Features

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Shuang Lin

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Reece Garrett Johnson
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Cover Photo: Reece Garrett Johnson
Pictured: A young Bakarwal girl near the Aru Valley in Kashmir
ONE winter morning in 2012 — for the third time in two months — Kim Lee and I entered the windy hallway of a local police station in the Chaoyang District of Beijing. We were waiting for a response from “the top” about our repeated reports of threats and verbal abuse flowing almost daily from her husband, Li Yang, a household educator in China.

Kim Lee, an English teacher from Florida who had lived in China for 13 years, joked to me that this police station had become her second home after over 10 visits. Her first foray there was on a gloomy afternoon, she recalled, after being repeatedly beaten by her Chinese husband in front of their three-year-old daughter.

Behind her sullen joking about her “second home” was the sobering reality that even if women opt to leave an abusive relationship, they often expose themselves to greater hardship.

According to Chinese law, a divorce filed for reasons of domestic violence must be resolved within six months. Yet one year later and three trials after Kim first submitted her case, she is still dealing with daily threats from her husband, visa-related issues stemming from Li’s non-cooperation and financial hardship as a result of being economically dependent on her husband for so many years.

Kim’s case became a sensational one in China after she posted photos of her bruises from domestic violence on her microblog in August 2011. Since then, she has been the center of controversy, drawing both suspicion and support from different factions of Chinese society. Besides taking care of her three daughters, Kim spends all her time in court, law firms and police stations. “Dealing with Li Yang is like a full-time job,” she notes ruefully.

Despite her difficulties, Kim became the symbol of a foreign woman speaking up about domestic violence in a society where the issue was still considered something outsiders had no business sticking their noses in, and where victims might be the ones facing the scrupulous questions: “Why did he beat you? What did you do to deserve it?”

When asked why Kim did not go to the U.S. embassy for help, her answer struck me:

“If I’m using the embassy, what can other Chinese women who write to me every day do? Li Yang kept telling me [wife beating] was Chinese culture. I’ll use Chinese law to prove him wrong.”

Kim’s mission still faces a number of hurdles. In China, about 24.7 percent of married women experience some form of domestic violence, yet the country is among the very few in the world that does not have separate laws prohibiting the practice. Among the divorce cases filed for reasons of domestic violence, only about three percent are granted on those grounds alone.

Since 2003, Chinese experts have been calling for a special law on domestic violence to better protect victims and to provide psychological, legal and financial support. In March 2013, a national law against domestic violence was included in the legislative agenda of the National People’s Congress, which is seen as “the biggest progress in recent years [concerning] domestic violence legislation” by Feng Yuan, the co-founder of the Anti-Domestic Violence Network.
But it seems women in China will still have to wait.

Back to that winter afternoon in the local police station, after several hours of waiting, the officer got back to us with the same old response: “We can’t do much unless Li Yang comes here himself to testify.”

This kind of intransigence is widespread in China, and messages flow daily to Kim’s inbox from women with their own stories: the story of being afraid to tell anyone; the story of police causing only more desperation and anguish; and the story of — even once women have had their day in court — ending up in personal and financial insecurity.

Is Change on the Horizon?

This last spring, domestic and international media celebrated the conclusion of Kim’s case, describing it as “a victory,” “a landmark” and “[making] Chinese legal history.” The verdict paper — which included financial indemnities for her years of abuse — brought tears to Kim’s eyes.

“The greatest success is for women to know that with proof and perseverance, even weak laws can and should be used as a means of combating domestic violence. I have come to understand on a deeper level what the real meaning of Chinese culture regarding families is.”

Throughout my entire year working with Kim Lee, it would be difficult to detail the breadth of meetings that took place in Kim’s home, coffee shops, hotel conference rooms and NGO offices where gender studies professors, women’s activists, lawyers and regular citizens all came together to discuss how to raise awareness, collect resources, formulate strategies and push for progress.

After a long struggle, Kim finally began making an income — the first time in over 10 years — by providing child education training to Chinese parents. Earlier this year, she was able to expand this work into her own company, LiNaHu’a’s Education (丽娜华的教育), which teaches her unique child education philosophies.

The broader Chinese public is also becoming more open to the topic of domestic violence. A movement launched by NGOs and activists calling for a new domestic violence law managed to collect over 10 thousand signatures from ordinary Chinese citizens. Case after case emerged in which women survivors used social media as a way to seek protection and support. As of now, 28 provinces and cities in China have introduced laws against domestic violence. After Kim’s case, more protection orders for domestic violence survivors have been issued by provisional and municipal courts than ever before.

Yet there is still a long road ahead, both for Chinese women and for Kim herself.

On September 13, Kim Lee posted screenshots on her microblog of her ex-husband’s insulting messages. Nine months after the verdict, her own schedule is still arranged around court appearances where she waits for hours because her ex-husband refuses to pay the court’s decree. Perhaps most tellingly, among the comments on her microblog were voices arguing for men’s “divine right to beat wives.”

Today, most domestic violence victims still have no safe haven in times of emergency; community police officers still cling to the traditional mentality that domestic violence is a family affair best kept to the confines of the home; and women accused of murdering their partners following years of domestic violence continue to be dealt long-term prison sentences or, worse, the death penalty.

Kim may have gotten her justice, albeit an incomplete one. Many more Chinese women are unlikely to get theirs, however, unless a well-designed law against domestic violence is issued and enforced to ensure their safety, security and rights are more than words on paper and instead legal guarantees. Only then will victims like Kim be allowed to flourish as citizens, mothers, wives and above all, as women and human beings.
Kashmir: Defining Safety & Security

By Reece Garrett Johnson

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Photos: Reece Garrett Johnson

ON July 28, 2012, a bus full of Hindu pilgrims exploded on its way to Pahalgam in India-administered Kashmir (officially Jammu and Kashmir), killing three and injuring several others. Almost immediately, Indian news outlets were filled with reports attributing the blast to a grenade thrown by Kashmiri guerrillas. On a normal day these reports would be saddening; on this particular day, however — the eve of my own journey to this very same region — I read them with some alarm.

The true cause, it turns out, was an accidental cylinder explosion, yet the initial response of Indian media is a telling clue into how Kashmir — often considered an enigmatic region in its own right — is widely misunderstood on the subcontinent.

There is no ignoring Kashmir’s history of conflict, nor the fact that it remains one of the most militarized zones on the planet and the subject of continued territorial disputes by three regional rivals. Evidence of this is present along every road and in every city: Between all the stunning mountain passes and breathtaking valleys inscribed poetically in our historical imagination are soldiers, military convoys and bases as well as frequent checkpoints, curfews and protests. After all, Kashmir — described as a “heaven on earth” by Mughal emperor Jahangir over 500 years ago — for many years seemed destined to turn once again into a battleground for interstate conflict.

Perhaps it is little surprise, then, that the Indian media’s instinctual response is to see violence and conflict even in a region where, for the most part, violence has abated. The possibility of interstate conflict has diminished yet intrastate tensions between Kashmiris and the Indian
government continue, fueled largely by media-fueled misperceptions and heavy-handed security measures by India’s paramilitary forces.

The human rights situation in Kashmir is one glossed over by its seemingly massive and all-important security situation. The irony is that, while there may be latent insurgencies still present in India-administered Kashmir, India’s crackdown on popular unrest may contribute as much to regional insecurity as do insurgents or its relations with neighboring Pakistan.

In proportion to the decrease in violence in Jammu and Kashmir over the last decade has been an increase in popular calls for self-determination, civil liberties and accountability for past human rights violations committed by Indian forces. Justified by counter-insurgency laws, India carried out military operations throughout the 1990s with near-impunity. According to Amnesty International, these operations resulted in “torture and custodial deaths, rape, enforced disappearances and extra-judicial executions.”

Today, Kashmiris are less likely to support insurgencies and far more likely to be politically active, yet the security environment remains largely unchanged. As a result, some protests have resulted in hundreds of deaths and thousands of arrests by Indian authorities.
The UN Working Group on Arbitrary Detention has ruled many of these detentions in violation of international human rights law, but India maintains its security forces exercise the “utmost restraint” with as many as 97 percent of human rights violations found “false and baseless,” according to Kashmir’s northern Army chief.

For my part as a mere tourist to the region, I viewed its security situation and social unrest through an entirely different lens. I was not subject to the curfews nor witness to the violent protests and riots that unfolded intermittently throughout the region before and following my trip. I was witness only to Kashmir’s natural beauty and the unique hospitality of its people set against the extremes of public perception.

My friends who would gush lovingly about their home — what to many is their country — could not help but bemoan popular and media portrayals of Kashmir. They wanted all of India to recognize the Shangri-La and heaven on earth they see every day. Far from being radical or even particularly political, my friends and guides were more concerned about making Kashmir a place perceived to be as safe as it is hospitable.

A year later, it feels odd realizing that my own trip may not have happened at all had I trusted initial media reports of an accidental yet tragic bus explosion. For India, perhaps the lesson is that it must begin defining security separately from safety if it wants to improve either.

If safety is partly a matter of perception, it serves India little perceiving Kashmir as it does through a rear-view mirror. Regional security most certainly remains a valid concern of the Indian government, but if relations between Pakistan and India have warmed — even despite sporadic cross-border incidents over the last several years — so too can India warm to its northernmost state in a way befitting the hospitality of its people.

ABOVE: Kashmiri shepherds, known commonly as Bakarwals, sit atop a hill beneath the glaciated peaks of Sonamarg. Bakarwals are nomads spanning the Pir Panjal range of the Inner Himalayas who still live an ancient lifestyle. Like many tribal groups, they find themselves increasingly marginalized by modern geopolitical realities

LEFT: Trekking through Kashmir, one frequently encounters Bakarwal families and villages. On my trip, their hospitality was unrivaled: they provided food, shelter and warmth during an unexpected cloudburst as we hiked through the Aru Valley near Kalhoi Glacier
“Nowadays, we young people in Taiwan regard the People’s Republic of China as a competitor, an oppressor…”

THAT sentiment comes from Ying, a Taiwanese graduate student in New York who was asked to describe Taiwanese perceptions of the People’s Republic some 20 years after the so-called 1992 Consensus, a meeting after which politicians from both sides of the Taiwan Strait acknowledged there to be only one China.

Ying asserts that most people in Taiwan think being Taiwanese means being a citizen of the Republic of China (ROC), the official name of Taiwan. Yet, at the same time, he says people from Taiwan avoid designating themselves as citizens of the ROC while doing business in mainland China, instead preferring to say they are Taiwanese.

In this way, many Taiwanese people are forced to choose between competing identities: one that is pro-democracy and distinctly Taiwanese, and the other driven by economic realities both on the mainland and at home.

Back in mainland China — the People’s Republic of China (PRC) — people have a different idea about what the terms ‘Taiwan’ and ‘Republic of China’ mean. For most Chinese citizens, Taiwan is a region which has been a part of China for thousands of years. From their perspective, it is the illegitimate Taiwanese government that caused the detachment of Taiwan from China in the 1950s, making the term ‘Republic of China’ a politically volatile misnomer when used on the mainland.

In early 1992, Deng Xiaoping, the head of the second generation of leaders of the PRC, conducted Southern Tour Talks during a visit to Shenzhen that urged the Chinese people to be bolder in carrying out economic reforms. Since then, China has increased the pace of economic development and has become one of the most important emerging markets for international business and investment. This change had important implications for Taiwan and, to many, put its independence and economic development on two separate trajectories.

For Ying, Taiwan’s government agreed to the 1992 Consensus for economic reasons. This accord seemed to be a win-win solution for both Taiwan and the PRC to improve their unstable relationship. Since its implementation, 15 agreements on trade and a variety of other issues have been achieved through six rounds of talks between Taiwan’s Straits Exchange Foundation and the mainland’s Association for Relations Across the Taiwan Straits.

Ying says that he understands why Taiwan’s government made the decision to sign the consensus and that


currently studies at Columbia University’s School of International and Public Affairs. Most of his family members belong to the Democratic Progressive Party in Taiwan. This is the dominant party within the Pan-Green Coalition, an informal political alliance favoring Taiwanese independence over Chinese reunification that has traditionally been associated with a distinct Taiwanese identity and a strong advocacy of human rights.

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he himself supports it. He would add, however, that people from Taiwan are also compromising their identities as Taiwanese nationals by continuing to adhere to the agreement.

While there has been considerable agreement achieved between Taiwanese and Chinese leaders in recent years, the historical narratives of Taiwanese national identities and development continue to diverge.

Yu, a Taiwanese student majoring in diplomacy at the National Chengchi University in Taiwan, holds a different view. She asserts that “by signing the 1992 Consensus, we told the world that we are something different from the [People's Republic of China]. This is important because it helps us use a ‘flexible diplomacy’ strategy to strengthen our identity as an independent state when we are involved in international affairs.”

According to Yu (whose name has also been changed), despite the fact that Taiwan is not universally recognized as a state in the international community, this flexible diplomacy strategy aims to build up Taiwan's relations with the world's major powers.

Although their opinions differ on the 1992 Consensus, Ying and Yu have much in common, and both say they are proud of the extent to which Taiwan enjoys democracy.

“We have the freedom of assembly and association, which is written in the constitution,” Ying explains. “If we are against something, we protest it. But in mainland China, I suppose you cannot do such things.”

While studying at Columbia, Ying says he is getting along well with all of his fellow Chinese students. One day, however, he felt uncomfortable when one of his Chinese friends remarked that Taiwan had already been a part of China for years. His friend then told him that officials in the PRC would do whatever they could to force reunification.

This view is a common one. Every high school student studying in mainland China is taught the story of Zheng Chenggong, a hero who successfully defeated the Dutch colonial government in Taiwan and helped the island reunite with mainland China.

Growing up and studying in Taiwan, Ying was taught a slightly different story: Both Zheng and the Taiwanese fought against the Dutch, but Zheng landed in Taiwan only because of his loyalty to the Ming Empire. After the Ming Empire was overthrown by the Qing Empire, he treated Taiwan as a quasi-military base to fight against the Qing back on the mainland.

“It was not until the Qing Dynasty that Taiwan became a part of China, and that was something that just happened hundreds of years ago,” a relatively short amount of time according to Ying. For him, his friend's statement about the relationship between Taiwan and mainland China is historically inaccurate. While there has been considerable agreement achieved between Taiwanese and Chinese leaders in recent years, the historical narratives of Taiwanese national identities and development continue to diverge.

Many of Ying's friends are now working in mainland China. The PRC “is a big market and my friends can get higher pay working there,” he says. “Nowadays not many Taiwanese talents live in Taiwan. They go to the U.S., Singapore and mainland China.” With skilled people living and working outside of Taiwan, Ying is worried about its future.

Ying regards Taiwan as a country, but he thinks it is wise to leave Taiwan's
relationship with mainland China unchanged and stick to the so-called “three no policies”: no unification, no independence and no use of force. “Taiwan is so small and relies so much on the PRC,” Ying says. “If the central government in mainland China imposed economic sanctions on us, we would die quickly…”

In October, Taiwan’s president, Ma Ying-jeou, made a speech in which he hinted at the possibility of reunification with the PRC by claiming in his 2013 National Day address that cross-Taiwan-Strait relations are not international relations. This irritated Taiwanese youth like Ying and his friends. “If you cannot come up with a better idea for dealing with the relationship between Taiwan and the PRC, the best way is to [keep it] unchanged,” Ying says.

Most Taiwanese people appear to share Ying’s feelings. According to a study conducted by United Daily News in August 2010, 51 percent of Taiwanese want Taiwan’s relationship with mainland China to remain unchanged for the moment, an increase of 19 percentage points from a decade earlier.

This result could be attributed to long-standing ethnic tensions that continue to affect Taiwan’s relations with China. “Ethnic conflict is an important issue that Taiwan needs to deal with,” according to Ying. Taiwan has two predominant ethnic groups: one group is Taiwanese whose families are originally from mainland China and who generally favor reunification; the other group contains people whose families originally resided in Taiwan and who are more likely to join the Pan-Green Coalition that opposes reunification.

Yu adds to Ying’s sentiment, saying “there are so many different voices about [this relationship] in Taiwanese society today. Keeping Taiwan and mainland China’s relationship unchanged seems to be a better idea.”

Taiwan risks compromising human rights and democratic values as it focuses on economic development and builds up business partnerships with mainland China.

According to Yu, while many Taiwanese care about the future of Taiwan and the PRC, others remain apathetic about the two parties’ ties. If asked how best to improve relations, she maintains that a significant number of Taiwanese would probably evade the question, being more concerned with practical domestic problems such as unemployment and modernizing traditional industries.

Ying notes that Taiwanese have been able to more freely express their own opinions in the past; more recently, however, he feels there has been an increase in police monitoring political activities, impacting their ability to protest government policies. He thinks that Taiwan risks compromising human rights and democratic values as it focuses on economic development and builds up business partnerships with mainland China.

“The stock market in Taiwan is not as good as it was in the 1980s,” Ying says with a sigh. “If China keeps increasing its speed of economic development and Taiwan’s economy remains stagnant, unification may take longer, but it is just a matter of time.”

Fort Provintia is a former Dutch outpost symbolizing Taiwan’s colonial history.
THE skyline in Seoul shines beautifully at night, but it is commonly quipped that the lights stay on only because everyone is still working. Most South Koreans work well into the evening and even early morning, a product of both culture and (to them, at least) economic necessity.

This is why, during South Korea’s 2012 presidential primaries, a Democratic Party candidate named Son Hak-kyu adopted a highly unusual campaign slogan: “Life with Evenings.” The slogan may seem unremarkable to many in the West who take it for granted that evenings belong to them and not their employers, but in South Korea, Son’s pledge was about the need to empower workers of all occupations to return home at reasonable hours.

South Korea is home to some of the hardest working people in the world. In 2012, workers there put in an average of 44.6 hours at work each week, the second longest among member states of the Organization for Economic Cooperation and Development (OECD). The same data also showed that despite the long working hours, South Korean workers’ annual income averaged only $35,406 USD, putting the country in the middle tier of OECD member states.

“Life with Evenings” reflects a broader debate in South Korea about the strength of its welfare state, the reach of its economic aspirations and the strains of its tenacious work ethic.

In a country that regards long work hours as among the highest of virtues and the source of its economic prosperity, Son’s agenda seemed revolutionary. Unsurprisingly, the presidential hopeful did not make it past the primary stage, losing to Moon Jae-in, who in turn narrowly lost to Park Geun-hye in the December 2012 election.

Making Rhetoric Reality

Despite his loss, Son’s campaign slogan — the very notion of life with evenings — persists in spirit even if not in practice. It reflects a broader debate in South Korea about the strength of its welfare state, the reach of its economic aspirations and the strains of its tenacious work ethic.

As South Korea matures as a democracy and prospers from economic growth, it should be of no surprise that more South Koreans are becoming sensitive to quality-of-life issues. This is especially the case among middle-class Koreans, many of whom have had direct exposure to Western lifestyles, admiring them for the seemingly higher standard of living yet envying the shorter work week.

Perhaps to many middle-class South Koreans, a life with evenings just means improving life in general. Many can attest to absent fathers who were forced to work around the clock every week and into every weekend. South Korean workers did not even have the luxury of a full two-day weekend (Saturday and Sunday) until 2004.

Among OECD member states, however, South Korea has experienced
is possible to increase output per hour even while reducing overall work hours and that, counterintuitively, reducing overall work hours can actually increase output.

For its part, South Korea's government is formulating policies that can promote the so-called ‘Creative Economy’ so as to reduce its reliance on big conglomerates such as Samsung and Hyundai and to provide incentives for small enterprises to take greater risks and innovate. The country wants to foster the same cultural norms of office flexibility that are seemingly conducive to entrepreneurial endeavors in the West, but it may have a long road ahead.

Changing work culture to allow flexible work schedules and empowering workers to both be good parents and good employees would surely be consistent with South Korea’s goal of achieving a ‘Creative Economy’; To be successful, however, this policy cannot be a mere economic calculation; it must consider the inherent value of work-life balance, and have the flourishing of human beings—rather than economic productivity—as its guiding principle.

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Defining Prosperity

Changing work culture to allow flexible work schedules and empowering workers to both be good parents and good employees would surely be consistent with South Korea’s goal of achieving a ‘Creative Economy’; To be successful, however, this policy cannot be a mere economic calculation; it must consider the inherent value of work-life balance, and have the flourishing of human beings—rather than economic productivity—as its guiding principle. Only then will leisure cease being a privilege and instead become an entitlement, allowing South Korea to prosper as a society and not just as a statistic.

Improving Gender Equality

Reducing work hours has more benefits than providing merely “life with evenings”; it also increases birthrates and improves gender equality. With more women in the workforce and South Korea’s persistently long working hours, women are finding it increasingly difficult to balance work with their domestic responsibilities. Longer work hours therefore reinforce gender inequalities given that women are expected to work the same hours as men yet fulfill their same duties at home.

To help tackle this problem, the government has undertaken several initiatives including the extension of parental leave and provision of a “father’s month” off from work. But for as well-intentioned as these policies may be, they must contend with deep-seeded cultural values — both about gender roles and the necessity of work — in order to be successful.

In addition to the long hours spent at the office, South Korean men are often obliged to attend lengthy dinners and are further encouraged to drink at bars, nightclubs and noraebangs (singing parlors) after work with their male colleagues.

“Work” in this sense extends outside the confines of the office and well into the evening, affecting the amount of time men spend at home and therefore defining separate and unequal gender roles.

The fact that virtually all able-bodied South Korean men have to go through compulsory military service for at least twenty-one months — living together in barracks and having the social hierarchy reproduced in both private and public spheres — may go a long way toward explaining why South Korea lacks consensus on the value of a private sphere defined outside a social, work-related existence.

There are encouraging signs on the horizon, however. Many developed countries, including the United States and those in Western Europe, have seen their work hours become progressively shortened over the last century even as they have seen productivity per hour rise.

South Korea’s productivity is middling at best even if it tops the list in working hours per week. The world’s strongest developed economies have proven it
Policy Memo: North Korea

The Feasibility of R2P in North Korea

By Kathleen Ryou
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THERE are a number of countries where gross human rights violations occur and humanitarian crises endure, but the principle of the responsibility to protect (R2P) is not invoked. One such country is North Korea, officially the Democratic People’s Republic of Korea. This memo will consider the possibility of a humanitarian intervention in North Korea, contemplating why one is necessary but ultimately concluding that it is politically and militarily infeasible using the five criteria of legitimacy recommended by both the International Commission on Intervention and State Sovereignty (ICISS) and former Secretary General Kofi Annan.

Grave Human Rights Violations

The range and severity of human rights violations in North Korea are appalling. The recently established UN panel to investigate human rights violations in North Korea has found evidence of unspeakable atrocities, including forced labor at prison camps, mass starvation, abductions, forced abortions and arbitrary detention.

When North Korean refugees are forcibly repatriated to North Korea, they are sent to political prison camps — the current population of which is about 200,000 — because they are deemed to have committed treason for having defected to another country. Pregnant women are also forced to undergo abortions because of the state’s desire for racial purity.

For those lucky enough not to be imprisoned, they must cope with food shortages and famine. According to the Committee for Human Rights in North Korea, “One-quarter of the North Korean population is chronically malnourished and the average seven-year-old boy in North Korea weighs 20 pounds less and is eight inches shorter than his South Korean counterpart.”

In the 1990s, a massive famine killed at least one million people, and though the North Korean government called it a natural disaster, it was nevertheless negligent and inexcusably slow in securing food supplies for its people. Floods in 2006 rendered 1.5 million people homeless and about 50,000 dead or missing, and the government exacerbated the problem by refusing food aid from the World Food Program.

Meanwhile, the country continued with missile tests, prompting other aid agencies and governments to halt humanitarian aid in protest. Food insecurity has unfortunately continued with yet another famine in 2011, and the South Korean government also halted food aid in retaliation for the attacks on Yeonpyeong Island and the South Korean warship Cheonan.

Five Criteria of Legitimacy

1. The first criterion of legitimacy is seriousness of harm: Does the harm justify the use of military force? Gareth Evans, widely considered the author of R2P, thinks we must ask whether the internal threat involves “genocide, war crimes, ethnic cleansing or crimes against humanity...” In the case of North Korea, it is unequivocally clear that crimes against humanity are ongoing and have been for decades.

Article VII of the Rome Statute defines crimes against humanity as acts committed as part of a widespread or systematic attack against any civilian population, with knowledge of the attack. These acts include, but are not limited to, murder, extermination, torture, imprisonment and enslavement.

It can be easily argued that crimes against humanity have been committed by the North Korean government against different segments of the civilian population, including Christians and political dissidents, all of whom have been targeted and subsequently imprisoned, tortured, starved and worked to death.

2. The second criterion is proper purpose: The primary purpose of the military action must be to halt or avert the threat. Any answer to this would be speculative, but it is at least plausible that the primary purpose for the United States — the probable leader of any military intervention — might be to neutralize the nuclear threat in North Korea or to create a stronger buffer against China.

3. The third criterion is that of last resort: Have nonmilitary options been exhausted? This is also an unequivocal yes. For the past two decades, the UN has tried economic and diplomatic sanctions, has passed Resolutions 1718, 1874 and 2087 and is currently employing its new strategy, the UN panel to investigate human rights violations.

None of these measures have been effective. Further, humanitarian aid — whether rightly or wrongly — has been used as leverage in negotiations with North Korea, but to no avail. Many North Korean defectors state that food
aid hardly ever reaches the intended population, instead being diverted toward the military elite. The North Korean government has effectively capitalized on humanitarian NGOs, which assert that aid must be provided to the starving and malnourished despite knowing that this same aid is being both stolen and politicized.

Given that the international community has tried for two decades to negotiate with the North Korean government, it has become clear that there are reasonable grounds, according to R2P criteria, for believing that less extreme measures than military intervention will not work.

The fourth criterion is proportional means: As Evans asks, “are the scale, duration, and intensity of the proposed military action the minimum necessary to halt or avert the threat?” This, like the second criterion, is speculative and hard to answer given that military action could come in a number of forms, whether air strikes or a ground intervention.

The main difficulty in North Korea is that the military target is unclear. In the context of Libya, air strikes specifically targeted Libyan Army tanks and vehicles; in the context of Kosovo, air strikes targeted Yugoslav air defenses; but in the context of North Korea, the target is unclear because the government does not systematically use the military to abuse its people. Rather, broadly considered, abuse in North Korea may be far more subtle: Individuals are brainwashed into believing that an oppressive social order is normal and necessary.

Political prison camps, the site of many human rights violations, are not feasible targets as thousands of civilians are held there. Nuclear facilities could be targets, but destroying highly volatile nuclear weapons sites could cause more harm than good.

The government itself and military elites could also be targeted, but that could lead to an institutional vacuum with no viable government left to help cope with the aftermath of a possible intervention. Michael Doyle, an international relations scholar at Columbia University, warns that any post-intervention government may not be viewed as legitimate by the people if it relies upon foreign support.

The fifth and last criterion is balance of consequences: What is the military action’s chance of success and will the consequences of action be more positive than the consequences of inaction? Or, put another way, the intervention must “cost fewer lives than they save,” according to Doyle.

This last point makes R2P especially difficult to apply to North Korea. The country has proclaimed in the past that any condemnation of its human rights situation will be interpreted as a “political plot by hostile forces.” An intervention could backfire, triggering the government to engage in an even more deliberate crackdown. Unless there is some safeguard in place to ensure that the regime does not hold its own people hostage, it does not seem wise to launch a military intervention.

Legality versus Legitimacy

No discussion about R2P would be complete without addressing legality in addition to legitimacy. Though some may disagree, it is largely accepted that the legality of a military intervention for humanitarian purposes is conferred by the United Nations Security Council (UNSC). In the case of North Korea, however, China is likely to veto any decision to intervene. Should the international community intervene anyway, then the integrity of the international security system may be brought to question, the same problem that arose when NATO intervened in Kosovo in 1999 without UNSC authorization.

This latter intervention was later deemed illegal but legitimate by the Kosovo Commission: illegal for not having UN authorization but legitimate for stopping the mass killings and atrocities. Should “illegal but legitimate” be repeated for a second time, however, the reputation of the UN and the international community at large may be damaged irreparably.

Conclusion: No Intervention

There are a number of variables that make military intervention in North Korea unlikely or impossible, including: (1) the humanitarian goals being secondary to the United States’ main interest of halting North Korea’s nuclear proliferation; (2) China’s probable veto should an intervention ever be discussed by the UNSC; (3) the damage the international security system would suffer should an intervention take place without UN authorization; (4) the lack of a clear military target; and (5) no clear assurances that the consequences of an intervention will be more positive than not.

Perhaps the timing will become more ripe if the UN panel, at the end of its one-year mandate, declares definitively that crimes against humanity have been perpetrated against North Korea’s civilian population. Though the human rights situation is dire, and though it may be morally necessary to intervene, military action in North Korea — at least for now — is simply infeasible when evaluated against the five criteria of legitimacy needed to invoke the responsibility to protect.
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