



DATE: July 10, 2017

SUBJECT: North Korea: Have We Reach the Point of No Return? (Teleconference)

MAIN POINTS

- The Kim regime's rationale for the nuclear program
 - North Korea's long-term strategic thinking and US response
 - Current outlook and analysis of potential solutions
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EVENT OVERVIEW

Date: July 10, 2017

Time: 10:00 a.m. – 11:00 a.m.

Location: Wilson Center

Attendees:

- **Jane Harman**, Director, President, and CEO, Wilson Center
 - **Aaron David Miller**, Vice President for New Initiatives and Distinguished Scholar
 - **James Person**, Director, Hyundai Motor-Korea Foundation Center for Korean History and Public Policy
 - **David Sanger**, National Security Correspondent, The New York Times; and former Public Policy Scholar, Woodrow Wilson Center
 - **Jean H. Lee**, Global Fellow; Journalist and former Pyongyang Bureau Chief, Associated Press
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SUMMARY

Introduction:

North Korea's test launch of an intercontinental ballistic missile (ICBM) on July 4 has significantly heightened tensions on the Korean Peninsula – and has left the Trump administration with some very

tough choices. The situation in North Korea has changed for the worse. If time was ever an ally in resolving Pyongyang's nuclear threat, it certainly isn't now. The panel attending this teleconference mainly discussed how Washington will respond to this latest act of belligerence, and which options, including coercive diplomacy through more sanctions, isolation, military action or threats of military action, a freeze on nuclear development, and denuclearization, will be practical. In this discussion, the panel expressed their opinion on whether our relationship with and the developments in North Korea have reached the point of no return.

Jean H. Lee: The Kim regime's rationale behind their nuclear program

The nuclear program has been the hallmark of Kim Jong-un's regime for two reasons. At home, Kim Jong-un hopes to establish himself as a supreme leader capable of defending his people. Given that Kim Jong-un was a virtually invisible young man without a reputation prior to taking control, he hopes to gain people's trust and absolute obedience by establishing a strong nuclear arsenal. In terms of global affairs, building nuclear weapons will allow Kim Jong-un, an inexperienced leader craving attention, to sit on the negotiating table with powers like the US and EU, and even gain potential financial and food aid in exchange for cooperation. Despite the fact that the nuclear program was developed at the expense of food and basic necessities for the North Korean people, Kim Jong-un has managed to justify his actions – the rising tension in the region and the tough reactions from the demonized U.S. all proved the necessity of the nuclear program in North Koreans' minds.

Counterintuitively, the South Koreans, who are less than 40 miles away from the North Korean border are not particularly unsettled by North Korea's recent provocations, as they are accustomed to the belligerent attitude of the North Koreans. On the other hand, they are worried about the likelihood of the newly elected Moon administration acting "recklessly and impetuously," and eventually triggering an armed conflict with the North. President Moon made it clear that while he would be tough on North Korea, he hoped to have sincere and fruitful negotiations with the Kim regime.

James Person: North Korea's long-term strategic thinking and US response

North Korea's July 4th ICBM launch was deemed by some as a "game changer," as the ICBM puts North Korea as the third country – after Russia and China – capable of striking the US homeland. Some people mistakenly believe that an attack on the US is imminent, as the North Korean leader was an irrational man who thinks little about ramifications. The history of the US dealing with China, however, has proven this claim wrong. China, "a backward and impoverished country" back in the 1960s, did not launch an attack on the US after they developed their ICBM. Deterrence worked for China, and would work for North Korea, whose leader, contrary to what most believe, is very rational.

North Korea's reason for developing the nuclear program is to preserve the regime and, to a certain extent, to grab the world's attention. Its defensive rationale goes back a long time, and was rooted in its anti-colonial thinking of the predatory and malign nature of the world. As manifested in the archive documents from North Korea's former communist allies, the strategic thinking behind North Korea's nuclear weapons development goes back to the 1960, as a response to the perceived threat from the

unreliable USSR and the US. This systematic thinking demonstrates the inner logic of North Korea's nuclear programs, as well as the rationality of North Korean leaders.

As previously discussed, it is unfeasible to persuade North Korea to disband its nuclear program as a prerequisite for talks. The best option on the table is to negotiate a freeze on North Korea's nuclear missile test, striking a balance between reassuring South Korea and Japan, without sabotaging the security dilemma with North Korea. Additionally, reassessing China's interests in this issue is paramount. China's interests do not align with that of the US, and therefore China is unlikely to act in terms favorable to the US. Furthermore, North Korea's perspective about the history of its relationship with China presents the likelihood that Pyongyang will perceive any effort by China to push for its denuclearization as another Chinese attempt to be overly intrusive in North Korean affairs. Only the US can deescalate this security dilemma with North Korea.

David Sanger: Current outlook and analysis of potential solutions

Now is definitely not the best time to solve the North Korean nuclear issue; previous presidents did not put in enough energy to stop the development of North Korea's nuclearization, and it is almost impossible now to undo their decisions. Presidents Obama and Bush decided it was better to concentrate their efforts on Iran than on North Korea. President Clinton made a decisive move of negotiating with the North Korean leadership in 1994, but ended up being betrayed by them.

Drawing from America's history of dealing with North Korea, many suggest that deterrence is the best solution. Two worrying scenarios, however, hardly make that argument convincing. Firstly, if North Korea fell apart and its regime collapsed, their nuclear weapons could fall into the hands of other rogue states and pose a grave threat to international security. Moreover, once North Korea has any demonstrable ability to attack mainland US, it limits US options in terms of defending South Korea and Japan. Decision-making is affected when there is likelihood of retaliation. Owing to the possible ramifications associated with deterrence, some prefer negotiating a freeze on North Korea's nuclear program. However, even though it's better to freeze their nuclear capabilities sooner than later, a freeze cannot help achieve eventual denuclearization; it will only enshrine North Korea's current capability. Other defensive options include reviving Bush's Proliferation Security Initiative without risking escalation, using cyber technology to disable North Korea's nuclear initiative, as we did from 2014 to the end of last year, and finally, forcing the end of North Korea's energy supply.

Q&A

Q: The North Korean leader has said that North Korea would negotiate on the ballistic missile issue if the US ends its hostile policy. Why don't we start from there?

HRNK Report

A (Person): North Korea has been claiming this for decades. US-led joint military exercises are perceived as a threat, in part justifiably, and have been used by North Korea to justify their aggressive programs.

A (Lee): North Korea does want to negotiate, but on their terms. The US also has negotiated with North Korea before but has been burned, and therefore has to approach negotiation very cautiously.

Q: What are the ways of reducing tension that give North Korea a face-saving way out?

A (Sanger): First of all, there are no great options. Reducing tension is critical, but comes at a cost. We need to find out what our objectives are, and perhaps provide North Korea with an empowered strategy to get a sense of what the parameters are.

A (Person): North Korea has been trying to engage with the US since March 1974, and has been consistently using aggressive policies to get the US to the negotiating table. This implies that the key to solve the North Korea issue is not to outsource the problem to the Chinese, whom the North Koreans deeply distrust. Only the US can solve the problem without antagonizing North Korea further.

Q: North Korea's ability to hit the US may cause Japan and South Korea to lose their confidence in US willingness to defend them, and thus be compelled to have their own nuclear deterrence. Why is there no visible discussion of this issue in the media?

A (Sanger): This issue was actually intensely discussed in the media, especially during a foreign-policy interview with President Trump last year. Trump believed that both Japan and South Korea should be allowed to develop their own nuclear weapons, as they would do it anyway. This article can still be found online. President Trump has not, however, mentioned these issues again after taking office, which is very interesting.

A (Person): To reassure US allies, the US should never make decisions such as suspending military exercises without consulting them.

Report by: Yezi Liu, Research Intern



DATE: July 13, 2017

SUBJECT: American Leadership in the Asia Pacific, Part III: Promoting Democracy, Human Rights, and the Rule of Law | Senate Foreign Relations Committee Hearing

MAIN POINTS

- The promotion of democracy and human rights in Asia has made progress but still faces tremendous challenges in Burma, Myanmar, Thailand, Vietnam, and especially in China and North Korea.
- American withdrawal is paralleled by a rising China, which could further complicate the effort to democratize Asia despite economic sanctions. Soft power must thus go hand in hand with hard power to make a difference.
- Reform in North Korea is difficult though its citizens do seek to consume information from the outside. Thumbdrives and radio must therefore continue to be sent into North Korea to stimulate change from within.

This event can be viewed at: <https://www.youtube.com/watch?v=CAJkV3xkgRM>.

EVENT OVERVIEW

Date: Wednesday, July 12, 2017

Time: 2:15 p.m. – 3:30 p.m.

Location: 423 Dirksen Senate Office Building

Attendees

- **Murray Hiebert**, Senior Advisor and Deputy Director, Southeast Asia Program, Center for Strategic & International Studies, Washington, DC
 - **Derek Mitchell**, Senior Advisor to the Asia Center, U.S. Institute of Peace, Washington, DC
 - **Robert R. King**, Senior Adviser (Non-resident), Korea Chair, Center for Strategic & International Studies, Washington, DC
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SUMMARY

Mr. Murray Hiebert's Testimony

Mr. Murray Hiebert addressed the following questions during his testimony, summarized below:

Why is it important to promote American values of democracy, human rights, and the rule of law in the Asia Pacific?

First, human rights have long been part of the U.S. national identity, along with democratization. Promoting these values sends a clear signal to authoritarian governments that the U.S. is watching how they treat their citizens and serves as international police for human rights violations. Second, democratic and human rights respecting governments are more reliable, making them better partners according to the democracy peace principle. Third, the U.S. substantially benefits from liberal international institutions and can have a beneficial impact on them.

What are the main challenges of adhering to these values, and where should U.S. efforts and resources be better focused to achieve the most effective outcome?

Support for human rights and democratic reform has dwindled in Southeast Asia, even when its middle class has been actively fighting for it. In the Philippines, police and vigilantes killed over 9,000 suspected drug dealers and users in an effort to eradicate illegal drug dealing activity. Meanwhile, the 2015 elections in Myanmar were viewed as a credible reflection of the people's wishes. However, the country still faces three major human rights problems: 1) continuing abuses against the Rohingya Muslim population; 2) minority conflict with the military; and 3) political prisoners who continue to face restrictions following their release. Numerous decrees were also established in Thailand by the military government after a 2014 coup limited civil liberties. The government continues to censor online content and dozens of people are tried for criticizing the Thai royal family too harshly. In Vietnam, human rights violations include severe restrictions on citizens' political rights, including arbitrary arrests of political activists and bloggers. The virtual world is also censored as no tolerance is given to criticism against the Vietnam Communist Party. Cambodia, under Prime Minister Hun Sen, has also experienced higher levels of restriction on the freedom of speech. Violence and intimidation are used to silence civil society and political opponents of the ruling Cambodia People's Party.

What tools are available to the U.S. to incentivize governments to adhere to these values and principles? Has the Trump administration used these tools effectively?

The Trump administration has made it clear that it intends to downplay the promotion of human rights, democracy, and the rule of law as tools of U.S. foreign policy. Secretary of State Rex Tillerson said that when it comes to foreign policy, national and economic interests trump human rights, adding that promoting values is often seen as "an obstacle" to advancing other interests. That being said, the U.S. government may engage the following to promote human rights:

- 1) Foreign Aid (USAID), which was vastly successful in enabling the 2015 free elections in Myanmar.

- 2) Interagency decision-making process in the NSC to overcome tensions between U.S. short-term security interests and long term human rights goals.
- 3) Leahy Amendment of 1997, which prohibits U.S. aid to military forces that violate human rights; the importance of U.S. intelligence, equipment, and advice in dealing with threats like the Islamic militant uprising that erupted in May makes this important.
- 4) Annual Trafficking in Persons report. E.g. frustration with being relegated to the lowest tier prompted the Thai military government to step up its investigations, prosecutions, and convictions of traffickers to rise to tier 2.
- 5) Trade negotiations: The TPP, for instance (which was jettisoned by the Trump administration), uses the U.S. market as leverage to compel infringing states to respect human rights.
- 6) Private diplomacy, such as in the Philippines, drastically toned down Duterte's anti-American rhetoric.
- 7) Development of a legal system, such as the revision of Vietnam's criminal code. U.S.-Vietnam relations now also feature legal exchanges, as the former helps the latter train more judges to uphold international human rights.
- 8) Look to Congress since the executive branch has largely abandoned the promotion of human rights.

The Honorable Derek Mitchell's Testimony

The Honorable Derek Mitchell discussed human rights as an element that is interdependent upon other areas of examination such as security and the economy. He observed that human rights respecting countries are more functional and stable, while acknowledging that many regions in the world regard American "moralism" as hypocritical and unwelcome. Following this view, the new administration has decided to tone down such promotion and turn to salient national interests instead. His testimony is given in the following categories:

East Asia

East Asia is most prone to the perspective above and has traditionally been a "realist," prioritizing power balances and economic growth over liberal political values. In this context, America has largely maintained power and credibility in the region through economic and security related contributions. Asia's colonial past makes it sensitive to external involvement, reflected in Southeast Asia's foundational "Five Principles of Peaceful Coexistence." Another theory that goes hand in hand with the above is Asian exceptionalism, which holds that "Western" values of democracy and human rights are alien to Asian culture and thus unnatural to Asian society. While Western traditions focus on individual rights, personal liberties, and democratic governance, Asian culture and history focus on collective responsibilities, strong central governance, social harmony, and economic over political rights (ICCPR vs. ICESCR).

Soft Power

It is one thing to promote human rights with authoritarian regimes; it is another to do so with the citizens under these regimes. Ultimately, it will be up to the citizens to decide whether they want democracy. Soft power is not synonymous with weak, and should not be excluded from hard power

when evaluating a country's influence. The U.S. should also consider engaging businesses in the effort, as corporations share a social responsibility around the world and further exemplify U.S. soft power. In East Asia, trade is also a way to promote American values, and the TPP was a landmark achievement of the kind. In addition, the U.S. military demonstrates to regional militaries that (hard) power and principle are not mutually exclusive, and that the values of transparency, accountability, and civilian control have strategic benefit. In the end, human rights and democracy must yield practical outcomes and connecting other countries to U.S. norms will facilitate cooperation.

Expectations Management

We must effectively manage countries' self-interested expectations to discourage them from expecting too much and getting disillusioned and frustrated in return, since countries tend to democratize in the belief that democracy will make them strong like the U.S. When such does not become the case, states will react and often regress. Therefore, the U.S. must advise other countries on the difficulty of reform. In return, the U.S. should also be open to new institutions in the knowledge that successful elections mark not the final destination.

State of Play in East Asia

Asia is too diverse for a one-size-fits-all approach. Nonetheless, people have an innate desire for human rights. The U.S.'s two allies in Northeast Asia are both successful democracies and demonstrate the positive impact of U.S. engagement in promoting human rights in East Asia. Even now the U.S. is experiencing greater turbulence with its two Southeastern allies, Thailand and the Philippines, it must not sacrifice such promotion despite the fact that the U.S. has profound security interests in maintaining stable bilateral relations with these two countries. Additionally, the U.S. should not ignore national elections in Cambodia in 2018. Given that Prime Minister Hun Sen intends to hold power past 2018 through any means necessary, the situation requires international engagement to ensure democratic processes are safeguarded. In Southeast Asia, ASEAN is beginning to pay more attention to the internal affairs of its neighbors by establishing a human rights council. For example, the refugee flows and human trafficking networks in Burma severely impact the regional stability in the areas. Outside of Burma, there is also tremendous difficulty in balancing majoritarian nationalism and minority rights. Such a phenomenon threatens regional cohesion because the majority in one country is the minority in another. The hardest of East Asian cases concerns China and North Korea. However, the issue is not adequately addressed due to rising U.S.-China interests that downplay human rights violation as a foreign policy priority.

Case Studies: The Republic of Korea, Taiwan, and Burma

These cases exemplify the value of U.S. promotion of human rights and democracy in East Asia.

- 1) Korea: Prior to democratization 30 years ago, South Korea suffered assassinations, civil unrest, and violent repression. Were South Korea still undemocratic, the U.S. would be facing a nuclear North Korea and a rebellious South Korea at the same time. The U.S. is taking the stability of the democratic South Korean society for granted, but should never do that.
- 2) Taiwan: Due to geopolitical factors, Taiwan is considered a negative factor in regional security, but in reality, it is a success story. That China demands the world ignore the

island due to its own nationalist attitudes should not obscure Taiwan's substantial political, economic, social, and cultural achievements. Taiwan is a peaceful, stable, and developed democratic society, which in and of itself challenges the incompatibility of "Chinese culture" and democracy. The U.S. should thus work to further extend the Taiwan model.

- 3) Burma: The Burmese people have much respect for U.S. democracy and stand to uphold democracy and human rights over economic or geopolitical gain. That being said, the transition in Burma is not complete, but there is no doubt that U.S. pressure and engagement in support of Burma's reform have contributed to the hope and opportunity of the Burmese people. We must end the world's longest civil war, and such end could not come without respect for human rights, which in turn could not take place absent internal peace and reconciliation. Though Burma's transition will be difficult, it is essential for broader U.S. interests in regional security.

Clarifying and Communicating Intent

Since World War II, the U.S. has believed its success and security are linked to the success and security of others. Is it important for skeptics of U.S. civil liberty to not misunderstand the intention behind such policy, and in turn the U.S. should not pursue policy by virtue of perceived moral superiority. The U.S. should maintain a degree of humility and and not seek to remake the world in its own image. In addition, the U.S. should not seek to go it alone, but continue to pursue partnerships with allies and other like-minded nations in Asia and elsewhere. The U.S. must uphold the fundamental human truth that there is more to life than politics or economics.

Recommendations/Final Observations

Several recommendations follow:

- 1) Consistent Commitment and Messaging within the U.S. Government: State Department diplomats, Defense, Treasury, and Commerce Department bureaucrats and members of Congress should all get on the same page to ensure discipline, consistency, and integrity in word and action over time, even if such is difficult to do.
- 2) Attention to National Context: Demonstrating due respect for local contexts is essential for U.S. credibility and integrity. There must be understanding of both countries' history and culture to establish respectful partnerships.
- 3) U.S. Embassy Leadership: Ambassadors should cultivate and enforce a "one mission" attitude that integrates and shapes the work of not only State Department components but also USAID.
- 4) Demonstrating Openness and Humility: The U.S. must be humble when pursuing its human rights agenda overseas, thus preventing others from dismissing U.S. human rights and democracy promotion as cynical or hypocritical.
- 5) Patience, Constancy, Resources: The U.S. must be consistent over time in supporting institutions and processes that promote human rights. Congress should sufficiently fund both the State Department and USAID to this end, as well as other leading institutions that conduct related work in Asia, including the National Endowment for Democracy, Radio

Free Asia, Voice of America, The Asia Foundation, the East-West Center, and the U.S. Institute of Peace.

- 6) Partnerships: Interest in fostering human rights is not just a U.S. concern, but one that spreads across Asia. The U.S. should build partnerships with governments and civil society organizations alike in Asian democracies such as Japan, South Korea, Taiwan, and Australia. The U.S. should also consider how to integrate business into human rights responsibilities.

Finally, the U.S. should promote human rights because they are fundamentally part of the U.S. national identity: Wilson's 14 Points, FDR's Four Freedoms, Reagan's Westminster speech, Lincoln's Gettysburg Address, and most importantly, the Declaration of Independence. Without a principled element to our foreign policy, the U.S. will become just another self-interested major power that will be soon forgotten. If the U.S. does not lead in helping shape these norms and values, no one else can or will take its place, much to its lasting detriment.

The Honorable Robert R. King's Testimony

Amb. King discussed the significance of human rights, which run complementary to security issues in North Korea. He cited the alarming consistency with which North Korea would treat both its own citizens and those of other countries, especially in its propensity to utilize weapons of mass destruction. King reminded the committee that Congress has been instrumental in advancing legislation promoting North Korean human rights (see: NK Human Rights Act of 2004). In 2014, a UN Commission of Inquiry was established, confirming systematic human rights violations in North Korea. With that introduction, Amb. King proffered five recommendations to continue the fight for human rights in North Korea.

- 1) Continue active participation in UN bodies, including the UN Human Rights Council, in Geneva, the UN General Assembly in New York, and the UN Security Council. The U.S. must sustain discussion and introduction of resolutions pertaining to NK human rights. Such international legitimacy is crucial in bringing attention to human rights efforts.
- 2) Encourage free flow of information to the North, especially through channels including: Radio Free Asia, Voice of America, and other related programs. This is a long-term effort to inform norms within North Korea.
- 3) Maintain support for refugees in South Korea, the U.S., and especially China, which persists in its legal rejection of refugees.
- 4) Identify and provide for legitimate humanitarian needs in the North for those who are most in need. This includes assisting private American humanitarian organizations who operate in North Korea.
- 5) Strategically limit travel to the North. With multiple Americans detained in North Korea and the recent tragedy of Otto Warmbier, travel excluding medical and other humanitarian efforts ought to be restricted.

Q&A

Q (Gardner): Amb. King, could you clarify your suggestion of a travel ban to North Korea?

A (King): A ban excepting those entities that meet the requirements to be considered humanitarian, or other kinds of work.

Q (Gardner): Mr. Hiebert, could you expand on the interagency decision-making body that you recommend to resolve tension between economic, security, and human rights obligations, or would such a panel result in overemphasis of security concerns?

A (Hiebert): To avoid such over-reliance, a good moderator would be necessary, not to prioritize human rights concerns, but to keep it in the conversation.

Q (Gardner): Burma ought to be attended to much like Africa has in the Power Africa Act, in terms of building up electrical infrastructure. What do you think, Amb. Mitchell?

A (Mitchell): There needs to be a plan to tackle electrical infrastructure. Aung San Suu Kyi needs to deliver electrical infrastructure to maintain legitimacy. In the bigger picture, there needs to be tangible change that accompanies democracy in order to confirm to constituents that it is politically superior. Electricity is key to offering people equitable development, education, and other human rights.

Q (Gardner): Amb. King, please share your thoughts on South Korea's recent invitation of the North to co-host the Olympics and how such statements impact the need to hold the North accountable for human rights.

A (King): President Moon has been careful about speaking on human rights, as his background is human rights law. There is a commitment in South Korea to the rule of law and democracy, as well as reconciliation with the North. I don't think that reconciliation will be at the cost of human rights.

Q (Markey): Mr. King, when there is criticism of human rights policy in North Korea, they consider it an attempt to externally begin a process of regime change. I think we need to directly negotiate with North Korea about their nuclear program, but as a result human rights would be implicated. How do we deal with nuclear weapons in the context of human rights in a situation that is similar to that of the Soviet Union and Russia in the 1980's? Ultimately, the freedom resulting from that situation was achieved via arms negotiation.

A (Hon. King): I think we need to emphasize that a policy respecting human rights does not necessarily entail regime change. We should increase information in North Korea about the rest of the world so the regime is pressured domestically. I think we also need to continue pressure in the UN to question North Korea's legitimacy. This has led to at least peripheral changes. The issues of nuclear weapons and human rights are not either/or problems, our policies on both need to work together. In

terms of the Soviet/Russia example, the Soviets were much more willing to negotiate than North Korea is. We must continue sanctions to make nuclearization more expensive. We need other countries' cooperation, and must use the UN as a channel. We must continue to press China. They hold the majority of the bargaining power with the North. From 2016 to 2017, there was a 37% increase in trade between China and North Korea, while the South Korean economy suffered from a 10 billion dollar hit.

Q (Markey): I'd like to continue the back and forth about the bill. How would you address in legislation, the issue of nations accepting labor out of North Korea?

A (King): We've had some success in pressing countries in Europe and the Middle East to cease their dependence on North Korea. However, countries whose legal systems are murky, like Russia and China, harbor the most workers. In the case of China it is difficult to pinpoint the official from whom the approval to use workers came down, thus making it near impossible to apply individual sanctions.

Q (Gardner): Amb. Mitchell, talk about your experience in Burma: should we be more patient, have we been too patient, and how should we balance that patience with additional actions to have better results?

A (Mitchell): Democracy does not start and end with elections. Aung San Suu Kyi's election in 2015, though a remarkable moment, just inherited the structural problems of this country that existed before. Having said that, we have seen progress in electricity and economy though it is very slow, so we do have to be patient. On the human rights side, legacy laws punishing those who exercise free speech are still in place and must be readdressed.

Q (Gardner): In Thailand, do we have an opportunity to convince the military to lessen restrictions on the freedom of expression, and what leverage do we have in terms of rights in Thailand?

A (Hiebert): Thus far they have not taken criticism very well. There is also a lot of sensitivity as we are partaking in a change in monarchy. The former king will be cremated in October, and the new king will be coronated at the end of December. As a result, they have been really hard on freedom of speech, especially given what has been happening on Facebook and other social media. We are hoping to get the Prime Minister here so that we can make some trade deals, mil-to-mil cooperation, in order to push them towards elections in the end.

Q (Markey): What is your assessment to Indonesia's threat to democracy coming from the rising religious and ethnic intolerance inside that country? What can the U.S. do in response?

A (Hiebert): You might have seen the treatment with the governor and the mayor, a hawk at Jakarta. An ethnically Chinese Christian was sentenced to two years imprisonment for jokingly questioning whether a Muslim could live in a non-Muslim state. As for the U.S., we can send

Congressmen to Indonesia but it will be hard to influence a country that is already a democracy. Negotiation must persist to remind all of the danger of dictatorship.

Q (Markey): In 2016, the freedom of the net survey ranked China, Vietnam, Myanmar, and Thailand as not free, and Cambodia, Malaysia, Indonesia, Singapore, and South Korea as partly free. Our challenge in promoting free internet in Asia is complicated by the fact that China vigorously promotes strict state control of cyberspace across the region. What are your perspectives on how the U.S. can meet this challenge?

A (Mitchell): The U.S. should meet it face-on and let Asian countries know that we are seeking their success and that without democracy, things will end badly for them. We must first convey the positives of free information, and that the absence of it will create more instability, as well as condemnation that would affect partnerships.

Q (Markey): Continued American engagement is essential, but now we have a competing China model. What is your view on this dynamic tension and this aggressive strategy that China has put together?

A (Mitchell): If you are an autocratic government you have motivation to do this. But we need to support actors who want to open up their country through civil society and free media. We must demonstrate that open information is what a free society looks like and that free societies succeed. The challenge I found in Burma is trying to measure what progress looks like.

Q (Markey): If the U.S. retreats (this administration has illustrated that to be an alternative path), what does that mean in terms of the Chinese regime propounding an alternative authoritarian model?

A (Hiebert): With China putting pressure on neighbors to drift towards it, you do have a situation where the Chinese model is being looked at. Vietnam, due to economic development purposes, realizes that it needs to keep the internet open.

Q (Markey): Vietnam has just announced a one billion dollar deal with a company in Massachusetts to purchase scanning and detecting equipment, a pure capitalist deal.

A (King): An interesting thing is that Chinese information is not permitted in North Korea because it is far too open. It is illegal to listen to Chinese radio in North Korea. Compared to what they are getting domestically, Chinese radio is much more open. One thing we can do especially in a place like North Korea where access to information is basically not available, is to get information into North Korea on thumb drives and particularly through radio, so that there are alternative information sources available to the people in North Korea.

Q (Gardner): The new administration is trying to mend fences with some of our treaty allies in Southeast Asia, but we know that the extrajudicial killings create very significant obstacles for the

U.S., a nation that respects human rights. How do we address extrajudicial killings and human rights violations in the Philippines?

A (Hiebert): It is a tough situation when Duterte does not take criticism. You can talk to him privately but he does not want to hear criticism publicly. When the U.S. criticizes him, he goes to Beijing and says that he will separate from the U.S.. So the U.S. has challenges, but the good thing is that the U.S. has continued to work on an enhanced defense cooperation agreement to give the Philippines access to bases to help them come to terms with what China has been up to in the South China seas. We must further negotiate with President Duterte and cannot isolate the whole country because of him. The situation is tricky because there is only so much we can do under a guy who is so mercurial and who does not handle criticisms at all.

A (Mitchell): He is not just mercurial but also very popular at home. Given public opinion and democracy, it is a lot more difficult to prevent someone from continuing such behavior when there are no negative political repercussions for his actions.

Q (Gardner): Regarding sending information into North Korea, have we envisioned additional avenues for information or are radio and thumb drives still the norm?

A (King): Radio and thumb drives are still key elements. It is not easy because the North Koreans are very savvy on cyber issues, and cell phones in North Korea are incredibly difficult to use (illegally). There is no access to internet inside North Korea but only state propaganda. In spite of that fact, people do want to know about what happens outside of North Korea. South Korean soap operas are very popular in North Korea and all over Asia. So there is information getting in and we just need to continue to probe though it is not a cheap process. Based on defector pollings, there is great interest in the lives of defectors in South Korea and the U.S.

A (Gardner): I think that all of us concur with the last administration's pivot to Asia (over U.S. withdrawal perpetuated by this administration), but what we lack in this country is a long term strategy when it comes to Asia, something that exceeds a four or eight year term of the president. The purpose of these hearings is to pass legislations for long-term strategy in Asia.

Q (Markey): Is there any way we can engage the funds addressed to the Philippines to intervene with the kind of conduct happening there that we are not happy with?

A (Hiebert): About a third of the killing is done by the police, and 60% or so is done by the vigilante groups. On the police side, there has been effort to cut weapon sales. These vigilante groups do some work for the police, who kill through them to avoid getting their own hands dirty. Cutting off provision of equipment to the police might be one thing, but looking for ways to deal with drug addicts is another way to move forward.

Report by: Lisa Lee & Sabrina He, Research Interns



DATE: July 13, 2017

SUBJECT: The First Trump-Moon Summit and the Future of US-ROK Relations

MAIN POINTS

- Trump-Moon summit:
 - Reaffirmed both US and ROK commitment to alliance
 - US focused on sanctions, pressure, and renegotiation of KORUS FTA; ROK focused on dialogue with NK and promotion of ROK leadership in the Korean peninsula
- Future relations:
 - Must espouse defense measures beyond THAAD in a plan to stay ahead of nuclear-capable North Korea with continued US reassurance of alliance commitment
 - FTA renegotiation is not necessary, but solution for mutually beneficial bilateral trade is
 - High-level engagement in trilateral US-ROK-Japan relationship going forward is desired

EVENT OVERVIEW

Date: July 13, 2017

Time: 9:00 a.m. - 10:30 a.m.

Location: KEI Conference Facility, 1800 K St NW, Suite 1010

Attendees

- **Han Duck-soo (Opening Remarks):** Chairman, Climate Change Center; Former Prime Minister, ROK; Former Korean Ambassador to the United States
- **Troy Stangarone (Moderator):** Senior Director for Trade and Congressional Affairs, KEI
- **Ahn Se Young:** Professor, Sogang University

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- **Choi Kang:** Vice President, Asan Institute for Policy Studies
- **Abraham Denmark:** Former Deputy Assistant Secretary for East Asia, DoD
- **Bruce Klingner,** Senior Research Fellow, The Heritage Foundation

SUMMARY

Introductory Remarks

Ambassador Han Duck-soo

Ambassador Han emphasized how the US-ROK alliance is key to challenges facing the Korean peninsula and critical to the stability in Northeast Asia. President Moon, after only two months of preparation, was able to have a very successful summit meeting with President Trump in the US and then again during the G20, said Han. President Moon was present during trilateral US-ROK-Japan talks, and met with the Chinese chairman and Russian president as well – all the countries central to the Korean peninsula. The situation is so dire that coordinating US-ROK policies has become a priority. Ambassador Han laid out four conclusions from the summit:

- 1) The US has made clear its commitment to defending ROK and Japan in an effort to protect stability in the region.
- 2) The US and ROK have agreed that maximum pressure and sanctions are key to pursuing peaceful resolution and dialogue.
- 3) The US and ROK would coordinate closely on North Korea policy to ensure the strongest possible front.
- 4) They also agreed to strengthen mutually beneficial economic relations. Although they have not fully agreed on KORUS FTA, they would like to consult and review how to promote economic relations between the two countries.

Opening Comments by Panelists

Abraham Denmark

Although there is certainly potential for conflict given the presidents' political agendas, the summit went fairly well because both sides wanted it to go well. However, each side had a very different focus. The American statement talked about US-ROK agreement on sanctions, pressure, and reaffirmation of THAAD; the South Korean statement focused on American support for dialogue with North Korea and ROK leadership. Denmark concluded by revealing how the interpersonal interaction between the presidents was fairly good and that time will tell how the substance of the talk will play out.

Choi Kang

Choi agreed with Denmark, adding that prior to the summit, most people had fairly low expectations due to concerns over issues like THAAD and KORUS FTA. The presidents and their teams were able to minimize the impact of these divisive issues and focus on building a positive relationship. Choi saw an opportunity for the two leaders to make clear to each other their positions and work to understand each other. However, “the devil is in the details,” such as how the two countries will find a balance between pressure and dialogue, and what agenda they

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will agree to present. These things still need to be ironed out. Choi pointed out that whatever agreement between the two countries, external factors will greatly affect the outcome of the summit.

Bruce Klingner

Klingner looked at the summit in four phases: long before, shortly before, during, and after. Long before the summit, right after President Moon's inauguration, there were a lot of concerns on what the summit would look like, given President Moon's pro-engagement stance. Running up close to the summit, the expectations were better, partially because President Trump seemed to put aside his previous views of the alliance and conditionality of US support, and President Moon moved to the center on his comments about pursuing engagement and dialogue with the North; he acknowledged that re-opening Kaesong would be a violation of UN Security Council resolutions and adopted a more conservative point of view on North Korea. The summit itself went fairly well, despite President Trump being somewhat of a dark cloud on what was otherwise a sunny day. After the summit, both teams seemed to leave with very different ideas on what was agreed. President Trump said that South Koreans agreed to renegotiate the KORUS FTA, and President Moon said of renegotiating KORUS that it had not been in the joint statement and therefore was not an officially agreed upon agenda they were planning to move forward with. Klingner argued that President Moon interpreted the summit as the US acquiescing to ROK desires to be in the driver's seat on all peninsular issues – not just unification.

The North Koreans constrained President Moon's ability to re-engage however, the following Tuesday after the summit when they launched an ICBM. The North Koreans, with the number of missiles tested since President Moon's inauguration and their rejection of his attempts to engage in dialogue and humanitarian aid, acted similarly to when President Obama came in 2009, said Klingner. At that time, President Obama extended an offer to engage in dialogue and North Korea continued to act just as bad to him as they had to President Bush. This reconfirmed for Klingner that it is North Korea that is impeding progress here, not the policies of the US or South Korea.

Ahn Se Young

According to Ahn, Presidents Trump and Moon discussed two main issues: the US-ROK alliance and trade relations. Past summits have tried to steer clear of economic conflict, but President Trump repeatedly insisted on renegotiation of the KORUS FTA. President Moon responded by saying that the FTA is mutually beneficial. US market share in and service export to Korea, as well as bilateral trade volume, are on the way up. On the subject of creating a special committee to examine the KORUS FTA, Ahn believes that having an open dialogue on the issue is better than having no dialogue at all.

Discussion

Troy Stangarone

How much progress has North Korea made on its missile technology, and what steps should the US-ROK alliance be taking to counter this?

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Abraham Denmark

There has been a lot of humor surrounding North Korean missile testing in US popular media, especially on how lousy their missiles are. Denmark argued that there is no such thing as a failed test if you learn something from it. North Korean scientists have made tremendous progress in missile development over the past several years. There has been a lot of talk in the academic and policy community about whether or not the most recent missile was, in fact, an ICBM. Denmark thought that the technical question of whether or not it is, is beyond the point, which is that North Korea wants to have a credible ICBM and is making progress toward it. One key problem is that time is not on our side. Over time, North Korean scientists are going to improve and eventually figure it out. Despite how the US media portrays it, Denmark said that the North Korean missile program is not a joke but a real capability giving North Korea the ability to strike US allies in the region.

Troy Stangarone

At the summit President Trump seemed to endorse President Moon's policy of engaging in dialogue with North Korea. How much does the July 4th missile test constrain President Moon in pursuing this?

Bruce Klingner

Picking up on Denmark's comments, Klingner added that there is a tendency to downplay, dismiss, or outright deny North Korean missile and military programs. This trend continued through their plutonium and uranium program, North Korean involvement in the Syrian reactor, and in general the pushing back of "crisis point" standards in missile development. "It's only Alaska," Klingner quoted of experts. Klingner agreed with Denmark's comment on the seriousness of the North Korean threat that North Korea's actual current missile capability is not as important as the fact that North Korea will eventually get to their end goal.

On the subject of engagement, Klingner does not know how far President Moon will go or be able to go. When talking to South Korean colleagues before the summit, Klingner was told not to worry about how far left President Moon will go because regardless of what President Moon wants, North Korean resistance to dialogue and strong public support for the US-ROK alliance in South Korea puts a solid wall between the two sides. Other Korean colleagues assert that whatever wall is present, President Moon will jump over or dig under it. Nobody really knows, concluded Klingner, what President Moon's policies will be. Certainly, he said, North Korea's rejection of dialogue and civil outreach will constrain President Moon's ability to engage with it, should he desire to create a Sunshine 2.0 policy.

Troy Stangarone

Many expected the issue of THAAD to be a flashpoint for this summit. Were you surprised that it did not really come up, and do you think the two countries will be able to reach the point where it will be completely deployed?

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Choi Kang

On the subject of North Korean missile capabilities, Choi said it would be wise to focus on North Korea's potential long-term nuclear and missile capabilities rather than just their recent developments, as North Korea does ultimately intend to possess nuclear capabilities. Choi argued that we should not underestimate North Korea's intention to create an ICBM, or their ability to overcome technological barriers.

On the issue of THAAD, Choi said President Moon's decision to call for an environmental review will only enhance the legitimacy of THAAD. The question of whether we will be able to expedite the deployment is uncertain, according to Choi, who remarked that it is more of a domestic than bilateral issue. President Moon is also seeking more nuclear deterrence assurance from the US. Therefore, Choi argued, we need to think about what the alliance can do for defense beyond THAAD.

Troy Stangarone

Given the likely chance that North Koreans will complete an ICBM before we are able to bring them back to the table, how do we prepare for the reality that we will have to deal with an ICBM-armed, nuclear-capable North Korea?

Bruce Klingner

In response to Stangarone's question, Klingner argued that we are already living with a nuclear capable North Korea that can threaten both South Korean and Japanese allies. In the last year, there has been a lot of discussion and advocacy for a preventative military option, which is different from a preemptive attack in that a preventative attack would move with the purpose of preventing the completion of a nuclear weapon, whereas a preemptive attack would preempt a North Korean attack. Klingner has previously written arguing to save preemption for an imminent North Korean military attack. He thinks many people making the argument for such an attack underestimate the likely casualty numbers and the likelihood of all-out war on the peninsula if you do even a limited military attack. The US has always left the door open, but North Korea is very clear that it is not willing to denuclearize and that its nuclear program is totally off the table. Klingner advocated for increased pressure and sufficient defense because we have been and are in it for the long haul and there is no magic solution.

Abraham Denmark

Denmark agreed with Klingner on planning ahead for a nuclear capable North Korea. Denmark said he is more concerned about conventional deterrence than strategic deterrence, which has proved effective in various forms since the 1950s. With a credible nuclearized ICBM, North Korea could become bolder in driving wedges between the US and its allies and in conducting conventional-level provocations against both South Korea and Japan. Denmark argued for rethinking military calculus and enhancing conventional deterrence as well as sustaining strategic deterrence. For this reason, Denmark argued, it has been a mistake to focus so much on THAAD, which is but one piece of a much more complex and sophisticated array of defense capabilities that the US and ROK have fielded. As the North Korean threat continues to evolve, Denmark argued that the alliance will have to do more than THAAD to ensure that we have the

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capability to defend ourselves and our allies. However, Denmark expressed concern that political concerns, like that over THAAD in South Korea, may weaken our ability to defend ourselves. The militaries should be free to make assessments on our defense capabilities and make decisions on what is needed, with support from both sides.

Choi Kang

Choi agreed with Denmark and added that with the focus on North Korea's nuclear program, we have forgotten the extent of their conventional capabilities. A significant amount is deployed along the DMZ and pointed at the Seoul metropolitan area, the potential casualties for which range from 50,000 to half a million, depending on munitions used. We have to think about North Korea's chemical and biological capabilities as well. Last year's assassination of Kim Jong-nam highlighted North Korea's chemical threat. We are not prepared to handle the chemical and biological threat it poses.

Choi argued that there is a difference between the US and ROK on the issue of deterrence. The US wants to maintain strategic ambiguity, but the ROK wants assurance and strategic clarity. Choi also pointed out that there will certainly be strong domestic resistance should the South want to develop independent nuclear capability. No South Korean province wants to host a nuclear facility. However, the ROK wants more concrete action taken by the US so they can be assured.

Bruce Klingner

President Moon, Klingner said, is trying to be on both sides of the fence in terms of THAAD. He is not advocating to reverse the deployment but at the same time is assenting to the one-to-two-year process of the environmental review. Although some argue that THAAD is a violation of South Korean democracy, Klingner believes that reversing the decision would be a violation of the Status of Forces Agreement and components of the Mutual Defense Treaty. THAAD was and is an alliance decision, not a domestic decision. THAAD is now defending millions of South Koreans. President Moon is trying to appease both the alliance and his constituents at the risk of alienating one or the other.

Abraham Denmark

Reassurance is a natural aspect of any alliance relationship and is a never-ending conversation; South Korea will never be totally reassured, and that is alright. It is not a sign of weakness in the US-ROK alliance that one side wants reassurance.

Troy Stangarone

At the summit, there seemed to be differences between the administrations on the issue of trade. The Trump administration has formally requested a Joint Committee meeting to review the KORUS FTA and discuss potential amendments. How is this process going to move going forward?

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Ahn Se Young

According to the KORUS FTA, both parties are able to convene annual Joint Committee meetings. Rather than focus on renegotiation, Ahn thinks it is important for both sides to identify more mutually beneficial solutions. The Trump administration has focused on the US trade deficit with South Korea, which has doubled in the past five years; there are many ways to fix this problem, such as encouraging Korean companies to invest more in and buy more from the US, which is currently being done. Solving this problem therefore does not necessarily require renegotiating the FTA. South Korea currently imports almost all of its energy from the Middle East and Southeast Asia/Malaysia, but a shale gas revolution could change the balance of trade between South Korea and the US. The US deficit with South Korea and Japan came largely from automobile trade. Ahn believes South Korea has made more sincere and active efforts in US-ROK bilateral trade.

Troy Stangarone

All trade relationships work two ways. What are some issues for South Korea?

Ahn Se Young

South Korea has several key trade issues. According to Ahn, there are state-by-state barriers in the US for Korean companies, which need to invest even more in the US in order to strengthen the relationship. Ahn also promoted his new book, “How to Deal with Donald Trump,” at Stangarone’s prompting.

Troy Stangarone

The Obama administration put a lot of effort into trilateral relationships. Given new administrations in Seoul and Washington, how do you see the trilateral US-ROK-Japan relationship going forward?

Abraham Denmark

The most difficult part of this trilateral relationship has always been the relationship between Korea and Japan, which is not dictated by the US but is up to the leaders of those two countries. Denmark believes that Prime Minister Abe and former President Park showed a great deal of leadership, vision, and political courage to sign agreements. President Moon clearly has a different view from his predecessor, but how it will play out in terms of practical cooperation still remains to be seen. Public opinion in South Korea on trilateral cooperation is not high, according to Denmark. Choi remarked that it actually is quite high, at 70%; nevertheless, it is a problematic issue. There is a great deal of enthusiasm for security cooperation, which needs to continue so the three militaries can enhance their cooperation. A more consequential aspect is high-level engagement, energy, and drive from top-level officials to develop and continue this cooperation.

Choi Kang

President Moon clearly stated that he will separate security cooperation with Japan from the history issues. Choi would like to see corresponding measures coming from Japan. Our trilateral security interests have started to see much more overlap in recent years, especially now that the

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US is also under threat from North Korea. How this US interest will impact South Korean national security is something that will need to be discussed, necessitating the three countries to have a joint plan. Choi, in opposition to Denmark, believes that the public has been very supportive of trilateral cooperation. China has become a less favorable country than Japan these days. There is good potential for future trilateral security cooperation. However, the scope of the trilateral relationship needs to broaden as it currently focus mainly on security issues of the Korean Peninsula. How far trilateral cooperation can broaden will depend on circumstances.

Q & A

Q: At the summit and G20 meetings, did Presidents Trump and Moon discuss the issue of military exercises – will there be a joint military response to North Korea’s demand that South Korea terminate exercises, and also a response to the China-Russia dual-freeze proposal, which would have the same effect on US-ROK military exercises? Is the issue of military exercise still up in the air or has there been progress on a joint US-ROK position? How should we respond to the Russian-Chinese proposal?

A (Choi Kang): Choi clarified that President Moon was referring to South Korean activity along the DMZ, like broadcasting - not other kinds of military exercise. Moon also said that the alliance needs to do more in action, not in word. The continuation of US-ROK military exercises has been a joint decision. At the moment, there doesn’t seem to be any possibility in the near future for military reduction.

A (Bruce Klingner): President Moon said that the ROK is not considering cutting military exercises for the freeze. On the topic of North-South talks, North Korea refuses to engage, so Klingner does not see that happening anyway. What should the US response be to the Russian-Chinese proposal? Klingner does not believe the proposal is viable opening position because they are trying to offer something they do not legally possess. North Korean nuke tests are illegal while US-ROK military exercises are legal. Rather, concessions of similar scale need to be offered. Conventional military exercises for conventional military exercises, or something on transparency or exchange of observers would be more acceptable as an opening position.

A (Abraham Denmark): Exercises fulfill three functions: they send a deterrence message to NK, an assurance message to SK, and insurance for military readiness. In any negotiation, you have to be willing to make concessions. Like Klingner said, the alliance will not trade legal things (US-ROK military exercises) for illegal things (NK nuke tests). In addition, the scale and scope of exercises can be adjusted and negotiated. China keeps saying it has no leverage over the regime, so the fact that they are offering a freeze does not make sense.

Q: Chris Nelson, Sasakawa Peace Foundation: Is a change of dynamics in the region even possible? What would have to happen for a preemptive vs. preventative attack to be justified? How would such an attack be coordinated with the ROK and Japan?

A (Bruce Klingner): A preemptive attack requires having information, and knowing, to the best of our ability that the regime's intention is indeed to attack, as opposed to just sending out a political signal or conducting a routine military exercise. On the other hand, a preventative attack is not about preempting an attack but about taking out the regime's nuclear capabilities and certain targets in order to prevent them from completing the development of an ICBM. The former is arguably necessary if you feel you are about to be attacked by nuclear weapons. The latter Klingner argues against.

A (Choi Kang): A change of dynamics is not possible simply because the regime wants to be accepted and recognized as a nuclear power. The conditions we set for negotiation and dialogue prevent North Korea from engaging. There therefore can be no compromise. Instead, a comprehensive and gradual approach to engagement is needed because of the lack of information. Nevertheless, the alliance needs to be ready in terms of defensive capabilities. Like Klingner, Choi argued that prevention is not possible because of our lack of intelligence on sites within North Korea. A preemptive strike is possible, but unless we are prepared for all-out war, it is not an option.

A (Abraham Denmark): Preemption has a very firm basis in international law; prevention does not. North Korea is not terribly interested in diplomacy right now. Once they have achieved nuclear capability, they probably will be up for all the diplomacy in the world. However, we need to get past the idea that diplomacy or engagement is a concession. It is not.

Q: Does the lack of key personnel have an effect on diplomacy efforts with North Korea? Should we have confidence in diplomacy when we do not even have the right pieces in play?

A (Choi Kang): It is important to fill these positions in order to promote public diplomacy. However, even with absence of personnel, communication is still possible.

A (Abraham Denmark): There are capable acting officials in place even when these positions are vacant. They provide leadership, appropriate advice, and play an internal role. However, there are two main challenges: because acting officials are not appointed by the president and confirmed by the senate, they do not have gravitas to fulfill a public diplomacy role; also, appointment and confirmation matter in a democratic system.

Q: In your personal opinion, what is the most viable way to create a relationship with North Korea, open discussion, and put a stop to their nuclear program?

A (Bruce Klingner): People have struggled with this question for decades. You cannot solve North Korea's problems (plural) – nuclear, conventional, human rights – with this regime. The regime therefore has to be gone for a solution to work. This does not, however, mean that we should push for regime collapse, as too many bad things could happen in that scenario. We are therefore stuck here on one side of a swamp hoping to get to the other side. The near-term solution is to enforce our own laws and sanctions, and impose penalties on those in violation.

A (Choi Kang): Unless we have a leader whose last name is not Kim, it is not possible to think about a denuclearized North Korea. The nuclear program is a legitimizing factor for the Kim family, and therefore denuclearization does not seem to be a viable option. Deterrence, humanitarian engagement, and information influx are better ways to move forward.

Report by Marina Booth, Research Intern



DATE: June 17, 2017

SUBJECT: 3rd Student Visit from Meridian International Center

MAIN POINTS

- Strong inquiries regarding lack of North Korean human rights awareness in South Korea
 - Questions on direct refugee resettlement programs/organizations in the U.S.
 - Difficulty in approaching North Korea security situation without disregarding human rights aspect
-

EVENT OVERVIEW

Date: June 17, 2017

Time: 9:02 a.m. – 10:26 a.m.

Location: 1001 Connecticut Ave NW #435, Conference Room, 2nd Floor, Washington DC 20036

Attendees:

- **Rosa Park, Presenter**, Director of Programs and Editor, HRNK
 - **American and Korean students** of the U.S. Congress – Korean National Assembly Exchange Program, organized by the Meridian International Center
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SUMMARY:

Rosa Park gave a brief overview of HRNK for roughly 20 minutes. The remaining time was dedicated to Q&A.

Roughly a third of the students had little to no prior knowledge of the dire human rights situation in North Korea. The South Korean students asked interesting questions about a range of topics,

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including HRNK's funding sources, North Korean refugee resettlement process/programs in the US, the lack of North Korean human rights awareness in South Korea, and the North Korean Human Rights Act. The American students asked interesting questions about hypothetical scenarios of a reconciliation process without regime change, how to approach the human rights challenge despite the tense security situation, and HRNK's involvement with the US legislative and executive branches.

Some of the Q&A is listed in detail below:

Q: Where do you get financing for Institutional Review Board (IRB) approval?

A (Rosa Park): All of our research is copyrighted and all of our interviewees sign a consent form. We follow US laws in terms of legal rights and release of information regarding North Korean refugees residing in the US. In regards to funding, we receive one third from private foundations, one third from individuals donors, and one third from the USG/State. Government funding is very recent, and we are not sure it will continue. We received the grants to continue to do work that was already ongoing. That work will continue regardless of USG grant availability.

Q: What has been Ambassador Nikki Haley's stance on North Korea, and are you optimistic on how she's currently handling human rights violations and US impact on what we can do to stop this?

A (Rosa Park): She is new so we haven't had a one-on-one yet but we are certain she is fully aware of the human rights situation.

Q: Should humanitarian activity be separated from politics?

A (Rosa Park) 1) Because of the way the North Korean regime operates, it is almost impossible to separate politics and humanitarian aid. Saying it's a political issue is not a negative thing, it's just a statement of fact. 2) In terms of decreasing humanitarian aid, that's a problem for us because the North Korean regime doesn't allow monitoring. North Korea has proven time and time again that they will divert the aid (e.g. rice, grains) for cash found in Russia's black market.

Q: Would you say the issue of human rights has gotten worse after Kim Jong-il's death?

A (Rosa Park): It has changed but it's hard to say whether it's better or worse. But our access to information has decreased and defections have decreased since Kim Jong-il's reign. North Korea has ramped up security and the Chinese have ramped up security. One improvement is that after the 2014 UN Commission of Inquiry (COI), North Koreans have become more responsive and interactive. This is probably because Kim Jong-un was specifically mentioned in the COI so they became a little worried. They even have their own human rights report.

Q: How do you approach the human rights challenge, especially considering the tense security situation?

A (Rosa Park): We don't have direct access to the North Korean border so we focus on what we can achieve within the US – pushing the agenda that human rights is just as important as security. The regime holds power because they have control over this range of human rights so it is hand in hand with the issue of security. Ten years ago, no one in the US government wanted to talk about human rights. Now, we have the North Korean Human Rights Act, and South Korea passed their NKHR Act last year. Now people talk about North Korean human rights constantly. The US placed their first sanctions last year. As an NGO, it is our job to hold [our] government accountable.

Q: Do you feel like the Trump administration is not highlighting the human rights issue as much as the Obama administration?

A (Rosa Park): North Korean human rights are bipartisan and we've always had full consensus. If you look at the [latest speech when launching the 2017 Trafficking in Persons Report](#), Secretary Tillerson mentions North Korean human rights and forced labor.

Q: Is there a way to spread information to North Korean refugees who have not identified themselves with any other organization in the US?

A (Rosa Park): We do our absolute best to protect the identity and safety of interviewees. We have never had a problem, although we have conducted interviews in the border areas of North Korea on several occasions.

Q: Is there a reason why North Korea is not tried by the International Criminal Court (ICC)?

A (Rosa Park): It was one of the recommendations of the COI. The problem with the ICC is that China and Russia will most likely never support it. The UN International Court of Justice (ICJ) or truth and reconciliation commissions also have slim chances.

Q: Does HRNK do any collaborative work?

A (Rosa Park): HRNK collaborates with the National Committee on North Korea (NCNK), the Korean the Korean Economic Institute of America (KEI), and the Holocaust Museum in Chicago. We also attend conferences in LA, NY, Boston.

Q: Does HRNK have any connections to South Korean society? South Korea does not have North Korean human rights coverage on specific subjects like women or gender challenges; the

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issues are usually about defectors as a whole. Is there any way HRNK can influence this trend of news reporting?

A (Rosa Park): We have an extensive network in South Korea. Every time we release a publication, we send it to every South Korean news agency, but we cannot force them to write about or showcase it. In general, the trend is that there is less of an interest in North Korean human rights in South Korea's society.

Questions from American students:

- How does one gain defector status?
- Is there a particular reason to be called a defector rather than a refugee?
- What has been Nikki Haley's stance on North Korea, and are you optimistic on how she's handling the current North Korea HR violations and US impact on what we can do to stop this?
- How do you approach the human rights challenge, especially considering the tense security situation?
- Do you feel like the current administration is not highlighting the human rights issue as much as the last (Obama) administration?
- Have you published anything on the struggles of North Korean refugees in China? Are they online?
- In reference to Congress, have there been more inquiries for information from the legislators?
- Does HRNK interact with the executive branch?
- Given his lineage of despots, would you say Kim Jong-un represents a change in perspective in regards to human rights?
- Hypothetically, do you have a publication of policy recommendations to help the marginalized communities in the case of regime change?
- Hypothetically, could North Korea undergo a true reconciliation process without a regime change?

Questions from Korean students:

- Where do you get financing for IRB approval?
- How is HRNK funded?
- Should humanitarian activity be separated from politics?
- Would you say the issue of human rights has gotten worse after Kim Jong-il's death?
- What kind of work is being done with North Korean refugees in the US?
- Besides publications, do you work directly with defections and human rights awareness in South Korea?

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- Why do you think South Korea doesn't fund HRNK?
- Does HRNK have any connections with South Korean society? South Korea does not have North Korean coverage on specific subjects like women or gender challenges; the issues are usually about defectors as a whole. Is there any way HRNK can influence this trend of news reporting?
- Is there a way to spread information to North Korean refugees who have not identified themselves with any organization in the US?
- What is HRNK's role in implementing the North Korean Human Rights (NKHR) Act?
- Does the NKHR Act include funding for resettlement?
- Is there a reason why North Korea has not been tried under the ICC?
- How did you, Rosa, start this work?
- Does HRNK do any collaborative work?
- Would it be more probable North Korea will break down based on an internal problem?
- What is HRNK's role in sending in more information?

Report by: Elizabeth Yang, Research Intern



DATE: July 18, 2017

SUBJECT: International Forum on Building an Alliance for One Korea: Vision and Solutions to the Korean Crisis, Morning Session

MAIN POINTS

- Opinions from security, policy, and civil society leaders on Korean reunification
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EVENT OVERVIEW

Date: July 18, 2017

Time: 10:00 a.m. - 2:30 p.m.

Location: Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW Washington, DC 20004

ATTENDEES

Opening Remarks

- **Michael Marshall (Moderator):** UPI Editor Emeritus
- **Dr. Jai-poong Ryu:** President, One Korea Foundation
- **James Flynn:** President, Global Peace Foundation
- **Inteck Seo:** Co-Chair, Action for Korea United

Morning Session

- **Hon. Jong-Kul Lee (Speaker):** Korean National Assembly, Minjoo Party
- **Dr. Hyunik Hong (Speaker):** Senior Fellow, Sejong Institute
- **Joseph A. Bosco (Discussant):** Senior Fellow, Institute for Corea-America Studies; Former US Defense Department China Director
- **Hyepin Im (Discussant):** President, Korean Churches for Community Development

International Alliance for One Korea Forum

Opening Remarks

Michael Marshall, Moderator

Marshall began the forum by highlighting the that reunification of the Korean Peninsula is the final goal. In order to bring about reunification, it is necessary to involve international

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governments, as well as civil society. Marshall introduced the representatives from the organizations hosting the forum, who then came up to give their opening remarks. These organizations were: the One Korea Foundation, the Global Peace Foundation, and Action for Korea United.

Dr. Jai-poong Ryu

Ryu expressed his hope that this forum will be the start of something much bigger, and that the issue of Korean reunification can move from discussion to action, and that the time has move forward. Ryu stressed the need for an out-of-the-box approach and creative solutions that have not yet been tried, given the failure of past measures. Most of the problems we face today are global in nature, and involve international organizations and coalitions like the UN. Something different needs to be created for this issue of the Korean unification, some organization built with a more appropriate framework for the international alliances tied to this particular issue. Ryu ended by saying that the international alliance should raise more money and awareness for initiatives.

James Flynn

Flynn began by saying that the vision of One Korea is deeply ingrained in the hearts and minds of the Korean people. Today, people everywhere are hearing about Korea and the peninsula and understanding that there is a serious crisis there. This is an important time for the international community to be seriously considering and understanding these issues and seeing how they might contribute in a positive way to a solution on the Korean Peninsula. Flynn's organization, the Global Peace Foundation has been working on this issue for a number of years. The organization holds that governments alone cannot solve this problem and that it requires the involvement of concerned citizens, first and foremost in South Korea, as well as Koreans around the world. The solution must therefore be Korean-led. It is also important, however, that the international community understand and support solutions that can be brought to this issue. Flynn made a comparison to the apartheid in South Africa, and said that while it was an issue that had to be dealt with by that country, it was able to do so only with broad international awareness and support. The US-ROK alliance is one such form of international support. Flynn also stressed the importance of civil society organizations for engagement and support purposes. It is also fundamentally important to consider what sort of foundational principles guiding this work can bring together a One Korea, especially those principles that bring people together and guarantee the rights of all people. This is a critically important step in building a consensus among Koreans toward a One Korea.

Inteck Seo

The question, Seo said, how could such an alliance be possible? Seo argued that it must be built on a shared commitment to Korean unification. This is not just a Korean issue, or an alliance issue, but an issue for the whole world. Civil society, the alliance, and the Korean public are all fighting for reunification. "As Koreans," Seo said, "we have to define what kind of reunification and what kind of outcomes we want, and share this vision with the world." Seo shared a historical example of the March 1st Movement of 1919 where Koreans came together to share their vision of a new Korea. He also made comparisons to Gandhi's independence movement in

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India and Martin Luther King Jr.'s movement in the US. Popular support is therefore an important factor in bringing about change.

Speakers

Hon. Jong-Kul Lee

Lee started his speech by expressing his dismay that North Korea's nuclear threats have become real to people and experts alike, and claimed that the Moon administration is facing a very difficult situation. He also lamented that the international community has lost the capacity to reign in North Korea. He stated that his agenda at the conference was to discuss his opinion, as one of the members of South Korea's leading Minjoo Party, and President Moon administration's position on how to deal with North Korea. In doing so, Lee raised and answered five questions related to North Korea and reunification.

- 1) What policies should the Moon government carry on from the Sunshine Policy, and what should it discard? The Sunshine Policy's aim was to eliminate the nuclear threat from the Korean Peninsula by reducing military pressure on North Korea and ushering it towards reform and openness. Lee answered that given the advanced nature of North Korea's nuclear weapons and the need to eliminate them, South Korea cannot revive the Sunshine Policy, but urged that we should carry on its spirit.
- 2) Should we revive the Six-party talks to resolve the nuclear issue? Lee answered that talks cannot be reinitiated unless the relations between the two Koreas and between North Korea and China improve.
- 3) Should South Korea stop the deployment and operation of THAAD? He answered that President Moon had made it clear that its deployment will not be stopped. The ideal scenario would have been ratification by the South Korean National Assembly prior to deployment, but now it is too late.
- 4) Can the nuclear issue be resolved without regime change? Lee argued that we need to separate the nuclear issue from the regime change issue, and send a message to North Korea that it can maintain its deterrence and regime simultaneously. Lee also emphasized the need to deter future tests.
- 5) Should South Korea develop new weapons? Lee agreed that South Korea needs to increase its military spending in order to counter North Korea's nuclear weapons and suggested a nuclear armament in South Korea to ensure equalize South and North's military capabilities.

Dr. Hyunik Hong

Hong presented the South Korean government's ideas, as well as his own ideas, on how to deal with North Korea. He started by saying that he and President Moon agree that national security concerns take precedence over reunification, and that reunification will come naturally after peace, like what happened in Germany. Since South Korea's economy is already about 40 times that of North Korea, Hong claimed that reunification will not be long. Regarding the sufficiency of THAAD in protecting South Korea, Hong agreed with Lee that THAAD was insufficient, since South Korea does not have a guaranteed shield if North Korea were to use nuclear weapons.

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Regarding the recent meeting between President Moon and President Trump, Hong assessed that they have reached an agreement that improvement in the inter-Korean relations is vital. Both presidents have also agreed that they do not want forceful reunification and that they can and will support co-existence. They have also suggested reunion of separated families and emphasized the importance of civil societies in mending the relationship between the two Koreas.

In regard to dealing with North Korea's nuclear weapons, Hong suggested mutual threat reduction. He then expanded on his previous point that THAAD's capacities are limited and recommended the reintroduction of tactical nuclear weapons to protect both the South Korean people and the United States' army. He argued that this deployment should be conditional and temporary and should be withdrawn if North Korea meets the right conditions.

Discussant Response

Joseph A. Bosco

Bosco spoke about security issues and the role of China in the Korean Peninsula. He began by asserting that reunification on the Korean Peninsula is a long-cherished goal dear to Koreans on both sides of the DMZ. The question is, what would a unified Korea look like, and what system of government would prevail? In 1950, the DPRK tried to unify Korea by force under its totalitarian communist regime, with critical help from China. Bosco argued that the DPRK would certainly try again if there was a reasonable prospect of success. But if its military failed, it knows its regime would be destroyed, and would be unable to return to the status quo like after the Korean War. This is the South Korean security dilemma for the Kim regime. Pyongyang apparently believes it has found a solution, which will allow them to achieve reunification on their terms. The pursuit of nuclear weapons and ballistic missiles is intended to deter the US from coming to South Korea's defense. Once again, China can be expected to be at North Korea's side in its aggression. After all, for every step of Pyongyang's nuclear missile development, Beijing has provided ample material, and financial and diplomatic support to protect and enable three generations of the Kim regime.

The security dilemma faced by the ROK, Japan, and the US is the reverse, continued Bosco. It requires a reunified, democratic Korea under the rule of law, not a megalomaniacal personality cult with a blatant disregard for human rights. This necessarily means regime change in North Korea by one means or another. The challenge is how to achieve that objective without reigniting the Korean War, because now there are far more devastating weapons on both sides. The key today, as it has been from the beginning, is the critical role played by China. For far too long, the West has convinced itself that Beijing shares its goal of a denuclearized Korean Peninsula. That is why the US unilaterally withdrew its own tactical nuclear weapons from South Korea in the early 1990s. The US wanted to show their good faith in exchange for China's commitment never to allow North Korea to acquire nuclear weapons or the means to deliver them. Unfortunately, on the communist side, it was a ruse, and US administrations of both parties have fallen for it. Policy makers were supported and encouraged in this self-deception by a generation of Asia experts, starting with the eminent Henry Kissinger, who has written numerous articles and books on China's role and excusing its behavior. Contrary to conventional wisdom that Beijing opposes a nuclear North Korea, there is ample evidence of China's collusion with their nuclear

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development, said Bosco. It started with the initial transfer of Chinese nuclear technology, to Pakistan's A.Q. Khan effort, and continues today in shipments of missile technology through China. Why would China want to see a nuclear- and missile-armed North Korea on its border? For several reasons, said Bosco, starting with the old lips-and-teeth relationship, that caused Beijing to encourage and later join the Korean War. Although Chinese leaders don't use this colorful phrase as often these days, their behavior toward Pyongyang is not much different than it used to be. They still block or ignore multilateral sanctions against North Korea. They still publically say that it is America's problem, while making major diplomatic and economic concessions toward Pyongyang. They still allow Chinese entities to actively support the Kim regime both financially and through the actual transfer of missile parts and technology.

Beijing wants the North Korean regime to stay in power, to serve as a so-called buffer between China and the West. Bosco asked, "A buffer against what? Does anyone seriously believe that South Korea, the US, or Japan is planning to invade China through the Korean peninsula?" This is the typical paranoia from another of history's insecure, authoritarian regimes, he argued. They see threats from imaginary enemies from around them and use that to justify their own aggression. China refuses to tighten economic pressure on North Korea because it fears triggering the regime's collapse and a massive flood of refugees over Chinese borders. This pervasive argument has been put forward by Kissinger and others, including Beijing, and has taken on the aura of holy writ. Experts tell us that Kim Jong-un and his clique simply see nuclear weapons as the only way of preserving their hold on power, and that they are not irrational but simply not suicidal. At the same time, experts argue that even if China gave Pyongyang a credible ultimatum – that is, give up nukes or give up power – Kim and company would choose regime suicide. Somehow these two propositions don't logically come together. Of course, Beijing has never presented Pyongyang with that choice; instead, the two East Asian communist states seem to be working together to pull off a geostrategic charade that benefits them both at the expense of the democratic West, which includes South Korea and Japan. North Korea's nuclear missile program has served China's strategic interests very well. They have been a major political and diplomatic distraction for several US administrations and have forced a significant diversion of resources from other national security challenges. Most important, said Bosco, is that the North Korea problem has enabled China to pose as a responsible international stakeholder in good faith with the negotiation process of the West when in fact, it is not. Pyongyang's nuclear challenge has given Beijing immense leverage over issues of trade, currency, Taiwan, the South China Sea, and human rights. Washington and other capitals are reluctant to press China because, as several US presidents have said, we need China on North Korea. But China never delivers, and excuses itself with specious arguments that too many in the West are willing to accept at face value.

Having North Korea in power serves the Chinese government in the area of human rights as well, said Bosco. Standing next to the cruel Kim regime with its laundry list of atrocities, which does not disturb Chinese leaders at all, Beijing can pretend to be on a higher moral plane despite the true nature of the Chinese Communist Party, which is revealed in its disturbing treatment of dissidents and others that do not conform to state ideals. It may be different in

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degree, but not in kind, to the abuses by its protégé Pyongyang, which has shockingly dehumanized its own people.

This brings us to the other side of the security dilemma the West faces, continued Bosco, which is an interrelated political and moral dilemma. This is where reunification and denuclearization come into conflict. The morality of human rights is not in the vocabulary of the DPRK or the PRC. Even assuming good faith on Beijing's part in its cooperation on pressing Pyongyang to give up its nukes, it would do so only with a security guarantee for the DPRK. That is why Secretary of State Tillerson explicitly took regime change off the table recently. If that is truly going to be US policy, it should be modified to require Pyongyang to drastically alter its treatment of its population, argued Bosco. Denuclearization cannot be enough. Reunification of the North Korean people must be part of the deal with the Kim dynasty, or with a substitute interim regime. Reunification is the eventual goal as a moral imperative. As was stated, the new Moon Jae-in administration is and should be committed to helping improve the human rights and livelihood of the North Korean people. Washington should make clear to Beijing that if it does not cooperate in denuclearization and reunifying Korea, the US and its allies will proceed anyway. If China persists in its position that a nuclear North Korea threatening the West is preferable to the end of the DPRK, it should be made to understand that US policy is exactly the opposite, and that we are on a collision course that Beijing and Pyongyang have created. The status quo is dangerously unacceptable and unsustainable.

Bosco then made a couple of points on security issues. Regarding China's opposition to the THAAD system, Bosco stated that according to the technical experts that devised the system, it provides maximum protection for the South Korean people under North Korea's missile threat. South Korea's defense capabilities should be considered with political and diplomatic intent. China bears an enormous responsibility for helping create the current situation entrapping South Korea, Japan, and the US. If China has to feel some discomfort over the deployment of THAAD, so be it. Until China acts responsibly to delay a nuclear threat, the US should seriously consider redeploying in South Korea the tactical and nuclear weapons they withdrew in the 1990s as a monumental gesture of good intent. We should also put the option of South Korea and Japan developing their own nuclear weapons on the table. The democracies of South Korea and Japan can be trusted with nuclear weapons a lot more than the aggressive regime in North Korea. If Beijing opposes these moves, they can work to remove the threat that triggered these responses.

Hyepin Im

Im spoke on the role of civil society in unification. She argued that it is not just South Koreans who care about what is happening on the peninsula, but Korean Americans like herself as well. The voice of the Korean American community, Im argued, is often missing from discussions on reunification and other peninsular issues. There seems to be a growing grassroots movement for by second generation Korean Americans to come together in groups such as The Council of Korean Americans and Liberty in North Korea. Im said that growing up in both South Korea and then in the US, she was presented with a very set picture of North Korea as an enigma, and a place where spies go undercover. Im wanted to share another piece of the story, which she was exposed to by faith-based groups that had operated going in and out of North Korea. This

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perspective is equally important to the conversation, argued Im. The following are some examples she discussed:

- 1) Im discussed the concept of going to North Korea through the front doors. The group that suggested this was invited by the North Korea Tourist Organization to train their tourist guides to surf because they wanted to bring surfing into North Korea. As a mission organization, by going to North Korea, they were also able to then touch the hearts of these North Koreans and sing hymns. The Korean American community is 75% Christian, so the activities of these missionary groups in North Korea is, Im said, a model that also gives the Korean American community hope.
- 2) An American man, married to a Korean American, one day had a vision of digging wells in North Korea. At the time, he did not have the expertise, connections, or money to do this, but now, he is now in North Korea helping Chinese business people, who need access to water, get access to water. He also digs wells for other North Korean communities and villages.
- 3) In North Korea, you can't really talk about religion, so a missionary went to North Korea and eventually was able to earn enough trust that when she saw young girls without access to sanitary napkins, instead of using leaves or branches – unsanitary to the point where they became infected or even died – she brought together resources to create a factory to help these women create sanitary napkins. This also led to bringing in eyeglasses, which meant bringing in expertise within the walls of North Korea.
- 4) Dr. Stephen Yoon, a chiropractor by training, got the opportunity with his Caucasian wife, whose parents were missionaries in South Korea, to go to North Korea. Healthcare was so poor that all kinds of patients came to him despite his lack of expertise in so many of those areas of health. His reputation preceded him all the way to Pyongyang. The government gave him a plot of land next to the Supreme Leader's office to build a facility to treat cerebral palsy in children, who until this point had pretty much been sentenced to death by their condition as there is supposed to be no disability in North Korea. Key leaders in the North Korean government have children kept in the shadows because of this, and they rallied around Dr. Yoon.

Im shared these stories because she wanted to show a different side to the reality of doom and gloom that is always presented at these sorts of conferences. Im reiterated that the reality of North Korea is a threat that she takes seriously, but also that there is a whole other dimension of North Korea that outside observers need to be mindful of as well. A group, Compassion International, has developed a curriculum for the future leaders of a unified Korea, and are currently testing it on North Korean defectors who live in South Korea.

There should be some sort of communication channel, argued Im, between government officials, who talk about peace and unification, and the civil society and grassroots organizations that are on the ground doing work in North Korea. Im said she isn't sure why there is no real connection, dialogue, or collaboration happening in this area and presents that as a goal. Thought and ideas are helpful, but not good enough. Im asked, "So what can we do?" In terms of the nuclearization of South Korea, Im said it might force China to pay a little more attention. In terms of the

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dehumanization of North Koreans by the regime, Im stated that it is really the faith-based and humanitarian organizations that have gone into North Korea and shown the people that they are of true worth. Im expressed her hope that there will be more effort not just in policy on the issue of North Korea, but in efforts to show North Koreans the truth and their true worth.

Q&A

Q: How probable do you think North Korea and China would be to cooperate on denuclearizing and rehumanizing North Korea? Would they pretend to cooperate while not adopting either agenda?

A (Hyepin Im): If there is a way to increase pressure on China to bring it to the negotiating table, we can pursue that. Deploying nuclear weapon in South Korea, which will grab Japan's attention, can be a way to increase pressure on China.

A (Joseph Bosco): Cost-benefit, risk analysis. Most people in Washington oppose re-nuclearizing South Korea, but I think it is an option that we can consider.

A (Dr. Hyunik Hong): China finds North Korea's provocations destabilizing, but sees North Korea's collapse as more threatening. However, US, South Korea, and Japan's alliance is even more threatening to China's strategic interest than North Korea. Therefore, China would not agree to a severe sanction on North Korea if the United States continue to deter China, such as by deploying THAAD. Thus, if we want China to impose severe sanctions on North Korea, we need to change US policy towards China.

Q: Why are South Korean policies closer to China's than the United States'?

A (Hong): South Korea relies heavily on exports for its economy, and its exports to China are greater than its exports to the United States or Japan. We should ask the German people about how they achieved reunification. It is thanks to Gorbachev and the relationship between East Germany and the Soviet Union, and that relationship is similar to the relationship between China and Korea. China has the veto power to oppose reunification. It is thus more important to have favorable relations with China than with Japan to realize reunification.

A (Hon. Jong-Kul Lee): South Korea and China have a strategic bilateral relationship, whereas South Korea and the United States and Japan and United States have real alliances. This is different from South Korea and Japan's mutual alliance due to the unresolved issue around comfort women and colonial history.

Q: President Moon was a human rights lawyer, but there is no mention of human rights of North Koreans in discussion on North Korea.

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A (Lee): I was in the same organization with President Moon, a group of lawyers for democracy in Korea. We worked together to draft the North Korean Human Rights Act. Ten years ago, South Korea possessed tactical nuclear weapons whereas North Korea did not have a nuclear weapon. However, today, North Korea possess nuclear weapons and thus we need tactical nuclear power.

Q: What is being done and what can be done to communicate with people in North Korea such as through radio broadcasting?

A (Hong): East Germany did not collapse because of NATO or American military forces, but collapsed naturally by implosion of its own people. That's why the best way to bring down the North Korean regime is through coexistence of the two Koreas and continual transmission of information to and interaction with North Korea. I recommend peacefully sending as much media information to North Korea as possible.

A (Im): A lot of information is transmitted into North Korea and many in the younger generations disgruntled. Can we find more points of contacts such as Women Cross DMZ to develop areas where North and South Koreans can more opportunities for interaction? Also, many Korean Americans are in positions of influence and would be happy to be part of the alliance for one Korea. Providing hope in dealing with North Korea will help attract more allies.

Q: How would South Korea's potential redeployment of tactical nuclear weapons contribute to mutual threat reduction, a strategy that you recommended to resolve the nuclear issue? Wouldn't that give incentive for Japan to nuclearize?

A (Hong): The best way to guarantee South Korea's security would be to sign a pact with the United States on automatic intervention if North Korea were to perform a nuclear attack on South Korea. Currently, there is only a military alliance pact between South Korea and the United States, but there is no guarantee that the US forces will intervene militarily upon North Korea's attack on South Korea. Therefore, if Washington were to promise an automatic intervention upon North Korea's nuclear attack, that would be the best option. The second best option would be the tactical deployment of a nuclear weapon. This should be temporary and conditional because this would not be a means to enhance South Korea's overall national security, but just a way to counter North Korea's nuclear threat.

A (Bosco): Many discuss North Korea's history of violating the agreements it signs, but little attention has been paid to China backing down on promises it has made. In the 1990s, China agreed to ensure that the Korean peninsula remains free of nuclear weapons. However, China has broken its promise and has actively participated in North Korea's nuclear and ballistic missiles programs. Therefore, the United States has a strategic and a moral basis to reconsider the original agreements with China.

Luncheon and Roundtable

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Dr. Robert Schuller

Dr. Schuller expressed his confidence that miracles in North Korea could come through prayer, commitment and faith. He told the audience that God is bigger and more real than anything they can imagine. He encouraged the audience to believe in God's promises and to pray for healing on the Korean peninsula.

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Rev. Kenneth Bae

Rev. Bae first shared some of his disappointment on President Moon's recent declaration that the Korean government would solve the Korean unification problem alone. Rev. Bae believes Koreans across the world should lead unification efforts, including South Koreans, North Koreans, and overseas Koreans. After sharing some reflections and stories of his imprisonment in North Korea, Rev. Bae underscored the importance of conveying to the North Korean people that unification is the only way to access and preserve human rights. He also emphasized the importance of winning the hearts and trust of the common people living in North Korea, as well as the need to make the elite feel safe since they will not want to let go of the privileges and luxuries they currently have. Through working with refugees and working with people inside North Korea, Rev. Bae has heard on multiple occasions of the growing dissent under the Kim regime. Rev. Bae advocated an online prayer petition where one million people have committed to pray for North Korea both in Brazil and in China. He reminded the audience that US government officials had once told Rev. Bae it was impossible to insure his release, but his return represents a beacon of hope for future Korean unification.

Dr. Richard Bush

Dr. Bush gave an analytical perspective on the prospects of Korean unification by comparing and contrasting with the unification experiences in Germany and Vietnam. Dr. Bush's presentation mainly drew from a Brookings conference that was held in February this year, titled: [Korean unification: Prospects and global implications](#). From the onset, Dr. Bush strongly supported the right kind of unification for the Korean peninsula and cautioned against any naivety about the challenges that lie ahead for Korean unification.

- 1) The division of Korea has been longer than the divisions of Vietnam or Germany.
- 2) There are differences between German reunification (through absorption) and Vietnamese reunification (by force). Dr. Bush guessed that Korean unification would not occur through absorption.
- 3) There are profound economic and social gaps between the two Koreas.

He continued his presentation by outlining differences between the reunifications of Korea, Vietnam, and Germany in terms of social, political, economic, and diplomatic issues.

Social issues: East Germans and West Germans were allowed to travel across their shared border before unification. With respect to defectors, about 3.5 million East Germans resettled in West Germany between 1961 and 1989, a number far greater than the number of North Korean defectors resettled elsewhere. After reunification in Hanoi in 1976, the government put forward a narrative that negatively portrayed the South Korean elites as agents of the US and used this message to justify harsh treatment of those people. This demonization was related to the radical socialization campaign in South Vietnam, which also later contributed to the economic crisis that unified Vietnam faced in 1976. West Germany laid out the foundations for unification, North Vietnam did not. These experiences give insightful implications of the challenges for Korean unification, given the two Koreas' developments on very different paths.

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Political issues: The political aspect of German unification was relatively easy. The East German government had already lost legitimacy and West Germany was already a mature democracy, though regionalism still exists today. Vietnam was different – a repressive state took over a more democratic state. The North Vietnamese participated in political cleansing and created deep cleavages in the political structure that still exist today. Dr. Bush suggested that it is relatively easier for a non-democratic society to merge into a democratic establishment; still, questions for Korea include: how do you deal with the former officials in North Korea? How do you socialize common North Korean people into democratic institutions? How do you teach them the arts of compromise and win-win solutions and replace their sole zero-sum mentality? How do you approach regionalism, which is a problem in South Korea even today?

Economic issues: Germany spent 16 times more than what they estimated in reunification costs (roughly a trillion dollars), but it did its best given its sudden reunification and lack of unification plan. Conservatives in South Korea estimate Korean unification will cost a trillion dollars, with some estimating double that. North Vietnam had a state-run economy similar to North Korea's, but it had a large farming sector, which later allowed a low-tech labor-intensive agricultural economy to move quickly into an export-led growth economy. Korean unification is going to be extremely expensive and involved. Some estimates say that just bringing North Korean population up to half of South Korea's standard of living would take 15% of the country's GDP. Dr. Bush strongly encouraged creating a unification fund so that there is financing to apply to this effort later. Secondly, Dr. Bush suggested the more planning, the better, with emphasis on the need to plan for legal architecture in the merge of judicial systems, property rights, and markets.

Diplomatic issues: 1) What will be the role of foreigners during the unification process? 2) What is the impact of regional stability? There were not many issues with Vietnam because external influences were negated once the US left Vietnam. German unification was mainly led by the West German government, which was supported by the US. There were some legal issues held over from the end of World War II amongst the occupied powers in Berlin but this was worked out in tandem with East-West German unification. The Soviet Union was deeply concerned with the consequences of the German, but then-President George H.W. Bush was able to skillfully appease Gorbachev and coordinate the Soviet Union's cooperation. Dr. Bush questioned whether this sort of navigation would be possible with North Korean and Chinese leadership.

In conclusion, the reunifications of Germany and Vietnam show that a Korean reunification faces fundamental challenges but also has comparative advantages. Civil society faith-based organizations can play a large role in helping fill the cultural and social gaps. The likely difficulty of Korean reunification is not a reason to abandon it as an objective, rather it is a reason to start now, especially in 1) mobilizing resources 2) assessing the wide array of issues and 3) preparing to implement these reforms in a smart and efficient manner.

Report by: Marina Booth, Elizabeth Yang, Kayla Yoon, Research Interns



DATE: July 25, 2017

SUBJECT: Amassing Evidence: Applying Information Technology and Forensic Science in Human Rights Documentation

MAIN POINTS:

- (around five key takeaways given in complete sentences)

The event can be viewed at

<https://www.facebook.com/transitionaljusticewg/posts/1551543954885212:0>, accessed 08/04/2017.

<https://www.facebook.com/transitionaljusticewg/posts/1551548841551390:0>, accessed 08/04/2017.

<https://www.facebook.com/transitionaljusticewg/posts/1551553454884262:0>, accessed 08/04/2017.

EVENT OVERVIEW

Date: July 25, 2017

Time: (e.g. 9:30 a.m. - 1:00 p.m.)

Location: International Conference by Transitional Justice Working Group (TJWG)

Attendees:

- **Hubert Young-Hwan Lee**, Executive Director, TJWG
- **O-Gon Kwon**, Former Vice President, Int'l Criminal Tribunal for the former Yugoslavia
- **Ahmed Motala**, Human Rights Officer, Methodology, Education & Training, UN
- **Ethan Hee-Seok Shin**, Moderator, Research Fellow, TJWG
- **Dr. Nevenka Tromp**, Panelist, Executive Director, Geoffrey Nice Foundation
- **Dr. Patrick Ball**, Panelist, Director of Research, Human Rights Data Analysis Group
- **Dr. Clifton Emery**, Moderator, Associate Professor, School of Social Welfare at Yonsei University

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- **Youk Chhang**, Executive Director, Documentation Center of Cambodia/DC-Cam
 - **Stefan Schmitt**, Former Director of the International Forensic Program, Physicians for Human Rights
 - **Scott Stevens**, Communications Director, TJWG
-

EVENT SUMMARY

Welcoming Remarks (Full Text)

Hubert Young-Hwan Lee (Executive Director, TJWG)

Esteemed guests and friends, thank you all for coming to this conference, organized by Transitional Justice Working Group, TJWG.

I would first like to thank the National Endowment for Democracy for its whole-hearted support and Amnesty International South Korea for its generous assistance. I also extend my gratitude to the Asan Institute for Policy Studies for providing this wonderful venue for today's conference and to the Korea University Human Rights Center for hosting the Workshop for Practitioners scheduled on Wednesday and Thursday. Last, but not least, I thank the Office of the High Commissioner for Human Rights for sharing and supporting our vision of fostering cooperation between different continents and professional fields and strengthening the capacity of civil society organizations.

We have with us here today human-rights activists and practitioners who are at the vanguard of defending democracy and human rights in all corners of the world. They have travelled great distances from Cambodia, Indonesia, the Philippines, Sri Lanka and Thailand in Asia, Croatia, the Netherlands, Switzerland and the United Kingdom in Europe, Canada and the United States in North America, and Colombia in South America—12 countries in all.

Looking back to the first day when my colleagues and I met three years ago, I can clearly remember the obstacles we faced. We had the idea to identify the location of human rights violations in North Korea using satellite imagery, and to present a systematic record to the world. The remains of the dead will one day be excavated to be returned to their loved ones.

However, it did not take us long to realize our lack of knowledge, technology and experience. We were out of our depth about the feasibility of our vision and where and how to begin. We searched for human-rights groups, institutes and experts who have conducted relevant studies and e-mailed folks around the world for advice. At first, we received few replies to our requests for help. It was understandable that they had no time to respond to unfamiliar e-mail given their work at hand. We didn't lose heart, because we knew our project was possible. The pioneering work of the Documentation Center of Cambodia (DC-Cam) gave us the courage to march

Committee for Human Rights in North Korea (HRNK)
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forward despite the dearth of our own capacity. I would like to take this opportunity to express my respect to Youk Chhang, the Executive Director of DC-Cam, who is with us here today.

Six months into the "Mapping Crimes Against Humanity in North Korea" project, I felt like I was still standing in the mist. At the time, I was wandering the streets of San Francisco with my colleague Dan Bielefeld. We were on our way to meet Dr. Patrick Ball of Human Rights Data Analysis Group (HRDAG) who is also with us today. Dr. Ball spoke with clarity about the nature of dealing with testimonies and precautions as well as the things that we must do and things we need not worry about in advance for the Mapping Project. He and his colleague Dr. Megan Price kindly introduced us to the experts and institutions in the various fields that we should visit while we were in the US. Recommendations led to more recommendations, meetings led to more meetings and the network we built provided the crucial intellectual, technical background to our challenging survey.

Last Wednesday July 19th, TJWG released its first report on our two years of research. The report was covered around the world by news outlets in over 20 languages. None of this would have been possible without the generous advice and assistance from various experts. I also cannot fail to mention Dr. Lynn Lee and her colleagues at the National Endowment for Democracy who backed our work with trust and patience. I have invited them here today. Now, we have prepared this conference and workshop to share the help and network that we enjoyed with other human-rights groups that work under more difficult and dangerous environments, and to create a mutually cooperative, cross-border platform.

We, documenters of human-right violations, are encountering and anticipating countless obstacles in legal, technical, financial and socio-political contexts all around the world. We all know from history and experience the challenges for the civil society in collecting evidence that meets international standards and the rigorous requirements of the court of law. We are further aware of the challenges of using such evidence to serve accountability for the perpetrators, fact-finding and victim reparation as well as social integration and establishment of sustainable democracy.

Today's speakers and practitioners from various nations are already connected with each other through mutual respect, trust and boundless opportunities for further cooperation. This is because we all pursue better methods for recording human-rights violations in their respective fields of work. I hope that this conference and workshop will allow us all to share experience, technology, knowledge, insights and vision. We hope that the human rights defenders, record-keepers and practitioners gathered here will form a new international front with new inspiration. TJWG too will strive to realize the dream of "global connection for human rights and justice" through strong and sustainable international and multidisciplinary cooperation.

Congratulatory Remarks (Full Text)

O-Gon Kwon (Former Vice President, Int'l Criminal Tribunal for the former Yugoslavia)

Committee for Human Rights in North Korea (HRNK)
1001 Connecticut Avenue, NW • Suite 435 • Washington, DC 20036
(202) 499-7970 • Fax (202) 758-2348 • www.hrnk.org

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It is my great pleasure to speak to you today, and I thank the organizers of this event, the Transitional Justice Working Group in Korea and the United Nations Human Rights Office in Seoul, for hosting such a vital conference on human rights documentation, information technology and forensic science, and for offering me an opportunity to meet the many dedicated people from the various fields involved in this important mission.

I had the privilege of serving as a Judge at the International Criminal Tribunal for the Former Yugoslavia (ICTY) for 15 years, from 2001 to 2016. During those years, I served as a Judge on a number of notable trials involving genocide, crimes against humanity and war crimes, where I observed first-hand the challenges of evidence collection and human rights documentation. These cases included:

- The trial against Slobodan Milošević, the former President of Serbia and the Federal Republic of Yugoslavia;
- The trial against Vujadin Popović and six other Accuseds, in relation to crimes that took place after the fall of the Srebrenica enclave in 1995; and
- The trial against Radovan Karadžić, the former President of the Republika Srpska, the Judgement of which was delivered last year on 24 March 2016.

As compared to earlier war crimes trials in the Nuremberg Tribunal, where the Nazi High Command and its bureaucracy left behind a vast paper trail documenting their actions and decision-making processes, the victim-witness testimonies in these ICTY cases were, to borrow the words of my colleague Judge Patricia Wald from the U.S., the soul of war crimes trial at the ICTY. Even in the most monstrous mass atrocities involving executions of thousands, no written orders to execute, bury, or rebury the victims existed, nor any documentation to identify the senior commanders who planned, approved, or ordered such massacres. The Prosecution relied on a combination of personal testimonies of victim-witnesses who survived the killing fields, and expert testimonies that pieced together the victim-witness testimonies into a coherent narrative. Today, I am very pleased to meet again Mr. Patrick Ball and Ms. Nena Tromp, who were involved in these proceedings respectively as an expert witness and a member of the investigating team, who will share their experience with you during this conference.

The development of the information technology and forensic science assisted the fact-finding process to a great extent during the ICTY case proceedings. For example, the DNA analysis helped the parties and the judges ascertain the total number of the killed persons more easily and reach a more scientifically-based conclusion, as compared to the method that relied only on pathological, anthropological and archaeological methods.

Justice Robert Jackson of the U.S. Supreme Court, who worked as the Chief Prosecutor at the Nuremberg Tribunal said this during his Opening Statement,

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“We must never forget that the record on which we judge these defendants is the record on which history will judge us tomorrow.” In this context, he went on and emphasized, “Unless we write the record of this movement with clarity and precision, we cannot blame the future if in days of peace it finds incredible the accusatory generalities uttered during the war. We must establish incredible events by credible evidence.”

I commend those human rights workers at various organs and institutions who devote themselves in a sacrificing manner to the mission of collecting evidence. Without the dedication and commitment of those individuals, even risking their own lives, it would not be possible to accomplish the noble mission of ending impunity and bringing justice.

As regards the human rights situation in North Korea, the UN’s Commission of Inquiry on Human Rights in the DPRK Report has become an epoch-making corner stone. Released in 2014, the Report brought together documentation work from civil society to describe in-depth the ongoing crimes against humanity in North Korea. The COI Report concluded that:

- (1) Systematic, widespread and gross human rights violations have been and are being committed by the Democratic People’s Republic of Korea, its institutions and officials;
- (2) In many instances, the violations of human rights found by the commission constitute crimes against humanity in light of their gravity, scale and nature of these violations; and
- (3) The United Nations must ensure that those most responsible for the crimes against humanity committed in the Democratic People’s Republic of Korea are held accountable. Options to achieve this end include a Security Council referral of the situation to the International Criminal Court or the establishment of an ad hoc tribunal by the United Nations.

In the case of North Korea, and in contexts around the world, we can clearly see the importance of rigorous human rights documentation that serves international legal proceedings for crimes against humanity, by meeting international standards and adhering to best practices. This new generation of tools and methods, if used effectively, can help ensure accountability for perpetrators, and appropriate redress for victims. Furthermore, a clear, methodologically sound documentation record is important for creating an accurate historical record for our future generations.

Gathered at this conference are human rights defenders from at least 12 different countries, each facing unique challenges. Some of you are working under dangerous conditions, with limited resources, in conflict zones, or under oppressive governments. Others are working in contexts where access to sites of abuse and victims is not yet possible. Your collective efforts will move toward a future where victims seek redress for the abuses they have suffered, and the perpetrators of these crimes and human rights abuses will be held accountable for their actions.

This conference and workshop will be a fruitful and productive one for you, laying foundation for future collaboration, knowledge-sharing, and solidarity.

Congratulatory Video Message (Full Text)

Ahmed Motala (Human Rights Officer, Methodology, Education & Training Section, UN)

I'm responsible for developing investigation guidance and materials at OHCHR. I've also been involved in human rights investigations in Libya and Sri Lanka more recently. In this technological age information about human rights incidents are presented in different formats. Digital photographs and videos posts on social media such as twitter and Facebook and email communications are some examples. This requires human rights investigators to use different tools to conduct investigations. Technological tools also allow us to seek information from different sources, for example crowdsourcing, and to use different communication means to reach witnesses such as WhatsApp and Skype.

Human rights investigators also have to consider alternative information sources, such as satellite images and google street view. Forensic examinations and analysis have always been an integral part of human rights investigations. For example, when we interview a victim of torture, we are usually accompanied by a forensic medical specialist, who would examine the injuries and confirm that they coincide with the version provided by the victim. Forensic anthropologists are usually involved in exhumation of bodies of individuals allegedly killed unlawfully.

OHCHR has just launched the revised Minnesota protocol on investigation of potential unlawful deaths. This publication includes instructions on forensic examinations and reporting. It is available on our website. In conflict situations, it may be important to engage the services of a military weapons expert, who will examine remnants of munitions, destruction and impact to assess whether it conforms with international humanitarian law.

Forensic expertise has to extend to new technologies. For example, examination of digital images to verify their authenticity, or the tracking of news stories to exclude the possibility of fake news. Civil society organizations have an important role in documenting and reporting human rights issues. They are often first responders, trusted by local communities, and have local knowledge. Civil society organizations take up challenging unpopular issues and provide a voice to the voiceless. Irrespective of what human rights issue you are investigating or which investigative tools you use, the key principles of human rights investigation, should be paramount: do no harm, independence, impartiality, confidentiality, integrity and objectivity. Human rights work requires patience, tenacity and perseverance. I encourage you to continue with your important efforts, protecting human rights, and I wish you success.

Session 1: Human Rights and the Law

*Moderator: Ethan Hee-Seok **Shin** (Research Fellow, TJWG)*

Panelists:

- *Dr. Nevenka **Tromp** (Executive Director, Geoffrey Nice Foundation)*
- *Dr. Patrick **Ball** (Director of Research, Human Rights Data Analysis Group)*

Shin: It is a common saying among lawyers that “it is not what you know, but what you can prove in court.” This also applies to human rights law. With this in mind, could you speak briefly about how you became involved in this field?

Tromp: Before beginning my career at the ICTY twenty-five years ago, it was clear to me from my work in academia that Milosevic, without a doubt, bore the most responsibility for the events in the former Yugoslavia after the Cold War. However, demonstrating this in a court of law is not a straightforward task. An individual may bear political responsibility for certain events, but this is not the same as assigning criminal responsibility under the law.

During my time at the ICTY, there was an understandable focus on the internal, domestic dynamics of the conflict in the Balkans. Having had more time to reflect upon those events, I have come to see it in a wider historical context. All three confederations of the Communist bloc—Czechoslovakia, Yugoslavia, and the Soviet Union—did not survive the end of the Cold War. Of these three, only Yugoslavia underwent violent disintegration. Milosevic claimed territory based on ethnic grounds, and we are seeing a similar pattern of behavior with Russia under Putin. As we investigated the conflict in the Balkans, we found that the complexity of territorial claims over a given area was directly proportional to the intensity of the crimes at that location.

Ball: During the late 1980s, when I was in graduate school, I became interested in the conflicts in Central America. I spent time in Guatemala and El Salvador as a member of a group called the Peace Brigades. Given my background in computer programming, an ad hoc commission in El Salvador asked me to help construct an electronic database that could be used to identify the worst human rights offenders in the Salvadorian military and force them into retirement. This database matched the career progress (biography) of individual military officers to victim testimony, thereby creating “dossiers of violence” for each officer. In the end, around 100 officers were forced to retire, and there is good reason to believe that they were indeed the most egregious violators of human rights in the Salvadorian military.

Since then, I have focused on the use of data to amplify the voice of those who have suffered human rights violations. Those of us involved in human rights must speak truth to power, with an

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emphasis on *truth*. In documenting crimes, we must be rigorous, meticulous, and careful. To do any less is disrespectful to the victims who have trusted us with their stories.

**The organizers then showed a video clip about the trial of Slobodan Milosevic at the ICTY. It emphasized the immense time pressure the prosecution team was under, as well as the difficulty of demonstrating the systematic and widespread nature of human rights violations under such constraints. The clip also showed Dr. Patrick Ball providing testimony about a statistical estimate of the number of victims and Milosevic questioning Ball about the validity of this estimate.*

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Shin: What did you learn during your time not only at the ICTY, but also from your work at other human rights trials?

Tromp: As the trials at the ICTY gained momentum in the late 1990s, I began to question the purpose of having an international court that was both physically and psychologically detached from the victims. I can now see that only a court with the backing of the United Nations has the political legitimacy to compel member states to submit official records as evidence. The ICTY was established under Chapter VII authority, and this was crucial in compelling the Serbian government to permit access to its state archives. The official documentation found at the archives played an important role during the trials at the ICTY. Despite the well-justified criticism about UN failure in the face of atrocities in Serbia, the fact that the court had the backing of the UN allowed us to access key evidence during the trials.

Ball: I have been involved to varying degrees in a total of six trials: three in Guatemala, two at the ICTY, and the trial of Hissene Habre at the Extraordinary African Chambers. From these experiences, I have found that judges vary in how much they care about whether the answer—as estimated through statistical methods—is correct. For the trials to yield results that are satisfactory in the victims’ eyes, the judges need to be comfortable questioning experts in other fields about the details of the scientific reasoning behind the findings.

Tromp: At the ICTY, it was difficult for experts without formal training in law to convince the lawyers on the prosecution team about the importance of non-legal findings. Nevertheless, it was important to work with the lawyers so that they could effectively “translate” these expert findings for the judges.

Ball: From my experience at the ICTY, there was very close coordination between experts and the lawyers on the prosecution team. That said, this is not always the case at human rights trials. In my view, the expert’s job is to “present the science,” so that the lawyers and the judges become comfortable with the scientific model and understand how the findings were derived from that model. Nevertheless, we should be mindful that different types of courts have different rules and procedures about the role that outside experts can play.

Shin: In trials involving crimes against humanity, it is important to demonstrate the systematic and widespread nature of the alleged crimes. Did you have this explicit standard in mind as you documented human rights violations and worked on the trials?

Tromp: I joined the ICTY without any legal knowledge or awareness whatsoever, so I had to learn the very basics from my colleagues there.

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As you mentioned, it is important to show the systematic *and* widespread nature of human rights violations in charging crimes against humanity. This is different from trials involving genocide, as was the case at the ICTY, where one needs to show *intent*.

Depending on what crime the prosecution team seeks to prove, it is important to keep in mind what type of evidence to look for. As an example, I recall attending a workshop at the ICTY with Patrick, where he mentioned the estimated dates of mass population movement in Kosovo in 1999. This information became very useful as we looked for evidence to corroborate accounts of Serbian activity in the area.

Ball: Statisticians often work with experts in other substantive areas, and the questions that statisticians ask are often very different from those examined by subject matter experts. As an example, in analyzing an alleged genocide, a statistician would seek to demonstrate a statistically significant difference in the rate of killing between distinct groups in a given geographic area.

Most importantly, *statistical reasoning is not “proof.”* Any conclusions obtained from statistical analyses are all circumstantial, and these conclusions are most helpful when they are consistent with the arguments and narrative put forth by the prosecution team.

In addition, statistics is useful for *disproving* hypotheses, not proving them. As an example, when we analyzed the conflict in Kosovo, we could reject the hypotheses that NATO bombing or KLA activity had caused the mass population movements.

To borrow a phrase by Michael Ignatieff, statistics can only “narrow the range of permissible lies” by perpetrators in human rights trials. In my mind, statistics should only be a footnote in the prosecution’s argument, but that footnote needs to be correct, robust, and accurate. Statisticians must enable, when appropriate, the prosecutor to cross-examine the defendant and call out blatant lies by the defense team.

Tromp: I would add that trials where the defendants are represented by professional lawyers present a challenge for the prosecution team compared to trials where the defendant does not rely on legal counsel. Milosevic’s trial is an example of the latter. He made remarks and questions that were irrelevant and inappropriate for a court of law.

Moreover, scientific findings—such as those obtained by statistical analyses—should always be presented in the appropriate historical context to judges, victims, and the public at large. The immense human capital accumulated during the trials at the ICTY, especially through the work of demographers and statisticians, should also be widely shared as an example for future trials.

Shin: In human rights trials, who exactly is the main audience of interest? How does public opinion tie in to the way that these trials are run?

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Tromp: While working on the Milosevic case, I was initially too busy to reflect on the relationship between my work and the role of public opinion. Later, I realized that the public had unrealistic expectations about what international criminal justice mechanisms could achieve. There was a general lack of legal awareness, and this needs to be addressed. The victims expected swift retribution, but that is not the way that international courts typically operate.

That said, we should keep in mind that justice delayed may not be justice at all in the eyes of the victims. There is a need for greater outreach to transparently convey the discussion between the prosecution team, the defense lawyers, and the judges to the public. To the extent that it is legally permissible and appropriate, the public has a right to know.

Shin: When you were presenting evidence in court, did you have a wider audience (outside of the court) in mind?

Tromp: There was an instance where one piece of evidence that the prosecution team entered in court triggered an unexpected and unintentional public reaction. The team obtained the so-called “Scorpion” video from a source in Serbia during the Milosevic trial after the period for the prosecution’s argument had already passed. Nevertheless, Geoffrey Nice entered the video as evidence to undermine the credibility of the defendants. Nice took this action purely for internal, legal purposes only related to the trial proceedings.

However, the video was shown on Serbian public television soon after, and this set off an important public discussion in Serbia about who was responsible for the conflict in Bosnia and the atrocities committed in that conflict.

Shin: Do you have any guidelines or suggestions for civil society organizations and NGOs with respect to preserving evidence for trials?

Tromp: During the conflict in Bosnia, Human Rights Watch began to record evidence and collect interviews in a secure and confidential manner well before the ICTY began its trials. The information collected by Human Rights Watch played an important role in the trials.

Moreover, human rights NGOs played an important role by putting politicians on notice. They did so by sending their reports and findings to relevant officials and government ministries. Because of this, the prosecution team could argue that the perpetrators knew about ongoing crimes but did nothing to stop them.

Ball: With respect to scientific analyses, the defense team will likely question the methodology behind how the evidence was collected and analyzed. For instance, in statistical analyses, there is a procedure called *sensitivity analysis*. In short, it formally tests how many of the collected

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testimonies must be false for a given result to “go away.” If a result still holds even when a large proportion of testimonies are false, then we can be more confident about our conclusions.

Regarding the appropriate audience, I would say that each project is intended for a different primary audience. Some are aimed at providing information to judges, while others serve to convey information to the public or to scientists and other experts.

Shin: How should NGOs record human rights violations?

Ball: It is important to create a written record of injuries and deaths as accurately as possible. This includes writing down the victim’s name, age, sex, occupation, and residence, as well as the date and location of the incident. Also collect photographic evidence if possible.

Moreover, do not feel compelled to create a unified, centralized effort to collect evidence. This creates a tendency for the largest groups to dominate evidence collection, which is not ideal. At least for statistical analyses, the findings are more robust if they are based on multiple *independent* sources that were not coordinated with each other.

Audience Question: How can human rights NGOs defend against attacks on sensitive electronic data?

Ball: I would strongly recommend <http://martus.org>, a project that I was involved in until a few years ago. The free software available on that website enables users to create a database that is fully self-encrypted, which means that the data is secure even if your hardware is compromised. The software also automatically saves the encrypted data on a network of servers, so that you can access the data independently.

Audience Question: Could you speak more about the Humanitarian Law Center (HLC) Kosovo project?

Ball: As far as I am aware, their project is the only one where there is a virtually complete, accurate record of deaths resulting from mass atrocities. This was possible because there was good pre-existing information on civil registries, and because the crime sites were easily accessible to human rights investigators. The data we collect in human rights work is almost never complete or representative.

Audience Question: Do you have suggestions about what to do if too many witnesses want to contribute to evidence collection? How much evidence is enough?

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Tromp: I would say that there needs to be sufficient evidence to demonstrate the alleged criminal act. For the case of political leaders who are often not physically present when the crimes are committed, collecting evidence is more challenging, since the prosecution team needs to demonstrate criminal *intent*.

Also, I would add that retributive justice is not enough to restore the dignity of victims and heal broken societies. Trials are surely an important part of the process, but it is important to keep the larger picture in mind.

Ball: The question of whether to focus on *justice* or on finding the *truth* is a difficult one. A narrow focus on achieving justice may come at the expense of fully understanding past events, re-traumatizing victims, and even acquitting officials based on legal standards. All mechanisms that aim to achieve justice can only yield incremental results. We must have moderate, realistic hopes about transitional justice mechanisms, even if they are all motivated by powerful ideals.

Tromp: As we embark on human rights trials, we need to reflect on whether the victims feel safe and dignified, whether justice has been achieved, and whether we have made progress in finding the truth. Lastly, I think we need to think more about the role of *mercy* in these trials. There are cases where victims or their relatives choose to forgive the perpetrators. We need to think more about the role of criminal trials in this context.

Session 2: Human Rights Documentation Methods

*Moderator: Dr. Clifton **Emery** (Associate Professor, School of Social Welfare at Yonsei Univ.)*

Presenters:

- *Dr. Patrick **Ball***
- *Youk **Chhang** (Executive Director, Documentation Center of Cambodia / DC-Cam)*

Ball: Everyone working in human rights cares about finding the truth. We need our arguments to be solid, because there are tangible consequences to making weak arguments. We need to protect and respect the victims' voices. In addition, we may misunderstand what happened and point to the wrong perpetrators if we are not meticulous and careful in our work.

The perpetrators of human rights violations often put out grotesque lies to defend themselves. Statistics can be useful in exposing such lies. The conclusions of statistical analyses should only be a footnote in the findings of human rights investigators, but that footnote needs to be correct and accurate. Everything that we do should be in the service of the victims.

In human rights work, we usually don't know what we don't know. We rarely know everything about what has happened. Victims are not inclined to immediately trust investigators, which means that they may not be inclined to provide testimony and other evidence. The evidence we manage to collect are almost certainly systematic underestimates of the truth.

To demonstrate the example of bias, consider the reports of casualties in Iraq from 2007 to 2010. Violent incidents resulting in more than 15 casualties were widely reported by multiple sources, while those resulting in one or two deaths were rarely visible in the media. That the latter was systematically underreported has important implications about how we understand the situation in Iraq. Whereas events resulting in many casualties were often the result of Al-Qaeda attacks or collateral damage from military operations by coalition forces, those resulting in few casualties were frequently the result of Shi'a militias murdering adult men with the goal of ethnic cleansing.

Unless we are careful in approaching and analyzing our data, we may reinforce existing biases and get the story entirely wrong.

Let me illustrate one method of how statistics can help us estimate the "unknown unknowns." Suppose there exists a "universe" of events that consists of all the incidents of interest. Within this universe, source A and source B each provide a partial account of these events. If we can identify the number of events that are reported in both A and B, we can estimate the number of events in the entire universe of interest.

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To gain some intuition, suppose that we try to estimate the size of a dark room by randomly throwing lots of balls into it. If the balls collide often with each other, then we can reasonably guess that the room is small. If they collide less often, then we can guess that the room is large. This collision corresponds to the overlap between different sources.

Even this method is not perfect, by any means. The basic model I've outlined here assumes that the sources are independent, uncorrelated samples of the data. Different sources are almost always correlated in the events they report, and statistical methods attempt to model this correlation in obtaining estimates.

Another way of applying statistics to human rights work is to reject alternative hypotheses based on the data. As I mentioned earlier, we were able to construct time-series data about the magnitude of population movements and casualties in Kosovo in 1999. Based on this data, we could convincingly rule out, beyond reasonable doubt, the possibility that NATO bombings or KLA activity had caused the observed pattern. This is not the same as proving that the Serbian government was responsible, but this exercise can help narrow the range of plausible explanations.

Despite the recent excitement about “big data,” raw data—however plentiful it may be—does not provide a reliable basis for understanding patterns. It is always necessary to construct a model of how the data is generated. There are, in my view, only three ways of rigorously applying statistics to data modeling. The first is to construct a perfect census of everything that has happened. This is extremely rare. The second is to rely on a random sample of the population. This is very difficult, and there are many technical challenges in the process. The third is to rely on a statistical modeling of the sampling process, and this is the most common approach.

Let me close with an example of what we can achieve in human rights work if we get the statistics right. In Guatemala, we were given access to 80 million pages of police records stored across three warehouses. By applying random sampling and other statistical methods to this data, we successfully demonstrated that police attacks against critics were part of a systematic, government-led campaign to suppress political opposition. This finding helped contribute to a court ruling in which the accused were sentenced to 40 years in prison.

Chhang: Cambodian society has been shattered not only by the atrocities under the Khmer Rouge, but also by nearly a century of violence. My work has been motivated by a desire to achieve reconciliation and help put this society back together.

Before addressing the main subject of my presentation, I would like to explain how I came to be involved in this work. When the Khmer Rouge were in power, there were severe food shortages. My brother-in-law was arrested for stealing a rotten cucumber to feed his wife, and he was killed in a public beating. His wife—my sister—was pregnant at the time, and she was killed after

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being accused of eating the stolen food. I also experienced torture at the hands of Khmer Rouge officials, and my mother lost her husband, parents, and parents-in-law. In other words, I came to this work for deeply personal reasons.

My mother says that she has forgiven the perpetrators, and she is simply happy that I am safe and have enough food to eat. My niece, who lives in the United States, strongly disagrees with my work in support of the tribunal in Cambodia. The three of us disagree on the meaning of justice, how to achieve it, and how Cambodia should move forward.

I believe that legal prosecution can serve as a foundation for rebuilding Cambodian society. To pursue justice, I have carried out an information collection effort to document what happened under the Khmer Rouge. Nevertheless, I fully recognize that a tribunal cannot, by itself, heal the wounds among the Cambodian people or prevent similar crimes in the future. Along with pursuing justice, we must also strive to preserve the collective memory of what happened and pass it down to younger generations.

In my work, I have come across three main challenges. The first is operating in a difficult political environment. Documenting human rights violations is, in and of itself, a political act. Not everyone will be supportive, and not every country will be supportive of your efforts. To try and persuade other actors, one must draw links between the current political situation and past crimes. The second is building a network of partners, both domestic and international. One must be careful and selective in this process. The last one is obtaining sufficient material and financial resources. The technology that is necessary for documenting violations in a secure, appropriate manner is often expensive.

Audience Question: Could you speak more about your project in Guatemala? You mentioned that there were 80 million pages of documents. Wasn't that a massive logistical challenge?

Ball: Obtaining the necessary resources is always a challenge, but outside governments and organizations were very supportive in that project. In terms of logistics, I always think that "weird, difficult data" presents a fascinating statistical and logistical puzzle. Coming up with a solution to these puzzles is what makes this work so interesting.

I also want to briefly address the concern about verification in documenting human rights violations. While it is important, an excessive focus on verification comes at the expense of victims who are already marginalized in society. We should be meticulous in our analysis, but we should be careful not to turn a blind eye to those who are suffering in ways that are not widely reported by outside sources.

Chhang: When it comes to documentation projects, there are typically foreign governments or universities that provide financial or logistical support for these efforts.

Audience Question: With respect to the issue of Korean “comfort women” under Japanese colonial rule, there is no consensus on the estimated number of victims. There are several lists of victims’ names. Could they be used to compute an estimate?

Ball: Absolutely. If there are more than three or four lists, and if each of these lists contains sufficient pieces of information per individual, then it is possible to obtain a robust statistical estimate of the number of victims. I would be happy to talk to you further about looking into this subject.

Audience Question: With respect to Cambodia, you mentioned that you place an emphasis on storytelling in your work. But isn’t storytelling of limited purpose in achieving justice?

Chhang: Tribunals cannot prosecute every single perpetrator, especially those who were at the lower levels of the government apparatus. There is an ongoing discussion in Cambodia about transferring low-level violation to purely domestic courts, but such initiatives have run into substantial logistical challenges and political barriers.

Tribunals are necessary, but they take time. Storytelling and preserving the collective memory of what happened must continue in the meantime. We must also educate students in school so that future generations know about what happened in the past.

Audience Question: Can statistical analysis be used to prevent future human rights atrocities? Are there any precedents?

Ball: I am involved in a project in Mexico that uses machine learning methods to predict the locations of graves, but its main purpose is to assist search efforts. I am not sure that current methods could be used for prediction or prevention.

As I’ve said several times, statistics should be a footnote in the report of the human rights investigator. Nevertheless, we need to take statistics just as seriously as other aspects of documenting human rights violations. We must always remember that human beings—victims—are the most important aspect of human rights work, and that everything we do is to help restore their dignity and achieve justice.

Audience Question: Could you speak more about truth commissions, and working with students in schools and universities?

Chhang: All current and past truth commissions, as far as I am aware, took place in Christian societies. Cambodia, which is rooted in Buddhist values, warrants a different approach.

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As for my work with educational institutions, I worked for the past seven years to develop a high school and university-level curriculum about genocide in Cambodia. I have convinced schools to integrate this curriculum into their education, and it is now compulsory for Cambodian students in years 7 through 12 to learn about the atrocities under the Khmer Rouge and about genocide in other countries.

Ball: To add to his remarks about Christian societies, the South African truth and reconciliation commission was built on Christian values. This did not sit well with Hindu, Muslim, and atheists in South Africa.

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Session 3: Human Rights Crime Investigation – Evidence & Forensic Science

Presenters:

- *Stefan **Schmitt** (former Director of the International Forensic Program, Physicians for Human Rights)*
- *Scott **Stevens** (Communications Director, TJWG)*

Schmitt: Justice is not the same as establishing the truth of an event. Lawyers and judges address the question of whether someone is guilty of a crime as it is defined in a specific written law. Justice can only be a small part of the overall process of truth-seeking.

We must always be wary of the issue of jurisdiction in documenting evidence. Courts determine what constitutes evidence that is legally admissible in a trial. In collecting evidence, there must be a verifiable, credible chain of custody for every piece of evidence that is submitted before the judges. The judges must be able to call every individual who was directly involved in evidence collection as a witness, and these individuals must be able to demonstrate the expertise and capacity to identify and collect this evidence.

I will discuss a few cases to illustrate these issues in depth. The first is a project to document the so-called “Black River” massacre of March 13, 1982 in Guatemala, which I was directly involved in. We had to rely on the permission of a local medical official to obtain jurisdiction to exhume the remains of victims. We invited local police officers to observe the process, to be as transparent as possible. In exhuming the remains, we took care to *capture the evidence in place* as much as possible to preserve the context. When multiple pieces of evidence are stored separately as individual items, we lose the context of how those items are related to each other. We also took care to record who took the photographs, who took notes, and exactly when each “act” took place. Lastly, we created a physical space for victims’ relatives to observe the entire process. This was important, given that the locals did not trust the police.

The second is the case of the Rwandan genocide. Evidence was collected under the jurisdiction of the International Criminal Tribunal for Rwanda (ICTR), and there was high outside interest in evidence collection and the trial proceedings. Many resources were available to document the atrocities. However, since the victims’ bodies were often stacked in piles by the perpetrators, so it was difficult to identify the victims or place evidence in context.

For Afghanistan, it was difficult to obtain individual witness testimony about what happened. Each village has an established oral tradition about its own history, and there is a representative who is tasked with conveying this account to outsiders. Since this oral tradition was crafted in a highly political context, its value as witness testimony is limited.

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In the case of Libya, I took part in an investigation of a massacre of detainees at a warehouse in Tripoli in 2011. As in other investigations, I drew diagrams of the crime scene and documented evidence as precisely as possible. This evidence was later corroborated with witness testimony to create a coherent narrative about what happened at the warehouse.

Stevens: I will speak about what motivated TJWG's work and briefly present our preliminary findings, which are also shown in our recent report.

In 2014, the UN Commission of Inquiry (COI) found that “the gravity, scale and nature of these [human rights] violations” in North Korea “reveal a State that does not have any parallel in the contemporary world.” Furthermore, it concluded that “crimes against humanity are ongoing in the [DPRK] because the policies, institutions and patterns of impunity that lie at their heart remain in place.”

With the COI report as our starting point, we began to think about what steps should be taken next. We eventually agreed that we should improve on existing documentation of human rights violations in North Korea, and thereby contribute to advocacy and future transitional justice efforts.

Under this goal, we studied previous examples of human rights documentation. Efforts to map the “killing fields” of Cambodia identified 20,000 mass grave sites and contributed to truth-finding and memorialization. In the case of Darfur, activists used a combination of Google Earth satellite imagery and survivor testimony to document crimes, since it was impossible to obtain physical access to the crime scenes.

From looking at these cases and other examples, we arrived at three conclusions. The first was that we should prepare as much as possible for the transitional period. Second, past and ongoing violations must be rigorously documented, to support accountability and enable relatives to learn what happened to their family members. Third, the process of documenting these violations must be centered on and inclusive of victims and their relatives.



DATE: July 26, 2017

SUBJECT: The United Nations Human Rights Council: What Is It Good For? | Forum on International Affairs

MAIN POINTS

- The UN Human Rights Council (OHCHR) is a political body which has demonstrated its utility in applying pressure to promote human rights.
- The OHCHR has shortcomings, but rather than disengage, the US should stay and promote reforms.
- US withdrawal from the OHCHR would create a power vacuum that could be filled by a country without a commitment to promoting human rights.
- The findings of the 2014 UN Commission of Inquiry were instrumental in laying the groundwork for applying international pressure on the regime.
- North Korea uses its constitution, which ostensibly ensures basic human rights, as a smokescreen in the international community while the regime conducts systematic human rights violations.

EVENT OVERVIEW

Date: Tuesday, July 25, 2017

Time: 6:30 p.m. - 8:00 p.m.

Location: DC Mayor's Office on Asian and Pacific Islander Affairs, 441 4th Street, NW, Room 1117, Washington, D.C 20001

Attendees

- **Colin Lawrence**, Executive Director, Forum on International Affairs
- **Michael Larkin**, Director of Program Development, Forum on International Affairs
- **Ted Piccone**, Senior Fellow, Project on International Order and Strategy and the Latin American Initiative at the Brookings Institution
- **Rosa Park**, Director of Programs, Committee for Human Rights in North Korea

SUMMARY

Colin Lawrence, Executive Director of the recently formed Forum on International Affairs (FIA), began by welcoming the audience, which was comprised of about thirty people. Seeing as the topic of the meeting was the efficacy of the United Nations Human Rights Council in general, many of those in attendance presumably had little exposure to North Korean issues. We distributed copies of *Lives for Sale* and *Taken: North Korea's Criminal Abductions of Citizens of Other Countries*. After a brief introduction, Lawrence turned the time over to Mike Larkin, who moderated the discussion.

Larkin prefaced the presentations by talking about the history of US involvement with the Human Rights Council. In 2006, the Human Rights Council was formed, replacing the UN Commission on Human Rights. At the time, the Bush administration did not want to participate, but in 2009, the Obama administration announced that the US would join. The nascent Trump administration has made it clear that it is considering withdrawing from the council, citing two common criticisms: too many Human Rights Council seats are filled by representatives from countries with deplorable human rights records and an anti-Israel bias. That said, when compared with the Commission on Human Rights, the Human Rights Council is more transparent and open to participation by civil society.

Following his introduction by Larkin, Ted Piccone began his presentation. He first noted that he is definitely in favor of US participation in the Human Rights Council. Piccone felt that the Human Rights Council effectively shines light and catalogues human rights abuses by appointing independent experts and commissions to conduct research on the ground. The Human Rights Council is a political body, not a court, and so while it can apply pressure on states to change, it cannot enforce implementation in belligerent states.

The Human Rights Council typically focuses on thematic human rights abuses, and has the flexibility to investigate niche, country-specific issues. Piccone is confident that the Human Rights Council has led to changes, and provided redress to victims of human rights abuses. He pointed out that although the Human Rights Council is only one part of the international human rights infrastructure, it is the highest body. He endorsed the current UN High Commissioner for Human Rights, Prince Zeid bin Ra'ad of Jordan, saying that he is not afraid to be upfront about human rights issues.

Piccone noted that even though human rights is one of the main pillars of the UN (the others being peace, security, and development), the Human Rights Council only receives 3% of the UN's budget. On top of that funding, which is provided by the regular payments of member states, the council receives donor support. The US is the Human Rights Council's biggest financier in both of these categories.

Piccone went on to discuss what he feels to be the Human Rights Council's four greatest strengths. The first is the process of universal periodic review, where every state's adherence to international law is scrutinized. States seem to feel that their reputation matters, and are consequently willing to participate in these reviews. The council is now beginning its third cycle of reviews, meaning that each member state has been evaluated twice since 2006. The second strength Piccone listed was its ability to focus on

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country-specific situations. As opposed to the UNCHR, the Human Rights Council employs more independent researchers, who focus on specific things in any given country. The third strength is the Commissions of Inquiry (COI). Comprised of a handful of experts, these fact finding bodies help in applying pressure and holding countries accountable. There have been 17 COIs since 2011. Lastly, Piccone listed the Human Rights Council's accessibility to civil society as a strong point.

Piccone also mentioned a couple of the Human Rights Council's shortcomings. The first is the problem of membership. If the council were to strictly vet members and only allow those who met a certain standard, membership could be quite small, but it would also become more difficult to engage with countries who need to improve their human rights situation. As it stands, regional blocks nominate candidates to a given number of seats, but when there are only four candidates and four open seats, there is no need to be competitive or selective. To illustrate how competitive appointments are beneficial, Piccone cited a recent case where the Eastern Europe regional bloc saw candidates competing for seats, and decided against Russia's appointment to a seat. Also, some vibrant democracies with good human rights records simply lack the funding necessary to get a representative on the council. Piccone said that there is no question that there is an anti-Israel bias at the UNHRC, but such is the result of decisions made before the US joined the council. The US has helped moderate the council and mitigate anti-Israel recommendations, but Piccone says that the US can do more to negotiate with Arab states and eliminate the bias.

Piccone ended his presentation by explaining why US leadership in the Human Rights Council matters. His first point is that a US withdrawal from leadership will create a void that will be filled by Russia, China, or Egypt, all countries with questionable human rights records. He does not believe that the Trump administration really intends to withdraw, on the grounds that it would hurt Israel, a US ally. The administration has a reform agenda, but no real timetable gets those reforms through. However, Piccone believes Ambassador Nikki Haley has been busy pushing for pragmatic reforms.

Rosa Park expressed her admiration for Piccone's work. She agreed that the Human Rights Council needs US participation, pointing to the role of the US in orchestrating the 2014 COI in North Korea. Park claimed that the COI was monumental in that it created a framework with which the international community could hold North Korea more accountable. It helped established key agenda items, and provided the groundwork for US sanctions. She reminded the audience that the COI found evidence of widespread systematic crimes against humanity, including nine of the ten crimes against humanity specifically enumerated in the Rome Statute of the International Criminal Court (e.g. murder, enslavement, torture— everything except apartheid). Promoting human rights requires forming coalitions of like-minded countries, and cannot be accomplished by any single state.

Park agreed that the Human Rights Council has problems, specifically mentioning China as a state with a poor human rights record who sits at the council. Another shortcoming is that the council does not reprimand North Korea for hiding behind the rights ostensibly guaranteed in its constitution when it undergoes periodic review. She said that these rights are technically provided in the constitution, but the people of North Korea are unaware that they are even nominally entitled to these rights. Rather, they are

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taught the Ten Guiding Principles, which demand complete loyalty to the Kim regime. North Korea refuses to acknowledge the existence of political prison camps within their borders, despite satellite imagery and witness testimony to the contrary.

Park added that the international community needs to depoliticize human rights issues. With the help of the UN COI, the UNHRC made many recommendations to North Korea, which had to respond because Kim Jong-un had been directly implicated. She holds that the US needs to stay in and “fight the good fight” to hold human rights violators accountable, keep civil society groups at the table, and prevent the creation of a power vacuum. It is definitely worth the time and effort.

Report by: Seth Warnick, Research Intern



DATE: July 27, 2017

SUBJECT: The 10th Anniversary of the Passage of House Resolution 121: “To Restore the Dignity of WWII Sex Slaves”

MAIN POINTS:

- This event commemorated the 10th anniversary of the passage of House Resolution 121 in 2007, and honored those involved as well as victims who are still fighting for justice from the Japanese government.
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EVENT OVERVIEW

Date: July 27, 2017

Time: 11:30 a.m. - 1:00 p.m.

Location: Rayburn House Office Building, Room 2044 45 Independence Ave SW, Washington DC 20515

ATTENDEES:

- **Aileen Chung**, Executive Secretary, Washington Coalition for Comfort Women Issues, Inc. (WCCW)
- **Christine Choi**, Chairman of the Board of Directors, WCCW
- **The Honorable Ed Royce**, Chairman of the House Foreign Affairs Committee, Member of the US House of Representatives
- **The Honorable Mike Honda**, former Member of the US House of Representatives, 2001 to 2017
- **The Honorable Judy Chu**, Member of the US House of Representatives, 2009 to present
- **The Honorable Ileana Ros-Lehtinen**, former Chairwoman of the House Foreign Affairs Committee, Member of the US House of Representatives, 1989 to present
- **Dr. Ok Cha Soh**, 2nd term President, WCCW
- **Dr. Julie Jungsil Lee**, current President, WCCW

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- **Dongwoo Lee Hahm**, founding President, WCCW
- **Dennis Halpin**, Visiting Scholar, US-Korea Institute at SAIS (Johns Hopkins)
- **Mindy Kotler**, Director of Asia Policy Point
- **Young Cheon Kim**, President, Korean American Association of Washington Metropolitan Area

**The 10th Anniversary of the Passage of House Resolution 121:
“To Restore the Dignity of WWII Sex Slaves”**

Aileen Chung, Opening Remarks

Chung opened the event by giving an explanation of her organization, the Washington Coalition for Comfort Women Issues, Inc. (WCCW), who hosted this event. The WCCW is a non-profit organization fighting for the rights of wartime victims and their lawful reparations by raising public awareness and education. Today is a day, said Chung, to celebrate and reaffirm the passage of House Resolution 121 and to honor and recognize its contributors.

The Honorable Ed Royce

As co-author of House Resolution 121 ten years ago, Royce reflected on this and the “great victory” of the decision by the U.S. Supreme Court not to remove the Glendale Peace Memorial, which stands in commemoration of the Korean “comfort women” and what they went through. Ten years ago, when this bill came up, said Royce, a hearing was organized to allow these Korean women to speak about their personal experiences. Royce was deeply moved by their stories and said that the arguments these women made were so persuasive that the bill was passed unanimously by the House of Representatives. Royce thanked all organizations involved in this continuing effort to make sure that justice is done. His goal is to educate, across the United States, the next generation of Americans so they can really understand what happened during the occupation and the second World War.

As a longtime friend of the Korean-American community, Royce used to head the US-ROK Parliamentary Exchange before he became Chairman of the Foreign Affairs Committee. It is very important to Royce that the US Congress continues to speak out on injustice, and when Japan suggested these women were volunteers, he fought to immediately denounce this message in the most visible way possible. Royce carried, according to him, the unified message of all Korean-Americans and the opinion of the US Congress to Tokyo and demanded that the government of Japan disavow the statement made about “comfort women” in WWII. Royce made the observation that “it is much harder to get tomorrow right when we get yesterday wrong.” That is why he has spoken out on issues such as Dokdo Island, and that is why Royce

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will continue to press for Japan to recognize the atrocities that took place under their occupation and colonization of Korea. Royce gave thanks to family members who were part of that struggle and fought against fascism, whether it be imperial Japan or in Europe during WWII.

Christine Choi

After celebrating the auspicious occasion of the 10th anniversary of the passage of House Resolution 121 in 2007, Choi stated that the government of Japan has refused to officially acknowledge, accept responsibility for, and apologize to the victims. Choi expressed her desire to recognize and express her deepest respect and appreciation for former Congressman Mike Honda, who, as a leader and a champion, played an instrumental role in the passage of this resolution. Choi also recognized community leaders, scholars, and organizations here and abroad. Their education and tireless, restless efforts came together to allow the passage of this historic U.S. House Resolution 121. Choi expressed her hope and optimism that the government of Japan will finally recognize and take full responsibility for the historical truth of the “comfort women.” Together, said Choi, we can make this a reality.

The Honorable Mike Honda

Honda, one of the strongest allies of the “comfort women” issue, gave thanks to those involved in setting up this event, several on his staff for supporting him, and to the other representatives involved in the writing and passage of this resolution. He expressed sorrow at the death of Kim Kun-ja, one of the victims, and brought up the 1999 passage of a California resolution on Japanese war crimes. The US Congress has made an effort on behalf of three former colonies of Japan to break the silence and to lend a megaphone to and amplify the stories of those whose voices are not heard.

On the issue of the lawsuit against the Glendale Peace Memorial, Honda declared that as US citizens, we have the right to defend the human rights of those who have been injured. Beyond this, Honda regretted the fact that the government of Japan is supposed to be a partner of the US, but has tried to protest US textbook content on the issue. Honda warns everyone to be aware of forces that seek to interfere with the US historical record, and to push back. Worldwide, there are over 45 cities, ten in the US alone, that have established memorials to the victims. More are coming, said Honda, so “we must lend our support”; it has been ten years since the passage of this resolution, but we must remember that victims have suffered for over 70 years since the Japanese colonial era ended. Honda called for the government of Japan to issue an unambiguous apology and acceptance of historical responsibility. Time is short, said Honda, so the Japanese government should not be allowed to stall on this issue and we should always be ready to move this forward.

The Honorable Judy Chu

Chu remembered when she first heard of the “comfort women.” She was horrified at the stories of how girls as young as 14 or 15 years old were snatched from their daily lives and sent off to brothels to serve Japanese soldiers. Women at these “comfort stations” were forced into servitude, exploited as sex slaves, and for years had to endure this abuse. This was horrible for their livelihood, future, and bodies. It did not end with WWII, added Chu, because they then faced shame for decades, some even shunned by their families. To suggest that these victims did so on a voluntary basis is an absolute atrocity. As a woman herself, said Chu, she can feel only anguish at the thought that any other woman could face such a situation. Chu, who was not yet a Congresswoman at the time of the passage of House Resolution 121, expressed her deepest thanks and admiration to Congressman Honda for taking up the lead on this resolution to recognize the history of the “comfort women.” Congressman Honda, said Chu, did this at great sacrifice to himself as a Japanese-American. He took on the government of Japan, in the face of Japanese-Americans who did not support him in this effort, because he knew it was the right thing to do. This took a great deal of passion and courage.

It is critical for us to continue this work, said Chu, to continue this conversation, and to keep up the pressure on Japan because for over seven decades the Japanese have refused to acknowledge the pain that victims suffered. Like Honda, Chu emphasized that time is running out. For the last remaining 37 Korean survivors, Chu wants to make sure that they find peace. This is why Chu has joined other members of Congress to call upon Japanese leaders to formally acknowledge and truly apologize for past wrongs in forcing thousands of women into sex slavery during WWII. Prior to Prime Minister Abe’s joint address to Congress in 2015, Chu repeatedly called on Japan to acknowledge and apologize for this wrongdoing. It is clear that there is only one acceptable path forward, and that is to directly address this historical wrong by making sure that not only is this history recognized, but that it never happens again. Japan must make an effort to educate future generations in textbooks and classrooms about these crimes that Chu argued cannot just be attributed to the cost of war.

Chu thanked the WCCW for their two plus decades of pushing for international pressure, and encouraged those in the room to keep pushing forward and not to give up until they find justice for survivors.

The Honorable Ileana Ros-Lentinen

As a sponsor to House Resolution 121, Ros-Lentinen made a point to explain her use of the phrase “comfort women,” acknowledging that the term has been criticized by victims for not

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properly conveying the involuntary nature of their forced servitude and abuse, and explaining that her use is solely based on its association with this legislation. The correct term, agreed Ros-Lentinen, is “military sex slave,” and she asked for understanding when using the term “comfort women” in reference to the legislation. Following Chu, Ros-Lentinen gave thanks to Congressman Honda for spearheading the effort and communicating this issue to all of **their** colleagues. Ros-Lentinen also gave thanks to all the communities involved, such as the ones represented at the event. This resolution, said Ros-Lentinen, has raised a tremendous amount of awareness in Congress and around the world. Japan’s use of “comfort women” during WWII represents one of history’s most horrific examples of human rights abuses, and we should never stop educating and raising awareness. At its essence, the “comfort women” issue is about human rights, and the right of women all over the world, to live with dignity and honor. This issue is still very real today, and has not gone away. Ros-Lentinen said that the House Foreign Affairs Committee passed her North Korea Human Rights Act, which includes a provision to provide humanitarian assistance to the women of North Korea for victims of trafficking. The pain endures, and this problem continues as a modern-day equivalent of what went on during WWII. We continue to urge Japan to condemn all human trafficking, said Ros-Lentinen, both past and present.

Dr. Ok Cha Soh

Soh gave an acknowledgement of former Congressman Honda and what he accomplished on the “comfort women” issue during his tenure in Congress. She ended by saying, “we have a duty to stand up for those who cannot stand up on their own. We have a duty to speak for those who have no voices.” She then gave a summary of House Resolution 121.

Awards

Dr. Julie Jungsil Lee then awarded recognition to the following individuals: The Honorable Mike Honda, The Honorable Ed Royce, Ms. Dongwoo Lee Hahm, Dr. Ok Cha Soh, Mr. Dong-Suk Kim, Mr. Dennis Halpin, Ms. Mindy Kotler, Mr. Moon Hyung Rhee, Ms. Annabel Park, Ms. Phyllis Kim, Ms. Monica Jun, and Ms. Sinmin Pak.

Mindy Kotler

Kotler began by describing her background as a scholar of Asian history, Japanese history, and Japanese war crimes, before proceeding to confirm that the Japanese government and their Japanese right-wing supporters have unleashed a barrage of vitriol and fake history, fake news, and paid a number of people to distribute this news. The executive of the Japanese government - the cabinet, rather than the Prime Minister - needs to approve a statement or policy in order for it to be “official.” Since the war, there have been four cabinet-approved apologies – none of them

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directed toward “comfort women.” There have been several apologies on the issue of “comfort women,” but no official ones. Even apologies given by Prime Minister Abe were not official apologies on behalf of the Japanese government, since they were not cabinet-approved. What we are working for, said Kotler, is for the Japanese cabinet to approve a statement of apology. It will probably take a new government for this to happen because the current government has gone so far as to threaten to withdraw money from Japanese companies that do not support the official government stance on the “comfort women” issue. Those working on this issue around the world must be vigilant because they are always receiving death threats from Japanese supporters. Our work, said Kotler, is for all the women, girls, and boys who were made into sex slaves, from Australian nurses, Dutch mothers, Filipino girls. Kotler asked everyone involved to keep fighting.

Film trailer for 2016 documentary film *Apology*, directed by Tiffany Hsiung

Moment of silence for the passing of Kim Kun-ja, one of the “comfort women” who testified at the U.S. Congressional Hearing in 2007. Kim passed away on July 23, 2017 at the age of 91, bringing the number of known Korean survivors to 37. Kim, alongside other survivors, had criticized the 2015 bilateral agreement between Japan and South Korea, under which the two countries were to resolve the issue through Japanese funding of a South Korean foundation for the victims.

Congratulatory video for the 10th anniversary of the passage of House Resolution 121 by Lee Young-soo, a former “comfort woman” and Seoul-based activist. Alongside Kim Kun-ja, she testified at the U.S. Congressional Hearing on the issue in 2007.

Dr. Julie Jungsil Lee

Lee gave a presentation entitled, “Comfort Women Movement in the U.S.: Women’s Right against Wartime Activity.” She gave a definition of “comfort women”, explained the euphemistic term used by the Japanese military, and depicted the extent of this systematic, criminal, and government-sanctioned program of sex slavery. The correct term is “military sex slaves:” preferable over “comfort women,” as it does not objectify the victims as sexual tools but rather acknowledges their forced and unwilling participation. The first testimony came from the former “comfort woman” Kim Hak-soon, then 67, who came forward in August 1991 to share her story of abuse at the hands of the Japanese military. Her testimony engendered a groundswell of public support for the “comfort women,” and encouraged other victims to come forward as well, such as Geum-Joo Hwang, who was abducted at the age of 13, and Jan Ruff O’Herne, a Dutch occupant of Indonesia.

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The WCCW was founded in 1992 to advocate for the rights of these wartime victims and their lawful reparation. Their mission, which can be found at www.comfort-women.org, is to contribute to the eradication and prevention of sex crimes against women by promoting public awareness and education. The WCCW, Lee said, believes that the Japanese government must clearly acknowledge its responsibility in perpetrating the atrocity against these women, give an official apology, provide redress from government sources, and open all government records regarding its involvement. Until these steps are taken, the WCCW asserts that Japan should not be permitted a permanent seat on the United Nations Security Council. Lee also added that The Korean Council for the Women Drafted for Sexual Slavery by Japan have protested every Wednesday outside the Japanese embassy in Seoul since 1992.

Lee presented a summary of the diversity dimensions and directions of the “comfort women” movement in the U.S., which includes grassroots movements, legislation, educational resources and publications, “comfort women” memorials, the production of art works, and archiving history through a Comfort Women Museum.

Dongwoo Lee Hahm

For the closing remarks, Hahm, who founded the WCCW in 1992, asked us to seek God’s blessings and to fight for the “comfort women.” She commemorated the passage of House Resolution 121 and expressed her deep appreciation for the representatives who were involved in the passage of this resolution.

Report by:

Marina Booth, Research Intern



DATE: July 28, 2017

SUBJECT: Economic Levers of U.S. Policy Toward North Korea

MAIN POINTS

- Despite increased sanctions applied to the North Korea, some pockets of the North Korean economy are on the rise as they embed themselves in the supply chain of foreign trade.
- The reason that coercive sanctions are not successful is due to U.N. influence on which they are based. Instead of engaging the U.N, the U.S. should use its own authorities to push forward reform, such as in the case of Iran.
- The threat of sanctions is more effective than actual sanctions, which will be rendered ineffective the moment they are applied. We should enact secondary sanctions on countries like China but preferably in the form of threat.

Live Stream:

<https://www.cnas.org/publications/video/economic-levers-of-u-s-policy-toward-north-korea>

EVENT OVERVIEW:

Date: July 28, 2017

Time: 9:30 a.m. – 11:30 a.m.

Location: 1152 15th St NW Suite 950, Washington, DC 20005

Attendees

- **Dr. Patrick M. Cronin**, Senior Advisor and Senior Director of the Asia-Pacific Security Program at the Center for a New American Security (CNAS)
- **Edward Fishman**, Research Fellow at the Atlantic Council's Dinu Patriciu Eurasia Center, where he focuses on Europe, Russia, and the use of economic sanctions as a tool of foreign policy and deterrence strategy.
- **Peter Harrell**, Senior Fellow at the Center for a New American Security
- **Rachel Ziemba**, leader of 4CAST-RGE's Emerging Markets coverage

- **Sabrina He**, Recorder & Photographer, Research Intern at HRNK

Dr. Patrick M. Cronin's Speech

Today is the 64th anniversary of the armistice that ended the Korean War, yet tension in the Korean peninsula is rising, despite deterrents that have prevailed since the 1953 armistice. There is a balance of terror that deters another war. That being said, both war and a favorable post-war order in the Korean peninsula are at risk.

There are three options for U.S. policymakers:

1. Ignore the problem: This is the idea behind strategic patience, that we could outsource the problem to China. The Trump administration advocates that we can no longer be the police of the world. This is not a real option but a conceptual one.
2. Eliminate the problem: Everyone wants this option but the question is how. A famous Australian author talked about how a pre-emptive war is the least bad option. However, offensive war should not be thought of as a policy option. Fighting under attack is a different matter.
3. Contain and manage down the risk: This is a viable option. We should put pressure on both North Korea and China to make North Korea more pliable and get them to accept our proposed diplomatic framework. Meanwhile, we should continue with deterrence and defense.

The North Korean agenda has not changed. It has been relentlessly trying to build a nuclear arsenal under Kim Jong-un, backed by a lot of other threats including the conventional targeting of Seoul, cyber threats, as well as chemical and biological weapons. Talks about possible regime change are associated with the CIA director, prompting the North Korean press to state that if the U.S. were to initiate regime change, they will strike Washington with nuclear weapons. This is a revealing statement for two reasons: 1) it showcases North Korea's ambitious aspirations; and 2) North Korea's biggest fear is the toppling of the Kim regime.

President Moon is seeking a Sunshine 2.0 policy, the idea of being open to an inter-Korean summit anytime anywhere. He is calling for a peace treaty by 2020 and military reduction talks, but North Korea has not been answering. The Chinese have been receptive to pressure but that pressure has been insufficient given how North Koreans are embedded in the Chinese marketplace. The U.S. is trying to enact secondary sanctions to make China more serious about containing North Korea. The problem is that the U.S. and China have different goals: while the U.S. wants to strengthen deterrence, China opposes deployments like THAAD and does not favor a U.S.-ROK alliance.

Current sanctions fall into four purposes: 1) penalization of bad behavior; 2) pursuit of nuclear mass destruction; 3) unity around North Korea; and 4) coercion of regime change. We are in the third tri-diplomacy to move towards denuclearizing North Korea. Meanwhile, China wants suspension for suspension, or the elimination of a ROK-U.S. alliance.

Rachel Ziemba's Speech

Broadening and combining topics across security and economic relations is a common theme today. I sit here representing the private sector and will speak on behalf of asset managers I communicate with daily.

The North Korean economy is one that is largely built on recycled aid and other key products, and occasionally, the export of cheap labor and goods particularly in the textile industry. Despite targeted sanctions, we have seen progress in some pockets of the North Korean economy, though this is still a country vulnerable to economic shocks. China is clearly a lifeline to the North Korean economy, but it would be wrong to assume all of the trade and finance is coming through China, since Russia has stepped in energy support and other financial areas.

One economic puzzle is that as China reduced coal imports from North Korea very sharply, it has created noticeable changes in the trade deficit (now 2 billion in China's favor) between China and North Korea. Businesses over time are faced with a constant rate of default (the counterpart is high payment, but most have ultimately ended with a loss). Though the impact of North Korean trade on China's broader economy is modest, the regional impact concerning such trade is meaningful. It is important that we consider the North Korean issue in the context of the Chinese government's financial and economic goals on top of security.

Finally, this is a time during which the U.S. and the new South Korean government are at an unfamiliar phase. There is a timeline to renegotiate the U.S.-ROK relationship but also a series of issues relating to both currency policy as well as bilateral trade. We must bear in mind those dynamics when devising policies.

Edward Fishman's speech

Now is an important time to talk about North Korean sanctions, especially when war is not a desirable option. There are a variety of reasons why the U.S. uses sanctions. We use them to stigmatize bad actions, prevent the flow of bad materials, marshal international support, and most importantly coerce foreign governments to do what they do not want to do. They have not worked in the North Korean context but such outcome is expected, as we have not structured our sanctions in a way that will make them work in the North Korean context. We have focused too much on other areas of sanctions at the expense of coercion.

For example, the Iran sanctions are successful because they have applied so much economic pressure as to constrain Iran's nuclear program. They are much stronger than the North Korean sanctions today. However, juxtaposing North Korean and Iranian sanctions, the former are far more expensive, so why was Iran more successful? In Iran, the UNSC resolution was used to marshal international support, but we did not bring coercive secondary sanctions to UNSC members. With North Korea, the paradigm is completely different. We are trying to negotiate a coercive program within the UNSC, thus receiving little success because China and Russia have vetoes. We must therefore shift the paradigm into one like Iran's, where we engaged U.S. authority in the absence of influence from Moscow and Beijing.

The common myth that North Korea is immune to economic sanctions should be reconsidered. North Korea is at the middle of global GDP, but in 2015, a third of North Korea's GDP came from foreign trade, which was higher than Iran's ratio in 2010. From a sanction practitioner's standpoint, foreign trade is the most targeted environment. Secondary sanctions have gotten attention but are not effective because once you apply them, you have already lost. The whole purpose is to use the threat of sanctions. How would we leverage better threat of secondary sanctions to cut into trade with North Korea? We must have a holistic approach in which all branches of the U.S. government work together. Second, we must espouse a broad de-legitimization campaign (against trade with North Korea) around the world. Third, we must outreach to the private sector. It is important for the U.S. government to highlight North Korean tactics against sanctions because doing so will trigger better compliance.

A few ideas in the report (blueprint):

1. Abide secondary sanctions to any entity purchasing North Korean exports, but we must employ significant reduction reception, which we previously employed to Iranian oil exports. Even China at the time halved its oil imports from Iran, so this tactic has a proven record of working even with China.
2. Force North Korean trading partners to keep North Korean revenue in escrow accounts to prevent hard currencies from being repatriated into North Korea to be used for malign purposes.
3. Sanction all eight of North Korea's significant ports.

If these strategies are applied, the economic pressure on North Korea would be dramatically increased and lead to better results. Leveraging secondary sanctions will work because trade is much more important to North Korea than for India, Pakistan, and so forth. If the U.S. pressures those countries, it can significantly reduce trade activities with North Korea.

In terms of China, it does fear instability in North Korea, but whether increased sanctions versus military tension cause more instability to China is to be debated. China will be more likely to accommodate economic pressures if coerced by the U.S. through the above methods. This is a much harder problem than the one in Iran, but given the poor options we have, it would not hurt to try the above economic measures.

Q&A

Q (Mr. Harrell): The Trump administration is much more willing than previous ones to link issues together. Is this a good strategy?

A (Ms. Ziemba): A bigger issue outside of linkage is that other countries are trying to identify key goals to U.S. economy and strategy. There is an environment of differing voices. How do all priorities come together? It is not clear whether linkage leads to better deals, but linking long-term interests such as the threat to the Chinese financial system might. Linkage themselves are not bad, but a whole grand bargain seems challenging.

Q (Mr. Harrell): Will we continue to be on the same page with South Korea on this issue, or do increased economic sanctions tighten the bilateral relationship with ROK?

A (Mr. Cronin): For the U.S. and China, the relationship is greater beyond North Korea, but from the South Korean perspective, the Korean peninsula is the singular issue, the prism from which it would like us to see everything. Therefore, there are some differences in aim. The U.S. and China must concur on China's responsibilities, especially since China cannot contain North Korea singlehandedly. The big problem is North Korea's political will. How should the implementation of an agreement that is in itself problematic due to different constituents, be sustained in the democratically elected U.S. and South Korea?

Q (Mr. Harrell): Eddie, you mentioned how the bill that just passed the House and the Senate is adequate but insufficient. What more should be done? How might China retaliate?

A (Mr. Fishman): The current bill back stocks existing U.S. sanctions and adds discretionary authorities, which the Trump administration could or could not use. The problem with the first element is that it continues to use the ineffective UN paradigm. The problem with the second is that it does not give new authority and acts like an executive order. Congress should but is not engaging the more credible mandatory sanctions. For the bill to be stronger, the U.S. should reject UN contact and make sanctions mandatory. As for Chinese retaliation, it is hard to say. The proper strategy is not to sanction Chinese companies, but to use the threat of sanctions through Congressional legislation.

From the audience:

Q: We requested for the clampdown of 10 different Chinese organizations. Is that not an indication that leverage does not work? Is the situation in Iran completely different?

A (Mr. Cronin): We have seen some indication of China clamping down, but Chinese middlemen are hard to control. Beijing has more say over state-owned enterprises than local and regional businesses. These uncertainties play more on Chinese policies than those of the U.S.

A (Ms. Ziemba): The local and central governments in China complicate the problem even more. In addition, the Chinese case is much more scattered compared to Iran, which provided a very centered commodity easier to manage.

Q: Is peace talk with North Korea an option? What are U.S. policy objectives here? When U.S. stepped back, Russia stepped in. What are Russia's calculations?

A (Mr. Cronin): If the U.S. were to initiate strategic defense talks with ROK and Japan, it would affect secondary sanctions to China and warn North Korea of nuclear risks. As for peace talks, the whole idea of a 2020 conference is coupled with a peace architecture. There is a great intent on behalf of the

Blue House to attempt at peace. The problem is that there is a huge lack of trust amongst all parties involved.

A (Ms. Ziemba): The caveat with Russia is that there may be false pretenses that goods are heading elsewhere than North Korea. There is some degree of individual involvement over state-led strategy. Russia is not a new player and comes in and out.

Q: How much economic leverage does China have on South Korea? Are the THAAD missile deployment suspension caused by Chinese economic sanctions?

A (Mr. Harrell): CNAS is actually about to launch a project looking into the economic coercive might of China. This is a very important issue globally not just in terms of North Korea. We will see more of this tactic (economic sanctions) out of China, in response to which the U.S. should devise new defense strategies with allies. We urge you to look out this year for the launch of this project.

Q: Are there other ways to reduce tension?

A (Mr. Cronin): Offering carrots and not just sticks is key to changing this very circumscribed issue. Measures need to be much more discreet. Open-mindedness in Washington is very important to starting peace talks.

Q: The policy of strategic patience did not work. Of those list of recommendations, which of the ones best hit the sweet spot of strategic pressure on the Chinese, but also was acceptable to the Chinese?

A (Mr. Fishman): The notion of significant reduction reception means that if Congress puts mandatory sanctions on entities involved with North Korean trade, no actual sanctions need to be applied in reward for compliance. Focusing less on the UN does not mean we should be unilateral. We need to be multilateral in engaging like-minded countries in the absence of Beijing and Russia.

Q: Given your focus on sanctions, China and Russia need to be on board to make them successful. Would such leverage give China and Russia the ability to put conditions on the U.S.?

A (Ms. Ziemba): Financial and trade flows mostly are going through Beijing, so keeping Asian allies on board is important, but we cannot keep China out of the picture.

A (Mr. Cronin): A comprehensive affirmative U.S. policy must include sanctions and must involve cooperation of our closest allies. We must then figure out where we could cooperate best with China and Russia. The balance of power amongst major powers still matters.

Report by: Sabrina He, Research Intern



DATE: July 31, 2017

SUBJECT: What a North Korean Ballistic Missile Threat Means for the US Missile Defense System

MAIN POINTS

- It has become an urgent priority for the US to enhance its ballistic missile defense system (BMDS), given North Korea's steady and speedy developments in nuclear weapons capabilities.
- There is bipartisan support for BMDS improvements and for the National Defense Authorization Act (NDAA).
- More sanctions can be placed on North Korea.
- Space-based sensors are a key element to better integrating the systems within the US BDMS.
- The option for left-of-launch offense presents both great opportunities and risks.

Audio available at: https://www.youtube.com/watch?v=hk_5Zomf0to as of July 27, 2017.

EVENT OVERVIEW

Date: July 26, 2017

Time: 9:00 a.m. – 10:30 a.m.

Location: The Heritage Foundation, 214 Massachusetts Ave NE, Washington, DC 20002

Attendees

- **Senator Dan Sullivan (R-AK)**, United States Senator
- **Thomas Spoehr, Host**, Director, Center for National Security, The Heritage Foundation
- **Brigadier General Kenneth Todorov (ret.)**, Former Deputy Director of the Missile Defense Agency (MDA)
- **Bruce Klingner**, Senior Research Fellow, Northeast Asia, The Heritage Foundation
- **Austin Long**, Senior Political Scientist, RAND
- **Michaela Dodge, Moderator**, Senior Policy Analyst, Defense and Strategic Policy, The Heritage Foundation

EVENT SUMMARY

Part I: Keynote Remarks by Senator Dan Sullivan

Senator Sullivan, Senator Joni Ernst, and Senator Cory Gardner visited South Korea last year on the interest of US national security and THAAD missile defense. Their most interesting meeting was with a recent high-level North Korean defector to whom they posed two questions. 1) Is there a budding group of North Koreans who are resisting the regime? What would happen if a young North Korean man goes to Pyongyang Square and protests? 2) If the US, China, and Japan all guarantee regime security in exchange for North Korea giving up ICBM and testing capability, would North Korea take the deal? The man simply answered 1) that man does not exist and 2) there is no security without nuclear weapons and ICBMs. Senator Sullivan confirmed how this testimony reveals a very difficult challenge to overcome cultural nuances and differing mindsets.

Ultimately, North Korea is testing steadily and it is no longer a question of if but when. Senator Sullivan's goal for our military leaders and Department of Defense is to be ready when the times comes. Senator Sullivan raised the contrary argument that doubters of missile defense will resort to the doctrine of mutually assured destruction (as US follows Russia and China), but he reasoned that this doctrine assumes a rational actor and North Korea cannot be considered so given Kim's recent assassination of his half-brother in an airport. Instead, Senator Sullivan strongly advocated bolstering US missile defense, which would send the message that the US is able to shoot North Korean missiles down and massively retaliate should there ever be a direct threat. He then shared how Alaska plays a key role and constitutes three pillars of American military power:

- 1) Alaska is a hub of air combat power for the Asia Pacific and the Arctic. Soon, Alaska will be the only place in the world with over 100 combat-coated fifth-generation fighters (F-35s and F-22s).
- 2) Alaska is a strategic platform for expeditionary forces to be launched at short notice. Currently, the two active Army brigades in Alaska can get anywhere in the Northern Hemisphere, including the Korean peninsula, within 7-8 hours. The 425, the only airborne brigade team in the Asia Pacific, is also the only strategic reserve for any contingency on the Korean peninsula.
- 3) Alaska is the cornerstone of American missile defense. Most ground-based systems of layered missile defense are primarily based in Alaska, namely Fort Greely, Clear Air Force Station, and Ericsson Air Station.

Within the Senate, Senator Sullivan has been pushing a bill called, "Advancing America's Missile Defense System Act 2017," in order to drive momentum and urgency to upgrade the current missile defense system, rather than waiting on the Pentagon's missile defense review due at the end of the year. The bill now serves as the base of the National Defense Authorization Act (NDAA), highlights of which include:

- 1) Increase US ground-based missile interceptors by 28, 14 new silos at Fort Greely and 14 ready to be used for additional testing.
- 2) Enact a space-based sensor architecture to support missile defense throughout the world as opposed to only in the homeland, to enable an “unblinking eye.”
- 3) Accelerate deployment of new technologies, particularly advanced kill vehicles.
- 4) Test and view failed tests as a positive sign of development.
- 5) Authorize funding for all systems: THAAD, GMB, AEGIS.

There is a similar House-led bill by Alaskan Congressman Don Young, the majority of which was also included in the NDAA markup. Senator Sullivan is confident that Congress stands a chance to enhance missile defense which has now become a bipartisan issue. He anticipates the final NDAA passage to include robust missile defense elements.

Part II: Expert Panel

Bruce Klingner provided a brief overview of different North Korean threats and future US options. There was a potential ICBM test this weekend and there was an ICBM threat on July 4. As has been the pattern, North Korea recently fired into an unusually high trajectory so as not to fly over Japan, maybe to test an RV re-entry vehicle. Had it been on a normal trajectory, it could have gone 7,000 or 9,000 kilometers, which would certainly put all of Alaska in range. Media has shown mixed positions from intense worry to casual dismissal. Ultimately, there is continual surprise in the development of North Korean missiles. North Korea has enjoyed high success, with missiles already deployed and failed ones underway. In 1999, the CIA anticipated that North Korea would have the capability of sending nuclear warheads to the US by 2015; hence the current threat is not a surprise. In addition to ICBMs, North Korea is also working on two different IRBMs (Musudan and Hwasong-12) that threaten Guam, a key node to US defense in the Pacific. Both tested successfully last year. Additionally, North Korea has had successful tests of submarine-launched ballistic missiles (SLBM) and medium-ranged ballistic missiles (MRBM) in 2016. SLBMs are concerning because they are a mobile launcher that the South Korean navy currently does not have direct defense against. Klingner emphasized that the No-dong MRBM is already nuclear capable and puts South Korea and Japan under present nuclear threat. Klingner presented three pathways for the US:

- 1) Pre-emptive military strike on North Korea to prevent them from completing the development of the ICBM – Klingner had previously disagreed with this notion in his paper, “[Save Preemption for Imminent North Korean Attack](#).” Intercepting an enemy missile midair or taking it out on a launch stand (when it is not clear whether it will hit U.S. sovereign or ally soil) is needlessly provocative and institutes high risks for an all-out war with another nuclear power.
- 2) Engagement, been there done that. North Korea has gone through eight international agreements either promising never to build nuclear weapons or to give them up. South Korea has had 240 inter-Korean agreements with North Korea to moderate their behavior with induced political and economic reform, all of which failed. Moon Jae-in has been rebuffed several times. Last month, Klingner met with North Korean officials in Europe and they

expressed that “denuclearization is off the table.” North Korea has no inclination to engage with the US or South Korea.

- 3) Increase pressure on North Korea via sanctions and secondary sanctions to Chinese banks. President Obama incorrectly stated that North Korea was the most heavily sanctioned cutoff nation on Earth. Last year was the first time the US cumulatively sanctioned as many North Korea entities as Zimbabwe entities.

Brigadier General Kenneth Todorov (Ret.) provided an operational evaluation of the effectiveness of the US ballistic missile defense system (BMDS), with suggestions to move US missile defense forward. He shared a story from when he used to oversee the day-to-day operations of BMDS. There was a lot of predictive intelligence, e.g. the launch of Taepodong 2. They had months of warning that the event was going to take place. Both Brig. Gen. Todorov and his then-boss, four-star Commander of NORAD, felt confident that BMDS would operate smoothly, even though the missile was anticipated not to be a direct threat to the US homeland. He also recalled the frustration in the Command Center as it anxiously waited for information updates on the missile launch. Additionally, there was a number of outages in various parts of the system: a couple of radars were in maintenance, a sea radar had to be re-positioned, and even Navy boats had to be moved out because of a stormy sea state. Brig. Gen. Todorov explained that beyond interceptors and kill vehicles, BMDS is a system of systems, a whole array of sensors and radars, both terrestrial and sea-based, that work together to paint a picture for the operational warfighter; so the system cannot work as effectively if one of the radars malfunctions. Considering increased threats in quantity, quality, and diversity, Brig. Gen. Todorov advocated three points for the BMDS to stay ahead:

- 1) Increase the capacity, reliability, and efficiency of existing BMDS by adding more interceptors, long-range discriminating radars, additional testing, and digital enhancement such as discrimination algorithms.
- 2) Think innovatively beyond the primary hit-to-kill intent – the proposed space-based tracking and discrimination capabilities can be used beyond missile defense purposes. New technology directed-energy may also be explored.
- 3) BMDS is a mix of offense and defense, not just a big shield. It is not sustainable nor strategic to dismiss them as a deterrent to buy our way out of the problem. They must be considered within the context of other US capabilities.

Austin Long shared his perspective on US offense capability, particularly on left-of-launch, a preemptive effort to defeat missiles before they leave the ground. In addition to cyber and other electronic warfare Brig. Gen. Todorov mentioned, left-of-launch includes novel forms of surveillance and reconnaissance that enable high fidelity. Mobile targets would be in real time so the use of time-dependent satellite imagery would be reduced. The origin of left-of-launch could be traced to wars in Iraq and Afghanistan from “left-of-boom” in an effort to prevent detonation of improvised explosive devices (IEDs). There was an even earlier effort called the “outer air battle,” which was to prevent carrier strike groups from being saturated by Soviet anti-ship cruise missiles. Rather than trying to shoot down arrows, also known as cruise missiles in flight, they push out the range at which the Navy could engage Soviet naval bombers and shoot them down before they could launch. This plan was called “shooting the archer, not the arrows.” The problem is that both examples featured war, but left-of-launch

has to take place in peacetime. Given the type of sensors aforementioned or the kind of access necessary for cyber operations, left-of-launch operations must take place on North Korean territory. The possibility of escalation from the discovery of such activity is considerable.

Pursuing left-of-launch could potentially decrease threat. It is easier to interfere with an adversary's command and control than to prevent the launch. There are many opportunities to cause interference considering the entire missile launch process, so even a minor mistake could cause a weapon to fail. You can turn off the transporter erector launcher if it is mobile, you can prevent the silo cap from opening, etc. If you can interfere with the enemy's command and control of the whole set of processes, you can at least temporarily freeze missiles.

Downsides include: A) the operation has to be kept top secret and hence requires aggressive peacetime circumstances. If North Korea knows that we are tracking their devices, they will counteract and make a case for escalation; B) There are risks in using intelligence to introduce faulty components into the North Korean supply chain; C) It is difficult to test these missile defense interceptors under realistic conditions, except in a moment of crisis, so the confidence level is never going to be quite as robust. There is also a stability issue – if North Korea believes that there is no security without nuclear weapons and sees a huge US military alliance campaign against it, Kim might react as if war was imminent, hence leading to a crisis.

Q&A

Q: First, the Western mind seems to think that all options are exhausted, but I think there is still a ray of hope in talking with Kim Jong-un. His youth is an advantage. Second, I think we should stop depending on China and or someone else for our own intention. Can you comment on these remarks?

A (Senator Sullivan): Trump invited all 100 US senators to brief on his administration's policy on North Korea two months ago. The entire national security team from the Trump administration was there to present strategy. The takeaway from that meeting is that the Senate must work with the executive branch to reinforce strategy. Diplomacy needs to be backed by other options. I think one significant reason why diplomacy has yet to see success is that by the end of the Obama administration, nobody believed that it could be backed by force. This administration seeks to explore force in conjunction with diplomacy to make the latter more effective. I support the administration's efforts to have China play a key role, though that China does not take its leverage over North Korea seriously complicates the problem.

Q: China would like to solve the THAAD crisis through cooperation. It seems like the biggest challenge for the Chinese government is to persuade the public in policy shift toward North Korea. How would the US persuade the Chinese government and military that Chinese security will not be threatened [by THAAD]?

A (Senator Sullivan): This is a good question and a clear area of disagreement. I believe that a lot of disagreement on THAAD has been driven by the Chinese government. I feel like Chinese leadership

at the highest level knows that THAAD is not about China. Kim is an unstable dictator who China is also concerned about. It is not just citizens of our key allies that we are trying to protect, but also our own troops in the region. The US has given a consistent message. The THAAD deployment and the AEGIS system have never been intended to target China. They are meant to protect our troops and allies in the region and I think that China should accept our intention.

Q: There has been a lot of talk to put interceptors and high-power lasers in space. Do you think it is time to start seriously considering this type of deployment or should we just focus on the sensor layer?

A (Senator Sullivan): My focus is on the sensor layer, which will be costly. On the good side, costs are coming down for the commercial launch of space sensors. One pushback is that space-based [sensor] is too expensive, but given the threat, this is an insurance policy that most Americans would gladly accept. When technology on some of the issues you mentioned is not ready, it might be better to focus solely on space-based sensor but not beyond.

Q: Addressing left-of-launch, David Sanger in the *New York Times* suggested that methods have already been carried out against some North Korean missile tests resulting in high failure for some missile types. Can you comment?

A (Long): I can't comment with any accuracy on claims in the *Times*, but I will say that they highlight one tricky things about testing capabilities, which if in place, may be disrupted. However, learning about tests does not just involve North Korean industrial failure. North Koreans could learn how from our tests and if they do, they might neutralize such capabilities, so the real question is when should we use them. If we do during peacetime, North Koreans will counteract. If we wait until wartime, we risk inadequate preparation.

Q: I'm curious about civilians in Alaska right now. In light of military build up, are civilians living in fear and will there be any plans to evacuate?

A (Klingner): I'm not sure whether they're hunkering down Alaska, but articles this week feature emergency drills in Hawaii. But the threat is not just about Alaska and Hawaii. Their capability is much greater and is already reaching CONUS. With their Taepodong and Eunha, they may already reach the US. We do not know where they are on the development path but we certainly know what path they are on. On a spectrum from A to Z, we do not know whether they are at Y or Z, but we do know that the latter is their objective, so the threat is clearly not limited to Alaska or Hawaii.

Q: Can each panel member pick one initiative to enhance the robustness of the US missile defense as it relates to North Korea? Apart from radars in Hawaii, what do you think are key pieces to be plugged in order to enhance the system in a meaningful way?

A (Brig. Gen. Todorov): I would say #1: space-based discrimination and tracking.

Q: Do you think part of the problem is that our defense system is modeled after Cold War dynamics where we have rational states with nuclear weapons, whereas North Korea is not rational?

A (Klingner): I disagree with the oft-repeated media portrayal that Kim Jong-un is crazy like his father. He looks like a villain out of an Austin Powers movie, but he is rational. Portraying him in a distorted light is dangerous in two ways: 1) it downplays the real threat of nuclear weapons; and 2) a lot of the new advocacy for preventative attack is based on a disconnect in which people want to attack him because he is irrational, but then assume that he will respond rationally. At the CIA, we did a lengthy study of Kim Jong-un and Kim Jong-il with a psychologist and psychiatrist, both of whom confirmed that the former is not crazy. One benefit of missile defense is that it lengthens the fuse of war, THAAD, and other programs alike. The better the systems, the more protected South Korea would be.

Q: Is nuclear counterforce making it harder to hide or harden nuclear arsenal, due to precision munitions, remote sensors, or left-of-launch tactics? (Long question about ease of counterforce operations against North Korean targets).

A (Long): I alluded to a lot of new technologies and potential capabilities. If we can destroy weapons on the ground and swap command/control, it will make the missile defense challenge much easier. The problem is the reverse of what Bruce said. If the adversary goes second, it will enable us to launch first thus making our missile defense effective. But our adversary has a real incentive to strike early. Even though it currently does not have the ability to do so, the system gives them more pressure but also makes the crisis more acute. Hopefully people will realize this complex problem and avoid such crisis, but even in a situation where both sides attempt to avoid confrontation, tension could still escalate.

Report by Elizabeth Yang, Research Intern