea," UN General Assembly, A/RES/60/173, 16 December 2005. GA/10437.

9) David Asher, "The North Korean criminal state, its ties to organized crime, and the possibility of WMD proliferation," Policy Forum Online No 05-92A, Nautilus Institute, 15 November 2005, <http://www.nautilus.org/fora/security/0592Asher/html>

In 2013, the Rapporteur reviewed a file of 60 such documents and reports and called on member states to undertake a comprehensive review into human rights in North Korea and to consider setting up a more detailed mechanism of inquiry.<sup>10)</sup> That Commission of Inquiry (COI), duly constituted and headed by retired Australian judge Michael Kirby, between May 2013 and February 2014 heard evidence from more than 80 witnesses and experts and conducted “more than 240 confidential interviews with victims and other witnesses” before presenting its “Report of the United Nations Commission of Inquiry” (the “Kirby Report”) in February 2014.<sup>11)</sup> It reproduced accounts of torture and cruel, inhuman or degrading treatment or punishment, described a system of political prison camps, the forcible transfer of populations and limitations on movement, as well as violations of rights fundamental freedoms of women, children, and persons with disabilities. It concluded that,

Systematic, widespread and gross human rights violations have been and are being committed by the Democratic People’s Republic of Korea, its institutions and officials. In many instances, the violations ... constitute crimes against humanity... The gravity, scale and nature of these violations reveal a State that does not have any parallel in the contemporary world.

Its recommendations included the following:

The international community must ensure that those most responsible for the crimes against humanity ... are held accountable. Options to this end include a Security Council referral of the situation to the International Criminal Court or the establishment of an ad hoc tribunal by the United Nations.

The Report concludes with a statement about the importance of all parties to

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10) Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, GA/A68/139, 14 August 2013.

11) Human Rights Council, “Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea,” UN General Assembly, 7 February 2014. <http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/CommissionInquiryonHRinDPRK.aspx/>

the still unresolved Korean War that began in June 1950 coming together for “a high-level political conference” to draw up and ratify “a final peaceful settlement of the war.” That sentence suggested an orientation towards negotiated, diplomatic resolution, but in its context, in a dossier presenting the case for prosecution of the country’s leaders for crimes against humanity, it could scarcely be taken as a serious recommendation.

One account of North Korean horrors, elaborated from the Report into a global publishing and media phenomenon in its own right, became a New York Times best-seller, recalling the earlier global success of Kang Chol-Hwan.<sup>12)</sup> Commission chair Kirby remarked that, although “at the end of the Second World War many people said, ‘if only we had known the wrongs that were done,’ following the publication of this report documenting North Korean human rights violations that were “strikingly similar to Nazi atrocities,” there could no longer be any excuse of not knowing.<sup>13)</sup> Kirby also noted with regret that North Korea’s actions did not qualify it as genocidal only because of the “very narrow definition” of genocide adopted in 1948.<sup>14)</sup> The Report cleared the way to common reference to North Korea as the contemporary counterpart of Stalin’s Soviet Union, Hitler’s Germany, or Pol Pot’s Cambodia.<sup>15)</sup> To the extent that it did that, under what may be described as the “Cheney principle,” it diminished the possibility of negotiation.

Based on the commission’s findings, which thus resumed and reinforced the 10-year long set of UN Special Rapporteur reports, on 18 December 2014 the UN General Assembly adopted by a vote of 116 to 20 (with 53 abstentions) a Resolution on the Situation of Human Rights in the DPRK, co-tabled by Japan and the European Union (EU), that condemned the North Korean regime and encouraged the Security Council to consider “appropriate action to ensure

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12) Blaine Harden, Shin Dong-Hyuk, *Escape from Camp 14: One man’s remarkable odyssey from North Korea to freedom in the West* (Penguin Publishing Group, 2012).

13) Kirby at Geneva press conference following release of the Commission report, quoted in *The Week*, 18 February, 2014, <http://theweek.com/articles/450792/north-korea-isnt-nazi-germany--some-ways-worse/>

14) “North Korea committed crimes against humanity, but not genocide: UN Commission chief,” *Japan Times*, 18 February 2015. See also paragraphs 1155-1159 of the Commission’s Report.

15) See, for just one example, Colin Freeman, “North Korea’s Holocaust-like nightmare: Kim’s abuses among the worst since Hitler,” *The Telegraph*, 17 February 2014.

accountability.”<sup>16)</sup> Days later, the Security Council took up the matter of North Korean human rights for the first time. Several major countries, notably the United States, France, Great Britain and South Korea, echoed the General Assembly’s call, though permanent members Russia and China resisted it, meaning the Security Council would not act on it. North Korea itself boycotted the meeting, insisting that the evidence against it was fabricated and that the Security Council was not an appropriate place for consideration of human rights issues.

As the furor over North Korea and its human rights record spread, Sony Corporation’s Hollywood studio set about producing a film that featured a terrorist attack on North Korea culminating in the assassination of the country’s leader, Kim Jong Un. In November 2014, shortly before the scheduled release of the film (“The Interview”) Sony announced that it had been subject to a cyber-attack. North Korea was blamed but denied any involvement. Cyber experts doubted the capacity of the country to have been responsible and drew attention to possible motives on the part of disaffected members of the company.<sup>17)</sup> However, President Obama himself pointed the finger at North Korea, and appears to have authorized a cyber attack (or counter-attack) that shut down its internet for 10 hours shortly after he declared (19 December 2014) that the US would “respond proportionately.”<sup>18)</sup> Obama subsequently further denounced what he described as North Korea’s “brutal authoritarian regime,” which “over time” was bound to collapse but against which the United States would therefore “keep on ratcheting the pressure.”<sup>19)</sup>

Thus at the end of 2014 the United Nations was steadily deepening its interest in North Korean human rights, at the level of the Commission of Inquiry, the General Assembly, and finally the Security Council. Hollywood joined the chorus of denunciation, adding its peculiar blend of insult and mockery. The US government was actively working to “isolate North Korea from the global financial system,” as Treasury Assistant Secretary Daniel L. Glaser put it in 2014.<sup>20)</sup> By late

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16) “Resolution adopted by the General Assembly on 18 December 2014,” A/RES/69/188/

17) “Sony Pictures Entertainment Hack,” Wikipedia, 4 April 2015.

18) “U.S. ‘knocked North Korea offline,’” Bloomberg, Washington, *Japan Times*, 19 March 2015.

19) “Obama: North Korea is bound to collapse,” *Yonhap*, Washington, 23 January 2015.

20) Testimony of Assistant Secretary Daniel L. Glaser, House Foreign Affairs Committee, “Confronting North Korea’s Cyber Threat,” 13 January 13, 2014. <http://docs.house.gov/meetings/FA/FA00/20150113/102811/HMTG-114-FA00-Wstate-GlaserD-20150113.pdf>

2014, President Obama confidently predicted the country would collapse and promised to do what he could to bring that end about.

Few, if any, countries had ever faced such concerted global outrage. Perhaps none had had to do so from such an isolated position, so lacking in international solidarity or support. Whether the various processes promoted by the governments of the US, Japan, the EU, the UN itself, would help to advance the human rights cause, however, is doubtful.

## II. Reading the UN Report of 2014

The Commission of Inquiry (COI) had been set up to “to investigate the systematic, widespread and grave violations of human rights in the DPRK, with a view to ensuring full accountability, in particular for violations that may amount to crimes against humanity.” In other words, its mandate was not to determine possible guilt but to confirm it and to collect evidence for criminal trial proceedings. The formulation was such as to make it impossible for the Pyongyang regime to cooperate with the Commission (despite overtures from Kirby and his team and their protestations of “neutrality”) without incriminating itself.

The contrast between the mandate of the Kirby Commission and that of the “United Nations Fact Finding Mission on the Gaza Conflict,” set up early in 2009 following a globally televised attack on an illegally occupied and defenseless population, was stark. The Goldstone mandate (after that Commission’s head, the South African jurist, Richard Goldstone), was “to investigate all violations of international human rights law and international humanitarian law that might have (italics added) been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009.”<sup>21)</sup>

Consequently, although the horrors Kirby and his colleagues recount would move a stone to tears the process, determined in advance by its terms of reference,

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21) “Human Rights in Palestine and other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict,” United Nations, Human Rights Commission, A/HRC/12/48, 15 September 2009.



was not a judicial process in the commonly understand sense of the word.

Secondly, the Report lacks any comparative sense. UN human rights concern focuses narrowly on poor countries beyond the liberal Western consensus, such as Burma, Guinea, Cote d'Ivoire, Kyrgyzstan, Syria, Libya, Iran, and Sri Lanka, as well as North Korea. The International Criminal Court (established 2002) has also for a decade pursued leaders of poor, mostly African countries, while studiously avoiding consideration of the acts of dominant Western powers. The United States refuses to submit to it, but backs the referral of North Korea to it. Selectivity undermines its credibility.

More pertinently, the Commission's resume account of Korean history (Paragraphs 95–109, “The Division of the Korean peninsula, the Korean War and its Legacy”) neglects to address the responsibility of the United Nations itself for its own grave breaches of human rights. It was in a sense the UN that created the Korean problem by initially deciding to proceed with separate elections in the South in 1947, thus effectively dividing the peninsula. It then, a few years later, went to war against North Korea (the one and only occasion on which the UN has actually gone to war) and was responsible in that war for multiple crimes against humanity, committed under the UN flag. North Korea itself was far from blameless and it is now fairly clear that it took the initiative in actually launching that war in June 1950, but the subsequent construction of North Korea as especially brutal and inhuman is at odds with what we know: that the greatest atrocities of the war were those committed by the United Nations, whether at Taejeon, Nogunri, or elsewhere, or by the deliberate destruction of dams, power stations, and the infrastructure of social life.<sup>22</sup>) For a report such as Kirby's, stemming from a human rights concern, issued more than six decades after these events and in the name of the UN, to focus exclusively on the crimes committed by North Korea while ignoring those of the UN is surely egregious.

Thirdly, the methodology of the Kirby Report was as problematic as its initial question-begging frame. It heard evidence in Seoul, Tokyo, London, and Washington from witnesses and experts mobilized for them thanks to the

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22) Gavan McCormack (with Kim Dong-choon), “Grappling with Cold War History: Korea's Embattled Truth and Reconciliation Commission,” *Japan Focus*, 21 February 2009. <http://japanfocus.org/products/topdf/3056/>

“operational and substantive support”<sup>23)</sup> provided by governments and organizations hostile to the DPRK and still in a state of unresolved and barely contained hostility towards it. The process featured one particular “star” witness, Shin Dong-hyuk. Shin, who has been described as “the most promoted refugee worldwide,”<sup>24)</sup> later admitted, however, that he had made up important parts of his story. Like Kang’s a decade earlier, however, Shin’s book (and his testimony to the Commission, which the Report quotes extensively) played an undoubted role in propagating the sense of North Korea as outlaw, evil, unacceptable state.

Andrei Lankov, no apologist for North Korea, remarks that

The real story of the average North Korean refugee is depressing, but hardly dramatic enough for the average media audience ... most of these people are motivated by simple dreams of a better material life. The story of the average North Korean refugee does not appear to be that remarkably different from the life stories of the countless millions of people from Africa and South Asia. Sadly, malnourishment, daily violence and for many women, thinly disguised institutionalized rape are ubiquitous in many parts of the poor world.<sup>25)</sup>

Fourthly, from the vantage point of the long and ill-starred UN relationship with North Korea the spectacle of 116 UN member states joining in 2014 to denounce that country was profoundly, tragically ironic. The UN appeared to have forgotten, or perhaps as an institution it has never actually “known,” its own history, as the institution that first divided the peninsula and then, 64 years ago, went to war that wrought devastation to the peninsula. For the UN to take up seriously the “Korea problem” today it should surely, first and foremost, reconsider its own role in creating the problem. Instead, the severity of its tone of denunciation, and lack of appreciation of the mechanism by which denunciation, sanction, and abuse over the years, including the blind eye it has long turned to the US’s nuclear intimidation, has helped the dictatorship in the North entrench itself.

Fifthly, the Kirby dossier on North Korea includes several charges that could be

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23) Paragraph 31 of the Report.

24) Andrei Lankov, “After the Shin Dong-hyuk affair: separating fact, fiction,” *NK NEWS*, 3 February 2015.

25) Lankov, *ibid.*

levelled with at least equal force against the US itself, notably incarceration and torture. No country in the world can compete with the US as an incarceration state: with 4.4 per cent of the world population but 22 per cent of its prisoners. The US Department of Justice provides the figure of 7.2 million people in prison, on probation or parole as of 2006.<sup>26)</sup> As for torture, the sickening record of what is alleged to have happened in North Korea demands to be read alongside the 2014 Senate Intelligence Committee's report on CIA torture which, as Alfred McCoy points out,

takes us into a Dante-like hell of waterboard vomit, rectal feeding, midnight-dark cells, endless overhead chaining, and crippling cold," that mixes "capricious cruelty and systemic abuse.<sup>27)</sup>

Sixthly, the same may be said of the other major crime charges. Abduction is plainly an abhorrent crime, but North Korea's abduction of a dozen or more Japanese citizens in the 1970s and 1980s was no more abhorrent than South Korea's abduction (from various European countries) of students and artists in the 1960s (followed for some by torture and judicial murder) or of the then opposition political leader Kim Dae Jung from Tokyo in 1973, or than then imperial Japan's abduction of hundreds of thousands of people throughout East Asia, as forced labour or sexual slave corps, in the 1930s and 1940s. In any comparative table of peninsular infamy, South Korea's slaughter of hundreds if not thousands of people at Kwangju in 1980 would be hard to match, yet Kwangju is rarely entered in the ledger of evil or brutality on the peninsula. In terms of horror, North Korea, Japan, and South Korea all have much to apologize for in their pasts. In 2001, North Korea did apologize.<sup>28)</sup> To make credible human rights demands of North Korea, Japan, South Korea, and the United Nations itself, need first to confront their past crimes openly and seriously.

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26) Roy Walmsley, "World Prison Population List," *International Center for Prison Studies* (University of Essex), <http://prisonstudies.org/> See also Wikipedia's "List of counties by incarceration rate."

27) Alfred McCoy, "How to read the Senate Report on CIA torture," *History News Network*, 31 December 2014. See also McCoy's *A Question of Torture: CIA interrogation from the cold war to the war on terror*, New York, 2006.

28) To Japanese Prime Minister Koizumi. See McCormack, *Target North Korea: Pushing North Korea to the brink of Nuclear Catastrophe* (New York: Nation Books, 2004), *passim*.

### Ⅲ. Perspective

The “North Korean problem” is in many ways another way of saying “the American problem.” The term commonly assumes North Korean aggression, irrationality, nuclear obsession and repression, and contrasts it with the United States’ rational, human rights based, globally responsible character.<sup>29)</sup> To thus shrink the framework of the problem, however, is to ignore the matrix of a century’s history – colonialism, division, ideological conflict, half a century of Korean War, Cold War as well as nuclear proliferation and intimidation,<sup>30)</sup> and to ignore what I have referred to as the US’s aggressive, militarist hegemonism and contempt for international law.<sup>31)</sup> As I wrote over seven years ago, in a formulation that still seems to me correct,

The North Korean state plainly runs roughshod over the rights of its citizens, but the extremely abnormal circumstances under which it has existed since the founding of the state in 1948, facing the concentrated efforts of the global superpower to isolate, impoverish, and overthrow it, have not been of its choosing. Frozen out of major global institutions and subject to financial and economic sanctions, denounced in fundamentalist terms as “evil” (and beyond redemption), North Korea could scarcely be anything but suspicious and fearful. Suspicion and fear, on the part of a state as well as of an individual, is likely to be expressed in belligerence. In particular, North Korea has faced the threat of nuclear annihilation for more than half a century and, if anything is calculated to drive a people mad, and to generate in it an obsession with unity and survival, and with nuclear weapons as the sine qua non of national security, it must be such an experience.<sup>32)</sup>

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29) Here resuming my argument in Gavan McCormack, “North Korea and the Birth Pangs of a New Northeast Asian Order,” in Sonia Ryang, ed., *North Korea: Towards a Better Understanding* (Lanham, Md: Lexington Books, 2009), 23-40.

30) See also my *Target North Korea*, passim.

31) Gavan McCormack, “Criminal States: Soprano vs. baritone - North Korea and the United States,” *Korea Observer*, Seoul, The Institute of Korean Studies, Vol. 37, No. 3, Autumn 2006, 487-511, and (in Korean) as chapter 1 of *Beomjoegukga: Bukhan Geurigo Miguk*, Seoul, Icarus, 2006, 15-40.

32) “North Korea and the Birth Pangs,” 26.

The overwhelming reality of these early 21st century decades is that the world hegemon (and chief proponent of human rights politics), the United States, has become a rogue state super-power, sucking the world into a vortex of violence and lawlessness, going to war, open and covert, on country after country, spreading widespread devastation and committing many probable major war crimes, and spinning a global web of spies, drones, bases, assassins, and prisons, with which it conducts covert operations, killing at will. As a state that refuses to acknowledge or submit to any law, and as one that encroaches upon or invades other countries as it chooses, the United States is itself the very “outlaw state” it accuses North Korea of being. Andrew Bacevich plausibly describes the US as a permanent warfare state, convinced the world must be shaped, a task for which only the United States is suited because it is fundamentally good; and that only rogue states and evil empires could possibly resist it.<sup>33)</sup>

Thus the world looks on with apparent equanimity as the US president conducts his weekly Tuesday White House meeting to tick off the names of those to be assassinated. At the heart of the “free world” rests a measure of “evil” beyond the imagination of the North Korean leadership, let alone any capacity to reproduce it. To say this, however, is by no means to condone or defend North Korea’s repression.<sup>34)</sup>

#### IV. Ways Forward

There are roughly speaking only two possible approaches to the problem of “North Korean human rights”: one is to call for maximum pressure, taking all possible means to undermine the regime and to maximize the flow of refugees with a view to precipitating a regime collapse. This is essentially the view held by Hwang Jang-Yop, formerly right-hand man of Kim Il Sung and architect of the North Korean “Juche” ideology, who defected to South Korea in 1997 and was welcomed in Washington in 2003 (though not by the White House), and it

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33) Andrew Bacevich, *Washington Rules: America’s path to permanent war* (New York: Henry Holt and Company, 2011).

34) See especially chapters 3 and 4 of my *Target North Korea*.

is the basic view underpinning the Human Rights Law and the mainstream UN diplomacy that has followed it. This view, by now adopted by Congress and the UN, aims at fundamental change and is intent on “bringing down” the current regime. That is despite the fact that the best recent information is that the country is currently basically stable, that “agricultural and market reforms made under Kim Jong-un now appear to be taking hold” (contrary to President Obama’s remark that “the country cannot even feed its people”)<sup>35)</sup> while the “regime change” scenario for most of those living in the surrounding region offers a nightmarish prospect of an economy and society spiraling into chaos, with millions fleeing from a disaster zone while die-hard North Korean military groups engage in violent resistance, with or without nuclear or other weapons of mass destruction.

The alternative, central to the dynamic of the Beijing-centered Six Party Conference formula pursued since 2003, has been to strive to “normalize” North Korea, negotiating to address its security concerns and persuading it to renounce its nuclear ambitions in exchange for diplomatic, political and economic recognition and assistance packages aimed at integrating it within a booming Northeast Asian region. Offering the prospect of a “soft landing” to the North Korean regime through the ending of sanctions and the admission of the country to international financial and economic cooperation institutions is central to this approach. It looks first to solving the basic problem of nuclear confrontation and lack of trust, leaving those of political and social rights aside initially, and implicitly seeing them as matters that the North Korean people would themselves resolve once the primary problem - militarized confrontation on the peninsula - is resolved.

Twice in the post-Cold War era, the “North Korean problem” has come within sight of resolution: first during the “Agreed Framework” under the Bill Clinton administration (1993-2001) culminating in the exchange of visits by North Korea’s “Number Two,” Marshall Jo Myung Rok, and the US Secretary of State, Madeleine Albright, to their respective capitals in 2000 and almost culminated in a visit by the president, Bill Clinton to Pyongyang; and second in 2005-7, when the Beijing-centered Six Party Conference twice produced formulae for compre-

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35) Scott A. Snyder, “North Korea’s food situation: stable and improving,” Council on Foreign Relations, “Asia Unbound,” 17 February 2015. <http://blogs.cfr.org/asia/2015/02/17/north-koreas-food-situation-stable-and-improving/>

hensive resolution of Korean peninsula problems. Both ultimately failed, but they went close to succeeding. The narrower the frame, whether nuclear weapons, missiles, “crime” or “human rights,” the less likely North Korea is to be interested, while the broader it is, especially in offering a peace treaty to end the Korean War, an end to sanctions and North Korean admission to the many regional and global institutions from which it is currently excluded, the more interested North Korea tends to be. That is scarcely surprising.

The record shows that the positive momentum within the Beijing Six Party talks has been lost when the focus of UN (and generally international) concern shifts from nuclear matters to criminality and human rights. The landmark September 2005 Beijing agreement was no sooner reached, over fierce US objection, that it gave way the very next day to a US-led financial and diplomatic campaign to bring the regime down. The US representative, Christopher Hill, denounced North Korean illegal activities and declared the intention to pursue it over human rights, chemical and biological weapons and missiles.<sup>36)</sup> It was a clear statement as one could ask for of continuing American hostility. As the scope of negotiation was widened from nuclear matters, on which progress had been made, to the nature of the regime, the process stalled. “Normalization” with such a regime, Washington implied, was no more likely than normalization of relations between the Government of the US and the Mafia. Instead they would “strangle North Korea financially”<sup>37)</sup> and deliver a “catastrophic blow” to the very fundamentals of its system.<sup>38)</sup> Nothing less than regime change would satisfy it.<sup>39)</sup>

South Korea’s chief negotiator to the Six Party Talks (later, between 2010 and 2013, national security adviser to President Lee Myung-bak), Chun Youngwoo,

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36) Funabashi Yoichi, *Za peninshura kueshon*, Asahi shimbunsha, 2006, 616.

37) Philippe Pons, “Les Etats-Unis tentent d’asphyxier financièrement le régime de Pyongyang,” *Le Monde*, 26 April 2006.

38) David Asher, senior adviser on North Korea matters to the Bush administration, interviewed in Takase Hitoshi, “Kin Shojitsu o furueagareseta otoko,” *Bungei shunju*, October 2006, 214-221, at 216.

39) For more detailed discussion of this phase, see my “A denuclearization deal in Beijing, The Prospect of Ending the 20<sup>th</sup> Century in East Asia,” *Japan Focus*, 14 February 2007. <http://www.japanfocus.org/-Gavan-McCormack/2354/> (See also Gavan McCormack, “A Coming Possibility of East Asia”(Tongashiaui Chigakpyondong), *Hangyeoreh Simmun*, 15 February 2007, <http://www.hani.co.kr/arti/politics/defense/191063.html/>).

referred to North Korea being “besieged, squeezed, strangled and cornered by hostile powers,” and noted that the talks had suffered from the “visceral aversion” and “condescension, self-righteousness or a vindictive approach” on the part of parties unnamed (by which he plainly meant the United States).<sup>40)</sup> “Pressure and sanctions,” as Chun put it on another occasion, “tend to reinforce the regime rather than weaken it.”<sup>41)</sup> What he implied is that Songun (primacy to the military) policies thrive in North Korea on confrontation and tension, whereas normalization, on the other hand, would require the leaders of the “guerrilla state,” whose legitimacy has long been rooted in their ability to hold powerful and threatening enemies at bay, to respond to the demands of their people for improved living conditions and greater freedoms.

Here it is not possible to follow in detail the Beijing negotiation process through to North Korea’s eventual withdrawal in April 2009, but it is worthy of note that again in early 2007 serious negotiations came close to fruition. The charge against North Korea of counterfeiting of US hundred dollar notes that had been cause of such furor in 2005 was simply dropped by 2007 and the particular funds in question (of the tiny Macao Bank co Delta Asia or BDA) unfrozen.<sup>42)</sup> The Berlin Memorandum of Agreement in January and the Six Party agreement in February opened the door towards permanent “disablement” of North Korea’s nuclear facilities, lifting of sanctions, peninsula denuclearization, comprehensive normalization of diplomatic relations, economic and energy cooperation, and eventually a permanent peace regime on the peninsula.<sup>43)</sup> North Korea’s human rights record was probably no better (or worse) then than it is now, but the parties did not presume

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40) “The North Korean nuclear issue,” Speech delivered to Hankyoreh Foundation conference, Pusan, 25 November 2006.

41) “Kim Jong Il and the prospects for Korean unification,” US-Korea Institute, School of Advanced International Studies, Johns Hopkins University, 28 November 2006. <http://www.uskoreainstitute.org/events/index.htm>

42) John McGlynn, “North Korean criminality examined,” in 3 parts, *Japan Focus*, 2007, <http://japanfocus.org/~john-mcglynn/2423> (2446, 2463). See also Gavan McCormack, “North Korea and the Birth Pangs of a New Northeast Asian Order,” in Sonia Ryang, ed., *North Korea: Towards a Better Understanding*(Lanham, Md: Lexington Books, 2009), 23-40.

43) “Initial Actions for the Implementation of the Joint Statement,” Joint Statement from the Third Session of the Fifth Round of the Six-Party Talks, 13 February 2007. Nautilus Institute, Special Report, 13 February 2007.



to address it by imposing a new legal or political system or a capitalist economy.

This record of the “failure” of Beijing negotiations tends to be forgotten in today’s discussion of “North Korean’s human rights problem,” but it should be remembered because the complex of issues was all on the table, negotiated settlement came very close (as it had in 2000 and again in 2005), and responsibility for failure was by no means one-sided.

## V. Conclusion

North Korea through the late 20<sup>th</sup> and early 21<sup>st</sup> century is one of the most reviled countries in the world, perhaps the ultimate global “other.” Yet it has not invaded any neighbor, and probably none of its neighbors seriously fears being invaded. It certainly ill-treats its own people, but whether it does so on a “world-beating” scale, in a world filled with mostly imperfect and quite a few atrocious regimes, seems doubtful. It is sometimes described, perhaps aptly, as a “porcupine state,” stiffening its quills in fear at the menace of bullying and contemptuous neighbors who surround it. Visitors to the country report a society that appears to be functioning rather normally and even making steady improvements in its economy despite the severity of the sanctions regime under which it suffers.

One of the most important factors sustaining the dictatorship in the North, and blocking any significant improvement in human rights, has been the uncompromising hostility of the country’s enemies, including, ironically, precisely those most insistently demanding improvement in human rights. So long as the global super-power, and regional and global institutions in which the US holds preponderant weight, insist on keeping North Korea frozen beyond the pale of regional and global order, the regime can continue to foster its “guerrilla” myths and appeal to national pride and determination to remain independent. Rather than more intervention now – to effect “regime change” – the best way forward might be by removing the threats on which the regime thrives, “normalizing” relations and calling for peninsula-wide denuclearization, demilitarization, and cooperation on as many fronts as humanly possible. Kim Dae Jung’s wisdom was to formulate such a vision under the name “Sunshine policy.” It is not too late now to revive it.

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