

Study Series 15-04



Implementation Strategies for Policies on North Korean Human Rights

KINU Center for North Korean Human Rights Studies

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CONTENTS

- 1. Introduction 8
- 2. Environment Surrounding Policy on North Korean Human Rights 14
 - A. Trend of the International Community 14
 - B. Domestic Trend 31
 - C. North Korea’s Response 38
 - D. Assessment and Prospects 52
- 3. Objective and Direction of North Korean Human Rights Policy 60
 - A. Objectives and Means 60
 - B. Principles and Directions for Implementation 66
- 4. Strategies to Implement Policies on Human Rights in North Korea and Tasks Ahead 82
 - A. Implementation Strategy 82
 - B. Tasks Ahead 93
- 5. Conclusion 102



1

Introduction

1. Introduction

In 2014, North Korean human rights issue emerged as an important political agenda for the international community, going beyond from an issue to merely “monitor” to one which calls for full “accountability.” Following the United Nations human rights resolution in 2013, the Commission of Inquiry (COI) on human rights in the Democratic People’s Republic of Korea (DPRK) was established to determine whether North Korean human rights violation amounted to “crimes against humanity.” After one year of investigation, the COI concluded that there are systematic, widespread and grave violations of human rights in North Korea and these are classified as crimes against humanity under international law and that it is the responsibility of the international community to protect North Koreans from these crimes.

Accordingly, the UN General Assembly adopted a strong resolution on North Korean human rights. The resolution includes suggestions to refer those accountable to the International Criminal Court (ICC). In addition, the UN Security Council took on the North Korean human rights issue as an official agenda. It can be stated that the international

community's approach towards North Korean human rights moved beyond the dimension of monitoring, to one that calls for accountability. As international pressure increases, North Korea has proactively and aggressively emphasized their position and efforts on the human rights situation.

The Park Geun-hye administration's basic position on North Korean human rights is, first and foremost, under universally accepted norms, to actively take part in the international community's measures while also harmonizing the value of human rights in South Korea's policy on North Korea to effectively make possible the improvement of North Korean human rights. Since 2008, South Korea has maintained cooperation with the international community regarding policies on North Korean human rights including voting in favor of North Korean human rights resolution in the UN General Assembly and the Human Rights Council, etc. It is to ensure that respective policies on North Korea and North Korean human rights do not conflict or become incompatible, but form a virtuous cycle. In essence, it points out that the improvement of North Korean human rights situation is directly linked to strengthening capacity for Korean unification.

Through the Trust-building Process on the Korean Peninsula and the Dresden Initiative, the Park Geun-hye administration has demonstrated that unification is directly related to the lives of each individual, and has set the improvement of North Koreans' quality of lives as a core task to achieve "a happy unification." Accordingly, the Park administration

has emphasized humanitarian support and establishment of public infrastructures. Unification in which each individual leads a happy life demonstrates that the respective values of human rights and unification are harmonious and this is manifested through increasing unification capacity. Therefore, substantive improvements in North Korean human rights will strengthen the capacity towards unification and ultimately form the foundation for a happy unification.

Despite the international community's gradual agreement on the North Korean human rights issue, South Korea has been unable to reach a consensus regarding the approach and perception of North Korean human rights problem as well as policy direction and measures. The North Korean human rights issue has emerged as an international agenda as important as its nuclear problem. This provides an opportunity to formulate and implement more systematic and comprehensive policies on North Korean human rights. Furthermore, it should appropriately reflect specific measures and roadmaps to substantially improve North Korean human rights in South Korea's policy on North Korea.

The objective of this report is to provide a direction for South Korea's policies on North Korean human rights which can harmonise its policies on North Korea and the value of unification. Human rights improvement in North Korea and unification are indivisible and constitute core tasks to prepare for "an era of happy unification." This report analyzes and assesses the international community and South Korea's behavioral trend regarding North Korean human rights as well

as North Korea's responses prior to, and after, the adoption of the North Korean Human Rights resolution by the UN General Assembly. The report also analyzes the objectives and measures, principles and direction for implementation, and finally, presents strategies for policies on North Korean human rights as well as the tasks ahead.

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2

Environment Surrounding Policy on North Korean Human Rights

2. Environment Surrounding Policy on North Korean Human Rights

A. Trend of the International Community

1) Trend

(A) The United Nations

(1) Transition from monitoring to calling for accountability

The most significant qualitative change in the international community's approach on North Korean human rights problem is that it does not merely monitor or voice concern but instead expresses its active determination to ensure full accountability. The international community's initial concern regarding the graveness of the situation through fragmented information and testimonies has transformed into efforts to grasp the specificities of the situation through systematic inquiry mechanisms. Such are the foundations of a more evolved approach, intended to ensure full accountability for those violations.

Numerous trends of events and context explain the changes in the international community's approach. For one, the international community has consistently expressed concerns about North Korean

human rights violations since the 2000s but the North Korean government did not show any efforts to ameliorate the situation nor did it show any will to do so. In addition, one can point to the increase in North Korean defectors since 2004. Increasing requests for refugee status in the U.S. and elsewhere in Europe have aroused international attention on North Korean human rights situation.

To date, the international community has adopted two resolutions on North Korean human rights through the UN General Assembly and the UN Human Rights Council (UNHRC). The UN first adopted a resolution on human rights in North Korea in 2003 at the UN Human Rights Council, formerly known as the United Nations Commission on Human Rights (UNCHR). Since then, the UN Human Rights Council has adopted a resolution on North Korean human rights every year and based on the resolution adopted in 2004, a special rapporteur was appointed by the UN. The UN Human Rights Council was launched in 2006, succeeding the UNCHR. Since 2008, the Human Rights Council started adopting resolutions on human rights in North Korea. Members voting in favor of the resolution increased yearly and in 2012 and 2013, the resolutions were passed without vote. In the case of the UN General Assembly, it first adopted a resolution on human rights in North Korea in 2005 and the resolution has been adopted every year since. Excluding 2008 and until 2011, the number of votes in favor of the resolution increased yearly and in 2012 and 2013, the resolutions were passed without vote.

Meanwhile, the international community began to realize the need to move beyond resolutions and gradually form inquiry mechanisms to allow systematic study on North Korean human rights violations. Based on the resolution adopted on March 21, 2013, the UNHRC decided to establish the Commission of Inquiry (COI).¹⁾ On May 7, 2013, Michael Kirby, Sonja Biserko, and Marzuki Darusman were appointed as members, of the COI. From the onset of the COI establishment, North Korea has disregarded the COI activities. Because North Korea opposed the establishment of the COI, it denied the COI from accessing the country. Advocating principles of impartiality, independence, openness, among others, the COI adopted an indirect method of inquiry through public hearings and confidential interviews in South Korea, Japan, Thailand, United Kingdom, the United States, etc.

On February 7, 2014, the UN Commission of Inquiry on human rights in the DPRK published *Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea* (hereinafter "COI report") and submitted it to the 25th session of the Human Rights Council.²⁾ Based on the testimonies and information

1) UN Doc. A/HRC/RES/22/13 (2013).

2) "Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea," UN Doc. A/HRC/25/63 (2014); "Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea," UN Doc. A/HRC/25/CRP.1 (2014). At the request of the UN Commission of inquiry, the Korea Institute for National Unification (KINU) published Korean translations of the above mentioned reports. The Korean reports can be accessed through the UN OHCHR website (www.ohchr.org) and the KINU website (www.kinu.or.kr).

collected, the COI report concludes that systematic, widespread, and grave violations of human rights has been committed by the North Korean government and relevant authorities and that many cases of these violations amount to crimes against humanity³⁾ under international law. The UN stressed that those who committed such crimes must be held accountable for their actions and, as an appropriate measure, proposed that the UN Security Council should refer the North Korea's case to the International Criminal Court (ICC)⁴⁾ and a special court should be set up to address the North Korea case.

Furthermore, in the report, the COI stated that the North Korean government has clearly failed to protect its own citizens and thus the international community has a responsibility to protect (R2P) North Koreans. It also called for ensuring full accountability to those most

3) The term "crimes against humanity", defined in the 1945 Nuremberg Charter, was developed through international war crime statutes such as the Statute of the International Criminal Tribunal for the former Yugoslavia and the Statute of the International Tribunal for Rwanda, etc. It is clearly defined in the Rome Statute of the International Criminal Court. According to Article 7, Paragraph 1, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

4) As a permanent international tribunal to prosecute individuals accused of international crimes, genocide, crimes against humanity, war crimes, and the crime of aggression are subjects to punishment since the Rome Statute entered into force on 1 July 2002.

responsible for crimes against humanity, strengthening engagement with the North Korean government concerning human rights issues, supporting gradual changes based on dialogue at the private level, and setting agendas to bring about inter-Korean reconciliation, among other multi-faceted strategies, with the purpose of implementing the responsibility to protect.

On 28 March 2014, the UN Human Rights Council adopted a resolution on human rights in North Korea which reflects most of the COI report's conclusions and recommendations.⁵⁾ The following are key points of the resolution: ① Acknowledges the commission's findings that crimes against humanity have been committed in the Democratic People's Republic of Korea; ② Stresses that the authorities of the Democratic People's Republic of Korea have failed to prosecute those responsible for crimes against humanity and thus members of the international community should cooperate with accountability efforts and to ensure that these crimes do not remain unpunished; ③ Recommends that the General Assembly submit the report of the commission of inquiry to the Security Council for its consideration and appropriate action in order that those responsible for human rights violations, including those that may amount to crimes against humanity, are held to account, including through consideration of referral of the situation in the Democratic People's Republic of Korea to the appropriate international criminal justice mechanism, and

5) UN Doc. A/HRC/RES/25/25 (2014).

consideration of the scope for effective targeted sanctions against those who appear to be most responsible for crimes against humanity, taking into account the relevant conclusions and recommendations of the commission of inquiry.

A resolution on human rights in North Korea drafted by the EU and Japan was voted in favor by the overwhelming majority at the UN General Assembly's Third Committee on November 18, 2014 and was adopted on December 18, 2014.⁶⁾ The following are key points of the resolution. ① Acknowledges the commission's findings that crimes against humanity have been committed in the Democratic People's Republic of Korea; ② Decides to submit the report of the commission of inquiry to the Security Council, and encourages the Council to consider the relevant conclusions and recommendations of the commission and take appropriate action to ensure accountability, including through consideration of referral of the situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the scope for effective targeted sanctions against those who appear to be most responsible for acts that the commission has said may constitute crimes against humanity.

(2) UNSC adopts North Korean human rights issue as an official agenda

The developments that gained international attention are the UNSC's decision to adopt the North Korean human rights issue as an

6) UN Doc. A/RES/69/188 (2014).

official agenda and to discuss the issue at the Security Council. It is particularly noticeable given that it occurred after a North Korea human rights resolution—which encourages the council to consider referral of the situation to the ICC—was passed by the overwhelming majority at the General Assembly on December 18, 2014.

On April 14, 2014, the UNSC discussed human rights in North Korea at an Arria-formula meeting⁷⁾ convened by the U.S., France, and Australia. At the meeting, members of the commission of inquiry briefed the situation of human rights in North Korea and defectors spoke of their experiences and confirmed the gravity of North Korean human rights violations. The need for the UNSC to address North Korean human rights was also discussed.⁸⁾

Ten of the Security Council’s members and the three states which convene Arria-formula meetings signed a letter to the UNSC on December 5, 2014, requesting that human rights in North Korea be adopted as the UNSC agenda.⁹⁾ The agenda was officially adopted at the UNSC

7) The Arria-formula meetings are a form of informal and confidential consultation by the UN Security Council members. They are a relatively recent practice, and are not envisaged in the Charter of the UN or the Security Council’s provisional rules of procedure. The process was initiated in 1992 at the suggestion of the Venezuelan Ambassador to the UN Diego Arria at the Council. These meetings enable Security Council members to have frank and private exchange of views and if necessary, to listen to the views of experts or NGOs, etc.

8) Letter dated July 11, 2014 from the Permanent Representatives of Australia, France and the United States of America to the United Nations addressed to the President of the Security Council, UN Doc. S/2014/501 (2014).

9) Letter dated December 5, 2014 from the representatives of Australia, Chile, France, Jordan, Lithuania, Luxembourg, the Republic of Korea, Rwanda, the United Kingdom of Great Britain and Northern Ireland, and the United States of America to the United Nations addressed to the President of the Security Council, UN Doc. S/2014/872 (2014).

meeting on December 22, 2014.¹⁰⁾ In order for an agenda to be adopted by the UNSC, nine out of 15 members of the Security Council must vote in favor. The North Korea agenda was adopted with 11 votes in favor (including the Republic of Korea, the U.S., France, and the U.K.), two in opposition (China and Russia), and two abstentions (Chad and Nigeria). Once on the Security Council agenda, the issue of North Korean human rights can be discussed by the body at any time during the next three years.¹¹⁾

(3) Establishing a UN field office on North Korean human rights in Seoul

Another noticeable development is the determination to investigate the situation of North Korean human rights through the launch of a new UN field office. Its significance comes from the international community's recognition that North Korean human rights problem is not a one-off issue but one that needs to be consistently monitored.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) announced on May 30, 2014 that a North Korea human rights field office will be set up in Seoul, South Korea. Such decision came after the Human Right Council's adoption of a resolution on March 28, 2014, requesting the OHCHR to provide the Special

10) UN Security Council Press Release, UN Doc. SC/11720 (2014).

11) Customarily, an agenda selected by the UNSC, but not discussed for three years will be crossed off the list. Note by the President of the Security Council, UN Doc. S/2010/507 (2010).

Rapporteur with increased support, including through the establishment of a field-based structure to strengthen monitoring and documentation of the situation of human rights in North Korea.

The COI report outlines the functions of the field-based structure: to inform the world of human rights reporting mechanisms; to serve as a secure archive for information provided by relevant stakeholders; and to facilitate UN efforts to prosecute, or otherwise render accountable, those most responsible for crimes against humanity. The OHCHR announced that the field office would be established in March 2015 while it is currently in the process of coordinating details.

(4) Second Universal Periodic Review on North Korea

The UN Human Rights Council conducted the second cycle of the universal periodic review (UPR) on North Korea from April 28, 2014 to May 9, 2014. The UPR is a mechanism of the UN Human Rights Council which examines the human rights performances of all UN member states every four years. It was North Korea's second cycle after its first review in 2009. In the National Report submitted to the UPR, North Korea provides legal and institutional measures for human rights improvement and promotion such as enacting human rights laws, joining international treaties, etc. It has classified its human rights related achievements into five categories; civil and political rights, economic, social, and cultural rights, rights of vulnerable groups, law-abiding education, and international cooperation for human rights.

Based on North Korea's National Report, UN member states made 268 recommendations, of which North Korea rejected 93. Out of the remaining 175, North Korea fully accepted 113 and 4 partially, and noted 58 for further review.¹²⁾

Rejected recommendations include acceding to the Rome Statute of the International Criminal Court; cooperating with the UN human rights mechanisms including the commission of inquiry; improving North Korea's criminal law; eliminating discrimination based on *songbun* and class, and recommendations on abducted people as well as closing down its political prison camps. North Korea rejected these recommendations by presenting the following reasons: the recommendations have distorted and slandered the reality in North Korea and the discrepancy between the recommendations and its social system and domestic law.

Recommendations accepted by North Korea are those that relate to fulfilling duties set forth in international treaties; improving economic, social, and cultural rights; cooperation and dialogue on human rights, etc. Recommendations which have been noted include acceding to international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT), establishing an independent national human rights institution, and abolishing the death

12) UN Doc. A/HRC/27/10 (July 2, 2014); UN Doc. A/HRC/27/10/Add.1 (September 12, 2014).

penalty. As for these recommendations, North Korea commented that it would be difficult to take measures at present due to its circumstances and environment, but that it will make continuous efforts to review possibilities for implementation in the future.

(B) Individual Countries

(1) United States of America

The U.S. has traditionally focused on the civil liberty aspect of North Korean human rights violations. In 2004, U.S. Congress passed the North Korean Human Rights Act of 2004. In 2008 and 2012, North Korea Human Rights Reauthorization Act was passed, extending its validity to 2017. In addition, the U.S. Department of State annually publishes a report on North Korean human rights violations.¹³⁾ In June 2014, the U.S. Department of State published the Trafficking in Persons (TIP) report. The report classifies North Korea as a Tier 3 country, countries whose governments do not comply with the minimum standards to prevent human trafficking and not make any efforts to do so. The report highlighted the cases of North Korean women who illegally enter China and are forced into marriage, labor, and prostitution. The report also points out that North Korean laborers in Russia, China, Mongolia, Africa, and the Middle East are subject to

13) US Department of State, "Human Rights Reports: Democratic People's Republic of Korea" (various years).

forced labor and expropriation of wages. Similarly, the U.S. Commission on International Religious Freedom has recommended for 13 consecutive years that North Korea be categorized as a country of “Particular Concern,” where severe violations of religious freedom take place.

In March 2013, the U.S. showed active support for the establishment of the UN Commission of Inquiry. Members of the civil society, NGOs, experts, and many other actors participated in the COI’s public hearing in Washington D.C. and showed deep interest in North Korean human rights problems. After the COI report was published in February 2014, a public hearing on North Korean human rights was held at the House of Representatives in March and June. A particularly noticeable point is the stronger position of the U.S. since the 69th session of the UN General Assembly in September 2014. Secretary of State John Kerry called for the abolishment of North Korea’s political prison camps and on September 23, also presided over a ministerial-level meeting on human rights in North Korea. It was the first time that a ministerial-level meeting focused solely on North Korean human rights problems. In addition, both Senate and House of Representatives passed an Intelligence Authorization Act (H.R.4681) on December 13. This Act requires the Director of National Intelligence (DNI) to submit a report on political prison camps in North Korea.

The U.S. has been implementing a policy on North Korean human rights centered on the activities of Robert R. King, Special Envoy for North Korean Human Rights Issues. During his visit to South Korea in

November 2014, Special Envoy King rejected any possibility for negotiations with North Korea concerning its human rights issues. In particular, he clearly stated that the release of an American national in November 13, who was detained in North Korea, was an act of humanitarianism and that the U.S. did not compensate for the release. As part of its strategy to improve North Korean human rights, the U.S. appears to be cooperating with the international community while also utilizing both dialogue and pressure at the bilateral level.

(2) China

China has maintained the position that human rights must be addressed through universal mechanisms such as the UPR, and that targeting a specific country for human rights investigation does not help improve human rights and rather encourage the politicization of human rights issues. China's position has been expressed by its opposition to the establishment of a commission of inquiry, opposition to human rights resolutions which propose the referral of North Korea's ruling elite to the ICC, continuation of its repatriation policy toward North Korean escapees, etc. In particular, the international community, including the Office of the United Nations High Commissioner for Refugees (UNHCR) has urged China for a long time to modify its repatriation policy towards North Korean escapees and furthermore emphasized China's responsibilities and obligations as a member of the Convention relating to the Status of Refugees. However, the

Chinese government has been rejecting UNHCR's request to access North Korean defectors in China. On March 7, 2014, China has rejected the recommendations regarding defectors in the second cycle of the UPR report on the implementation of recommendations. According to China's official statement, North Koreans who cross the border are classified as either economic migrants or illegal immigrants, but not refugees. China also claims that it is addressing the problem of North Korean defectors in accordance with domestic and international law as well as humanitarian principles.

2) Characteristics

(A) Qualitative changes in UN's approach to human rights in North Korea

There have been qualitative changes in the UN's recent approaches to human rights in North Korea. Resolutions on human rights in North Korea adopted in the UN General Assembly and the UN Human Rights Council (formerly the UNCHR) from 2003 to 2013 clearly indicate that previous efforts to merely monitor the situation of North Korean human rights violations and to urge improvements have expanded to efforts at ensuring accountability including the possibility of referring perpetrators to the ICC.

In 2013, the Commission of Inquiry on Human Rights in the DPRK was established at the UN level to investigate, for the first time,

the situation of human rights violations in North Korea which do not involve armed conflict. The commission's report details the crimes against humanity committed in North Korea and the need to ensure accountability to those responsible for such crimes. Since then, the UN General Assembly and the UN Human Rights Council have adopted strong resolutions which reflect the findings of the commission. In particular, the OHCHR is committed to establishing a field office in Seoul, based on the Human Rights Council's resolution which calls for the establishment of a field-based structure as per the commission's recommendation. Furthermore, the UNSC has adopted North Korean human rights issue as an official agenda, allowing it to be discussed at the Security Council at any time. Given that the UNSC is primarily tasked with maintaining international peace and security, such development reflects the international community's concern regarding the implications of North Korean human rights violation on international peace and security.

(B) Emphasis on the Responsibility to Protect (R2P)

Another aspect of the international community's approach to human rights in North Korea is the application of Responsibility to Protect (R2P) in the commission's report, UN resolutions, etc. The R2P is a proposed norm indicating that although a state is primarily responsible for the protection of its citizens, the state forfeits this right if they fail to protect their citizens from mass atrocities or if this state

commits crimes against humanity in which case the international community assumes such responsibility. However, the R2P principle has not yet been established as a fundamental norm and its concept and specific description have yet to be defined clearly. Moreover, the R2P principle has been discussed in terms of possibilities for military intervention in contingency situations such as the occurrence of sudden changes in North Korea. In light of these developments, it is significant that the R2P principle has been applied as a motive for the international community to intervene in North Korea. In particular, it is noteworthy that the commission has presented a multifaceted strategy to implement the R2P principle, including not only ensuring accountability for perpetrators but also strengthening engagement with North Korea regarding human rights issues; supporting gradual changes based on dialogue; setting agendas for inter-Korean reconciliation, etc.

(C) Achievements and limitations of inducing change in North Korea through the UPR

In their National Report submitted to the UPR, North Korea strongly emphasizes its efforts regarding domestic human rights and has accepted a considerable number of recommendations. While this itself is a positive outcome, it should be noted that as in the first cycle of the UPR in 2009, North Korea rejected most of the recommendations related to civil and political rights as well as issues that concern political prison camps or system maintenance.

(D) Linkage and expansion of multilateral and bilateral approaches

If the international community's effort centered on the UN is considered as strategic multilateralism, individual states' respective discussions on improving human rights in North Korea can be thought as strategic bilateralism. Major states' position and policy on human rights in North Korea are shaped by a number of variables including their respective interests, understanding of the universality of human rights, perception of the international community's efforts to improve human rights, policies on UN human rights mechanisms, etc. Such differences among states' policies have become more noticeable after the commission's report and the momentum stirred the international community into action. These developments suggest that the linkage between multilateral and bilateral strategies have expanded over time.

In the case of the U.S., emphasis on civil liberties has been further enhanced by its public criticism over North Korea's violation of civil liberties represented by its political prison camps. In the case of China, it has opposed the politicization of North Korean human rights issue and has maintained its traditional position regarding the defector issue. To conclude, increasing international pressure on North Korea has brought about greater distinctions among individual states' policies on human rights in North Korea.

B. Domestic Trend

1) Trend

(A) Support for the UN COI

The UN's decision to establish a commission of inquiry on human rights in the Democratic People's Republic of Korea in March 2013 has increased the necessity of international cooperation centered on the government, civil society, NGOs, etc. In particular, Seoul's role became increasingly important after Pyongyang denounced the activities of the COI and made its fieldwork in the DPRK impossible. South Korea's accumulation of North Korean human rights related data as well as the large number of North Korean settlers allowed it to take on important roles to support the COI. In August 2013, the Commission of Inquiry visited South Korea and held public hearings, highlighting the importance of coordination among related government branches and government-run research institutions like the Ministry of Foreign Affairs, the Ministry of Justice and the Korea Institute for National Unification. Accordingly, they devised and discussed a variety of schemes in order to support the Commission of Inquiry through inter-ministerial conferences.

At around this time, the South Korean government, civil society and NGOs provided various forms of support in accordance with the international move to ameliorate the humanitarian situation in North

Korea. This process entailed various agendas such as confirming the need for objective investigation and data collection on North Korea's human right violations and the need to establish a control tower to coordinate South Korea's policy on North Korean human rights, putting efforts to secure reliability on North Korean human rights testimonies of violations and information protection, and contributing to international cooperation to improve human rights in North Korea. In addition, NGOs engaged in various activities—such as promoting democratization of North Korea, improving North Korean human rights and providing humanitarian aid both directly and indirectly—that support the COI activities. In particular, their activities criticizing Pyongyang's leadership, responsible for North Korean human rights violation and humanitarian aid targeting North Korea's vulnerable social groups were widely discussed.

As the UN's field-based structure is scheduled to be set up in Seoul this year to follow-up the COI activities, international cooperation measures have been suggested at various levels. These include establishing an integrated network for monitoring human rights violations in North Korea; conducting surveys; and strengthening in-depth interviews on North Korean refugees who have settled in the South, protecting personal information; and engaging in dialogue with Pyongyang regarding human rights issues as well as prospects for possible technical cooperation.

(B) North Korean Human Rights Act

Along with supporting the COI activities, there have been various efforts by the South Korean National Assembly to enact the North Korean Human Rights Act. Such efforts reflect the recent movement by the international community to improve North Korean human rights.

South Korea's conservative and progressive political camps' traditionally held views on North Korea issues are largely reflected in their views on North Korean human rights issue. The former emphasizes liberty and argues for advocacy-related activities, whereas the latter puts importance on social rights and emphasizes assistance towards North Korea. For instance, the ruling conservatives have proposed the North Korean Human Rights Act and emphasized the Archive for North Korean Human Rights and the North Korean Human Rights Foundation. The opposition party on the other hand has put forth proposals concerning social rights such as humanitarian aid towards North Korean residents, infants and motherhood health and so on, with varying titles and contents, respectively.

South Korean lawmakers agreed to remove the clause on the North Korean Human Rights Foundation from the North Korean Human Rights Act pushed forth in March 2013 by Shim Yoon-joe, a member of the governing party. The very clause had been objected by the opposition on the ground that the Foundation might assist controversial North Korean human rights NGOs (e.g. leaflet sending activities),

causing a strain in the inter-Korean relations. The revised proposal was envisioned to be a bipartisan act for North Korean human rights. Meanwhile, Yoon Hu-duk, In Jae-keun, and Shim Jae-kwon, members of the National Assembly from the opposition party have proposed the North Korean Life and Human Rights Act, Special Act of Humanitarian Aid towards North Korean People, and Act of Aid for North Korean Motherhood Health, respectively, demonstrating the discrepancies in the two parties' views on means of human rights improvement in North Korea.

Public interest in North Korean Human Rights Act reemerged in early 2014, following the increasing possibility of legislation enactment through the agreement of both parties' leaders. In particular, both parties were successful in forging ten proposals brought forth in the 19th session into two. The first proposal, "North Korean Human Rights Improvement Act," was put forth by the opposition party's Shim Jae-kwon on April 28, 2014, and the North Korean Human Rights Act was put forth by the ruling party's Kim Young-woo on November 21, 2014. The two were deliberated by the Foreign Affairs and Unification Committee's Legislation and Judiciary Subcommittee in the National Assembly on November 24, and were discussed at a public hearing on December 19.

The liberty versus social rights debate surrounding the North Korean Human Rights Act is demonstrated by the ruling party's support for the Archive of North Korean Human Rights and the North

Korean Human Rights Foundation, and the opposition party's support for Council of Humanitarian Aids and the Information Centre of Human Rights. The clause on North Korean Human Rights Foundation, which was omitted from the Shim Yoon-joe's proposal, was restored in the ruling party's united proposal. This move was carried out under the belief that despite the opposition's concerns regarding the risk of certain controversial NGO's activities, establishing a foundation would allow more systematic support for human rights improvement in North Korea.

2) Characteristics

(A) Close coordination with the international community

Since 2013, the international community has expanded its initial role of monitoring the human right issues in North Korea into calls for accountability of those responsible for human right violations in North Korea. During South Korea's participatory governance period from 2005 to 2007, it maintained a passive stance on human right issues in North Korea through abstaining, approving, and abstaining, respectively, the resolution of North Korean Human Rights in the UN General Assembly. From 2003 to 2005, South Korea abstained or was absent in the resolution of North Korean Human Rights. The Lee Myung-bak administration put considerable emphasis on the universality of human rights, and from 2008, South Korea has voted for North

Korean human rights resolutions in the UN General Assembly and the Human Rights Council. While the international community was piling pressure on North Korea to resolve its human rights issues, South Korea has been advocating close cooperation with the international community and seeking for measures for collaboration.

Increasing public interest and in discussion on North Korean human rights around the time of the UN COI visit to South Korea demonstrate Seoul's close cooperation with the international community. In particular, the momentum accelerated in South Korea's discussion of its North Korean Human Rights Act following the UN General Assembly resolution on referring North Korea's ruling elite to the ICC. This shows that the South Korean society responds to international community's discussion on the matter with great sensitivity and seeks to find areas for cooperation. South Korea's cooperation and collaboration with the international community's efforts, rooted in the universality of human rights, will continue and strengthen as long as the international community keeps striving to achieve accountability and engagement.

(B) South Korea's role in the UN COI field-based structure

The COI report's recommendation to construct a field-based structure concluded with the UN OHCHR decision in May 2014 to establish a North Korea human rights office in Seoul. Such development is expected to ignite discussions on South Korea's role and limitation

regarding the activities of the new field-office. The scope of the field-office includes implementing the COI report's recommendation and strengthening the support for the special rapporteur's activities, requiring a strategy which draws from both a critical dimension of calling for accountability and an intervening dimension of human rights dialogue and technical cooperation. Accordingly, discourses on North Korean human rights in South Korean society are expected to develop into discussions on South Korea's role in improving North Korean human rights in the framework of inter-Korean relations.

Indeed, there exist clear limitations in the extent of South Korea's contributions. Unlike the public expectations, the field-office is strictly directed and operated by the United Nations, and is independent of the host state's opinions and policies. Nevertheless, when considering the geographic proximity to the North, it is expected that the field-office would implement the COI follow-up measures on account of its location.

In essence, the discussion on a means of supporting the field office is an extension of South Korea's role in improving human rights in North Korea, which in turn, is a discussion on how the South Korean government perceives the objectives, measures, and processes of its policies on North Korean human rights. Given that these various discussions can induce the South Korean society to form a consensus on this issue, the current discussion on North Korean human rights can be said to hold much significance.

C. North Korea's Response

1) Trend

After the submission of the COI report, ensuring accountability in the North Korean human rights issue emerged as an important international agenda. The COI concluded that human right violations in North Korea amount to “crimes against humanity” from the viewpoint of the international law and that the international community has a responsibility to protect North Korean people from such crimes. Detecting a qualitative shift in the international community’s focus on its human rights issue, North Korea responded with a multi-faceted strategy. From complete denial to diplomatic soft-line gestures, to provocative hard-line postures including nuclear weapons, North Korea presented an all-encompassing response.

North Korea’s strategy of arguing the unfairness of the COI report and ensuing steps on the human rights issue can be summarized as follows. First is the complete denial of the COI report and efforts to incapacitate its influence (during the COI submission period); second is partial acceptance of the international community’s requests and efforts to actively explain its human rights situation, as well as efforts to block resolutions through diplomatic contact (July - September); third is the formulation of a friendly atmosphere through the release of American detainees and holding discussions on Japanese abductees (prior to the vote by the Third Committee of the UN General Assembly

on October 18); fourth is its implication of nuclear confrontation and dissolution of the inter-Korean relations (after the October 18 vote); and fifth is the organization of mass rallies aimed to prevent domestic unrest (prior to the UN General Assembly's adoption of the human rights resolution on December 18).

2) Characteristics

(A) Strategies for external responses

(1) Attempts to nullify the credibility of the COI report

Since the COI report was submitted on February 17, 2014, North Korea has attempted to nullify the credibility of the report. The North Korean regime claims that the UN investigation was carried out under the U.S. political manipulation. Moreover, the method of inquiry did not include field surveys within the North Korean territory and furthermore did not include the North Korean government's position. In addition, investigations are distorted by dubious witnesses from North Korean refugees. Thus, North Korea's position is that the credibility of the report must be brought into question.

(2) Attempts to frame the issue as the U.S. political maneuver

The most consistent argument voiced from Pyongyang is that the United States is problematizing and politicizing North Korean human

right issues to justify its unfounded intervention. North Korea deems such U.S. behavior to constitute “political fraud” or the creation of a “human rights fuss.” Interestingly, North Korea’s argument targets the U.S. and not the UN or the international community. Such course of action originates from North Korea’s perception that the U.S. manipulates and Japan supports the UN and the European Union (EU). It is worthy to note that North Korea has never directly criticized the United Nations, though it has assumed that the U.S. was the one pulling the strings.

By limiting the target of criticisms to the U.S., North Korea attempts to transform the essence of its human rights controversy to an issue concerning the armistice system on the Korean Peninsula or DPRK-U.S. antagonism. In other words, humanitarian issues are derived from political confrontation between the U.S. and North Korea as well as the U.S. hostile policy against North Korea. In this vein, North Korea referred to the human rights resolution passed in the Third Committee of the UN General Assembly as “anti-DPRK maneuver manipulated by the U.S. intention to overthrow the socialist system and the superlative expression of hostility against the DPRK.” Meanwhile North Korea’s avoidance of criticizing the UN is intended to belittle the UN authority. In addition, it reduces the chances of diplomatic isolation by refraining from including the UN. Moreover, it leaves North Korea with the option to continue with diplomacy on the UN stage. Finally, focusing on the U.S. rather than the UN is a more

convenient in preventing domestic unrest and consolidating domestic solidarity against accusations of human rights issues.

(3) North Korean argument of human rights relativism

North Korea has responded by consistently pointing out vulnerable human rights situations in the countries that have participated in North Korean human rights resolution or have led the discussion on North Korean human rights problems. Although the North Korean regime has conventionally raised questions on human rights issue in the United States and South Korea, North Korea has dramatically increased such criticisms particularly in early 2014, after the publication of the COI report.

This can be interpreted as a North Korean strategy to justify its human rights violations by blaming human rights problems in other countries including South Korea and the U.S. In 2014, North Korea's major criticism towards the U.S. included drone air-raids in the Middle East, domestic shooting incidents, the Ferguson crisis, crimes committed by the U.S. Forces in Korea, and the CIA's use of its enhanced interrogation techniques on terrorist-suspects. In the case of Japan, North Korea points to Japan's acts of brutality during colonial periods and distortion of history. In 2013, North Korea organized the Council for South Korean Human Rights and published a White Paper on Human Rights in South Korea with the National Reunification Institute. The North Korean regime has criticized South Korea for the National Security Act's infringement of human rights, the *Sewol* tragedy, the

death of Private Yoon in the ROK Army, and the family suicide incident which occurred in Songpa-gu, Seoul.

(4) Proactive explanation of North Korean human rights situation

North Korea has diverted from its conventional attitude of rejection and denial of the international community's human rights criticisms and has instead shown unprecedented efforts to explain and propagandize its human rights situation. For example, the regime emphasizes "our own standard on human rights" through publications from the DPRK Association for Human Rights Studies. On October 7, 2014, the North Korean delegations held an unprecedented conference at the UN headquarters in New York. North Korea expressed its intention to engage in human rights discussions with the international community as well as its willingness to extend an invitation to the EU special representative of human rights and the UN human rights special rapporteur to visit North Korea. It has expressed its intention to accept technical cooperation from the OHCHR. Such attitude is considered to be the most drastic change in North Korea's diplomatic stance since the publication of the COI report in 2014.

(5) Proactive promotion of exemplary human rights conditions and partial acceptance of international recommendations

After the publication of the COI report, North Korea has actively

introduced exemplary cases of its human rights conditions in an attempt to dilute international criticism. For example, various topics and interviews with North Korean residents are shown on North Korean media to promote that “genuine human rights” are being observed inside North Korea. Meanwhile, North Korea has also deployed a strategy of partially accepting the international community’s recommendations. Such a strategy includes joining international conventions or systematic instruments that adhere to international human rights norms. Recently, North Korea has ratified the UN Convention on the Rights of the Child and has accepted some of the UPR recommendations.

<Status of North Korea’s membership in international human rights treaties>

Treaty	Status	Date of entry/ ratification	Date of entry into force	Other
International Convention on Civil and Political Rights	Accession	14 Sep 1981	14 Dec 1981	Notified its withdrawal on 25 Aug 1997*
International Convention on Economic Social and Cultural Rights	Accession	14 Sep 1981	14 Dec 1981	
Convention on the Rights of the Child	Ratification	21 Sep 1990	21 Oct 1990	
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Ratification	10 Nov 2014	10 Dec 2014	
<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>	Accession	27 Feb 2001	29 Mar 2001	Filed reservation on Article 2 (f), Article 9, Paragraph 2, Article 29, Paragraph 1
Convention on the Rights of Persons with Disabilities	Non-ratification (signed 3 Jul 2013)	-		

Treaty	Status	Date of entry/ ratification	Date of entry into force	Other
Convention on the Elimination of All Forms of <i>Racial</i> Discrimination	Non-member	-		
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	Non-member	-		
International Convention for the Protection of All Persons from Enforced disappearance	Non-member	-		

Source: United Nations Treaty Collection (<http://treaties.un.org>)

*On 25 August 1997, the Secretary-General received from the Government of the Democratic People's Republic of Korea a notification of withdrawal from the Covenant, dated 23 August 1997. As the Covenant does not contain a withdrawal provision, the Secretariat of the United Nations forwarded on 23 September 1997 an aide-mémoire explaining that unless all parties to the Covenant agree, it is not possible for the DPRK to withdraw.

North Korea has accepted numerous recommendations from the first UPR in 2009. It enacted the Prevention and Rescue from Earthquake and Volcanic Damage Act and included the establishment of a national disaster organization and safety in its human rights criteria. In terms of economic, social, and cultural rights, it has included substantial parts of rights to health, education, food and cultural life. Particular attention was shown in the protection of women, children, the disabled, and the elderly, and the term “vulnerable groups” was used for the first time. In the National Report, North Korea claimed that it had revised and supplemented its human rights related laws to preserve the people’s human rights, with respect to the UN human rights conventions.

It may be possible to conclude that the international community’s pressure on the North Korean human rights situation has produced

some effect. Whether North Korea's National Report or ratification of protocols is actually observed is a different question, but nevertheless, the worst human rights abuses will be prevented by making North Korea aware of the international norms. The UPR system has proved to be an important means to encourage North Korea to accept the universal concept of human rights and continuously engage in human rights dialogue with the international community. Meanwhile, such development also suggests that it is no longer possible for North Korea to reject, deny, or remain silent to the international community's requests for human rights improvement.

Such changes are also noticeable in North Korea's attitude at the UN General Assembly. North Korea has adopted a mode of active diplomacy through the UN by expressing its intention to proactively participate in UN activities. For example, after 19 years of non-participation, North Korea dispatched Foreign Minister Ri Su-yong to the 69th session of the UN General Assembly to express its interest in actively partaking in UN activities. In his keynote speech, Minister Ri commented that the DPRK is "willing to facilitate technical cooperation, contacts, and communication with UN and other international organization in the human rights field" and that they will constructively participate in the post-2020 agenda setting process.

Although such a gesture was a diplomatic move orchestrated just before the Third Committee's vote on North Korean human rights resolution, it could be concluded that North Korea has demonstrated a

strategy to alter its diplomatic stance in response to the international community's pressure.

(6) Diplomatic isolation and improved relations with Russia and China

Faced with diplomatic isolation, North Korea has been actively improving and expanding relations with China and Russia. Since 2014, North Korea has strived to expand multi-faceted diplomatic relations with Russia. In particular, North Korea declared a hard-line policy in response to the UN human rights resolution, and explicitly emphasized the common stance they shared. North Korea even went on to comment that it was able to confirm who its genuine ally was, and that Russia will defeat the U.S. in the second Cold War. When North Korean human rights problem emerged as an international issue, Party Secretary Choe Ryong-hae allegedly visited Russia to discuss a DPRK-Russia summit and economic cooperation, as well as to conclude an agreement to dispatch North Korean researchers to a nuclear research institute in Russia. China and Russia were deemed as states which North Korea is eternally grateful to, after they voted against the North Korean human rights resolution.

Given the diplomatic isolation that North Korea is facing, its proactive approach towards China and Russia is somewhat predictable; yet it is questionable whether it will bring about actual improvement in the relations. In the case of Russia, not only is it experiencing its worst

economic crisis, President Putin's handling of the Ukraine crisis has led to a decline in its international status. In such circumstances, it is uncertain how profitable the expansion in DPRK-Russia relations will be. It is likely to remain as a symbolic gesture to demonstrate Russia as a stakeholder in issues concerning the Korean Peninsula. In the case of China, it sees no need to demonstrate beyond its tacit understanding with North Korea on economic affairs. Nevertheless, given that most of North Korean laborers abroad are working in China and Russia, there is a possibility that the two states will cooperate via unofficial means to address this issue.

(B) Counterstrategy through inter-Korean relations

(1) Creating crisis situations

North Korea has gradually escalated the level of threat in response to human rights criticisms. These range from "dissolution of inter-Korean relations" to "declaration of an all-out war" and to "use of nuclear weapons." North Korea argues that South Korea has been the "driving force" behind the UN human rights resolution and that "South Korea has propelled anti-DPRK human rights conspiracy with the US" (Korean Central News Agency, November 22, 2014). North Korea has denounced the U.S.-led human rights resolution and claims that it is a political provocation which will be met by stronger deterrence (Korean Central News Agency, November 20, 2014). At the same time, the

National Defense Committee has made an unprecedented statement regarding its human rights issue to declare its “super hard-line” response.

(2) Gradual threat escalation

Another strategy is to make direct and indirect reference to nuclear threats as a response to its human rights issue. After mentioning nuclear threats through the DPRK Mission to the UN on April 4, 2014, it has increased the severity of its rhetoric. North Korea asserts that its nuclear weapons are a protector of its human rights. Vice Foreign Minister Choe Myong-nam and Special Representative to the UN Kim Song, among others even commented after the human rights resolution was passed at the third committee that Pyongyang will no longer be able to refrain from conducting nuclear tests. In addition, just after the resolution was passed, Ambassador Ja Song Nam wrote an official letter to Secretary-General Ban Ki-moon stating that North Korea cannot accept the human rights resolution and that “the hostile policy of the United States compels the DPRK not to exercise restraint any longer in conducting a new nuclear test.”¹⁴⁾ Moreover, through an editorial in the *Rodong Sinmun*, North Korea reproached the U.S. for manipulating the UN human rights resolution and argued that “[t]he DPRK does not hide the fact that it will fully demonstrate its nuclear

14) “Letter dated 24 November 2014 from the Permanent Representative of the Democratic People’s Republic of Korea to the United Nations addressed to the Secretary-General” A/69/616

force and political and military deterrent in the decisive battle to bury the U.S. Imperialists, the chieftain of aggression and worst human rights abuser.”¹⁵⁾ In fact, reports claim that unusual activities have been detected in Yongbyon nuclear facilities after the publication of the COI report.

North Korea’s response to human rights criticisms with nuclear threat just after the publication of the 2014 COI report must be taken with careful consideration. Once international pressure increases and North Korea deems a diplomatic resolution to be unlikely, it may resort to military actions or launch missiles on a par with its fourth nuclear test. The aim will be to create a crisis situation on the Korean Peninsula to change the surrounding environment to its advantage and/or to divert attention away from its human rights issues. However, a nuclear test will be unlikely given that North Korea must deal with its impacts from its neighboring countries and that it will actually aggravate North Korean human rights situation.

Nevertheless, nuclear power can still be demonstrated by means such as displaying the development of lighter and smaller weapons or sophisticated projectile mechanisms, as well as conventional weapons which correspond to missile defense systems (THAAD). If North Korea intends to use military means to turn the human rights situation to its favor, it may very well display a particular part of its nuclear

15) “U.S. “Human Rights” Campaign against DPRK Can Never Work,” *Rodong Sinmun*, November 7, 2014.

system to demonstrate its capacity to impose a threat, even if it does not conduct a nuclear test. Already in 2014, North Korea has made use of a gradual threat escalation strategy with its rhetorics like “dissolution of inter-Korean relations,” “declaration of an all-out war,” “use of nuclear weapons.” It has also made an unprecedented announcement under the National Defense Committee to present its “super hard-line” response. In this context, it may be difficult to rule out the possibility of direct or indirect military protests or regional provocations.

(3) Response to the establishment of a UN human rights office

When the UN human rights office is officially launched in South Korea, inter-Korean relations may worsen with possibilities of a crisis situation emerging at hand. North Korea considers South Korea’s hosting of the field-based office as a form of “provocation,” “declaration of war,” and “hostility to the people of the same ethnicity,” and has criticized that South Korea is aggravating the situation with political provocations. Once the field office is officially launched, North Korean escapees’ testimonies of human rights violations will be accumulated and used by the international community to increase pressure—which is a major concern that North Korea appears to have at present. Moreover, North Korea may be worried that in the process of investigations, North Korean escapees will be able to diffuse an awareness of human rights or inform their families back home of the international scrutiny of North Korean human rights situation. Therefore, there is a high

possibility that North Korea may provoke crisis situations in inter-Korean relations after the launch of the field office.

(C) Strategy for domestic response

After the resolution on human rights in North Korea was passed in the Third Committee of the UN General Assembly, North Korea has been increasingly using its human rights issue as a means to consolidate national unity. Just after the resolution was passed, North Korea has hosted numerous mass rallies as a show of protest. On November 25, 2014, a mass protest was held at the Kim Il-sung Square in Pyongyang to support the National Defense Committee's objection to the resolution and to criticize the U.S. Similar rallies have been spreading to different units in various provinces. Meanwhile, just after the resolution was passed, Kim Jong-un visited the Sinchon Museum of United States War Atrocities as a symbolic gesture of protest. North Korea has expressed that it will encourage "anti-American ideological armament" by strengthening anti-imperial, anti-American and class education.

With consideration to domestic politics, North Korean human rights issues will have a significant impact on its society. To begin with, crackdown on North Korean escapees will increase and more military facilities near the border areas will be built. North Korea will also put more efforts to control the flow of information. Already, measures which have been put in place in 2014 are likely to be strengthened. Moreover, relatives of those who have defected are likely to become

categorized and monitored in a systematic way, and institutional and technical mechanisms to disrupt telephone frequencies are likely to be enhanced. These measures can be regarded as North Korea's attempts to block the international community's human rights movement. In addition, going beyond its efforts to stop defectors, North Korea will likely carry out systematic measures to encourage them to re-defect. The purpose of such measures will be to use them as means to deflect international pressure on its human rights situation. Nevertheless, it appears that the influx of information from official and unofficial trade activities on the border areas will, although slowly, disseminate news of the international community's pressure on North Korean human rights to the North Korean society.

D . Assessment and Prospects

To begin with, changes in the UN's approach to human rights in North Korea derive from the recognition that its previous "expression of concern" will have limited effect in bringing changes to North Korea's "blatant denial" strategy. Qualitative changes in the UN's approach and particularly the UNSC's adoption of the human rights issue as an official agenda will most likely act as significant pressure points for North Korea. Meanwhile, although the second UPR has not yielded results which are fundamentally different from the first cycle,

the UPR system has nevertheless acted as an important means to maintain dialogues and cooperation between North Korea and the international community.

Secondly, despite the international community's consistent efforts to improve human rights in North Korea, respective states' policies on the issue are affected by various factors such as its perception of human rights in North Korea, relations with North Korea, position on the UN human rights mechanisms, among others. South Korea will be able to derive its objectives and direction for policies on human rights in North Korea at a common point of agreement between the UN-based multilateral approach and the respective bilateral approaches of concerned states. Meanwhile, despite the international community's relatively consistent pressure and response, China, a permanent member of the UN Security Council, has not changed its fundamental position. In the future, factors such as changes in DPRK-China relations and the Chinese government's tolerance towards the universal concept of human rights will come to affect China's policies on human rights in North Korea.

Thirdly, international pressure on North Korea throughout 2013 and 2014 refreshed the need for South Korea to have its own systematic policy on human rights in North Korea. In particular, President Park Geun-hye's address at the 69th session of the UN General Assembly and the passing of the human rights resolution are considered core agendas of South Korea's policy on North Korea, and

have given momentum to emphasize the importance of North Korean human rights problems.

Fourthly, in contrast to the swift and consistent actions taken by the international community, North Korea clearly revealed its strategic limitation in responding to international pressure. Foremost, as “crimes against humanity,” “calls for accountability,” and “referral to the ICC” became discussion points in the international arena, North Korea seemed to experience embarrassment and confusion while deciding on the level of its diplomatic response. In accordance to the agenda being intensified in the international community, North Korea responded with incoherent and inconsistent strategies, ranging from expressing blatant denial to showing interest in human rights dialogue to implying soft-line gestures to threats of nuclear force, etc.

Fifthly, “calls for accountability” have directly challenged the “dignity of the supreme leadership,” effectively narrowing North Korea’s diplomatic options. Statements such as “crimes against humanity,” “calls for accountability,” and “referral to the ICC,” have *de facto* denied the existence and dignity of Kim Jong-un, and thus have acted as the threshold which core members of the elite and diplomats cannot cross. “Dignity of the supreme leadership” does not simply refer to the supreme leader but also includes the historical tradition and systematic legitimacy of the Kim Il-sung - Kim Jong-il - Kim Jong-un legacy. Given North Korea’s system of political mechanisms, it is impossible for North Korea to engage in diplomatic

actions while overlooking such recognition.

For the ruling elite and diplomatic officials, the fear of diplomatic isolation is overshadowed by their interest in maintaining their position by accommodating to domestic power politics imbedded in the system. In particular, frequent personnel reshuffles throughout three years of Kim Jong-un's rule have nurtured bureaucrats who strive for political survival by demonstrating their ambitions through an attitude of hard line confrontation. In this respect, the rigorous nature of issues surrounding the "dignity of the supreme leader" implies that there is limited room for the leadership to make any diplomatic move. Inferred from this fact, North Korea's inconsistent responses to international pressure as well as its defensive postures strongly reflect its domestic power politics and situations.

To conclude, in 2014, North Korea became acutely aware of its strategic limitations and diplomatic isolation in the face of unprecedented international action on its human rights issues. In particular, the fact that the international community, excluding China and Russia, is united with its negative perception on North Korean human rights serves as a significant pressure point. In effect, its human rights problem has emerged as a high "threshold" for North Korea to maintain or expand its foreign relations. As North Korea continues to be unwillingly isolated from the international community, it has become more likely for the Kim Jong-un regime to experience instability in the mid-to-long term. When the issues of North Korean

laborers abroad and their human rights abuses are presented as violations that North Korea cannot deny, it will have a direct impact on the regime. Moreover, strengthened social control to block the inflow of the international human rights movement will increase social fatigue, burdening North Korea's governance system.

However, the degree of pressure felt by North Korea and the effects of sanctions are likely to come to a stop or gradually decrease. Due to limitations in courses of action, discussions at the UN Security Council may move from sanctions to improving the human rights environment. In addition to crimes against humanity and calling for accountability, the COI report also makes recommendations to improve the environment surrounding the division of the Peninsula, including the inter-Korean reconciliation and dialogue as well as exchange and cooperation. Therefore, if specific courses of action cannot be found in discussions of sanctions, there is a chance that discussions will move onto more feasible agendas such as improving the structural environment. Qualitative progress, going beyond accumulating more testimonies, will be limited given the difficulties in conducting field-work or obtaining data from North Korea. Nevertheless, there are certain issues which can incapacitate North Korea's denial tactics or non-cooperation. One potential area for further case studies is the export of North Korean laborers and the specific human rights abuses they experience. Unfortunately, due to the increased control and passive cooperation by the states concerned

(China, Russia), it may be difficult to bring about significant results which go beyond affecting North Korea's foreign currency earning activities.

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3

Objective and Direction of North Korean Human Rights Policy

3. Objective and Direction of North Korean Human Rights Policy

A. Objectives and Means

1) Objectives

The range of North Korea human rights generally includes human rights within the North Korean territory as well as the rights of North Korean defectors, and inter-Korean humanitarian issues. Thus, human rights policy encompasses policies for human rights violation prevention, and protection and promotion of human rights; protection of defectors;¹⁶⁾ and for resolving humanitarian issues between the two Koreas (separated families, abductees, and military prisoners). For practical resolution of these problems, strategies for human rights protection and improvement must be included in the South Korean government's North Korea policy, foreign policy, and domestic policy.

16) This report does not address policies on protection of North Korean defectors in detail as they are systematically promoted by the Act on the Protection and Settlement Support of North Korean Defectors. Nevertheless, relevant policies need to be further developed to address human rights protection.

The main reasons why human rights violation occurs can be said to be a political structure justifying government violence, economic factors such as absolute poverty, and a social culture that discriminates and excludes certain social classes. As reflected in the International Covenants on Human Rights, the range of human rights is mainly categorized into civil and political rights, and economic, social, and cultural rights. However, the 1993 Vienna World Conference on Human Rights emphasized that human rights issues are closely inter-related and cannot be clearly divided. Considering the universality, inter-relatedness, interdependence, and indivisibility of human rights, various human rights issues should be dealt in an integrated approach to reinforce each other in order to improve human rights. For instance, democracy, which guarantees the people's political rights, and economic development that promotes economic rights have a reinforcing relationship.

As much as the trend of global discussions on human rights emphasizes an integrated approach, it would be appropriate for South Korea to take a well-balanced integrated method towards North Korean human rights that allows various rights to reinforce each other, rather than focusing on particular rights. In this aspect, the debate over whether the right of freedom or social right should come first is incongruous with international views and furthermore ignites a social conflict in the South Korean society.

It is the calling of our era to prepare for a happy unification. The

objective of the human rights policy towards North Korea should be to prepare the “foundations for happy unification” by improving the lives of every individual on the Korean Peninsula and making Korea more permissive to human rights through solving the fundamental issues (North Korean human rights improvement, protection of human rights of defectors, inter-Korean humanitarian matters). The policy towards North Korea and unification policy in general should be mainstreamed as values of human rights in order to build the grounds for “an era of happy unification in which everybody enjoys abundance and freedom, and can fulfil their dreams.”

Human rights values that the international community widely accepts are “liberty, equality, and human dignity.” Such universal values on human rights echo what “happy unification” emphasizes: abundance, freedom, and self-realization for all on the Korean Peninsula. In other words, the values of human rights and unification are interrelated rather than separate. Therefore, it is important that human rights values are well reflected in the establishment and execution of the policy on North Korea and unification, and thereby mutually impact each other.

In truth, until today, the fact of Korean division has focused on collective security rather than individual rights of the people on the Peninsula. However the Park Geun-hye administration emphasizes that each individual should be happy alongside national growth to realize an “era of happiness of people.” Happiness of people is only

possible when the people enjoy a safe and comfortable life. Although collective security is significant, the administration emphasizes a balanced approach that harmonizes with human security. Since people are the fundamental elements of and assets to national and social growth, government policies need to focus on the protection and promotion of individual human rights.

National capacity and capacity for unification are most effective when they are based on individual human rights and secure sustainability. Improving human rights in North Korea should be approached with this perspective. It is necessary to ensure that the human rights values of “freedom, equality, and dignity” are systematically reflected and mainstreamed in the establishment and execution of South Korea’s North Korea policy and unification policy. In this sense, the two policies’ main objective should be set to form trust, recover homogeneity, and strengthen the capacity for unification through human rights improvement.

Additionally, such effort to incorporate and mainstream human rights into policies should take place by cooperating with the international community. What is important is to make the international cooperation system closely linked with the policy on North Korea and unification. Mainstreaming human rights also includes the two policies becoming combined into capacities for unification in harmony with the international community. The UN-centred international community emphasizes that the world should bear common responsibility for the

human rights situation in North Korea. The North Korean human rights issues have transcended the boundaries of the Peninsula and now become a matter that will be dealt within the frame of the universal norms and cooperation system of the international community. As a member of the international community, South Korea must actively participate in it.

Accordingly, objectives of North Korean human rights policy should allow the mainstreaming of human rights in the establishment and execution of policies towards North Korea and unification, and ensure that these efforts be closely linked with the human rights cooperation system of the international community. In other words, North Korean human rights policy should not be separated from the policies on North Korea and unification; it should enable the incorporation and mainstreaming of human rights values and efforts for human rights improvement into the policies. Ultimately, improvement efforts should be combined into the capacity for unification, and render the South and North Korean society to become human rights friendly.

2) Means

The international community's approach to improve human rights can largely be categorized into "pressure" which involves ensuring accountability, naming and shaming on the human rights situation,

sanctions, humanitarian interventions, etc, and “engagement” - capacity-building (human rights dialogue, technical cooperation) and support. These two approaches and means are not in contrast to each other or completely separated. Rather, most efficient methods and means can be diversely utilized in accordance with the characteristics and improvement phase of the human rights issue, and can be simultaneously linked. All of these approaches and means can be taken into consideration in improving human rights in North Korea.

To date, discussions on North Korean human rights have been somewhat inclined towards either pressure or engagement. Yet, the international community's experiences of human rights improvement have verified that an one-sided approach limits a comprehensive and holistic improvement of human rights, and that it is efficient to balance pressure and engagement, considering the traits and improvement phase of the human rights issue. Such findings should be used as reference in tackling the human rights problem in North Korea.

Meanwhile, it is necessary to search for policy means in the aspect of the entity of human rights improvement. First, these entities may include various actors such as individual states, IGOs such as the UN, and human rights organizations. Looking into the conventional means each player chose, IGOs have focused more on pressure, while human rights organizations tended to use engagement. Recently, states and IGOs have shown growing interest in using engagement and diversifying the spectrum of human rights. However the characteristics

and capacities of each player dictate the limitations of the means and its effectiveness.

Therefore, considering these limitations, a phased implementation of pressure and engagement and a balanced utilization of means are necessary. To do so, means of pressure and engagement must be diversified and interchangeably used according to the improvement phase. Based on this, the actor's efforts for improvement should be consolidated to create an efficient cooperation framework.

As mentioned above, directly targeting the North Korean populace for information influx and exchange cooperation can be considered as a measure. The COI report also advises that the South Korean government should stimulate discourse and interaction with the North Korean people in fields such as culture, science, sports, good governance, economic development.

B. Principles and Directions for Implementation

1) Principles

(A) Cooperation with the international community

International cooperation is imperative for South Korea to push forward its North Korea human rights policy. An international consensus is needed on perception, policy means, and policy objectives of North

Korean human rights, as well as harmony with the international trend and the international community's policies on human rights. Since the COI report and discussions on follow-up measures, there has been increased interest on holding perpetrators of human rights violations in North Korea accountable and on the possibility of bringing violations of North Korea human rights to the International Criminal Court.

However, the international community's strategy on North Korean human rights is a two-track approach: suggesting the possibility of punishment through ensuring accountability, and, simultaneously, capacity building through human rights dialogues and technical cooperation. South Korea should collaborate with the international community to reflect the criteria and strategies for improving human rights in North Korea in its policy on human rights in North Korea. At the same time, considering the necessity to lay the foundation for unification, South Korea should aim to achieve a virtuous cycle of advancement in inter-Korean relations and improvement of North Korea human rights.

(B) Expansion of national consensus

Alike all policies towards North Korea, the policy on human rights in North Korea requires implementation based on national consensus surpassing implications of political interests in order to enhance the policy effectiveness. Up to now, human rights issues in North Korea have been considered as problems that may trigger political and social

conflicts in South Korea, which is why an immediate establishment and execution of a policy on North Korean human rights based on a nation-wide agreement have not been easy.

Nevertheless, it is still necessary to minimize unnecessary debates or clashes surrounding the means of policy. For this reason, South Korea should pursue a harmonious virtuous cycle of North Korea policy, unification policy, and North Korean human rights policy, and further persuade the public to perceive the North Korean human rights issue not as a mere source of conflict. Meanwhile, it is also necessary to spread the perception that a unified Korea would contribute to regional peace and stability based on democratic and human rights values, as the people's interest in unification and North Korean human rights grows.

(C) Acceptable human rights policy

To reinforce the implementation of the human rights policy, the policy must be formed in a way that maximizes the possibility of acceptance by North Korean. This is not to harm the general principle of human rights or to hesitate from expressing South Korea's stance. It also does not mean that limited methods such as humanitarian aid should be employed. The fundamental principles must be preserved while a practical strategy that encourages North Korea's acceptance by taking a more flexible approach in the aspect of implementation.

Various means of pressure and engagement must be utilized in an appropriate and balanced manner. Balance, in the human rights policy, means to take hard-line stance when urging state responsibility for human rights, while pursuing technical cooperation with North Korea in a flexible manner to practically coordinate and utilize various means in accordance with the specific issues and phases. In addition, it is important to mitigate North Korea's suspicion that human rights are the instrument of political strategy to threaten the stability of the North Korean regime. It would be desirable to support North Korea to make efforts for the improvement of human rights on its own will so that it boasts the achievements. Also, it is necessary to persuade North Korea that participating in human rights dialogues and cooperation will benefit North Korea in the mid-to-long term.

2) Directions for Implementation

(A) Upgrading the Trust-Building Process

(1) Directions for implementing the Trust-Building Process

Upon its inauguration, the Park Geun-hye administration set forth “laying a foundation for peaceful unification” as one of its four administrative priorities. As part of a supporting strategy, normalization of inter-Korean relations through the “Trust-building Process” was heralded to be South Korea's policy on North Korea. The Trust-building Process sets out to develop South-North Korea relations, secure peace

on the Peninsula, and furthermore lay the foundation for unification by establishing trust between the two Koreas based on water-tight security.

The Trust-building Process moves forward to the next step through a series of verified actions, and trust is gradually built through the process of dialogue, promise-keeping, and mutually beneficial exchanges and cooperation, similar to the process of laying bricks. Trust means not only the trust between the South and North, but also the trust of the people and the international community.

The Trust-Building Process puts forward implementation principles that comprises a balanced approach to North Korea policy, an evolving North Korea policy, and North Korea policy through cooperation with the international community. Implementation tasks contain normalization of South-North relations through trust-building, pursuit of sustainable peace on the Korean Peninsula, strengthening of unification infrastructure, and the seeking of a virtuous cycle between peaceful unification on the Korean Peninsula and peaceful cooperation in Northeast Asia.

(2) Trust-Building Process and North Korean human rights

It cannot be denied that the South Korean society had a tendency to acknowledge the North Korean human rights issue as being separate from inter-Korean relations or as an obstacle for North-South relations. In the past, while implementing North Korea policies, there

were cases in which human rights issues, albeit mentioned, were only limited to humanitarian aid, and economic cooperation and social-culture exchange did not reflect the values of human rights.

This was because the trust between the South and North was viewed in a limited scale in the special context of the South-North relations, rather than from the long-term perspective of universal values for the nation and the international community. In order for trust to have sustainability and universality among the people and the international community through their support and sympathy, efforts are needed to pursue universal values, rather than rely on material incentives for hasty and superficial trust-building.

The Trust-building Process puts forward implementation tasks including the normalization of the South-North relations through trust-building, pursuit of sustainable peace on the Korean Peninsula, strengthening of unification infrastructure, and the seeking of a virtuous cycle between peaceful unification on the Korean Peninsula and peaceful cooperation in Northeast Asia.

First, the normalization of relations through trust-building has set, as its goal, the establishment of a new South-North relationship where common sense and international norms are accepted. In building trust and newly establishing relations between the South and North, human rights must be an important value and standard, from the perspective of the common sense and norm of the international community. North Korean human rights can be approached as benefiting all people of

South and North Korea; they are universal trust good in that they do not benefit one side over another, but rather is for the well-being, welfare, and prosperity of all people.

Second, for the settlement of peace on the Korean Peninsula, human rights standards and values can function as an important trust good. North Korea's possession of nuclear weapons is a human rights issue that seriously violates the right of all people of the Korean Peninsula to live in peace. The existence of nuclear weapons on the Peninsula exacerbates the systematic military standoff, and the possibility for improving the quality of life for the residents on both sides is reduced by the same extent. In particular, the human rights of North Korean residents are seriously infringed by the nuclear weapons. Thus, peace must be accompanied by the value of human rights, and the North Korean nuclear issue should take an approach from a human rights perspective in that it violates the right of people to live in peace, rather than be approached as a security problem. Sustainable peace has its basis in the human rights value where members of the Korean Peninsula realize their rights in safer circumstances.

Third, human rights are also important in terms of building the social capacity for actual unification. The capabilities for unification are based on human security and the capabilities of individuals. In this regard, protecting and promoting human rights of individuals is a critical element in enhancing unification capability. Thus, promotion

of human rights in North Korea and the Korean Peninsula is in line with building the foundation for unification.

Human rights are a precious value that must be realized for the sake of the prosperity and the well-being of the people, before and after unification; it is an important trust good as a universal value of the international community and humanity. Human rights are also a value that all people should pursue, and a value that is linked to the life, freedom, and equality of the people. There may be many ways in which North Korea can be trusted in the South-North relations or by the international community, but there is none more important than trust gained through human rights, a universal human value. Furthermore, an era of unification where individuals can be happy sets as its ultimate goal a society where the values of human rights are realized, and all enjoy prosperity, freedom, and peace. Regarding this, President Park Geun-hye commented at the third meeting of the Presidential Committee for Unification Preparation on November 2, 2014, that “the issue of North Korean human rights must be improved, not only for the protection of a universal human value, but also for the future of the unified Korea,” emphasizing the relationship between unification and human rights.

(3) Improving North Korean human rights and seeking to upgrade to the Trust-building Process

There is no value more important than the happiness of all

members of the Korean Peninsula. Human rights are a critical value in the pursuit of life, freedom, equality and well-being of all members of the people, and in that sense, a North Korea policy that neglects the value of human rights cannot have sustainability or universality. It is necessary to move away from the attitude of treating human rights as an issue separate from or secondary to South Korea's North Korea policy, and instead, place them (human rights) as a critical value, strengthening the policy's momentum.

It is necessary to build a virtuous cycle between the improvement of North Korean human rights and the process of building trust on the Korean Peninsula and unification capabilities, by further activating the various measures for improvement of North Korean human rights that are within the Trust-building Process. Human rights and humanitarian principles need to be implemented as specific strategies, to the level appropriate to the South-North relations as set forth in the Trust-building Process. President Park Geun-hye emphasized at the first meeting of the Presidential Committee for Unification Preparation on August 7, 2014, that "the most urgent and basic process for achieving unification is to first solve the humanitarian issues of the North and South Korean residents, and build everyday-life infrastructure for mutual prosperity, and make efforts to restore national homogeneity."

Now, going beyond the dimension of South and North Korea building trust, it is necessary to strategically discover trust goods that have common values shared by South and North Korea, and that must

be a core agenda of a sustainable North Korea policy. Trust goods are the necessary values and means for South and North Korea to build trust. The more common the trust good, the greater sustainability it would have. Also, trust goods take significant amounts of time until its effects and utility are unraveled, but nevertheless require a strong resolve to fulfill promises in spite of short-term losses and sacrifices. Thus, trust goods should be grounded on a universal value that serves the interests of South and North Korea and the Korean people as well as those of the international community, rather than yielding one side's benefit or a short-term value.

What the Trust-building Process offers as an implementation task needs to be re-interpreted from the dimension of realizing human rights values; furthermore, preparations should be made for the trust good named human rights to be adequately expressed at the international, South-North, and domestic levels. It complies with the core agenda of the Trust-building Process in which the value of human rights as a trust good “needs to build sustainable peace by building a practice of complying with international standards and agreements.” The Trust-building Process offers specific implementation tasks based on the international, South-North relations, and domestic levels. The issue of North Korean human rights is an important trust good in upgrading the Trust-building Process. The trust good of human rights can be built at the levels of South-North relations, international, and domestic.

<South-North relations level>

For the tasks for normalizing South-North relations by trust-building, the Trust-building Process includes resolving humanitarian issues continuously, establishing a South-North dialogue channel, honoring existing agreements, and expanding mutually beneficial exchanges and cooperation between the South and North. Specific tasks include, directly relating to human rights, humanitarian assistance for vulnerable groups including infants and pregnant women, and realistic solutions to the issue of separated families, Korean War prisoners-of-war, and abductees. This may include human rights dialogues between the South and North for establishing a dialogue channel, and human rights technical cooperation upon international standards. In addition, there is a need to make the Kaesong Industrial Complex, which is operated for exchange and cooperation, a model for human rights improvement that the South and the North create together and is approached from a human rights perspective.

<International level>

Trust goods, at the international level, could be in compliance with international human rights norms, a Northeast Asian human rights cooperation network, denuclearization, and a shared view of history. It is building the trust goods of human rights on the basis of the most common norms of the international community. It is a trust good that

is formed as North Korea complies with human rights norms and regimes agreed upon and followed by the international community, including the Universal Declaration of Human Rights. In addition, efforts of the South Korean government and the international community to share responsibility for North Korean human rights, and to seek improvement by cooperation, by themselves generators of trust goods. In addition, other generators of trust goods at the international level would include building a human rights cooperation network for the solution to North Korean human rights, and cooperating mutually.

<Domestic level>

Trust goods at the domestic level could include establishing domestic governance and the basis for negotiation on North Korean human rights. Domestically, it refers to the national consensus on the idea that human rights are an important value and means in building and implementing a North Korea policy, and to operating a governance process based on the same. There is no trust good more important than public consensus and support in linking actual measures for North Korean human rights improvements with South Korea's North Korea policy and ensuring that they are adequately implemented.

The trust goods of human rights at the South-North, domestic, and international levels are in an arbitrarily set scale depending on the spatial scale and the commonality scale on which the trust good can be applied. The human rights trust goods by level can be implemented

simultaneously, but the pace may vary. It does not mean that there is an order of priorities or importance; rather, trust goods can be formed by first implementing what is strategically feasible.

(B) Peaceful unification-oriented human rights policy

Policy on North Korean human rights must be in harmony with the peaceful unification of the Korean Peninsula. Just as the “National Community Unification Formula” includes respect for human rights in the process of fostering peaceful unification, such human rights values as non-discrimination, freedom, equality, and human dignity must be respected and fulfilled. Furthermore, measures to prevent violation of human rights must be actively prepared. While declaring a firm resolve and principle for improving North Korea human rights, efforts must be made in order to ensure that in the process, South Korean domestic conflicts are not expanded, and that peace and unification are not threatened.

Considering that the objective of the government’s North Korea policy is set as “happy unification,” and that “laying a foundation for unification” is necessary to implement this, the value of human rights must be perceived at a level of “strengthening unification capacities” of South and North Korea. Going beyond the previous policy of “reconciliation, cooperation, and co-existence,” the “unification capacity” required to achieve a “happy unification” should be built together through the value of human rights. In this regard, the human rights

value of respecting the individual's rights and life must serve as the foundation for the integrated capability of South and North Korea. Prevention of violation, and protection and promotion of human rights must be reflected and implemented throughout the process of realizing peaceful unification. This also means that South Korea's North Korea human rights policy must be in line with the process of establishing "genuine" and "sustainable" peace on the Korean Peninsula. In this way, there must be a virtuous cycle of the South-North relations and improvement of human rights.



4

Strategies to Implement Policies on Human Rights in North Korea and Tasks Ahead

4. Strategies to Implement Policies on Human Rights in North Korea and Tasks Ahead

A. Implementation Strategy

1) International cooperation and enhancement of inter-Korean relations in harmony

Although it is generally agreed that grave human rights violations have occurred in North Korea, there are still controversies over the cause of and solution to the ongoing phenomenon. This reflects the reality of international politics in which human rights are employed as a means of intervention in the political aspect along with the international community's responsibility based on universal values that transcend national sovereignty.

To bring about genuine improvements in North Korean human rights, the international community is pursuing a strategy of applying strong human rights pressure such as international criminal prosecution and sanctions for "crimes against humanity," as well as engagement such as technical cooperation for North Korea's capacity-building to

hold human rights dialogues and improve human rights conditions. In spite of the hard-line positions of EU governments that led the resolution calling for referral of North Korean leadership to the ICC, civil organizations in Europe continue to use North Korea support projects as a primary means of engagement. The OHCHR has pointed out that in approaching the issue of North Korean human rights, considerations should be made for peace, reconciliation, and unification of the Korean Peninsula.

The international community's consistent and strong approach to North Korean human rights will, in the mid-to-long term, contribute to the North Korean regime taking more active human rights improvement measures. In actuality, even while North Korea strongly protests against international pressure, it at least formally accepts the recommendations of the international community, and makes efforts to highlight its efforts to improve human rights.

Thus, close cooperation in the international community on the North Korean human rights issues must be continuously strengthened. Domestic human rights organizations have played a significant role in building a cooperative system with the international community. Considering that it would be desirable to identify improvement measures and examine in different perspectives the issue of North Korean human rights with the domestic human rights organizations, support for these organizations and their various activities is required. For example, forming a regional human rights dialogue mechanism on

human rights agendas in Asia while seeking solutions to the North Korean human rights issue would be desirable. Such a regional organization could be implemented in connection with the “Northeast Asia Peace and Cooperation Initiative.”

Even though the international community’s pressure highlights the possibility of criminal prosecution against the perpetrators in North Korea, there are limits to immediate and realistic execution on the ground. Therefore, just as the UN Commission of Inquiry on Human Rights recommended, there is a need to implement a South-North dialogue at different levels for the reconciliation of South-North residents. The exchanges and cooperation between the South and North need to be provided as opportunities for North Korean residents to experience the dynamics of the international community. Therefore, an environment appropriate for expanding exchanges and cooperation between South and North Koreans is needed, and this is possible through improved relations between the two governments. An administration-level dialogue is imperative to fundamentally deal with humanitarian agendas between the South and North, including separated families, Korean War POWs, and abductees. The development of the South-North relations will enhance North Korea’s acceptance of the value of human rights, and will provide an environment in which the principles of human rights and humanitarianism can be appropriately reflected in the South-North relations.

2) Feasible human rights policy

South Korea's policy on North Korean human rights must be implemented with consideration of the feasibility factor. The policy objective of improving human rights in North Korea needs to go beyond being a mere declaration, and its implementation should be directed at North Korea, the international community, and the South Korean domestic society. In this regard, the influence that human rights would have on international relations, the North Korean regime and the South-North relations, and domestic politics must be closely reviewed, and a feasible human rights policy developed.

International pressure such as the discussions of international prosecution for human rights perpetrators and the responsibility of the international community will continue for the time being without a dramatic change from North Korea. Efforts are needed to ensure that the calls of the international community for improved human rights does not escalate into extreme actions on North Korea's part, such as withdrawing from international human rights conventions and failure to perform the duties thereof. Furthermore, there is a need to ensure that the North Korean regime does not define the pressure as external political threat, or strengthen an environment where human rights are abused by increasing social control.

North Korea must be made to perceive that human rights are not merely an agenda for political pressure, but an important challenge that must be tackled in order for North Korea to develop its economy

and to be recognized as a member of the international community. In this regard, South Korea must consider the feasibility and the implications in establishing laws and systems for North Korean human rights, such as passing legislation on North Korean, human rights. A policy framework must be built in a way that can minimize the anticipated problems in the policy implementation process, and can sustain the implementation of the policy. In this regard, the government must set a policy objective of finding a structural solution to violations of human rights changes in North Korea in the mid-to-long term.

However, in the short term, it is more realistic to promote human rights improvements step-by-step centered on the agendas that can improve the human rights conditions of the individual North Korean residents, and that can be accepted by the North Korean regime, rather than pursuing structural changes. While the value of human rights is universal, it cannot be applied absolutely without regard to the actual conditions. Obviously, the values of human rights cannot be compromised and implementing a consistent policy is important in order to enhance the feasibility of policy by considering the realistic situation, flexible and phased application of principles by levels is needed.

Human rights encompass a wide range of rights, but in policy implementation, “selection and focus” of human rights on practical and specific agendas are important. Furthermore, considering the realities of the South-North relations, and the politicization of the term “North Korea’s human rights,” those which can enshrine the values of

dignity and humane treatment for “members” can be considered. For example, the terms “human security,” “public welfare,” and “life”—which are used as expanded concepts in the international community—can be exchanged with the word “human rights” Reference should be made to the fact that the human rights agendas handled as Basket III in the Helsinki Process were human contact, exchange of information, culture, and education. Human contact included the promotion of family reunion and reintegration, removal of limitations on marriage between people of different nationalities, and improvement of travel conditions.

3) Rights Up Front approach

The UN Commission of Inquiry recommends that the UN Secretariat and the subordinate organizations implement a “Rights Up Front” strategy. The Rights Up Front strategy means that human rights concerns must be efficiently considered and handled in all activities involving North Korea. In this regard, it is important that the South Korean government makes the human rights values fit into mainstream policy in order to improve North Korean human rights.

Promoting respect for human rights is a core purpose of the United Nations. Member States have mandated the Secretary-General and the UN System to help them achieve the standards set out in the

UN Charter and the Universal Declaration of Human Rights. To do so, the UN System uses all the resources at its disposal, including its moral authority, diplomatic creativity and operational reach.

Action 1: Integrating human rights into the lifeblood of the UN so all staff understand their own and the Organization's human rights obligations.

Action 2 : Providing Member States with candid information with respect to peoples at risk of, or subject to, serious violations of human rights or humanitarian law.

Action 3 : Ensuring coherent strategies of action on the ground and leveraging the UN System's capacities to respond in a concerted manner.

Action 4 : Clarifying and streamlining procedures at Headquarters to enhance communication with the field and facilitate early, coordinated action.

Action 5 : Strengthening the UN's human rights capacity, particularly through better coordination of its human rights entities.

Action 6 : Developing a common UN system for information management on serious violations of human rights and humanitarian law.

4) A phased approach

In terms of South-North relations, a phased approach is realistically inevitable towards North Korean human rights policy. As follows, the first phase focuses on support for vulnerable groups and solution to humanitarian issues; at the second phase on infrastructure building for public welfare; and at the third phase on human rights dialogue and technical cooperation.

<Phase 1: Solution to humanitarian issues and support for vulnerable groups>

In the first phase, there must be measures to resolve the humanitarian issues between the South and North. More active measures to normalize the reality of long-term separation of families resulting from a prolonged division must be developed. Efforts must be made to overcome the “inhumane” and “anti-human rights” situation in which people do not know whether their families are alive or dead and cannot communicate with one another. By this, just as the authorities build trust, the members of the two societies can enhance their perception of the administrations’ efforts to overcome division and achieve unification.

Resolving the issue of separated families can begin with the South and North Korean Red Cross implementing the task of all-out confirmation of life and death as a joint project. Indeed, the comprehensive list of applicants for family reunion submitted to the Korean Red Cross

can be the focus of this task, support associated with the South-North joint project for disaster management need to be reviewed. Through this, it combines the human rights purpose of confirming whether one's family is alive and the humanitarian purpose of enhancing capacity to prepare for humanitarian crisis situations caused by disasters.

The UN Commission of Inquiry has expressed its concern in terms of human rights over the vulnerable groups in North Korea, due to its discriminatory system and weak social security, and has offered policy recommendations on this subject. Agricultural, economic, and trade policies based on democratic participation or non-discrimination are needed, and market economy activities that provide a means of living for residents must be legalized and supported. However, an emphasis is given to the need for humanitarian support by the international community in order to lessen the hardships of the vulnerable groups. Evidently, humanitarian support should be made based on a study of demands including the location of those in need of help. Thus, a free and unrestricted access for humanitarian support organizations in North Korea must be guaranteed.

In this regard, an environment must be created in which humanitarian support to the vulnerable group by the government can expand regardless of the political situation. The South and North Korean administrations need to institutionalize systems so that domestic humanitarian support organizations to stably operate in North Korea

through dialogue. Through this, it would be desirable that voluntary support projects for the vulnerable groups at a civil level be sustainably promoted, and that conflicts regarding civil support to North Korea be resolved.

If humanitarian assistance to lessen the hardships of the vulnerable groups is provided under the humanitarian principles, it can be an important human rights improvement strategy in that it contributes to the substantial improvement of the rights of the vulnerable groups. Obviously, efforts must be made to push North Korea to link these efforts with what it portrays as its own efforts to improve human rights to the international community. This can contribute to developing a basis for humanitarian dialogue with North Korea. The 1,000-day Package Project, which targets pregnant women and infants under 2 years of age, is important to raising a healthy child in terms of human rights. In this regard, the 1,000-day Package Project must be approached by all members of South and North Korea as building a happy unification, going beyond the arguments over “unification by absorption.” Furthermore, efforts to live well at the regional levels by resident participation should be supported.

<Phase 2: Full-scale infrastructure building for public welfare>

At the second phase, based on the trust built in the pilot projects, cooperation with the North Korean regime could lead to enhanced implementation of projects to improve basic infrastructure for North

Korean people's livelihood, such as the water and sewage system, toilets, and regional clinics. The 1,000-day Package could be implemented for all people of an applicable age, instead of being limited to pregnant women and infants under economic hardship. Also, efforts to build infrastructure directly relating to people's lives should be pursued in earnest, such as building agricultural complexes. In addition, the formation of human capital should be sought, offering education for social development towards improving the North Korean human rights. Education should include technical contents, as well as rights and common values proposed by the international community as the standard. As discussed, by diverting support for North Korea to areas of social development, self-sustaining capability of the residents should be nurtured, and programs to protect rights and enhance leadership and management capabilities should be strengthened. However, it is more desirable that these initiatives be implemented by the recipient, North Korea, with a sense of ownership, rather than being led by the outside.

<Phase 3: Full-fledged human rights dialogue and technical cooperation>

In the third phase, once inter-Korean trust relations have matured, aid to the North should be synchronized with economic cooperation projects, and human rights dialogue and technical cooperation should kick off in earnest. For economic cooperation to thrive, North Korea's

willingness to improve its human rights should be explicitly expressed in policy and actual improvement results should be somewhat tangible. This is because the international community designates the “human rights” agenda as an important factor in trade. Even corporations restrain from violating to avoid being named as a human rights violating company, or becoming a target of trade sanctions and public boycotting. In international relations, “human rights” are not only a country’s image but are directly related to trade profits. The human rights conditions of North Korean migrant workers have become a new issue of interest. If the countries that are involved assess that the labor condition of the North Korean laborers is like “the modern version of slave labor,” North Korea might be forced to cease its overseas labor deployment project. Therefore, North Korea must be encouraged to actively take part in setting a labor environment that abides by international norms in areas such as direct wage payment, and halting surveillance of daily lives.

B. Tasks Ahead

1) Establish a North Korean human rights policy governance

In order for the South Korean government to implement a consistent policy on North Korean human rights systematically and in multiple dimensions, it is necessary to establish a system of governance

among relevant actors. Considering that North Korean human rights are an international agenda with the UN at its center, government agencies, civil organizations in and out of South Korea, the UN and other international organizations, and relevant countries should be able to participate in this governance system. Regarding government agencies, the Ministry of Unification has been designated as the office of primary responsibility for North Korean human rights, but there have been limitations in performing an overall coordinating role. In particular, in terms of collecting information on North Korean human rights (contracted out to the private sector) and international cooperation (Ministry of Foreign Affairs), the office of primary responsibility is not performing a leading role. Considering that the value of human rights must be reflected in all efforts to achieve “happy unification,” the control tower of North Korean human rights policy should be reset.

The policy on North Korean human rights should be refined on the basis of changing situations for each issue, and needs to be implemented in continuous coordination with the international community. In this regard, merely consolidating the information on North Korean human rights collected externally, or limiting the role to advocating or announcing policies, is not desirable. A North Korean human rights improvement strategy should be consistently reflected in North Korea, foreign, and domestic policies, and should be approached by integrating multiple dimensions. In this vein, a new governance

system is necessary. A system that enables constant and regular interagency policy coordination is required, one which goes beyond responding to issues at hand. Role competition among agencies that has surfaced in the discussion process of the North Korean human rights legislation was also caused by insufficient policy coordination.

The role of the control tower that would systematically handle North Korean human rights issues from a unification policy perspective should be strengthened. To this end, establishing a new coordinating office that can control North Korean human rights work of other agencies should be reviewed. This office should establish a comprehensive plan for the improvement of North Korean human rights in light of a North Korean, domestic, and foreign policies, and review and coordinate progress of work by agency. Furthermore, it needs to play the role of building a cooperative system among human rights organizations in the country, relevant countries and other domestic and foreign organizations. In view of the fact that North Korean human rights are an issue concerning the UN Human Rights Council, General Assembly, and the Security Council, cooperation with UN agencies should also be strengthened. With the North Korean Human Rights Office that will be established in Seoul, it should be considered that inquiries, PR activities and recommendation implementation reviews would be carried out. Given that UN activities will be conducted independently, and respecting the independence of the UN, the activities of many stakeholders should be steered to

contribute to the South Korean government's policy on North Korean human rights.

It would be desirable to flexibly set the role of actors by policy area. Agendas for which diplomatic negotiation is important, such as the protection of defectors in other countries, would be more practical if led by the Ministry of Foreign Affairs. On the other hand, projects to strengthen North Korean human rights capabilities would be more appropriate if led by the Ministry of Unification and supported by the Ministry of Foreign Affairs.

2) South-North human rights dialogue

The South Korean government has publicly proposed the South-North human rights dialogue. The international community including the EU has pursued human rights dialogue with North Korea. The U.S. and Japan have legislated laws on North Korean human rights and they have *de facto* held human rights dialogue with North Korea. The U.S. Special Envoy on North Korea Human Rights Issues has visited and negotiated on food aid, and Japan and North Korea are negotiating on the abduction issue. Indeed, the South Korean government has discussed the issue of abductees in the process of pursuing family reunions, a humanitarian issue, using the term "those whose lives became uncertain during the war." Even though it was not named "human rights dialogue," it is practically equivalent to dialogue on human rights concerns. However, considering that the

issue of separated families was not nominally discussed as a violation to “family rights” by division, it would be desirable in the future to improve this and develop into a human rights dialogue. Resuming talks between the South and North to resolve humanitarian issues can be the first step to the South-North human rights dialogue.

It is clear that the South-North human rights dialogue should occur concurrently with the improvements in the South-North relations. It is important to discover common agendas that the North would not see as a threat to the regime. If trust-building for discussion of human rights is unfeasible in the short term, the atmosphere for dialogue may be created by loose cooperation for discussing common issues with East Asian or Asian human rights consultative mechanisms. In particular, there is a need for limited participation on multilateral approaches mediated by countries close to North Korea, such as Mongolia or Indonesia. By having officials for North Korean affairs, academics, and “civil” organizations in this multilateral network, indirect support to enhancing North Korean human rights capability can be possible.

North Korea has attempted to emphasize the efforts of human rights organizations and agencies through the second UPR Country Report and North Korean human rights research association report. The South-North human rights dialogue should focus on the human rights efforts recently emphasized by North Korea, underline North Korea’s responsibility for the protection of people’s right to public health and the vulnerable groups, and cooperate so that North Korea’s

policy will regard human rights in dealing with each issue. South Korea should note that the North has designated women, children, the elderly and disabled as “people in need of special protection,” and begun to emphasize its efforts to improve human rights. In the mid-to long term, the perception that human rights do not include threats to the regime, but are an issue that needs continuous improvement in accordance with international norms and standards can be expanded. All UN member states address the UNHRC’s UPR, Asian countries hosting a UPR recommendation implementation workshop could be one measure to foster regional cooperation for human rights. In this aspect, the idea of the South Korean government supporting an annual workshop with the subject of Asian UPR recommendation implementation can be further considered.

3) Inter-Korean human rights technical cooperation

There is a need to actively pursue South-North human rights technical cooperation, focusing on the recommendations that North Korea accepted at the second UPR. South Korea can provide technical support based on the experience of the National Human Rights Commission so that North Korea can establish a national human rights body. Rather than hastily surmising that it is impossible or meaningless to establish such a body under the current North Korean system, there is a need to steer North Korea to institutionalize a human rights system by launching a national human rights body. An environment should be

shaped in which North Korea accepts the standards for human rights recommended to all states. For example, driving North Korea to improve the operation and rules of connectional facilities in prisons in consideration of human rights standards adopted in international correction facilities, and to educate the relevant workforce, could be an issue of South-North human rights technical cooperation. Since human rights issue is a global one, there must be a new perception that it can be discussed between South and North Korea as well.

Given that the rule of law is recognized by the international community as a primary means of improving human rights, a legal system support for North Korea is necessary. It would be desirable to support North Korea to establish a legal system required to operate special economic zones and the like. It should be newly understood that technical cooperation on human rights is also possible between North and South Korea.

The page features a background of thin, wavy horizontal lines that create a textured, water-like effect. Four registration marks, consisting of a small circle with a crosshair, are positioned at the top, bottom, left, and right edges of the page.

5

Conclusion

5. Conclusion

The issue of North Korean human rights has emerged as an international agenda since the publication of the COI findings in 2014. The international community's emphasis on ensuring accountability of North Korea's leadership indicates that previous approaches of "monitoring" and "expressing concern" have had limited effects in changing North Korea. Despite the international community's consistent and swift approach to make human rights in North Korea an international agenda, South Korea has been unable to voice as one based on national consensus in terms of its approach, perception, as well as policy direction and means. It is necessary to formulate and implement a more systematic and consistent policy towards human right in North Korea. Furthermore, specific means and roadmap to substantially improve North Korean human rights should be included.

South Korea's North Korea policies and unification policies have in effect become inextricably linked to North Korean human rights issues. This has led to calls for the National Assembly to legislate a North Korean human rights law and to establish a North Korean human rights policy. In particular, given that discussions on improving

human rights in North Korea are closely linked to the Park Geun-hye government's discourse of a happy unification, it is necessary to reflect on the type of North Korean human rights policy South Korea should adopt as it prepares to establish a foundation for peaceful unification as well as prepare for an era of unification. It is necessary to establish a systematic policy on the objective, target, agent, strategies, and tasks for policies towards human rights in North Korea.

Therefore, it is necessary to devise a North Korean human rights policy that can form a virtuous cycle with policies on North Korea and unification to bring about substantive improvements in North Korean human rights. As is widely known, the Park Geun-hye government's Trust-building Process and Dresden Initiative see unification as being directly related to the lives of each individual and also has presented the improvement of North Koreans' lives as a core task to achieve a "happy unification." Unification in which each individual is able to lead a happy life means the values of unification and human rights in harmony, which are manifested through the capacity for unification. Therefore, improvements in North Korean human rights can be thought of as the foundation to strengthen the capacity for unification and ultimately achieve a happy unification.

In this respect, the most important task to achieve a happy unification is to systematically reflect the value of human rights in South Korea's policies on North Korea as well as on unification. It is necessary to ensure a virtuous cycle of unification and human rights by

appropriately reflecting the value of human rights in respective policies on North Korea and unification. Therefore, the objective of policies on North Korean human rights is to mainstream human rights in the establishment and implementation of policies on North Korea and unification, systematically reflect contents of North Korean human rights improvements, and closely link this to the international community's human rights cooperation system. Ultimately, the objective is to ensure that improvements in North Korean human rights are concentrated into capacities for inter-Korean unification and integration, and evolve the inter-Korean society into a more human rights-friendly community.

Owing to the universality, complementarity and indivisibility of human rights, approaches to improving human rights should transcend a dichotomized debate on liberties versus social rights, and pressure versus engagement, and instead, should be more balanced and integrated. The benefits of such an approach have been confirmed in numerous previous cases and in fact, the international community is committed to a dual strategy of calling for the accountability of the North Korean elite while also engaging in human rights dialogue as well as technical cooperation. When considering that the issue may remain at a standstill and make no further progress after having reached the point of being adopted as an official UN Security Council agenda, the practicality of a parallel strategy becomes more conclusive.

In some respect, the policy of naming and shaming North Korea as a perpetrator state of human rights violations may yield symbolic achievements but veto-wielding China and Russia's current attitudes suggest that it is difficult to guarantee feasibility through the Security Council. In short, the direction of South Korea's policy on North Korea is a question of whether its consistency and efficiency can be guaranteed in a systematic framework, unaffected by the ups and downs of the inter-Korean relations or changes in administrations. The policy on North Korean human rights should be based on firm principles on the human rights of North Koreans, and should also be feasible policies that can substantively improve North Korean human rights situation in the short-term and one that can deal with mid-to-long term circumstances through cooperation with the international community. To begin with, a phased strategy must be reflected in the Trust-building Process to boost the effectiveness of South Korea's policy on North Korea. These strategies should include resolving inter-Korean humanitarian issues and supporting the vulnerable groups, establishing public infrastructure, human rights dialogue, and technical cooperation. Ultimately, improving human rights in North Korea is an issue indivisible from the process of unification. Therefore, while efforts are made to improve North Korean human rights, we will find ourselves one step closer to realizing a happy unified Korea whereby human rights, trust, and democracy can flourish.

Implementation Strategies for Policies on North Korean Human Rights

The issue of North Korean human rights has emerged as an international agenda after the publication of the COI Report in 2014. The international community's emphasis on ensuring accountability of North Korea's leadership indicates that previous approach of "monitoring" and "expressing concern" has had limited effects in changing North Korea. Despite the international community's consistent and swift approach to make human rights in North Korea an international agenda, South Korea has been unable to present a united position in terms of its approach, perception, as well as policy direction and means. It is necessary to formulate and implement a more systematic and consistent policy towards human right in North Korea. Furthermore, it should reflect specific means and roadmap to substantially improve North Korean human rights.