

North Korean Human Rights: A Long Journey with Little Progress

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With the Democratic People's Republic of Korea (DPRK, or North Korea) now seen as so far from the human rights mainstream, some may find it surprising to learn that in 1981 it independently acceded to two core human rights instruments, the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. This was ten years before it joined the United Nations in 1991, and about a year after it ratified the Convention on the Rights of the Child. In accordance with these agreements, the DPRK started to submit its regular reports from 1984. These were not as timely as hoped and the reviews themselves revealed differences of approach, rather than a meeting of minds. However, the reports did provide information on the situation in the DPRK that was unavailable elsewhere. Participants in the reviews also had an opportunity to ask about possible abuses and advise on the need for independent monitoring. These meetings did highlight the international community's concern over DPRK human rights.

More information about abuses became available due to the Great Famine in the mid-1990s. Many North Koreans left the DPRK, mainly in search of food, and the number who went on to the Republic of Korea (ROK, or South Korea) surged. There, they told their stories of abuses. But, despite this new information, the human rights issue still did not receive much attention. The UN and many of its members were more concerned about feeding North Koreans. In the ROK, it became another cause of irresolvable conflict between conservatives and progressives.² The information was also used in the U.S. State Department's annual human rights report although, for the United States, this issue was not as high a priority as the nuclear one. The European Union, with its long-established interest

in human rights, had neither the same internal political problem nor direct involvement in nuclear talks. So, as the EU and its members engaged with the DPRK and provided support as Kim Dae-jung's Sunshine Policy developed, they began to take the lead on the DPRK human rights issue.

EUROPEAN UNION ENGAGEMENT

At its first-ever political dialogue with the DPRK in December 1998, the EU raised concerns about a wide range of human rights issues. When EU-DPRK diplomatic relations were formally established in May 2001, Kim Jong Il made a commitment with the EU to hold human rights dialogue. Sweden organised training for DPRK officials on the implementation of UN convention commitments. The United Kingdom also financed training for DPRK officials at a human rights course that covered human rights principles and instruments and included visits to prominent human rights NGOs. A senior EU delegation that visited the DPRK in June 2002 made it clear that the EU expected real improvement on human rights. The EU emphasized that their position on the DPRK at the 2003 UN Commission on Human Rights would depend on this. The EU, seeing no evidence of progress, sponsored a relatively mild DPRK resolution at the Commission, which expressed deep concern about reports of systemic, widespread and grave violations of human rights in the DPRK, and called for it to engage with the international community to verify them. This was adopted by a large majority on April 16, 2003. The DPRK flatly rejected the resolution and made it clear that the EU would no longer have a dialogue or any cooperation. Due to the DPRK's continued refusal to cooperate, the EU sponsored a second resolution in 2004. This was adopted by an increased majority and, under a DPRK country mandate, established a UN Special Rapporteur position to focus on the situation of human rights there. The DPRK denounced this, claiming "the EU has joined the United States in its moves to isolate and stifle the DPRK from the flank by forcing it to change its political system, talking about its human rights issue."

Some contact continued. In the United Kingdom, the BBC broadcast a documentary alleging the testing of chemical weapons on political prisoners in February 2004. Foreign Office Minister Bill Rammell summoned the DPRK ambassador and raised the claims made in the documentary. EU ambassadors in Pyongyang were also allowed to meet a North Korean defector (Kang Pyong Sop), who was supposed to have further information on this and who NGOs had raised concerns about after he was arrested in China and repatriated to the DPRK with his family. The ambassadors were able to verify his well-being, although their meeting with him was conducted under supervision. Mr. Rammell visited the DPRK from September 11–14, 2004, accompanied by the head of the Human Rights Policy Department. The minister pressed the DPRK government to allow further human rights visits, including by the UN Special Rapporteur, and to provide written information on several individual cases. The DPRK did not respond to the requests.

Since 2003, the EU and its members have continued to raise the human rights issue during bilateral meetings; however, the DPRK continues to refuse to have dialogue until the EU stops tabling resolutions. The EU has clearly stated that it cannot accept this as a precondition for dialogue, and that such a move depends on the DPRK fulfilling action items listed in its resolutions. With continued reports of abuses hardening domestic public opinion in the EU and the DPRK apparently not taking any positive action, the EU has continued to co-sponsor annual resolutions

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at the Human Rights Commission/Council. Since 2006, it has also done the same at the UN General Assembly. The EU has had no incentive or justifiable reason to take the initiative to break out of this chicken-and-egg dilemma, and, especially as evidence of abuses has accumulated, the EU has pushed harder. The DPRK has also maintained its position. The gap between the two sides has therefore widened.

EVIDENCE

The UN Special Rapporteur's role is to investigate and report on the situation of human rights in the DPRK and on its government's compliance with obligations that it has under international human rights law. Without any direct engagement with or access to the country, he has had to depend largely on reports

from outside and especially the testimonies of defectors who have suffered abuse. Human rights NGOs have also used the same defectors' claims to substantiate their campaigns. These campaigns have seemed to only catch the attention of the general public when they focused on the more extreme abuses. They also have tended to use information in a way that supports their case. One NGO, for example, issued a report that highlighted prison camp expansion. This did attract public attention, although it was only the area of the camps, rather than the number of people held in them, that was increasing. The campaigns have had little impact on the ground. Apparent cessation of forced abortions for pregnant repatriated female defectors and executions proved to only be temporary trends, if they happened at all. The closure of one prison camp was just a reorganization. But the Rapporteur and NGOs did manage to collect a large amount of consistent information about systematic, severe abuses.

Some human rights NGOs had long been asking for a UN Commission of Inquiry (CoI) on DPRK human rights and, in September 2011, the International Coalition to Stop Crimes against Humanity in North Korea (ICNH) was formed to pursue this goal. From 2012, the UN Special Rapporteur also started to call for a mechanism of inquiry to look at the information that had been collected on human rights violations. With the momentum already growing, the UN High Commissioner for Human Rights met two DPRK defectors in December 2012 and she gave her own personal support to the CoI idea. In March 2013,

the EU-sponsored Human Rights Council (HRC) resolution, which was passed without a vote, established a Commission. In February 2014, the CoI produced a damning report that called for action from the DPRK and the international community. The HRC took up the CoI findings and in its 2014 resolution, which was sent the UN General Assembly (UNGA), recommended that the CoI report be submitted to the Security Council for consideration and appropriate action, including referral of those responsible to the appropriate international criminal justice mechanism.

The DPRK rejected the CoI findings, claiming that they were based largely on false testimonies of defectors, and started to campaign against the resolution that had been sent to the UNGA. Perhaps

as part of this, it engaged much more constructively in its Universal Periodic Review (UPR) at the HRC in 2014 and finally gave a detailed response to the recommendations that had been made at the last UPR in 2009. Belatedly, it also produced its own domestic human rights report and apparently offered visits to the Special Rapporteur and the EU human rights director. When the UNGA passed the resolution, the DPRK publicly reconfirmed that it would not engage on human rights. Recently it has focused on

are to improve there. The DPRK might also note that none of the major powers active in Northeast Asia meets all of the goals in these recommendations.

The DPRK has not done itself any favors by refusing to engage on human rights for so long. If, as it claims, the abuses are no more than lies, the DPRK would have benefitted from being more open. Diplomatic missions in Pyongyang would have been happy to be shown any evidence of the lies. The Commission chairman stated

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trying to undermine the case against it by picking up discrepancies in some defectors' testimonies and condemning the United States, which it sees as behind the resolutions, for alleged human rights abuses. So, although the Commission has focused the attention of the UN and its members on DPRK human rights abuses, they are still not able to constructively engage on this issue with the DPRK.

FURTHER PUSH

The Col recommendations are aimed at stopping the abuses that it heard about and moving the DPRK towards democratic and human rights ideals. But some of the report will surely raise hackles for the DPRK, such as when the Commission recommended that it:

- “Undertake profound political and institutional reforms without delay to introduce genuine checks and balances upon the powers of the Supreme Leader and the Workers’ Party of Korea; such changes should include an independent and impartial judiciary, a multiparty political system. . . ;
- Reform the Criminal Code and Code of Criminal Procedure to abolish vaguely worded “anti-State” and “anti-People” crimes. . . [and];
- Declare and implement an immediate moratorium on the imposition and execution of the death penalty, followed without undue delay by the abolition of the death penalty both in law and in practice. . .”

The DPRK is likely to take the first as confirmation of its claimed fear that the human rights campaign is focused on destroying its system, something that it will not accept. These fears might have been further amplified by the UN Special Rapporteur’s comments to the Associated Press.³ The Rapporteur emphasized the need for regime change in the DPRK if human rights

that he had an open mind and invited the DPRK to participate, but this invitation was rejected. It was not until after the Col issued its report that the DPRK finally picked the issue up, although it still criticized the Col because it had “neither been to Pyongyang nor met with government officials of the DPRK.” Now that so much damning evidence has been brought to light and the DPRK human rights issue is near the top of the UN’s agenda, the DPRK’s most recent efforts are unlikely to move it from their current position. The DPRK will need to make considerable efforts if it is going to refute more than a handful of the hundreds of testimonies of abuse that have been collected and brought to the world’s attention. Like others, it will have its chance to criticize the U.S. human rights record at its Universal Periodic Review, scheduled for May. But condemning the United States will not reduce the weight of evidence of the DPRK’s abuses.

POSITIVE DEVELOPMENTS

Despite the developments described above, the DPRK has shown some positive signs related to human rights. The most noticeable has been toward the disabled. Policies toward the disabled are becoming more inclusive. The disabled are no longer invisible and facilities for them are gradually improving. The DPRK media covers their participation in both national and international sporting events and the DPRK observation, with high-level official participation, of both national and international days for people with disabilities. In 2013, the DPRK signed the UN Convention on the Rights of Persons with Disabilities and claims to be moving towards ratification. Perhaps more specifically related to the UNGA resolution, between September and November 2014, the DPRK signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of

child prostitution and child pornography. As mentioned above, it also issued its own human rights report. But those recent efforts by the DPRK were too little, too late.

WAY FORWARD

The next regular session of the Human Rights Council will be March 2–27, 2015. The EU and DPRK have held the same mutually incompatible positions for the last eleven years and, especially after having confirmed these last year, the normal annual cycle is likely to be repeated with the EU co-sponsoring a DPRK human rights resolution that will likely pass. The DPRK will then, in all likelihood, reject the resolution and reassert its unwillingness to engage with the international community on human rights. This will leave the EU with the dilemma of how to pursue the engagement needed if the DPRK human rights situation is to be improved. Perhaps the EU, which has taken the lead on DPRK human rights, could find some way to talk with the DPRK, establishing a mutually acceptable way to restart engagement. This might be a quiet, low-level, long-term confidence building process. While it may not immediately deal with every issue, this form of practical action could begin to address the international community's concerns.

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NOTES

1. The views expressed here are those of the author and do not necessarily represent those of the FCO/HMG or the Walter H. Shorenstein Asia-Pacific Research Center.
2. On the positive side, the (South) Korea Institute for National Unification started to systematically collect data. Since 1996, it has published an annual white paper on DPRK human rights, which details reported abuses, including the 1991 report on a Siberian logging camp.
3. See, for example, "UN official says North Korean regime must be 'dismantled' for human rights to thrive," *Fox News*, February 3, 2015.