TOWARD A NEW POLICY AND STRATEGY FOR NORTH KOREA

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VICTOR CHA

As a Fellow in Human Freedom, Victor Cha is helping lead an initiative on the problem of human rights in North Korea. In addition, he is a senior adviser and the inaugural holder of the Korea Chair at the Center for Strategic and International Studies in Washington, D.C., and Director of Asian studies and holder of the D.S. Song-KF Chair in the Department of Government and School of Foreign Service at Georgetown University. From 2004 to 2007, he served as Director for Asian Affairs at the White House on the National Security Council (NSC), where he was responsible primarily for Japan, the Korean peninsula, Australia/New Zealand, and Pacific Island nation affairs.
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ROBERT L. GALLUCCI

Ambassador Robert L. Gallucci is a Distinguished Professor in the Practice of Diplomacy at Georgetown University's School of Foreign Service. He served as Dean of the School of Foreign Service for 13 years until he left in July 2009, to become president of the John D. and Catherine T. MacArthur Foundation. He was appointed Dean in 1996, after 21 years of distinguished service in a variety of government positions, focusing on international security. As Ambassador-at-Large and Special Envoy for the U.S. Department of State, he dealt with the threats posed by the proliferation of ballistic missiles and weapons of mass destruction. He was chief U.S. negotiator during the North Korean nuclear crisis of 1994, and served as Assistant Secretary of State for Political Military Affairs and as Deputy Executive Chairman of the UN Special Commission overseeing the disarmament of Iraq following the first Gulf War.
Ambassador Gallucci earned his Bachelor's degree at the State University of New York at Stony Brook and his Master's and Doctoral degrees at Brandeis University. Ambassador Gallucci was engaged as a consultant for the Bush Center's North Korea policy work in 2016.

TOWARD A NEW POLICY AND STRATEGY FOR NORTH KOREA

A NEW POLICY LANDSCAPE

By almost any measure, North Korea is one of the world's most oppressive countries. More than 24 million people live in the northeast Asian country under the rule of Communist dictator Kim Jong-Un. They are subjected to widespread human rights violations, including executions, torture, and detention, and denied fundamental rights like free expression, association, assembly, and religion.

Since 2014, the Human Freedom Initiative at the George W. Bush Institute has supported an independent effort aimed at improving the human condition in North Korea. The timing of this effort marks the 10th anniversary of the North Korean Human Rights Act passed by Congress and signed into law by President Bush in October 2004.

In addition to commissioning original research and raising awareness across the United States, the Institute has worked to bring together parties in an unprecedented call to action for the public and private sectors to pool resources and talent to support innovative, bipartisan policy that helps the people of North Korea. Our first report, published in 2015, outlines new approaches for both improving human rights in North Korea and supporting refugees living in the United States.

In 2016, the Bush Institute commissioned a second study to offer recommendations to the new U.S. administration and Congress with regard to policy toward North Korea. The project leaders, both with decades of experience dealing with North Korea in Republican and Democratic administrations, convened a series of meetings in the summer and fall in Washington D.C. They brought together national security and human rights experts from the private sector, public policy, and Non-Governmental Organization (NGO) communities.

While all acknowledged the priority of ridding the world of the nuclear threats from North Korea, this group recognized that the international community's mobilization over the human rights issue in the last two years has fundamentally changed the policy landscape. The national security objective of denuclearization can neither be credibly pursued nor attained without addressing the regime's human rights abuses.

This report's distinct message, based on views that uniquely bridge the national security and human rights communities, argues for a new U.S. policy that integrates the call for human freedom with denuclearization in our engagement and diplomacy with North Korea.

FREEDOM AND SECURITY ARE INDIVISIBLE.

HOW FAR HAVE WE COME?

It is hard not to feel a sense of drift when thinking about U.S. policy towards North Korea over the last decade or so. This policy was termed "strategic patience," leaving the United States waiting for the cumulative effect of sanctions pressure to convince the North Korean regime to denuclearize. This policy was tolerated perhaps because of our focus on other issues on the foreign policy agenda, or perhaps because successive administrations have worked with China and our allies, Japan and South Korea, to engage the North on numerous occasions to no avail.

The unfortunate reality is that North Korea will present a top national security and human rights issue for the new administration. Its unprecedented and accelerating tempo of missile tests and nuclear detonations – 64 between 2009 and 2016 – shows no signs of abating. Moreover, it is highly likely that the regime will carry out further demonstrations of force proximate to the start of the new administration's term of office in 2017.

Despite international opprobrium generated by the 2014 United Nations Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (COI) report, the human condition in North Korea remains dire. Food shortages continue, political prisoners remain in camps, public executions are commonplace, civil liberties are non-existent, and both North Koreans and foreigners, including Americans, are detained without due process. Even the elite in

North Korea are not immune, as evidenced by recent high-level defections amid an unprecedented reported 100 elite purges since 2012.

From the American perspective, past overtures to address national security and human rights issues have failed because the North has not been serious about joining the international community as a peaceful member, has been disrespectful of the UN Charter, and disregards the well-being of its own citizens. We perceive the Democratic People's Republic of Korea (DPRK) as instead preferring to blame the United States and the Republic of Korea for their hostility. This allows the North to embrace its own version of isolation and nuclear weapons, and to continue to depend on Beijing to ensure that their regime does not suffer economic or political collapse.

WHERE MUST WE GO?

This state of affairs will not suffice as policy for the newest U.S. administration. This new administration, like all new administrations, will review the international landscape and set priorities for those issues that seem likely to challenge our national security interests over the next four years. North Korea will make that list and our new administration officials will search for an appropriate policy and strategy to address the nuclear threat, as well as the human rights abuses.

WHAT ARE OUR NATIONAL SECURITY INTERESTS?

Threats may be characterized as the product of intentions and capabilities. Taking the second first, it is the North's nuclear weapons and ballistic missile programs, rather than its army, navy, air force and special operations forces that demand the most attention.

The North Koreans decided to forgo the accumulation of plutonium for nuclear weapons for several years after negotiating two denuclearization agreements with the United States – the 1994 Agreed Framework and the 2005 Six-Party agreement. However, the North abruptly violated the terms of both deals and moved promptly to accumulate plutonium again and to enrich uranium for nuclear weapons development. By the end of this decade, by any estimate, North Korea will have scores of nuclear weapons, mated to ballistic missiles for delivery to regional and intercontinental targets. This will be a new situation that plausibly will impact the North's intentions, which have been unclear in the past.

BY THE END OF THIS DECADE, BY ANY ESTIMATE, NORTH KOREA WILL HAVE SCORES OF NUCLEAR WEAPONS, MATED TO BALLISTIC MISSILES FOR DELIVERY TO REGIONAL AND INTERCONTINENTAL TARGETS.

One of the few things that observers of North Korea seem to agree upon is that the regime's first goal is its own survival. This means that the government's actions may predictably bring enormous hardship, humanitarian, and human rights abuses to its own people. Sanctions may be imposed that bring the most harm to the most vulnerable – the young and the old – and the regime will still not feel pressure to change course. The DPRK enjoys the peculiar stability of a totalitarian state. But no one can be certain about whether the coming acquisition of a true nuclear weapons capability – vice the possession of only a few crude nuclear devices – will make the North more likely to take risks, or more risk averse.

At the same time, we can be fairly certain that the regime's policies will continue to be driven by the strategic objective of eventual reunification of the Korean people under its authority. These policies will include instrumental goals of undercutting the U.S.-ROK and U.S.-Japan alliances, while preserving its own relationship with Beijing.

Our experience with North Korea over the last couple of decades reveals an approach to achieving these goals that poses risks for the United States and its allies. The intermittent provocations to the South along the Demilitarized Zone (DMZ), on coastal islands and at sea could escalate into hostilities and full-scale conventional war. These provocations could become more dangerous and prevalent if the regime has a sense of impunity with nuclear weapons. Intermittent missile and nuclear weapons tests remind the Japanese and the South Korean people that the North is developing weapons that their governments

have forgone, making them dependent on America's "extended" deterrent. Reviewing that dependence will always be an option in Tokyo and Seoul.

Most directly threatening to the United States is the emerging reality that America's West Coast cities will be targetable by North Korean nuclear armed ballistic missiles. Deterrence, and some defensive measures, will mitigate that new reality, but the essential psychological nature of a deterrent begs the question of effectiveness when dealing with what some suspect may be a psychopathic leader.

Perhaps the most dangerous activity that the North has pursued over the last couple of decades has been the transfer of sensitive nuclear technology and ballistic missiles to other countries. Pakistan's Ghauri intermediate range ballistic missile is based on the North Korean No Dong missile, as is the Iranian Shah Hab III. And late in the George W. Bush Administration, the Israelis alerted Washington to the North Korean construction of a plutonium production reactor in Syria – which Israel went on to destroy. The very reasonable concern in the United States about the possibility of a 9/11-style nuclear attack is only heightened by this North Korean willingness to transfer nuclear capability to unstable governments willing to pay in hard currency.

THE VERY REASONABLE CONCERN IN THE UNITED STATES ABOUT THE POSSIBILITY OF A 9/11-STYLE NUCLEAR ATTACK IS ONLY HEIGHTENED BY THIS NORTH KOREAN WILLINGNESS TO TRANSFER NUCLEAR CAPABILITY TO UNSTABLE GOVERNMENTS WILLING TO PAY IN HARD CURRENCY.

HUMAN RIGHTS AND SECURITY

Even as these threats mount, the approach of the new U.S. administration to North Korea can no longer be one-dimensional, focusing solely on the security dimension. The human rights abuses committed by the regime for decades are a direct reflection of the core nature of the state's deviant behavior. The national security threat posed by North Korea to the United States and its allies stems not just from the nuclear and missile threats, but from a government, in possession of such weapons, which is capable of a level of abuse of its own citizens unprecedented in modern human history.

The United Nations Commission of Inquiry Report (COI) and its recommendations for the UN Security Council to refer the North Korean leadership to the International Criminal Court for crimes against humanity have galvanized world opinion. This recommendation has created a moral obligation among UN member states no longer to turn a blind eye to the issue in its dealings with Pyongyang, as well as with other states that interact regularly with the regime.

For the United States, while past negotiations with the North may have privileged the security issues at the expense of human rights, ignorance of human rights vis a vis North Korea was never U.S. policy. Indeed, the issue was always part of a broader political settlement envisioned to occur later in the process after the immediate issue of denuclearization and non-proliferation were addressed.

It is our considered view, however, that the two issues are today intimately tied in unprecedented ways.

First, new data shows that revenues from North Korean human rights abuses, including the export of slave labor as well as from trading companies engaged in such abuses, are suspected to be used to fund nuclear proliferation activities. In addition, well-established North Korean practices with regard to food distribution, mass labor mobilization, and prison camp labor all favor the regime and its proliferation practices over the rights of the citizens of the country.

Second, the international community's galvanized attention on the human rights abuses has permanently changed the playing field for future U.S. diplomatic action with the North, making accountability for human rights abuses a requisite element of any new U.S. strategy.

Third, inclusion of human rights is not only foremost a moral imperative in its own right but also a source of leverage and pressure on North Korea for the nuclear issue. We know from their reaction to the Commission of Inquiry that the North Korean leadership is sensitive to criticism on this score, which might cause the regime to try to deflect pressure with concessions or progress on the nuclear front.

THE NATIONAL SECURITY THREAT POSED BY NORTH KOREA TO THE UNITED STATES AND ITS ALLIES STEMS NOT JUST FROM THE NUCLEAR AND MISSILE THREATS, BUT FROM A GOVERNMENT, IN POSSESSION OF SUCH WEAPONS, WHICH IS CAPABLE OF A LEVEL OF ABUSE OF ITS OWN CITIZENS UNPRECEDENTED IN MODERN HUMAN HISTORY.

The international community can use this pressure, but at the same time not "sell out" the human rights issues, by making clear that human rights must be part of any final settlement in accordance with the recommendations of the COI.

Finally, North Korea's own demands for wide-ranging talks, including talks about a peace treaty, necessitate a strategy that addresses human rights as part of a broader security agreement and political settlement.

HUMAN RIGHTS MUST BE PART OF ANY FINAL SETTLEMENT.

STRATEGY RECOMMENDATIONS FOR NUCLEAR ISSUES AND HUMAN RIGHTS

While there are very good reasons not to be passive in designing policy and strategy to deal with North Korea, the question remains of what might work to reduce the security threats and to address human rights abuses. The approach we propose is informed by our own experiences and understanding that the nuclear and missile issues remain the proximate threat. However, we also understand that the nuclear threats from a regime that pathologically violates human rights are accentuated, as much as they are supported materially, by profits from those abuses.

The new U.S. administration must commit to human rights as part of its Korean Peninsula policy, not simply as a matter of expedience, but as an integral element of a solution to the broader North Korea problem. Any policy review should enunciate a commitment to this principle, and acknowledge the symbiotic relationship between rights abuses and security.

We need to develop a united front with our allies, develop a cohesive strategy, and execute on that strategy together. Here is how we propose to do that. The recommendations we offer below are distinct in that we lay out core principles of national security strategy for North Korea, and embed actionable items that both establish and integrate human rights in a new policy approach.

THE NEW U.S. ADMINISTRATION MUST COMMIT TO HUMAN RIGHTS AS PART OF ITS KOREAN PENINSULA POLICY, NOT SIMPLY AS A MATTER OF EXPEDIENCE, BUT AS AN INTEGRAL ELEMENT OF A SOLUTION TO THE BROADER NORTH KOREA PROBLEM.

RECOMMENDATIONS FOR GUIDING SECURITY PRINCIPLES

1. Sustain Deterrence And Reassure Allies.
Continue visible security consultations and exercises with friends and allies in the region. Most importantly, we must work with Japan and the ROK to sustain deterrence of the North while reassuring allies of the U.S. commitment to their security. This can be accomplished without undertaking unnecessary military or naval activity sure to provoke a North Korean response.

2. Heighten Diplomatic Coordination.
Continue cabinet or sub-cabinet level diplomatic coordination among the allies on a quarterly basis as part of maintaining defense and deterrence. We need to encourage and facilitate seamless information exchanges, as well as missile defense cooperation among the allies.

3. Integrate Non-proliferation And Human Rights Sanctions.
Strengthen a sanctions regime aimed at isolating and weakening North Korea, including the designation of political and military leaders for proliferation-financing, illicit activities, and human rights abuses. Although challenging to implement in the DPRK, sanctions should spare the average citizen where

possible. We highly recommend including secondary sanctioning against third parties doing business with North Korea, as well as restricting access to the international financial system for all designated political and military leaders involved in human rights abuses.

4. View China As A Part Of The Solution, But Not The Total Solution.
Remind Beijing of its responsibility to use its influence with its clients in Pyongyang to avoid provocations. These tools of influence may include, but are not limited to the shutdown of the economic activity on the Dandong-Sinuiju border, allowing UNHCR access to North Korean refugees, the closing off of ports and airspace, and suspending North Korean access to the Chinese financial system. We must resist the temptation to subcontract the most urgent security issue in Northeast Asia to China, America's great power competitor in the Asia-Pacific region.

5. Remain Open To Diplomacy.
Avoid making the goals of any negotiations with the DPRK preconditions for entering those negotiations. At the same time, any U.S. administration must be wary of entering protracted negotiations with North Korea where the North may continue to advance its nuclear or ballistic capability while negotiations are underway. That would include test detonations or launches, or adding to fissile material accumulations at facilities. In other words, the North should gain no advantage by stalling, or building while we are talking.

6. Avoid Preconceived Notions Of The Modality For Negotiations.
Six party talks may be dead – or not – but the essential participants will be the United States and North Korea, whatever the formal structure may be. The critical elements will be a bilateral engagement with close consultations between the United States and Japan, China, and the ROK. In the absence of North Korean participation, the relevant parties should remain open to other formats including bilateral, trilateral, or 5-party meetings.

7. Maintain Denuclearization Goals.
While remaining open to diplomatic options, we must insist that the outcome of negotiations include the eventual re-entry of the North into the Non-Proliferation Treaty regime – lest our negotiations legitimize their nuclear weapons program. It should be clear that we would anticipate acceptance of a safeguards regime that provides sufficient transparency to confirm North Korea's status as a non-nuclear weapons state, absent any stockpile of fissile material or production capability to create it.

8. Stop Horizontal Proliferation.
Unambiguously warn the North Koreans at the highest level that the transfer of sensitive nuclear technology to another state or non-national actor cannot and will not be tolerated by the United States: drawing a genuine red line. We should demonstrate an interdiction network – coalition and UNSC sanctions – to slow their accumulation of technologies and materials and to blunt exports or transfers.

9. Commit To Unification.
Take prudent steps with our allies to prepare for the realization of our ultimate goal of a unified Korea, whether through the slow transformation of the North Korean state, or its sudden collapse. Such steps could include China, as the situation requires. Relevant parties should remain open to leadership change in the North as an interim stage of unification.

RECOMMENDATIONS FOR ACTION ON HUMAN RIGHTS

1. Implement a Proactive Human Rights Agenda.
Declare that the days of isolating nuclear negotiations from human rights issues and a broader political settlement are over. The actionable items below should be carried out with the understanding that:

- Addressing human rights will be part of a political settlement that accompanies a peace treaty to formally end a 60-year state of war on a nuclear weapons-free Korean peninsula; and
- Actors should not hold back on condemnation of human rights abuses in an effort to aid diplomatic engagement, as has happened in the past.

2. Benchmark Human Rights Early.
The new U.S. president should make an early statement that denuclearization and human rights are

inseparable elements of a policy to promote peace and lasting reconciliation on the Korean Peninsula.

- Quickly nominate and fill key North Korea policy positions.
- Re-authorize and strengthen the North Korean Human Rights Act (NKHRA) in 2017.
- Emphasize the bipartisan nature of a campaign against North Korea's nuclear threats and human rights abuses.
- Work with Congress on authorizing more resources and mandates for the flow of information to the people of North Korea.
- Authorize intelligence collection on the link between human rights abuses and the nuclear and missile programs.

3. Employ the Full Toolkit.
In addition to nonproliferation sanctions, the new administration should remain open to exercising the widespread authorities afforded it from congressional legislation and Executive Orders to advance the human rights agenda, including HR 757 and EO 13722.

- Exercise secondary sanctioning against companies that benefit North Korea proliferation or human rights exploitation.
- Restrict designated North Korean individuals and entities from access to the international financial system.
- Consider returning North Korea to the "state sponsor of terrorism" list if there is evidence that they support terror in a way that justifies re-listing.
- Encourage early allied trilateral meetings of respective United States, ROK, and Japan human rights ambassadors to carve out an action plan for sanctions and counter-proliferation coordination for 2017.
- Only consider lifting human rights-related sanctions in return for known improvements in those rights.

4. Prioritize Information Flows.
The new administration should adopt a proactive posture on increasing the volume of information to the North Korean people on the premise that access to outside information is a basic human right.

- Support substantive updating of the provisions of the NKHRA and increased funding related to information flows in 2017 reauthorization.
- Take a results-oriented approach to appropriated funds for information dissemination across the spectrum including radio, print, and multimedia. Seek reporting requirements that measure tangible progress.
- Seek private sector partnerships designed to solicit and fund technologically innovative proposals for information dissemination.
- Target information to cities and provinces in North Korea that show receptivity.

5. Focus on "Slave Labor" Exports.
New and existing authorities for sanctions should target North Korea's overseas labor exports as a source of revenue that could be diverted to the nuclear program.

- Publish a list of countries that import North Korean slave labor.
- Press UN member states to cease the practice and to conform to international norms on treatment of workers.
- Commission further data collection and research on the link between overseas labor exports and the North Korean nuclear and missile programs.

6. Consider Humanitarian Assistance.
We should remain open to incorporating humanitarian assistance in a human rights approach, if this is a feasible way to help the most vulnerable.

- View humanitarian aid as a wedge into the society to help the North Korean people in cases including disaster response and support for the disabled.
- Require that such assistance be delivered to the most vulnerable, such as flood victims in prison camps.
- Require that North Korea allow international access by the UN High Commissioner or Special Rapporteur.
- Require that all assistance arrangements be results-oriented, verifiable, and transparent.

7. Mobilize the International Community.
We should prioritize international engagement as part of a broad effort to implement the UN Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (COI) recommendations:

- Support a Contact Group among UN Security Council members on considering different ways to establish accountability, through such methods as ICC, ad hoc, or special tribunals.
- Expand a global awareness campaign of North Korean abuses to include non-Security Council members, including regional Southeast Asian nations and other countries with regular interaction with North Korea.
- Form a Contact Group on North Korea in major multilateral gatherings like UNGA, APEC, East Asia Summit, G20, and G7 to advance goals including access for the UN High Commissioner and Special Rapporteur.
- Consider revoking North Korea's credentials at the UN absent a demonstrable effort on the part of the regime to address international concerns as recorded in the COI.

8. Encourage Chinese Action.
It would be expedient to adopt a new orientation toward China that couples demands on the nuclear issue with demands for more responsible behavior on human rights. As difficult as this may be, concerted and persistent pressure on the Chinese government by all interlocutors is necessary to sensitize Beijing to international criticism.

- Press on multiple fronts of accountability including providing for better treatment of North Koreans in China; allowing access for UNHCR; allowing access for the Red Cross; providing citizenship for offspring of North Korea women in China; and stopping the import of slave labor.
- Identify the agencies and individuals, if possible, on the Chinese side involved in the practice of refoulement, creating accountability for this practice.
- Hold China accountable for the "livelihood" exemption in current UNSCR 2270 sanctions that permits continued imports from North Korea mining and development sectors, which use slave and political prison camp labor and/or which include companies, such as KOMID, that finance WMD proliferation.
- Make the issue bilateral in that the United States, South Korea, Japan, and Mongolia must raise Chinese treatment of North Korean escapees as a regular item in bilateral strategic dialogues.

9. Create Opportunities.
The next administration must embrace the chance to empower the small, but highly motivated North Korean escapee community in the United States. The success of this community can help to generate human capital for future unification and reconciliation.

- Review and streamline the refugee resettlement process for North Koreans in the United States; increase the numbers beyond the current average of about 20 per year.
- Publicize the program better so that more escapees know coming to the United States is an option.
- Seek public and private sector funding for North Korean escapee community in the United States that includes educational scholarships and vocational training – dire needs that have been expressed by this community.
- Consider partnerships with NGOs and the private sector designed to structure additional cultural acclimation support beyond what is currently offered in the resettlement process.
- Encourage other countries to establish resettlement programs.

CONCLUSION

Amidst the next president's many priorities, North Korea will arguably be the most urgent national security issue in Asia. Although headlines will focus on the nuclear threats, we must understand that those threats are being perpetuated by this century's worst human rights abusing regime. The proceeds from those abuses help to finance the weapons threat. Moreover, the nature of the regime – so disrespectful of the rights inherent to a human being – accentuates the gravity and unpredictability of the nuclear threats to American interests.

Kicking the can down the road is not an option. So-called "management" of the problem over the past eight years has laid a path for the North to reach the continental United States with a nuclear-tipped missile – a missile that could be launched during the new president's term in office.

A new strategy must maintain the goal of denuclearization, while also acknowledging that at

the core of the security threat is a regime that treats its people poorly. Demanding improvements in the human rights situation will remove resources that fund weapons development; will provide new diplomatic tools for both pressure and engagement; will compel the regime to be more accountable to international norms; and will buttress the credibility of any denuclearization agreement. A new strategy must integrate human rights and security for all of these reasons.

Any sense of policy drift should be banished by clarity about what national and international security requires in light of the security and human rights challenges presented by North Korea to the United States and its allies.

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