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Human rights in North Korea: what next?

The recent détente between North and South Korea has complicated the picture for human rights activists. This is what they should bear in mind

North Korea's recent charm offensive and the ensuing peace and denuclearisation talks have taken human rights activists by surprise. Activists have long sought to delegitimise the Kim regime and hold it accountable for undoubtedly brutal abuses; however, these objectives have suddenly been complicated by the new atmosphere of guarded optimism and decreased tensions.

Governments in Seoul and Washington are no longer speaking out on human rights issues with quite the same force, and the media's focus has shifted away from the issue. It is, of course, unclear how long this new mood will last, but while it does, the context for human rights advocacy becomes more challenging.

So far, the instinctive response from human rights advocates has been to press the US and South Korean delegations to include human rights issues on the negotiation agenda. Thus, in an open letter to South Korean president Moon Jae In, 40 human rights NGOS asked South Korean negotiators to press North Korea to act on UN human rights recommendations, permit fuller inter-Korean engagement, resolve the abduction and separated family issues and allow the entry of properly monitored humanitarian aid.

The UN special rapporteur on human rights in the DPRK, Tomás Ojea Quintana, echoed these sentiments, arguing that 'not even mentioning human rights at this very first stage of negotiations would be a misstep and a lost opportunity'.

Concessions without losing face

Some observers have put forth the Helsinki Accords as an attractive

model for emphasising the interconnectedness of security, economic development and human rights in a politically binding framework (though the Accords' oft-claimed role in inspiring regime change in Eastern Europe could make this idea toxic to the North).

Others have proposed that negotiators focus more on establishing a framework for ongoing human rights dialogue rather than particular substantive objectives. This idea might be more amenable to Kim, especially if that dialogue is framed in non-confrontational terms and takes place behind the scenes, where he could potentially make concessions without appearing weak to hard-line supporters in the North Korean military.

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It certainly makes sense for human rights advocates to think creatively about ways of bringing rights concerns into the negotiations, and to press hard for their inclusion. Kim should be made to understand that full normalisation will require more than just renouncing his nuclear programme. However, the unfortunate truth is that activists are unlikely to convince either the US or South Korea to fully and publicly integrate human rights objectives into the discussions at this stage.

A broader strategy is needed

Moon Jae In may be a human rights lawyer, but his priority is bringing the North and South closer, and he does not want rights concerns to get in the way of that goal. In this respect, Moon is no different from Kim Dae Jung and Roh Moo Hyun before him: the Sunshine Policy was built on a bedrock of mutual non-interference in domestic affairs. Donald Trump, on the other hand, has no real interest in the rights of the North Korean people, nor any credibility on the topic of human rights. His objective is ending the North Korean nuclear threat on the homeland, and little more.

Rights activists would therefore be well advised to broaden their strategy to also include other objectives and measures, in line with the changing geopolitical context. Here are a few principles that should guide that strategy.

Shift the focus from criminal accountability to human rights: Since the 2014 publication of the UN Commission of Inquiry report into North

Korean human rights violations, the international community has focused on criminal accountability for the commission of atrocities in North Korea. Many human rights activists have vehemently argued in favour of referring the situation to the International Criminal Court.

While such a referral was always improbable, the likelihood of criminal accountability during a period of détente is virtually nil. Rather, it makes sense to shift advocacy back to more reasonably achievable human rights goals, such as greater engagement with UN rights mechanisms, freedom of religion and less brutal prison conditions. These objectives would be consistent with North Korea's normalisation process, and progress would be at least conceivable. Criminal accountability can wait for a future date.

It is important to remember that talks will not last forever: eventually, they will either lead to peace and denuclearisation or be abandoned as futile.

Pick up the slack for governments: The US and South Korean governments have traditionally played leadership roles in addressing North Korean rights violations. That may be coming to an end: Donald Trump has failed to appoint a replacement to Robert King as special envoy for North Korean human rights and the South Korean government has yet to name an ambassador for North Korean human rights, as it is mandated to do under the North Korean Human Rights Act. Civil society groups should try to fill the void.

To give one example, the US and South Korean governments have long documented North Korean human rights abuses through a range of authoritative reports. If funding for these tasks were to cease, human rights NGOs should redouble their own efforts to report on abuses and ensure their methodologies are trustworthy enough for such reports to be relied on by future judges or policymakers.

Prioritise UN engagement

Ensure the UN and civil society avenues for human rights advocacy remain open: Assuming an easing of South Korean and US pressure on human rights, it is all the more important that other actors remain vigilant in drawing attention to North Korea's human rights situation. If the South Korean government threatens to silence anti-Kim human rights NGOs, for example, such moves should be vigorously opposed. Moon's recent move to prevent protesters from releasing balloons with human rights messages near the border does not bode well in that regard.

Engagement with the UN should be prioritised, especially with less

politicised offices such as the Office of the High Commissioner for Human Rights, human rights treaty bodies and the special rapporteurs, to ensure international actors maintain their focus on North Korean abuses. Countries not closely involved with the denuclearisation talks, such as the UK, Germany or Australia, can also be targeted for lobbying, as these actors can strengthen their voices on human rights without directly affecting negotiations.

Go after the low-hanging fruit: While the phrase 'human rights' may not appear on the agenda, the North Korea talks can still lead to marginal rights improvements. Detained US citizens have already been freed and a reunion for divided families has been scheduled. President Moon has also broached tThe fate of Japanese abductees. Each of these can be considered human rights issues, and have been a focus of UN and NGO efforts. Human rights advocates should search for more such issues that can be made subject to negotiation. While the core rights of the North Korean people might be off the table, advocates should press the US and South Korea to ask for improvements at the margins.

Plan for the next step: Finally, it is important to remember that talks will not last forever: eventually, they will either lead to peace and denuclearisation or be abandoned as futile. Human rights advocates should plan for both eventualities.

This means, for example, drawing up plans for possible transitional justice mechanisms, discussing ways to ensure the safety and protection of potential future refugee flows, and preparing evidence for future prosecutions or truth commissions. It also means ensuring an adequate flow of information into North Korea, so that if some degree of North Korean liberalisation does ever take place, the people will be able to decide for themselves if they want to retain the Kim regime or choose a different path.



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