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Approaches to the Formulation of a Human Rights Agenda in the US-DPRK Dialogue

by Alexandre Mansourov

A satisfactory resolution of the nuclear question on the Korean peninsula will create further momentum for progress in the security and political dialogue between the DPRK and the USA. At this time, human rights is likely to come to the forefront of bilateral discussions. Pyongyang and Washington stand at opposite positions. The DPRK argues that it is none of the United States' business how an independent and sovereign DPRK is run. The United States demands that Pyongyang almost change its political system in order to be able "to join the international family of nations" and to comply with Washington's strict code of human rights. This ideological confrontation, involving the human rights issue, is not new nor is it surprising. It is part of the legacy of the Cold War in the East-West in general and intra-Korean rivalry in particular. But both sides will have to tackle this issue seriously.

What could be the place of the humanitarian issues in the general framework of the US-DPRK bilateral dialogue? Should the United States take the lead, as it did in the nuclear talks, and also advocate the humanitarian concerns of the ROK, Japan, Russia, and, possibly, PRC in its talks with North Korea ? Or should the

humanitarian dialogue be compartmentalized and specific humanitarian concerns be left for each country to worry about? Or should some kind of multilateral forum be established in which these issues would be discussed and resolved?

What could be the attainable goals of the United States human rights policy toward the DPRK? What policy instruments should the United States use to get there? What could be the unintended consequences of the vigorous pursuit of the human rights' agenda vis-a-vis North Korea? What is a likely Pyongyang's response to the US humanitarian offensive? Is there a middleground where Pyongyang and Washington could find some compromise solutions regarding the human rights issues.

These are some of the questions that I will try to answer drawing from the long humanitarian dialogue between East and West; lessons from the US-PRC discussions of human rights; lessons from the US push for human rights in Latin America, including in Cuba and Haiti; and the peculiarities and sensitivities of the situation on the Korean peninsula.

Neither American nor North Korean negotiators should try to reinvent the wheel in their approaches to human rights in their bilateral agenda. Instead, both sides should be driven by the widely-recognized principles of international human rights law and practice of international diplomacy thereof.

To begin with, both sides could start by informally recognizing the value of the 1975 Helsinki accords between the communist countries of Central and Eastern Europe and the advanced capitalist democracies of the Western Europe and North America. In particular, they could lay a foundation for their discussions on the following political principles established in Helsinki as the common ground for the East-West humanitarian talks:

First, the humanitarian basket ("the third basket") is a legitimate topic in the DPRK-US relations, which no longer shall be seen as interference in domestic affairs nor violation of national sovereignty by either side. Similarly, this principle can be applied to the South-North humanitarian talks, in which case both governments should stop accusing each other of subversive activities and anti- regime propaganda. The ROK government would have to reconsider its repressive policy toward the so-called "pro-North sympathizers".

Second, the US could extend the olive branch of detente to the DPRK in exchange for the "socialism with human face". That is, the Pyongyang regime would promote a more open economy and some political liberalization. If Pyongyang strongly desires to sign a Peace Treaty with the United States, the United States should ensure not only the realization of the North-South denuclearization pledge, the mutual recognition of present

political realities on the peninsula, and the North's commitment to conventional disarmament in the long term be part of the Treaty; but also, a North Korean commitment to democracy, universal human values, and the UN-recognized human rights as part of the new political arrangements.

First as the 1975 Helsinki Act helped shape security and political discourse between East and West and contributed to political liberalization in Eastern Europe in the mid-late 1980s, so the proposed Peace Treaty with the DPRK should establish the legal framework for the military detente and political cooperation on the peninsula as a whole; and create favorable conditions for the improvement of human rights situation and eventual political liberalization in the North.

Third, North Korea should be provided with a plausible rationale why they have to improve their human rights record. Their reason lies not in the fact that the United States wants them to do so. Rather, it denies from the fact that their practices do not fit the norms and rules established and honored by the international community of nations. In other words, the DPRK should be brought into the international discussions over the "universal human values".

The Helsinki accords did a good job in bridging the ideological divide over the notion of "universality" of human values. However, in early 1990s a new challenge was launched on cultural grounds from different quarters of the human rights debate. Although the DPRK stayed on the sidelines of this international debate, its position has still evolved. Pyongyang advocates a parochial view of human values, but the rationale is shifting from an orthodox communist justification of its national position to the ethno-cultural Asia-oriented position. Thus, human rights is a tricky question for Washington to raise in Pyongyang because of the ambiguities found in the Chinese, Japanese, and South Korea positions. Thus, it is imperative that the United States provides a sound philosophical basis for its claims on human rights vis-a-vis the DPRK.

Fourth, as the experience of the Helsinki process showed, progress toward attainment of these "universal values" is acceptable if gradual, but must be steady. There is no quick fix for problems arising from the fundamental disagreements over the nature of political system, political regime, politics, etc. Mutual expectations in this regard should be low. However, in the long run, when both sides are directly exposed to each others' views and practices for some time, learning and mutual adjustment will take place, at least at the elite level, and eventually produce some desirable outcomes on the human rights front as well.

Fifth, the principle of the legitimacy of international

monitoring of the human rights situation in the DPRK should be established. In return, the United States should leave the whole domain of monitoring to Non-Governmental Organizations and international news media, as it was done after Helsinki. The United States can not be a global policeman of human rights that sends its inspectors to interview ordinary North Koreans to find out what they think of their government. Besides, this will reduce North Korean suspicions that the United States government is spying on or undermining the North Korean regime. On the North Korean side, the DPRK has already accepted international inspections of its nuclear facilities, so it should not be perceived as an intolerable threat to its national security to allow international human rights' watchdog groups to visit the country and do their field research. Conversely, it should be in the interest of the North Korean government to provide "administrative guidance" to such monitoring groups so that later, it can use them to express its own views on the human rights situation in the DPRK.

In addition, several important lessons may be drawn from the US-PRC talks on human rights. In fact, for some time the North Korean government has been watching closely the on-going humanitarian negotiations between Washington and Beijing in attempt to get prepared for future discussions of its own record with Washington. Given such attention, the Clinton Administration should lay out its vision of the place and role of the human rights issues in bilateral relations, as well as its long-term and short-term humanitarian goals vis-a-vis the North early in the process of negotiating a Peace Treaty and new relationship with Pyongyang.

In general, it will be unwise for Washington to make the "humanitarian basket" the cornerstone of a new relationship. This policy would be short-sighted and hard to sell at home, in Pyongyang, and in East Asia as a whole. It is an important aspect of the new relationship, but not the central one. North Korean promotion of and adherence to human rights should be desired and encouraged, but it should not become a deal-breaker nor an impediment to the conclusion of the Peace Treaty with the North.

At the bilateral talks, therefore, the United States should not try to represent the humanitarian concerns of other countries in the region and to negotiate on their behalf. For example, the issues of the intra-Korean humanitarian exchanges (establishment of the postal, TV and radio connections, air and railroad travel links, etc.), or the predicament of the abducted Japanese women, or the plight of the North Korean loggers in Russia, or the potential flood of refugees into China and Japan from the DPRK are much too politically and culturally loaded and complex to be dealt with in the US-DPRK talks. Rather, these issues should be left for discussions between the primary parties. But Washington

can facilitate speedy and mutually beneficial solutions between the North and the third parties.

The long-term goal of the US human rights policy should be to induce political liberalization in the North. A politically liberal and economically more open North Korea should be more acceptable to the United States. Concurrently, Washington should be even-handed and inform Pyongyang that it continues to favor further democratization in the South as well. Such implicit balancing is likely to boost the perception of fairness in Pyongyang. Also, if unification should occur, then the prior political liberalization of the North may contribute significantly to smoother transition and success of democratization across all the Korean peninsula in a unified Korea. Nobody will benefit from the destruction of democracy and resurrection of totalitarianism or authoritarianism in any form in a unified Korea.

The short-term goal may be to seek more humanitarian exchanges with the DPRK, to promote the cause of the separated families, and to seek transparency of laws and the law-enforcement practices related to human rights there.

The first major and immediate difficulty that Washington will face is that there are no high-profile victims of human rights abuses to save or to protect in the DPRK, as was the case with the Nobel Prize winner Andrei Sakharov or the Jewish minority in the former USSR or the leaders of the Tian'anmen uprising in Beijing in 1989. Active anti-regime forces were rooted out in the North long time ago. Latent political opposition to Kim Jong-il's ascendancy to power is formed of the regime insiders who may be periodically in or out of the inner circle. But it is not Washington's business to protect them. In the meantime, the general public, including the North Korean intelligentsia, seems to be subdued and content with the current regime.

To get started, Washington may propose that Pyongyang make public all the laws and voluminous regulations--including the Penal Code and Civil Code--that govern civil, political and economic behavior in the DPRK. This request should not be regarded as a threat to national security in Pyongyang. But it would be a big step for ordinary North Koreans to read the secret rules that govern their daily lives. It would not be full-blossom glastnost, but a positive first step.

Moreover, the US-PRC humanitarian talks show that progress is usually achieved when discussions move beyond a mere reiteration of general humanitarian principles and preaching one's own values to inquiry about and investigation of concrete cases of alleged human rights' violations. It is through the resolution of concrete humanitarian cases that the spirit of cooperation and mutual trust are developed and important principles and

precedents are established. At this time, the United States does not have that many specific cases to pursue. That's why, at the onset, the United States should emphasize greater transparency of national legislation in the North, more humanitarian exchanges between the North and the West aimed at getting and disseminating information, and some access for international human rights watchdog groups to the North (which, as the first order of business, should address allegations about the alleged existence of 150,000 political prisoners in the DPRK).

With regard to strategy, it is obvious that North Korea is not Haiti. Military intervention aimed at stopping alleged human rights abuses in the DPRK is out of question. Therefore, threats of the use of force for the sake of human rights are not credible, and won't work.

On the other hand, the foremost lesson of human rights diplomacy is that the linkage between human rights and trade does not pay off. It was not the Jackson-Vanik amendment that freed Jews in the former USSR. Gorbachev's perestroika did. The economic embargo against Cuba only led to two boatlifts of tens of thousands of angry and hungry Cuban refugees to the United States, which ironically resulted in the state of emergency in Florida, not Havana.

It was not the annual MNF renewal ritual in Washington that drastically improved the lives of hundreds of millions of people in China in the 1980-1990s. Rather, Deng Xiao Ping's economic reforms and Western investments and trade did. An international embargo on Bosnia did not stop ethnic cleansing either.

Hence, the bottom-line is to not threaten Pyongyang that no economic cooperation and aid will be forthcoming unless they immediately improve their human rights record. This approach did not work in the past elsewhere. It would fail in North Korea too.

Moreover, the DPRK has an isolated, unbalanced economy devastated by the cutoff of its main supply lines from Russia and China. But the DPRK is also a survivor. It has a good chance of getting back on its feet, even by itself. So threats of withholding something which they have never had will not make much difference in the short run to their calculus. It follows that trade and human rights issues should be pursued on separate tracks in negotiations with the North. The United States might link specific demands on human rights such as the non-use of prison labor to make export-oriented goods, with specific economic inducements; but generally, the agenda should be kept separate.

In sum, comprehensive economic cooperation, multilateral and unilateral economic aid packages linked to specific projects of economic reform in the North, as well as extensive humanitarian and cultural contacts are likely to make a lot of difference in

the North Koreans' world view. Simply interacting with the rest of the world will change their expectations and wants, as well as in their values. In turn, this should lead them to step up efforts to improve their human rights record followed by political liberalization.

In conclusion, the best wheel is already available to the North Koreans. If the DPRK wants to break out of its diplomatic and political isolation, it has no choice but to accept international norms and values. Self-interest will bring the DPRK to adopt an acceptable human rights discourse and practices, not external coercion. With all its national peculiarities and sensitivities, it still cannot be treated as an exception to these general rules.

On the other hand, in order to achieve meaningful results, the United States should accept limited goals and legitimate means in its human rights policy vis-a-vis the DPRK. It must refrain from using the humanitarian issue as a Trojan horse to undermine the North Korean regime. Otherwise, the human rights issue would only underlie bilateral relations and detract further from human rights in the DPRK itself This will do no good to the improvement of the bilateral relations nor of the human rights situation in the DPRK.

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