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## **South Korea's North Korean Image Problem: Human Rights under the Spotlight**

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### **ABSTRACT**

The 2014 United Nations Commission of Inquiry on Human Rights in North Korea (UN COI) had a decisive impact on South Korea's approach to North Korea's human rights abuses in the several years following its release. This article interprets moves within South Korea to support the UN COI's recommendations as taken in the interests of ontological security, or a stable sense of identity, which has also driven the state's broader initiatives on image management and nation branding. It extends the boundaries of nation-branding research by considering why and how a state may adopt policies that enhance its moral visibility and reputation in world affairs. It considers how a positive reputation is enhanced by demonstrating good international citizenship, promoting the visibility of state identity parameters beyond its culture and core industries. This article interprets the South Korean government's efforts to act on North Korean human rights following the UN COI, as well as the significance of being seen to be doing so at home and abroad as security-giving behaviour asserting its moral authority in relation to North Korea. It explores how a longstanding policy of relative silence on North Korea's human rights record acceded to identity-driven pressures

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arising from the UN COI and influencing South Korea's international image-management strategy between 2014 and 2017.

#### KEYWORDS

South Korea; North Korea; human rights; identity; nation branding; ontological security

#### **South Korea's North Korean Image Problem: Human Rights under the Spotlight**

For the duration of the inter-Korean division, the governments of both North and South Korea have vied to construct themselves as the legitimate governing model for the Peninsula. Following the Korean War (1950–53), South Korea concentrated its energies on lifting itself from the devastation of the conflict and “building” the country up with the help of its principal ally, the United States. It achieved remarkable success in establishing a robust economy between the 1960s and 1980s under an authoritarian system, before transitioning to a democratic government in the late 1980s. In more recent years, the South has consolidated its impressive developmental achievements by employing a “nation-branding” strategy to market itself more widely as a tourist destination, and as a nation of culture, expertise and innovation, in part to distance itself from its troubled neighbour (Schwak, 2016). Concurrently, the government has engaged in wide-ranging public diplomacy efforts and initiated key “symbolic actions” (Anholt, 2013, p. 8), such as hosting the first G20 summit ever held in Asia and agenda-setting in areas such as trade, foreign aid and development, to enhance its reputation as a responsible international actor (Mo, 2016, p. 589). The 2014 United Nations Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (UN COI, North Korea), and subsequent scrutiny in the form of UN resolutions, the imposition of sanctions

linked directly to human rights issues, and comments by UN special rapporteurs critical of both Koreas, exposed the South to new areas of image vulnerability. Namely, international attention on the limits of South Korean democracy and its inadequate response to the human rights situation in the North initiated unprecedented efforts, particularly between 2014 and 2017, to assert more decisively South Korea's position as a responsible middle power, in step with international policy norms regarding human rights, particularly in relation to North Korea.

To interpret these events, this article draws on literature that extends the boundaries of traditional nation-branding research focused on how states market themselves to a foreign audience by applying new readings of constructivist IR theory on ontological security and national self-esteem to state foreign policy. This allows consideration of how and why a state may adopt policies to enhance its reputation in world affairs, while communicating positive values to its citizens. I consider how a positive reputation is enhanced by demonstrating good international citizenship, which in turn promotes the visibility of state identity parameters beyond its culture and core industries. In this context, this article interprets South Korea's post-UN COI efforts to act on North Korean human rights, as well as the significance of being seen to be doing so in the eyes of the international community, as a security-giving behaviour that asserted its moral authority in relation to North Korea. The article explores how a longstanding policy of remaining relatively silent on North Korea's human rights record was superseded by a need to respond to stronger, identity-driven pressures arising from the UN COI, at a time when inter-Korean relations were also particularly poor, which exerted influence on South Korea's mission to present itself as the superior actor in the international gaze.

A key aspect of South Korea's new-found attention to the human rights situation in North Korea after the UN COI was the sudden passing in March 2016 of its own North Korea Human Rights Act (NKHR Act) after eleven years of deadlock. The Act was first initiated by then-

Representative Kim Moon-Soo of the Grand National Party during the 17<sup>th</sup> National Assembly in 2005, and was presented in the form of three more failed Bills during the 18<sup>th</sup> National Assembly, and eleven more at the 19<sup>th</sup>. Each time a new version of the Bill was presented, it was “automatically abandoned by the members’ failure to agree before the end of the National Assembly’s terms” (KINU, 2016, p. 2). The primary obstacle to the Act’s passing was that it was brought during a period of progressive government, led by Nobel Peace Prize-winning President Kim Dae Jung. The government at this time was pursuing the Sunshine Policy of engagement and cooperation with North Korea (1998–2007), making any such act an incompatible policy consideration. Yet even with the return to conservative government in 2008 and the marked deterioration in inter-Korean relations from 2010 onwards, North Korean human rights remained a sensitive topic and a point of contention in the persistent divide between the left and right in South Korean politics. It was notable, then, that such longstanding obstacles were suddenly able to be overcome in the 2016 passing of the Act.

This article explores several key factors that contribute to understanding why the South Korean government took the abrupt and decisive step to push the Act forward, as well as the normative transition it represented on North Korean human rights more broadly. This is achieved by considering how a sense of security gained from the pursuit of human rights norms came to take precedence over longstanding reservations about criticising North Korea’s human rights record in favour of engagement. The article also looks at some of the continuing obstacles to achieving a consistent commitment to North Korean human rights in the South, particularly since the return to a progressive, engagement-oriented government in mid-2017. I draw on a close reading of the discourses on human rights in South Korea over the past two decades, including publications of the South Korean Ministry of Unification, the Korea Institute for National Unification (KINU), local North Korean human rights NGOs and the media, across the political spectrum. This is combined with observations made while working in the North

Korean human rights field in South Korea since 2014, engaging directly with key stakeholders including the United Nations, leading NGOs and government officials.

I begin by outlining the relevance of theory on ontological security and state identity construction and the links between the two, as manifest in the policy moves of the state. I argue that increasingly in world affairs, the stability of a state's reputation in the eyes of other states is a salient security concern that a state will defend through its domestic and foreign policy programs. The article then traces the emergence of human rights as a feature of South Korea's North Korea policy, before discussing the UN COI and its initial impact in terms of South Korea's considerations about its international image. The final section presents three sets of factors that I argue were influential in state identity terms in setting the domestic conditions for a greater commitment to North Korean human rights after the UN COI report, before looking briefly at how the recent change to a progressive government has altered the South's strategy on North Korean human rights, while it nevertheless continues to pursue positive state image-making by other means. The perspective offered here holds significance in helping understand South Korea's turn towards making policy with the clear aim of enhancing its moral identity, which in turn boosts its ontological security. It also sheds light on the social impact of engagement with international organisations and other states on South Korean policy behaviour regarding the North, which has challenged the long-established norm of the South treating the North as largely a "private" or "domestic" matter, and the subject of "exceptional" policy.

### **Ontological Security, Human Rights Norms and "Doing Good"**

Advances in constructivist literature that support inquiry into the image and identity management activities of states challenge the Hobbesian realist paradigm of international relations, which argues that "survival is a prerequisite to achieving any goals that states may

have” (Waltz, 1979, p. 129), and that physical security is paramount. The alternative perspective taken here explores a more versatile conceptualisation of security that moves beyond understanding international relations in terms of either power or peace alone as motives for state behaviour (Buzan, 1983, p. 26). Drawing on Giddens’ structuration theory, Mitzen and others argue that “physical security is not the only kind of security that states seek”, and “that states also engage in ontological security-seeking” (Mitzen, 2006, p. 342; Giddens, 1984). Originating in social psychology, ontological security is defined as a “stable sense of self”, or “the need to experience oneself as a whole, continuous person in time, in order to realise a sense of agency” (Giddens, 1991, quoted in Mitzen, 2006, p. 342). Applied to international relations, it is argued that, like individuals, states have a need to feel secure in who they are as identities or selves (Mitzen, 2006, p. 342). Further, the establishment and maintenance of a secure identity is seen by constructivists as occurring in relation to significant “Others”. This is because, like individuals, states have both physical and social drives, and will pursue policy that reflects their identities (Steele, 2005, pp. 524–525; Wendt, 1999). Moreover, any uncertainty about the security of a state’s perceived image causes anxiety and can limit agency, prompting the state to take action to re-secure its identity in the eyes of those Others that matter (Steele, 2005, p. 525).

Central to the interplay of identity, anxiety and security are narratives: overcoming anxiety about state identity depends on the maintenance of a coherent state narrative that defines the parameters of that identity, and which is both accepted by the national population, and seen positively by significant international Others (Browning, 2015). Alongside its history, culture and geography, a state’s identity narrative is shaped by international norms of behaviour deemed appropriate to securing a desirable international image. Incorporating these ideas into specific research on nation branding and state image management, Browning describes the political significance of nation branding and public diplomacy as increasingly popular tools to

secure state identity, particularly as globalisation advances. He points to the way perceptions of the international order are changing in an era characterised by different ways of relating identity to Otherness that depart from the traditional emphasis on enmity and geopolitical/territorial ordering evident in much of the existing IR literature (Browning, 2015, p. 196). In this environment, processes that afford a sense of ontological security have become a “necessary ritual” and a “key rhetoric” of modern governmentality (Marlow, 2002, p. 241). The result is that for states today, upholding a sense of self-esteem and national dignity is a concern as important as preserving their territorial sovereignty from physical threats of violence (Browning, 2015, p. 196).

While the focus of this article is not on South Korea’s certainly determined efforts at nation branding in the business and marketing sense (R. Kim, 2015), it nevertheless draws inspiration from branding as a particular type of state-image making, which occurs alongside other acts of statecraft that support the same broad goal of ensuring that the state maintains positive recognition. As mentioned above, a key method for shaping a secure, positively-viewed state identity is through adherence to norms of behaviour that meet the approval of other states. Norm adoption occurs via a process of “socialisation”, through which preferred behaviours are learned (Risse & Sikkink, 1999, p. 11). This socialisation “produces a political self”, and “moulds and shapes the citizen’s relation to the international community” (Risse & Sikkink, 1999, p. 11). However, Risse and Sikkink note that socialisation processes differ widely, and the decision to enshrine certain international norms in domestic policy results from the confluence of a range of factors unique to each state, with norms affecting domestic institutional change in different ways (Risse & Sikkink, 1999, p. 4). Moreover, although certain external and internal pressures can facilitate norm adoption, Wendt notes that adoption does not always occur because states think the norms are necessarily legitimate, but rather because it is in their self-interest to do so (Wendt, 1999, p. 271). In other words, actors may “try on”



identity norms that conform to certain expectations. Yet in doing so, it may be that over time obedience to a particular norm transfers to a deeper degree of internalisation as the state gets “used” to that behaviour and instead begins to see certain norms as legitimate and actually *wants* to follow them: “Because it is constitutive of their identity ... actors now have a stake in the norm that they did not before,” (Wendt, 1999, pp. 272–273).

This discussion on norm adoption and identity in the literature tallies with other work on what has been termed “internationalist” foreign policy, which looks at the ways in which internationalism can fulfil different purposes for states (Lawler, 2005). Drawing on the work of Lawler, Browning argues that the moral imperatives of behaviour that would seem to emanate from a deep regard for the Other, may also have a strong connection with the desire for ontological security. This is because engaging in such politics also serves to satisfy the self-identity needs of states, as will be argued has been the case regarding South Korea’s concern with human rights (Browning, 2011, p. 11). Although expressed in different terms from the practice of “trying on” identity norms described above, internationalist policies are similarly seen as providing a “‘performative platform’ through which states may exhibit a particular national project and set of values while simultaneously seeking recognition from the international community” (Browning, 2011, p. 11; see also Steele, 2005, p. 146; Anholt, 2013).

The “Korea discount”<sup>1</sup> felt both in business and diplomacy, and derived from the constant presence of its difficult northern neighbour, has been a key driver of South Korea’s decades-long effort to demonstrate to the world that it is distinct from, and morally superior to, the North. The South has sought to do this by exhibiting the will and capacity to produce high-quality, competitive products and services, and to engage in international business, foreign affairs and international security matters with credibility and shared vision. South Korea has undoubtedly been subject to unwanted association with North Korea as a result of a negative

image-making process imposed from the outside (Anholt, 2011, p. 294), via both the North's behaviour and the response of the international community, such as President George W. Bush's much-quoted positioning of the North as a "rogue state" within the "axis of evil" (Van Ham, 2001, p. 130). Rising with remarkable speed from the rubble of the Korean War, the South has had to develop the willingness and ability to adapt and incorporate standards and norms to consolidate its place as a leading developed state. In the process, it has shown "unequivocal success in borrowing, catching up and contributing to the global order" (Rozman, 2009, p. 70). Yet this work remains incomplete: increasingly the South Korean government has recognised that economic development is only part of a larger set of criteria dictating a state's international standing, as the attention to human rights has shown, and it is now having to adjust its policy agenda and its own identity narrative accordingly to mitigate potential threat to the image it seeks to project.

As discussed in Schwak (2018), confusion persists over the terms applied to what is, in essence, the practice of managing the reputation of a nation-state. While public diplomacy is undertaken by foreign ministries and is aimed only at foreign audiences, nation branding includes the efforts of the public and private sectors, and is also directed at the home audience (Browning, 2015, p. 202). South Korea's unification policy framework, wherein the question of North Korean human rights is most often dealt with, encompasses policy and discourse aimed at both international and domestic audiences, and cuts across both private and public sector activity, with varying degrees of cohesion. This reality necessitates a broad understanding of state image management that resists the strict categories of nation branding or public diplomacy, and which reflects a strategy enacted via a range of settings and channels. To begin to understand how South Korea's strategy on North Korean human rights has evolved, I now trace the emergence of human rights discourse in South Korea in response to increasing international attention to the problem, before turning to the post-UN COI period.

### **The Rise of Human Rights Discourse in South Korea's North Korea Policy**

The human rights abuses occurring in North Korea remained obscured from public knowledge in South Korea for decades, only becoming a matter of significant public interest in the early years of President Kim Dae Jung's Sunshine Policy (1998–2007), which continued under his successor, Roh Moo Hyun (Chubb, 2013). This policy of engagement with North Korea marked a step away from decades of policy focused on unification of the North by absorption, turning instead to dialogue and engagement with a significant humanitarian component, focused on the provision of aid, economic cooperation and development projects. Although acknowledgment was made quietly of the importance of defending human rights in North Korea, this was done with caution, stressing the need to uphold principles of human rights only to the extent that it did not impede "realistic inter-Korean relations" (*White Paper on Korean Unification*, 2005, p. 112). The preferred government stance during this period was to view human rights as a by-product of economic development and improvement in the general standard of living within North Korea, and so to improve human rights, the government set out to "provide humanitarian assistance within reasonable boundaries" (*White Paper on Korean Unification*, 2005, p. 111). This approach was very much in line with the liberal stance of the government of the day, and reflected the desire to avoid a significant focus on human rights and, by implication, regime change, which would have undermined the Sunshine Policy entirely. In 2003 President Roh's government abstained from a vote on a resolution adopted by the United Nations Commission on Human Rights that condemned North Korea for "widespread and grave" abuses of human rights, with a senior South Korean official stating that it was not the time to "humiliate North Korea on their human rights record" (Kirk, 2003).

South Korean civil society groups focused on North Korean human rights had begun to emerge

in the mid- to late 1990s, at the same time as North Korean defector numbers in the South experienced a marked increase. It was then that the famine, or Arduous March, resulting from the breakdown of the North's public distribution system, exacerbated by bad weather and poor crop conditions, began to bite in earnest. The dire food shortages prompted thousands to flee across the border with China, with some seeking refuge in South Korea. Defector testimonies of life in the North and the extent of human rights abuses continuing there provided valuable data for the human rights documentation efforts and advocacy campaigns that were gaining momentum at the time. During the Sunshine Policy era, however, the South Korean government was cautious in its support for and promotion of such work. Indeed, the founder of one of the South's first North Korean human rights NGOs, Benjamin Yoon, likened the task of raising awareness of the cause to an "echoless cry into the horizon" (Chubb, 2014, p. 176).

Following the return to conservative government in 2008, human rights discourse became more frequent, particularly in unification policy rhetoric (Son, 2015). The shift from "quiet diplomacy" to "active diplomacy" on North Korean human rights was linked by the Lee Myung Bak government to the "universal value" of human rights, while it stressed the need to disconnect the issue from the changeable status of North-South relations (M. C. Lee, n.d.). A key sign of this policy change was the South Korean decision in 2008 to co-sponsor for the first time a UN resolution on North Korean human rights presented at the UN General Assembly and the UN Human Rights Council ("NK Rejects UN Rights Resolution", 2008). These ideas found relatively fertile soil in a political and social landscape of worsening inter-Korean relations, especially after the 2010 sinking of a South Korean warship, allegedly by a North Korean torpedo, and the shelling of South Korean territory on Yeongpyeong Island by the North. During this time – arguably the worst period for inter-Korean relations in more than a decade – there was a marked change in the discourses, with the Unification White Paper of that year stating,

The international community and human rights organisations have expressed deep concerns over the situation and consistently have urged the North to improve human rights. Recognising the seriousness of the problem, the ROK government has strengthened its cooperation with the international community and NGOs to improve the understanding of the conditions in the North and to improve them in a practical way (*White Paper on Korean Unification*, 2011, p. 134).

Also during this time, South Korean civil society groups working on North Korean human rights found greater favour with the government, and experienced some success in raising awareness of the scale of the issue.

Moreover, during the latter half of the 2000s, and with the Sunshine Policy all but ended, North Korean defectors became a greater topic of conversation in unification discourses and more widely, and here also human rights became a more prominent feature. South Korea's unconditional acceptance of North Korean defectors as citizens was described as coming from a "humanitarian and human rights perspective", and was positioned as an "issue important for the advancement of our society, our national welfare and the future of the unified Korea" (*White Paper on Korean Unification*, 2011, p. 44). In 2012, then President Lee took the unprecedented step of taking the issue of defectors detained, repatriated or hiding in China to the UN Human Rights Council, framing their care in terms of "international norms" of behaviour regarding human rights (Bak, 2012). Both the acceptance of North Korean defectors and the framing of this practice in terms of human rights, rather than just filial responsibility for "co-ethnics" as had been the case in the past, held significance in South Korea distinguishing itself from the North as a separate, more responsible actor (Son, 2016). The identity of an "imagined", "pan-Korean" nation, grounded in entrenched ethno-historical narratives of Korean unity, has long been at the core of both unification policy and South Korea's claim to be the legitimate government of the entire peninsula. Yet this narrative has made criticism of a large part of this

pan-Korean national “Self” in terms of human rights abuses a source of discomfort, and a threat to inter-Korean engagement (Son, 2015). However, growing international awareness of the scale of North Korean human rights abuses, and the success of the international campaign to lobby the UN to establish a Commission of Inquiry dedicated to North Korean human rights, were to take the discussion to a new level.

### **North Korean Human Rights in the International Spotlight**

The UN COI found that Crimes Against Humanity, including extermination, murder, enslavement, torture, imprisonment, rape, forced abortions, persecution, deliberate starvation and enforced disappearances, have been committed, “pursuant to policies at the highest level of the state” (“Report of the UN COI in the DPRK”, 2014). In his statement to the UN Human Rights Council, COI Chairman, Michael Kirby, stated that the gravity, scale and nature of these violations, perpetrated over decades, “reveal a state that does not have a parallel in the contemporary world” (Kirby, 2014). The COI urged the UN Security Council (UNSC) for the first time to refer the situation in North Korea to the International Criminal Court (ICC). As a result, in December 2014 the UN General Assembly passed Resolution 69/188 to push the UNSC towards ICC referral (“GA Resolution 69/188”, 2014). In light of the harsh condemnation of the North’s treatment of its citizens, the countries that voted for the COI report’s recommendations included 12 African and Asian states, as well as six Latin American states, including former “friends” of North Korea – not only the supposedly ‘hostile’ states of the West (Cohen, 2014).

Armed with such vehement criticism of the North and its actions, South Korean civic groups were the first to seize the opportunity to fundraise and increase the scope and legitimacy of their North Korean human rights work. The result was greater exposure in public settings for

local human rights experts and activists, coming together with foreign diplomats, South Korean government officials and representatives from various high-profile settings seen as important examples for the Koreans. These gatherings saw an unabashed challenge levelled at South Korea for a range of perceived weaknesses in its approach to North Korean human rights. Criticism included “puzzling silence” over North Korean human rights in South Korea, worrying media disinterest, a focus on counter-propaganda rather than basic education on human rights aimed at the North Korean people, and politicisation of the issue at the expense of the best interests of the entire Korean nation (Kirby, 2015; Darusman, 2015). South Korean representatives from local private and government think tanks attempted to explain South Korea’s lack of public concern over North Korean human rights by pointing to the problem of what they called “North Korea fatigue”, as well as general taboos associated with talking about North Korea publicly (Choi, 2015). It soon became apparent that such explanations were deemed insufficient in the eyes of foreign observers, indicating that South Korea could no longer continue along the trajectory of perceived inaction and public apathy concerning the basic rights of its Northern brethren (Kirby, 2015; Darusman, 2015).

Further sources of pressure both at home and abroad included the presence of the newly established UN Human Rights Office in Seoul, to gather evidence and information about ongoing abuses and crimes against humanity in North Korea. A shift in the US approach to North Korean human rights post-COI, despite having had its own North Korea Human Rights Act since 2004, can also not have been lost on the South Korean government. A rising awareness that the overwhelming focus on the nuclear issue had failed to achieve any meaningful breakthrough in almost two decades saw voices within the US increase pressure for interpreting human rights through a security lens and as an issue significant to regional peace and security. At an early 2016 conference on North Korean human rights and security, Chairman and CEO of the Asia Group (USA), Kurt Campbell, drew attention to the February

2016 decision by the US Congress to impose new sanctions on North Korea by stating, “I know of no other issue in Asia that went from being a peripheral issue ... on the side-lines, one thought of as not being very important, or a sideshow, to a central feature of the debate (on North Korea)” (Campbell, 2016). Tighter US sanctions against North Korea included specific authority to target entities engaged in or assisting North Korean violations of human rights, and although the US sanctions regime has faced criticism for failing to be implemented to its fullest extent, reference to human rights violations is nonetheless significant. It is not difficult to see, then, that the continued failure of South Korea to pass its NKHR Act could have swiftly begun to raise eyebrows within the international community if the situation remained unchanged, with potentially damaging consequences for its reputation in the eyes of its friends and closest allies.

### **The NKHR Act and Changing Domestic Conditions**

Just days after the passing of the NKHR Act, KINU released a response breaking down the implications of the Act and its relevance for the future. The article pointed to the debate on the Act in South Korea being “in line with the international community’s publicising of the North Korean human rights issue” (KINU, 2016, p. 1). It is no coincidence that the introduction of the first incarnation of the NKHR Act was proposed just a year after the US Congress passed its own Act in October 2004. Indeed, it cannot have seemed right that neighbouring Japan had also had its own North Korea Human Rights Act since 2006. The South Korean government acknowledged after the Bill’s passing that it appeared “belated” for South Korea, as “the stakeholder in the inter-Korean issue” to be so tardy in formulating its own version (KINU, 2016, p. 5).<sup>2</sup>

The NKHR Act itself offers several clues to some of the specific factors that contributed to its passing in the post-UN COI period as part of South Korea’s stronger commitment to human



rights. First, reference is made to the need to secure peace on the Korean Peninsula, with the default route to that destination being unification. South Korean commitment to North Korean human rights is positioned as a means to achieve peace, while unification is situated as the leading path to ensuring that the human rights of the North Korean people are protected in the future: “improving human rights conditions in North Korea contributes not only to social integration after unification, but also laying of a foundation for unification [sic]” (KINU, 2016, p. 6). In other words, South Korea’s continued commitment to unification as a national ideal provided a favourable atmosphere for attention to North Korea’s human rights problem in law.

Second, it is noted in the Act that South Korea has a duty to uphold human rights as a set of universal norms, and that this should apply to North Korea policy. Part of the rationale for the need for the Act has been the argument that providing a remit for certain activities within the Act will insulate these activities from South Korea’s mainstream North Korea policy and the shifts it experiences (KINU, 2016, p. 4). Third, unsurprising reference is made to the need to work in cooperation with the international community, recognising the increase in attention to the issue among South Korea’s allies. Perhaps with the exception of the intensification of this third source of pressure, there is nothing particularly new about any of these explanations justifying the policy. Therefore, I wish to dig a little deeper and look at the above explanations in more detail, as well as considering local conditions and circumstances which provide further insight.

To do this, I propose three additional, yet intertwined, sets of factors that I argue have worked in complementary ways to bring about a change in South Korea’s approach to North Korean human rights during this period, all of which are also linked to South Korea’s ontological security: 1. the perceived need to respond to international pressure to secure South Korea’s reputation as a developed, mature and responsible member of the international community,

countering the negative association with the North by projecting the right “values” in a new security environment; 2. in this context, the continued promotion of unification of the two Koreas both as a legitimising act for South Korea, and as symbolic of South Korea’s moral superiority during a period when inter-Korean relations were at their lowest point in many years; 3. the need to distract attention from, or to compensate for, unwanted attention to South Korea’s own human rights issues which, although far removed from the severity of the situation in the North, nonetheless served as a source of embarrassment. The section that follows explores these local conditions in turn and evaluates the effectiveness of South Korea’s endeavours to respond to both externally imposed pressure and internal conditions by demonstrating a strong commitment to human rights. It also highlights some of the structural, social and political challenges that continue to frustrate concrete steps to support North Korean human rights-oriented initiatives, and which have intensified since the election of progressive President Moon Jae In in early 2017.

### ***Countering the “Korea discount”: South Korea in the world***

The continuing need to counter South Korea’s negative association with the North was summed up in a 2008 *Korea Times* article, which stated, “So long as the regime in Pyongyang pursues nuclear weapons, supplies unsavoury regimes elsewhere with weapons, starves, imprisons and otherwise abuses its own citizens, and generally conducts itself irresponsibly, Korea as a whole will have a unique challenge in shaping a lasting positive image” (Cromwell, 2008). Observers have noted that at the root of South Korea’s image problem is the fact that, for the past 50 years, “South Korea has been focused on building the country, not marketing it” (Williamson, 2012), which has meant that for a great many outsiders, the most famous “Korean” is Kim Jong Il or Kim Jong Un. Yet with democratisation came a need for Korea to make itself “global” in an

era where state reputation is being redefined increasingly in terms of new values of moral authority. This shift has given South Korea a crucial opportunity to transform its image from that of a follower, to a leading “middle power”, distinguishing itself as the more virtuous Korea in the process (Oliver, 2013). In this context, values such as the universality of human rights, and the need to base foreign policy on such values, have become increasingly important to South Korea’s policy calculations.

In the face of a negative image such as that which South Korea suffers on account of North Korea, leaders are tasked with overcoming the negative by ignoring it, reversing it into positive territory, or overwhelming the negative with other positives (Gertner & Kotler, 2004, p. 50). Due to the intractability of the Korean conflict, the South Korean strategy has long tended to be the last of the three. As Schwak (2016, p. 434) describes, under the developmental dictatorship of Park Chung Hee (1961–79), South Korea sought to celebrate GNP growth and promote the “modernisation of the fatherland” in recognition of the need to develop a competitive presence internationally. These ambitions continued after democratisation, with successive democratic presidents striving to position South Korea as “the centre of North East Asia”, as part of a *seggyewha*, or “globalisation” policy aimed at building what former President Kim Young Sam described as “a first class country in the 21<sup>st</sup> century” (quoted in Schwak, 2016, p. 435). In 2009, then President Lee established a Presidential Committee for Nation Branding (PCNB), which was positioned as the final stage of the development project launched by Park Chung Hee decades before, taking Korea “to the world” (Schwak, 2016, p. 434). The PCNB’s stated objectives were “to increase Korea’s commitment and contribution to the international community; to help Koreans become responsible, respectful global citizens; and to promote Korean products and services”, including taekwondo, “state-of-the-art” technology and Korean pop culture or *hallyu* (PCNB, quoted in Schwak, 2016, p. 437). The effort to counter existing negative images of the country yielded mixed results, with observers citing

confusion over “inconsistent messages” and “meaningless slogans” (Hartvig, 2009). Despite questions over its success, lessons were learned from the PCNB experience. One pertinent realisation was that “reputation is something you earn, not something you construct” (Williamson, 2012).

Allowing those engaging with South Korea – whether that be via tourism, diplomacy or international business – to develop an image based on received experience rather than rhetoric thus began to be understood as a more effective approach. As a result of Korea’s experience of developing a branding strategy for the cultivation and projection of a desirable international image, coupled with shifts in the international system towards new parameters of what it means to be a civilised state, a large part of Korea’s internationalism has thus become an effort to “socialise” internationally, by sharing know-how and providing consulting for developing countries with economies much like Korea’s was in the not so distant past. This has included appropriate middle power manoeuvring, which Evans defines as “acting cooperatively with others in solving international problems which ... cannot be solved by any country acting alone” (Evans, 2011). Initiatives have included joining the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD), and extending the scope of UN peacekeeping mission involvement. These moves have been coupled with “global diplomacy”, including hosting the 2010 G20 Summit (the first ever held in Asia), while during their respective presidencies, Lee Myung Bak (2008–13) and Park Geun Hye (2012–17) sought to strengthen relations with China, Russia and members of ASEAN, and made state visits to Africa and throughout Europe (Hwang, 2015). Evans states that good international citizenship fostered through such actions “is not separate and distinct from the pursuit of national interests. On the contrary, being, and being seen to be, a good international citizen should itself be seen as a third category of national interest, right up there alongside the traditional duo of security and economic interests” (Evans, 2011). With the middle power role

has come a heightened need to demonstrate a credible commitment to the right “values” both at home and abroad. In this way, South Korea’s ontological security priorities experienced a shift: where North Korean human rights were previously treated as a “private problem” of little significance to the identity it sought to project to the world, meeting international expectations of a more overt commitment to “universal values” became a security-giving behaviour and thus a higher priority. Along with these changes also came greater international exposure of South Korea’s plans for the unification of the Korean peninsula, which came under increasing strain as inter-Korean relations continued to deteriorate throughout Park’s presidency. To keep unification policy alive at a time when most of its practical aspects were suspended, the South Korean government sought to increase the focus on human rights here also.

#### *Unification policy for North Korean human rights*

By international standards, the South has been remarkably restrained in the face of North Korean provocation over the decades, returning to the negotiation table repeatedly following periods of threat and tension. As the UN COI called into question the South’s continued posture of relative inaction over North Korea’s human rights, unification policy came under scrutiny in terms of its ongoing relevance and purpose. Perhaps conveniently in this regard, North Korea’s decision to continue testing its nuclear technology and conduct missile tests coincided with the post-COI atmosphere in a way that created more space for South Korean domestic activity on human rights. In early 2016, South Korea pulled out of the last remaining vestige of the Sunshine Policy, the Kaesong Industrial Complex (KIC), reportedly as punishment for the continued nuclear tests and rocket launches. Some argued that the closure, which came after a previous extended suspension of KIC operations in early 2014, would end up hurting South Korean small- and medium-sized companies just as much as the North Koreans working there

(J. Lee, 2016). Not long afterwards, the South Korean government announced unilateral sanctions against North Korea, including a ban on the entry of ships from third party countries to South Korea via the North, and a prohibition on dealings with individuals and entities related to North Korea's weapons development program (J. Lee, 2016).

The practical outcome of the closure of the KIC, which was administered by the Ministry of Unification (MOU), was the sudden redundancy of a large part of the MOU's remit, as well as the unemployment of many of the government-sponsored middle managers in charge of the KIC's functioning. It was perhaps somewhat convenient, then, that the NKHR Act authorised a raft of new activities that have provided a useful channel for the MOU to realign its priorities. Just months beforehand, government representatives told a conference in Seoul of the equal value of both inter-Korean unification and human rights, citing the need to hold human rights as a variable independent of unification and imperative to all inter-Korean engagement (Choi, 2015). Speaking to assembled representatives from the UN COI and elsewhere, KINU President, Jin Wook Choi, explained that unification discourses have evolved from the pre-Cold War era of country-to-country unification, through the Cold War period of unification under one country's system, to unification based on "functional" principles (largely focused on mutual economic gain and prosperity). He noted that with the UN COI had come a new focus on the quality of individual life, heralding human rights as the "mainstream value of unification among the Korean people" (Choi, 2015). Despite such pronouncements, it must be noted that a mismatch of good intention and viable policy was evident in this area.

The South Korean government has a history of territoriality and inefficiency in certain areas of policy, particularly related to North Korea. The tendency to create and then disband committees with alarming regularity points to sensitivity to a need to be seen to be "doing something" about policy problems as they arise, but sometimes without requisite consultation and due

consideration, while at other times initiatives and accomplishments are shelved abruptly with a change of overseeing authority. The NKHR Act demanded significant organisational restructuring, budget allocation and cooperation between Ministries who have at times had contentious relationships. The provisions of the Act also threatened to duplicate work that local NGOs have been diligently undertaking for more than a decade, particularly in the area of human rights documentation (Y. S. Yoon, 2011). Although the Act promised to “formulate systematic policy to enhance the capabilities of these NGOs” (KINU, 2016, p. 6), it was thought that greater government oversight could present problems for civil society, should their aims and methods not meet the approval of the relevant authorities. With the UN Office for Human Rights in Seoul advancing recommendations to the South Korean government as part of investigation on the ground, the government began to face greater scrutiny over its unification policy program, particularly its promises to bring human rights to the forefront. The NKHR Act’s passing certainly came at a convenient juncture to ameliorate such concerns, and can be interpreted in this context as part of an attempt to “re-brand” unification policy to be more in line with international expectations over how the South should be approaching the North.

### ***Domestic unrest and the ideological divide***

In addition to the changes taking place within the MOU and unification policy during President Park’s government, other events domestically stoked the impetus for South Korean policymakers to pass the NKHR Act into law, as part of a wider initiative to shore up the country’s international standing on human rights. In particular, between early 2014 and mid-2017, there emerged a need to compensate for embarrassing attention being given to South Korea’s own human rights situation. This occurred in conjunction with the uncomfortable struggle South Korea had had in reaching political consensus on anything to do with North

Korean human rights over the years, due to the pervasive ideological divide in domestic politics, as well as general apathy and ignorance about conditions in the North and the need for a human rights act among the South Korean general public.

Although the most severe birthing pains of South Korean democracy lie well in the past, Seoul's government district continues to host protests of varying size almost daily. Some of the largest protests in recent years occurred over the tragic sinking of the Sewol Ferry (2014) and the perceived failure of the South Korean government to recognise the needs of the victims' families, while more recent mass protests in 2016 called for the impeachment of then President Park Geun Hye over a corruption scandal. In late 2015, the military police came under fire for using disproportionate force against protesters over President Park's labour and education reforms, which resulted in the death of a protestor by water cannon, hundreds of injuries and dozens of arrests, and the government's heavy-handed approach did not go unnoticed outside Korea.

Upon the conclusion of his first official mission to South Korea in early 2016, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association, Maina Kiai, issued a critical statement on the status of this area of rights in the South (Kiai, 2016). He cited the refusal of all political leaders of government to meet during his nine-day visit, despite achieving wide consultation with various activists, as well as with members of the executive, legislative and judicial branches of government. Although Kiai acknowledged the "impressive achievements" of the transition from authoritarian to democratic rule, and South Korea's "leading role in the promotion and protection of human rights at the international level", he described Korea's democratisation process as not yet over, citing evidence of a "gradual regression on the rights to freedom of peaceful assembly and association" (Kiai, 2016). Evidence that Kiai's criticism was heard by the government was seen in the most recent protests in late 2016 – the largest in



Korean history – which remained peaceful without any clashes with authorities.

This direct public airing of South Korea’s “dirty laundry”, especially in an age where smart phone recordings of protest activity are ubiquitous and where netizens are free to rage publicly about political scandals, placed immense pressure on the government from above and below to break with past practices that brought shame upon the leadership and thereby the nation-state as a whole. Whereas, in the past, mass protests may have been seen as a source of weakness and insecurity by the state, the 2016 protests resulting in the impeachment of President Park were largely portrayed as a sign of national strength, and of robust democracy at work.

However, the question of “national consensus” over North Korean human rights is a significant domestic problem that has yet to be overcome, as has become evident in the apparent reversal of progress on addressing rights issues since President Moon Jae In was elected in 2017. KINU claimed after the passing of the NKHR Act that “with the international community piling up pressure against North Korea for its human rights record – such as the publication of the UN COI report ... and the UN General Assembly resolutions condemning the violations of human rights in North Korea in both 2014 and 2015 – a national consensus has been established” (KINU, 2016, p. 2). It claimed further that the 11 years of “in-depth consideration enabled the South Korean public to reach a unified stance and agreement on the abysmal human rights conditions in the North and South Korea’s responsibility for this beyond the political spectrum” (KINU, 2016, p. 4). Concurrently, however, there was significant evidence to suggest that even at that time, genuine consensus on the issue had not been achieved in practice.

A public opinion poll of 600 people undertaken by Korea Research in 2016 found that while 86.3 per cent of the public stated that they had an interest in North Korean human rights issues, only 56.3 per cent saw the need for the Act and 51.5 per cent were not even aware that the Act was under consideration in the National Assembly (H. M. Yoon, 2014). At the representative

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level, a *dongA.com* report in 2015 stated that when a consortium of more than 60 NGOs working on North Korean human rights had sent a survey to 293 National Assembly members asking for opinions on the Act, only 42 members (14 per cent) had responded, while 78 had expressly refused to take part on account of internal party pressure (J. A. Kim, 2015). That the Act was passed according to genuine cross-party consensus only a year later is difficult to believe, and indeed Michael Kirby, the former Chair of the UN COI, dedicated a poignant message to the South Korean (ROK) government in his remarks at a conference in London on North Korean human rights just prior to the passing of the NKHR Act, saying,

Human rights conferences held in the ROK should no longer occur in the virtually total absence of Opposition parliamentarians ... all democratic elements in the ROK should actively engage in the issues raised by the report of the COI (Kirby, 2016).

Moreover, over two years after its passage, only one of the three primary actions mandated by the Act – a human rights investigation and documentation centre – has been implemented, while the North Korea human rights foundation and an ambassador for human rights have yet to be put in place. Since Moon's election, the documentation centre has failed to produce an annual report and one key arm of its operations been scaled down and relocated outside Seoul (Park, 2018).

Highlighting these public criticisms, as well as the other institutional, political and social challenges South Korea faces in implementing a stronger commitment to human rights, is not intended to detract from the fact that the NKHR Act and South Korea's efforts on North Korean human rights generally represented a major step forward in its efforts to acknowledge and address the suffering of North Koreans in the post-COI period. It is nevertheless important to demonstrate that the integration and internalisation of new norms into state policy is a multi-faceted process that does not occur overnight, and that much can be undone with a change of

government, as we have seen since mid-2017.

After weeks of impeachment protests leading to her removal from office, Park Geun Hye was replaced in May 2017 by the newly-elected President, Moon Jae In – South Korea's first progressive president since 2008. Subsequently, 2018 saw a remarkable turnaround in inter-Korean relations, beginning with teams marching under a unified flag at the winter Olympics held in South Korea in February, followed by a set of Presidential summits between North Korean leader, Kim Jong Un, and Moon Jae In, and also the ground-breaking meeting between Kim and US President Donald Trump. Amid the hype around these meetings, human rights groups campaigned hard to have rights concerns included on the agenda for talks ("Joint Letter to President Moon", 2018). However, in line with his engagement-oriented approach, President Moon has so far declined to raise human rights directly with the North Koreans (although he has not dismissed the possibility entirely), while President Trump has likewise provided no concrete evidence that he discussed human rights in his meeting with Kim in Singapore. Concurrently, reports have surfaced about North Korea-focused rights groups experiencing creeping pressure on their resources and ability to engage in their regular research and campaign activities (Chae & Jeong, 2018; Kim, 2018).

Despite this swift turn of events, the shift to engagement does not lie outside the explanatory framework provided above in terms of state image-management. Indeed, it is rather representative of a change in tack towards a new mode of positive image-making, largely concentrated on another big issue: the threat posed to US regional hegemony by the success of North Korea's nuclear weapons program. The new South Korean government has made use of a unique confluence of geopolitical and diplomatic circumstances to re-brand itself as the peacemaker, especially by stage-managing relations between North Korea and its primary enemy, the United States. North Korea's willingness to engage with a new, progressive South

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Korean government, along with the chance for rapprochement offered by the locally-held winter Olympics, provided a unique opportunity for Moon to make moves to relieve the longstanding inter-Korean tensions and play the part of the responsible intermediary – a plan that achieved a remarkable degree of success when Kim and Trump shook hands in Singapore in June 2018. The summitry was also extremely well received by the majority of the South Korean public (“U.S.-North Korea Summit”, 2018). It remains to be seen how the lighter mood on the Peninsula will continue to affect the way the two Koreas engage with one another and the world, and whether issues around the North’s treatment of its people will be broached when more detailed negotiations on inter-Korean cooperation unfold. Nevertheless, the impressive strides made in North-South relations, as well as in North Korea’s relations with the United States, have so far played out extremely well for South Korea’s state image, even if at the expense of progress on addressing the human rights situation in the North.

## **Conclusion**

The UN COI did not report on a new set of circumstances in North Korea. Rather, it shone greater light than at any time before on a grave human rights situation that has persisted for decades. The COI’s robust methodology and the extent of its findings left room for nothing but the strongest condemnation of the North’s failure to protect its people. In late 2016, the UN Special Rapporteur on the human rights situation in North Korea, Tomás Ojea Quintana, visited South Korea for the first time, along with a newly established UN group of independent experts, formed to work on the pursuit of accountability for human rights violations in North Korea. During their visit to Seoul, the UN representatives expressed their determination to keep accountability atop the agenda on North Korean human rights – a commitment Quintana reiterated during his July 2018 visit – meaning that the North will not experience relief in

pressure from this quarter at any time soon. As a state with its own reputation so closely bound up with the North's, the implications of these developments for South Korea were shown to be significant under the two previous governments up until mid-2017, during which focus on North Korean human rights gained marked traction. However, as in the past, human rights is not something the North Korean leadership is willing to discuss meaningfully with South Korea, which means that as long as President Moon pursues his current mode of engagement the issue will remain on the back-burner. It remains to be seen if inter-Korean dialogue will progress sufficiently to allow traditionally sensitive issues to be broached, such as by attaching human rights conditions to the delivery of humanitarian aid or joint-development projects. The human rights community in South Korea and abroad likes to assert that Moon comes to the presidency in an era very different from that of previous progressive Presidents Kim Dae Jung and Roh Moo Hyun, when it is "no longer tenable to remain silent on such matters" (Wolman, 2016). All will depend on which role South Korea sees as more beneficial to its international image: human rights advocate or peacemaker in a long-running conflict involving a nuclear-armed state. Knowing well the fundamental incompatibility of the two approaches, no South Korean state has yet tried to perform both roles at the same time.

This discussion of the impact of the UN COI on the South Korean response to the North Korean human rights situation has shown the significance of social factors in South Korea's policy practice. It described how discourse and policy action on North Korean human rights outside the Korean Peninsula drove a marked shift in the South Korean response to these issues in the post-COI period, against the grain of even long-established ideological opposition. The literature on ontological security and state image management provided a useful lens through which to interpret such behaviour, pointing to the salience of insecurity in a state's identity as a crucial motivator for policy that serves to shape and promote a "right" and "good" image in the world. While South Korea has had success in exporting and promoting its key industries to

gain the world's attention, it has continued to experience vulnerability in its international image, principally due to North Korea. Accordingly, the South sought not just to participate in the international condemnation of North Korean human rights following the UN COI, but also to demonstrate leadership on the issue, by instituting policies that might assist future accountability measures against the North Korean regime.

Noting the concurrent need described in the literature on state image management to consolidate identity at the domestic level, it was also necessary to consider the domestic conditions that were influential in the revised approach to North Korean human rights during this period. Two sets of circumstances under the previous two conservative administrations – the demise of inter-Korean engagement activities and the revival of mass protests against corrupt government – can be seen as having led to additional pressure to present a coherent commitment to human rights, both at home and abroad. The scholarship exploring the political significance of state image-management policy provided a persuasive argument for the influence of relationships – both state-to-state and within international organisations such as the UN – as exerting greater normative pressure on state policy programs than in the past. Risse and Sikkink's analysis of human rights norm socialisation describes how the allure of membership within the "liberal community of states", where "peace, democracy and human rights" are upheld, is increasingly driving like-minded states to prove themselves worthy via demonstration of the "right" values reflected in policy (1999, p. 8). In these times, despite the many obstacles to concrete progress, particularly in the current conditions of inter-Korean engagement, glossing over North Korea's continued abuses may not be an option for the South Korean government indefinitely, if it wishes to remain secure in its identity as a responsible international actor.

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## Notes

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<sup>1</sup> The Korea discount describes a tendency by investors to undervalue Korean stocks, due to a perceived higher investment risk based on possible capital flight. One of the main reasons cited for potential capital flight is South Korea’s proximity to, and political rivalry with, North Korea (Heckman, 2010).

<sup>2</sup> The Act states its intention to “contribute to the protection and improvement of human rights of North Korean people by pursuing civil, political, social, economic and cultural rights enshrined in human rights treaties” (KINU, 2016, p. 3). Its key provisions include: the establishment of an advisory committee on human rights; the pursuit of inter-Korean human rights dialogue; aid delivery to North Korea; appointment of an ambassador for North Korean human rights; the establishment of a foundation for human rights; and the establishment of a centre for investigation and documentation (KINU, 2016, p. 3).