

Criminal States: Soprano vs. Baritone - North Korea and the US

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1. State Crime

"... the only government in the world today that can be identified as being actively involved in directing crime as a central part of its national economic strategy and foreign policy. ... In essence, North Korea has become a 'soprano state' - a government guided by a Worker's Party leadership whose actions, attitudes, and affiliations increasingly resemble those of an organized crime family more than a normal nation [1]

From September 2005, the US shifted the primary focus of its North Korea attention from nuclear weapons to crime and human rights, denouncing North Korea as a "criminal state" or "soprano state." This paper reflects on why it might have done this and considers the implications.

Following David Asher, coordinator of the Bush administration's North Korea working group, who wrote the above in November 2005, I want to tease out further the reference to state criminality. Various kinds of criminality are widely attributed to North Korea, although there is little explicit proof of state responsibility, and few would quibble with the attribution to of the label "Soprano," derived from the popular US series about organized crime. I suggest, however, that we face a problem of confrontation between two outlaw regimes, one a small and very minor state and the other the global super-power, a veritable baritone. The two, locked in symbiotic embrace, share a lack or regard or contempt for law and a nuclear obsession. In this 61st year of the nuclear era, with the non-proliferation regime in tatters, the continued confrontation between these two regimes over issues that should have been addressed decades ago is a problem that destabilizes the region and beyond.

2. Perspective - Nuclear Politics and Double Standards

For long, the crux of the hostile relationship has been nuclear. State nuclear criminality involves the defiance of obligations under international laws or treaties (especially as codified after 1970 in the

Nuclear Non-Proliferation Treaty), specifically the production, testing, trading, stockpiling, or use, of nuclear weapons. The US is plainly in breach of its obligations under Article 6 of that treaty, reaffirmed in 2000 as an “unequivocal undertaking,” for “the elimination of their nuclear arsenals.” Instead, together with the other nuclear powers (Britain, Russia, France, China) it defies the world. Not only does the US insist on an illegal prerogative as hegemon, but it preserves, expands, and “improves” its nuclear arsenal, and uses it to threaten others, including non-nuclear states.

For its part, the North Korean decision to “go nuclear,” however reprehensible, is neither illogical nor incomprehensible, since it looks back now over more than half a century of nuclear intimidation by the US, and the question of legality is more complex than is widely assumed. During the Korean War, military commanders MacArthur and Ridgway, Presidents Truman and Eisenhower, and the Joint Chiefs of Staff, all at one time or other favored, and threatened, nuclear attack on North Korea and were restrained only by the fear of possible Soviet retaliation. Then, for almost the entire period of the Cold War, American nuclear weapons were stored in South Korea - in violation of the Armistice Agreement of 1953 - ready for instant deployment and use. Even after their withdrawal, at South Korean insistence, much of North Korea continues to be targeted by US sea and air-based nuclear war-fighting systems. US hostility has been repeatedly restated and the hostilities of the Korean War are still suspended only by the fragile ceasefire of 1953.

The bitter experience of decades as the butt of explicit nuclear intimidation taught it that its security, like that of the super-powers, could only be accomplished by turning itself into a nuclear power and achieving the impregnability that is assumed to go with that status, or by using a supposed or real nuclear weapons program as a negotiating ploy to achieve security from nuclear and non-nuclear threat. Whatever nuclear weapons programme it had (based on the wastes of its Yongbyon reactor) was, however, frozen between 1994 and 2002. The question of its legality or otherwise, therefore, has to pertain to the period before 1994, although that issue was essentially settled by the Agreed Framework, or after 2002. The US invasion of Iraq in 2003, a country that had no nuclear weapons (and indeed few other defenses) justified by an elaborate campaign of lies and distorted intelligence, reinforced the lesson to North Korea that, whether it actually possessed nuclear weapons or not, it must persuade the world that it does. In the twisted logic of nuclear politics, that which renders all humanity insecure becomes that without which no country can consider itself secure.

The Non Proliferation Treaty (NPT) Review Conference collapsed in failure in May 2005. Responsibility was equally shared by the established nuclear powers whose hypocrisy discredited the system and those outside the club (including North Korea) seeking to justify themselves according to the super-power principle: without nuclear weapons there is no security. Jimmy Carter summed it up: *“The United States is the major culprit in the erosion of the NPT. While claiming to be protecting the world from proliferation threats in Iraq, Libya, Iran and North Korea ... they also have abandoned past pledges and now threaten first use of nuclear weapons against nonnuclear states.”* [2]

The US turns a blind eye to the secret accumulation of a huge nuclear arsenal on the part of a favored state (Israel) that refuses to join the NPT and thumbs its nose at the idea of non-proliferation, and it has also just lifted a thirty-year ban on sales of civilian nuclear technology to India, describing it as “a responsible state with advanced nuclear technology” even though civil nuclear energy cooperation with a non-signatory contravenes the very essence of the NPT.

On top of these subversions of the NPT order, the same United States that insists North Korea disarm itself and in March 2003 launched a devastating war on Iraq based on deliberately falsified intelligence that that country was engaged in nuclear weapons production, maintains its own arsenal of around 10,000 warheads (about 2,000 of which are held on hair trigger alert), [3] deploys shells

tipped with depleted uranium that spread deadly pollution likely to persist for centuries, has withdrawn from the Anti Ballistic Missile Treaty (ABM), opposes the Comprehensive Test-Ban Treaty (CTBT), makes great efforts to develop a new generation of "low yield" mini-nukes, and promises to extend its nuclear hegemony over the earth to space. Robert McNamara, who used to run the American system, described it in March 2005 as *"immoral, illegal, militarily unnecessary and dreadfully dangerous."* [4] Any nuclear criminality on North Korea's part can scarcely be compared with this.

In what might that criminality consist? Between 1994 and December 2002, North Korea honored its obligations under the Agreed Framework with respect to suspension of its graphite reactor and the placing of its plutonium wastes under international inspection. There is no dispute on that. But in October 2002, the US accused it of a covert, second track, uranium based weapons program. When North Korea denied it, the US suspended its obligations under the Framework and North Korea pulled out of the NPT, initiating the present stage of crisis. The US allegation of such a secret weapons program has been central to allegations of North Korean perfidy ever since. How plausible is it?

The highly placed Washington observer, Selig Harrison, writing in Foreign Affairs in 2005, found the evidence inconclusive, based on a deliberate favoring of "worst case scenarios." Major US allies have also been skeptical. Two years after the allegations were launched, a high level US mission dispatched to East Asian capitals was singularly unsuccessful. Both the Chinese Foreign Minister Li Zhaoxing and the Director of South Korea's National Intelligence Service declared themselves not persuaded.[5] Being told that as a "good ally," it should accept the US claims on faith can only have deepened the skepticism of the Seoul officials. [6]

Late in 2005, we learned from Pakistan that the A.Q. Khan network had indeed provided North Korea with centrifuges (the instruments for uranium enrichment), but only 12 of them - prototypes, rather than the thousands necessary for production of any weapons-grade uranium. How dangerous might 12 centrifuges be? Iran in early 2006 was thought to have 164 of them, and according to the US National Intelligence Estimate, if they were able to operate them without any hitches for at least ten years, probably longer, they might be able to produce enough enriched uranium for a warhead. [7] It is of course possible that North Korea may have purchased other materials elsewhere, though we know that it failed in attempts to do so from Russia and Germany, but twelve centrifuges could scarcely be considered a pressing or immediate threat to humanity. Even US intelligence now estimates that it would take "until the end of the decade at the earliest" to produce highly enriched uranium of weapons quantity. [8] The criminal pursuit of an HEU (highly enriched uranium) programme in defiance of obligations under the NPT is possible, but not proven.

Furthermore, enrichment at low levels for energy generation is a legal right under the NPT. In demanding the cancellation of any North Korean right, the US fudges the distinction between low level (legitimate) and high level (illegitimate) enrichment. Such an overarching demand has no legal basis. American charges of nuclear criminality that have never been satisfactorily proven and seem, on balance, improbable led to the rupture of an Agreement that had kept North Korea's graphite reactors and nuclear wastes frozen for eight years under strict international supervision, leading North Korea to resume its weapons programme without inhibition. North Korea may have aspired to nuclear weaponry, but pending settlement of its issues with the global superpower, is that so surprising? As grounds for judging it perfidious, untrustworthy, or criminal, the enrichment story is singularly unconvincing.

Since its withdrawal from the NPT, however, North Korea has had more than three years to pursue a plutonium-based weapons programme, and even if that is not technically a breach of a treaty to which it no longer adheres, it is plainly an affront to the world community and a breach of its

obligations under the South-North Agreement of 1992 and the Pyongyang Declaration with Japan of September 2002.

3. The Beijing Initiative

Following the collapse of the Agreed Framework and North Korea's withdrawal from the NPT, the nuclear issue preoccupied regional powers and the US. And from 2003, China began to play a crucial role, hosting the "Six Party Talks" in attempting to broker a solution.

For two years, the talks remained stalemated. The major reason seems to have been that "talks" did not amount to "negotiations." As Vice-President Cheney put it early in 2004, "You do not negotiate with evil, you defeat it." The US representative at Beijing was under instructions not to speak to his North Korean opposite number save to state and restate US demands. Furthermore, not only did he call on North Korea to undertake what he called "CVID" (complete, verifiable, irreversible, dismantling) of all nuclear programs, but also to scrap its missiles, reduce its conventional forces, and address terrorism and human rights concerns. Yet he dismissed North Korea's demand for a guarantee it would not be attacked, and its pleas for comprehensive normalization, as unnecessary, irrelevant, premature, and occasionally as "blackmail." After the August 2003 session, asked what the biggest obstacle in the negotiations had been, the Chinese chair, Wang Yi, replied, *"The American policy towards DPRK - this is the main problem we are facing."* [9]

Despite regular statements from Washington about the unity of the five countries that sat with North Korea around the Beijing table from 2003, disunity was characteristic, perhaps even in inverse proportion to the "unity" that was regularly proclaimed. The US position steadily weakened, not only because of pressure from its negotiating partners but also because of its loss of diplomatic and moral credibility as the chaos in Iraq following invasion and occupation deepened. As a result, what had begun in the Beijing conference forum as a US attempt to mobilize a united front of pressure on North Korea began to turn, under South Korean, Chinese, and Russian "reverse pressure," into a true, multilateral, negotiating forum. Two years into the negotiations, the US softened its rhetoric and ceased its abuse, showing a readiness to talk with the North Koreans. Under pressure, the US reluctantly shifted. The "coalition for punishment" turned inexorably into a coalition for engagement, the center of gravity of the "North Korean problem" began to shift from Washington to Beijing and Seoul.

Fearful of becoming what Jack Pritchard, formerly the State Department's top North Korea expert, described as *"a minority of one ... isolated from the mainstream of its four other allies and friends in the Six-Party Talks,"* [10] and facing an ultimatum from the Chinese chair of the conference to sign or else bear the blame for their breakdown, [11] the US yielded. In September 2005, the parties to the Beijing "Six-Sided" conference reached a historic agreement on principles and objectives.

In a *"spirit of mutual respect and equality,"* North Korea would scrap *"all nuclear weapons and existing nuclear programs,"* return to the Non-Proliferation Treaty and allow international inspections, while, in return, the United States declared that it had *"no nuclear weapons in the peninsula and no intention to attack or invade North Korea"* and would respect its sovereignty and take steps towards diplomatic recognition, normalization, and economic aid and cooperation. [12] All parties expressed their "respect" for North Korea's statement of its *"right to the peaceful uses of nuclear energy,"* and a clause was included in the agreement *"to discuss at an appropriate time the subject of the provision of light water reactor to the D.P.R.K."* Neither missiles nor human rights nor the disputed uranium enrichment program was mentioned (save the latter obliquely, depending on how the expression *"existing programs"* was interpreted). It was a shotgun marriage, with China

(backed by South Korea and Russia) wielding the shotgun. An “outlaw” state seemed about to be integrated into its regional community.

However vague and incomplete, the Beijing consensus of September 2005 declared principles that conformed to international law, recognized the interests of regional countries for a denuclearized peninsula, and responded to North Korea’s complaints, yet whatever “mutual respect” there might have been at the Beijing table evaporated almost as soon as the delegates had packed their bags and left Beijing.

Representatives to the Six-Party Talks, September 2005

In both Pyongyang and Washington, hardliners seized the initiative to block possible reconciliation. North Korea made its commitment to end its weapons program and return to NPT Safeguards dependent on getting a light water reactor first, as a “*physical guarantee for confidence building*.” [13] The entitlement of NPT member countries to a civilian nuclear program is described in Article 4 as “inalienable,” and, provided it return to that Treaty South Korea, Russia and China took the view that North Korea should enjoy it. The US head of delegation, Christopher Hill, however, ruled it out, insisting the LWR could not even be considered until all other steps in bringing North Korea back into the NPT were complete. As if to underline its point, the US then summarily terminated the KEDO Agreement (the Light Water Reactor project at the heart of the 1994 agreement, which from 2002 had remained frozen, but not cancelled).[14] It was almost as though there had been no agreement between the parties at all. [15] Pyongyang’s view of “appropriate time” for a North Korean LWR was “now,” Washington’s the distant future, or actually, never.

The wisdom, economics, and safety of nuclear power may be open to serious question. For North Korea in particular, it was hard to believe that a LWR could be the appropriate way to address its acute energy crisis because such reactors are fabulously expensive and take years to construct, and many billions of dollars would be necessary to upgrade the national grid before any electricity could be circulated. However, it was scarcely credible for the US (and Japan) to demand that North Korea alone should be deprived of a right that was entrenched in the very treaty to which they insisted it return. The fact that both Japan and South Korea produce around 40 per cent of their electricity from nuclear power and China is planning massive expansion in the sector made such a demand especially difficult to justify.

On both sides, the light water reactor became the irrational symbol of the deeper issues of the US-North Korea confrontation, lack of trust (on both sides), the inherent inconsistency and hypocrisy of the Treaty order (increasingly a device for entrenching the privilege of the nuclear powers while enforcing compliance on the part of non-nuclear countries rather than abolishing nuclear weapons), and insecurity (on North Korea’s side).

4. Crime and Human Rights

For the Bush administration, elimination of any North Korean nuclear weapons and related programs (plutonium and uranium-based) is the overriding, but far from exclusive, goal. It also demands demilitarization, especially the scrapping of North Korea’s missile program, and major political changes (in respect of human rights), and some within and/or closely connected to the Bush administration are also committed to regime change.

From its inception, the Bush administration was torn between contradictory inclinations, with policy

oscillating between pragmatic elements ready to follow the path of diplomatic resolution already set down by the Clinton administration and to negotiate settlement through international cooperative mechanisms on one side and neo-conservative, fundamentalist “regime change” forces on the other. The president himself, known for his many references to “loathing” for Kim Jong Il and the North Korean regime and his reference to the mission of bringing democracy and human rights to North Korea, must be included among the latter. [16] The Beijing Agreement of September 2005 was only possible because of the increasing isolation of the US at the Beijing table and because in Washington, for a time, pragmatic forces that gave priority to nuclear concerns over “regime change” were briefly in the ascendancy. That ascendancy did not last long.

From such a perspective, “negotiation” with North Korea was out of the question and North Korea had only to submit. To encourage it, the appropriate diplomatic tool was a “coalition for punishment,” according to Victor Cha, who in December 2004 took up the position of Director for Asian Affairs at the National Security Council. [17] For the uncompromising moralists who contested and occasionally determined policy in Washington, North Korea was close to collapse and it should be pushed to ensure that outcome. [18] Even South Korea was little better, under a “pro-appeasement crowd in the South Korean government” who had turned that country into a place “increasingly governed in accordance with graduate-school ‘peace studies’ desiderata.” [19]

The policy incoherence of the Bush regime as it vacillated between the proponents of diplomatic resolution and the advocates of regime change contrasted with the policy coherence of Pyongyang, whose goals changed little: relief from isolation, intimidation and sanctions, through the conversion of the ceasefire of 1953 into a permanent peace treaty and the “normalization” of relations of all kinds - security, political, diplomatic, economic - with the United States and Japan.

Late in 2005, following what David Asher referred to as a “strategic decision” at the highest level, policy direction in Washington fell into the hands of the “regime change” group. Under the direction of Vice-President Dick Cheney, with Under-Secretary for Arms Control Bob Joseph as coordinator, and in accordance with the national security provisions of the Patriot Act designed for the struggle against terrorism, they set out to squeeze North Korea on every front, especially in regard to its alleged illegal activities and its human rights record.[20] The US Treasury, [21]and in due course the FBI and CIA, [22] were mobilized. North Korea was required not just to renounce its nuclear ambitions but to “open up its political system and afford freedom to its people.”[23]

Under this new policy coordination mechanism, the Administration appears to have decided to put into practice part at least of the war plan known as “Operations Plan 5030,” drawn up at Secretary Rumsfeld’s instruction by the Pentagon in 2003 and featuring destabilization, including “*disrupting financial networks and sowing disinformation.*” [24] As the policy objective shifted from stopping a weapons program and redressing North Korean insecurity to toppling the regime, the Beijing process was sidelined and then neutralized, and the issue was widened from nuclear matters, on which some progress had been made, to the nature of the regime itself. Washington was aided in this by the fact that not only was there no advocate of the North Korean cause in the US but there was such massive ignorance and misunderstanding of the roots and nature of the problem that tiny and impoverished North Korea was assigned the role of “bogey man,” seen as the “*biggest threat to the United States,*” surpassing China and Iran. [25]

Following the “strategic decision,” accusations of narcotics, money-laundering, counterfeit currency and tobacco dealing, proliferated and a spotlight was shone on North Korea’s human rights record. Central to the narcotic case was the Pong Su, a North Korean ship seized in Australian waters in 2002 after unloading 150 kilograms of heroin. Two men were tried, convicted and sentenced to long prison terms, but the responsibility of the North Korean state became problematic when an Australian jury acquitted the captain and crew of all criminal charges early in 2006. [26] Japanese

allegations of North Korean based amphetamine smuggling (via Japanese gangster groups) and further revelations about the abduction of Japanese, South Korean and other nation citizens in the 1970s and 1980s were given wide publicity, but again evidence of state responsibility is lacking (though by no means implausible).

The Pong Su

On the money-laundering charge, the US government ordered suspension of transactions with the Macau-based Banco Delta Asia, alleging that it had helped North Korea launder drug and counterfeit money, and froze the assets of other companies accused of involvement in weapons sales. [27] Simultaneously, it publicized defector allegations of regime engagement in large-scale opium production and the production of counterfeit American cigarettes, [28] and accused North Korea of the manufacture and distribution of counterfeit hundred dollar bills, "supernotes." [29] Documents from a series of US court actions were opened that painted a vivid picture of *"an extensive criminal network involving North Korean diplomats and officials, Chinese gangsters and other organized crime syndicates, prominent Asian banks, Irish guerillas and a former KGB agent."* [30] The newly appointed US ambassador to South Korea, Alexander Vershbow, denounced North Korea as a "criminal regime" responsible for "weapons exports to rogue states, narcotics trafficking as a state activity and counterfeiting of our money on a large scale. [31] "Normalization" with such a regime, Washington implied, was no more likely than normalization of relations between the US government and the Mafia. North Korea's Foreign Ministry spokesman on 11 December retaliated by referring to ambassador Vershbow's statement as a "declaration of war," saying the talks were "suspended for an indefinite period," and a few days later demanding Vershbow's recall.

Banco Delta Asia

As with the campaign on uranium enrichment, these criminal allegations rested heavily on US intelligence sources. Given the profound distaste for North Korea expressed by the President and the record on intelligence doctoring to suit the war cause on Iraq, such intelligence was inevitably suspect. South Korea's National Intelligence Service, which had good reason to keep itself well informed on its northern neighbor, advanced the contrary view in respect to at least part of the case, stating that North Korea might have engaged in counterfeiting in the 1990s, but not since 1998.[32]

Unlike criminal counterfeiting, the roots of counterfeiting as a political stratagem are themselves political and resolution is only likely to be accomplished by political processes, especially in this case the "normalization" of relations. Furthermore, if North Korea had indeed been engaged in counterfeiting hundred dollar bills, it was adopting the methods of its Washington adversary, especially by studying Operation Plan 5030 about "disrupting" the other side's financial networks. Whoever had been producing the notes had been doing so on a rather small scale. Since 1989, the US Treasury had been able to track down only about \$50 million from 130 countries, chicken feed in the context of global financial flows.[33] It now seems that it was not so much the quantity of notes as their quality that disturbed the US authorities. [34] By attributing the work to North Korea, US intelligence was paying it a kind of back-handed compliment. It was indeed astonishing that a country so deprived of access to technology markets could produce artifacts of such quality and refinement.

Expert opinion, however, is extremely skeptical. The author of a new study of currency, noting the technical complexity of the materials and processes involved, concluded that it was *"unimaginable that anyone else (than the Americans themselves) could come by these materials."* Noting that Syria

and Iran had first been blamed for the supernotes, he adds the pregnant comment that *“the US CIA itself runs a secret printing facility equipped with the sophisticated technology which is required for the production of the notes.”* [35]

The Washington campaign, whatever its intent, seemed likely to inhibit all trade, with the consequence of *“legitimate business being squeezed into routes that are used by real criminals”* while truly criminal activities would simply *“go underground and become harder to trace.”* [36] Since nobody would defend North Korea on its human rights record and few would deny the possibility of its involvement in crime, these were issues on which Washington could expect to be able to mobilize support and on which diplomatic resolution was highly unlikely. Stymied in Beijing by the opposition of neighbor countries, but still determined to overthrow the Pyongyang regime, it appears to have decided to concentrate on the attempt to *“strangle North Korea financially”* (as *Le Monde’s* Philippe Pons put it). No evidence was produced, and banks around the world, notably in Switzerland, were subjected to intimidation to block any transactions with or on behalf of North Korea. [37]

Together with crime, human rights also became a major policy instrument. Following the adoption by Congress (on a unanimous vote in both Houses) of a “North Korean Human Rights Act,” a special U.S. envoy for North Korean human rights took office in August 2005 and interventions along North Korea’s borders and via the airwaves were stepped up, presumably intended to undermine and destabilize the regime by non-military means and thereby achieve an “East European” outcome. In December 2005, the United Nations General Assembly adopted a resolution jointly sponsored by Japan, the US and the European Union, condemning North Korea for multiple human rights abuses. It listed *“torture, public executions, arbitrary detention, the lack of due process, extensive use of forced labour, high rates of infant malnutrition and restrictions on humanitarian organizations ... severe restrictions on freedom of religion, assembly and on free movement within the country and abroad, as well as trafficking in women for sexual exploitation, forced marriage and forced abortions.”* [38]

The shift of focus from nuclear questions to questions of criminality and human rights, and from Beijing, where the US had found it increasingly difficult to call the shots, to the global arena, undercut the efforts of the regional powers to achieve a negotiated solution. Their success in putting pressure on both North Korea and the United States to resolve their nuclear differences became more difficult to replicate.

5. Prospects

However reprehensible North Korea may be, its grievances are also serious. Its demand for relief from nuclear intimidation should have been heeded long ago, and its plea for “normalization” as the price of abandonment of its nuclear program, often referred to as “blackmail,” is not unreasonable. For around forty years, the world was indifferent to the nuclear threat that North Korea faced from the United States, and only when North Korea began to develop what in Great Power parlance is described as a “deterrent” was world attention aroused.

At such a low level is the discourse and understanding of what is usually defined as “the North Korean problem” that it passes virtually without notice that the US objection to North Korea on nuclear grounds was accompanied by reiteration of US preemptive nuclear prerogative and the commitment to expand and modernize the US nuclear arsenal. According to Seymour Hirsh, nuclear weapons were under active consideration for use against Iran (despite the absence of any evidence of Iranian breach of the NPT regime), [39] and it could hardly be doubted that similar plans were

being carried forward for North Korea.

What it would mean for nuclear weapons to be unleashed on the Korean peninsula beggars the imagination. The Pentagon's "Global Strike Plan," drawn up in response to a January 2003 classified directive from the President, integrated nuclear weapons with "conventional" war fighting capacity and made clear the reservation of right of preemption. [40] According to a 2005 study by the South Korean government, the use of US nuclear weapons in a "surgical" strike on North Korea's nuclear facilities would, in a worst case scenario, make the whole of Korea uninhabitable for a decade, and if things worked out somewhat better, kill 80 per cent of those living within a ten to fifteen kilometer radius in the first two months and spread radiation over an area stretching as far as 1,400 kilometers, including Seoul. [41]

North Korea's withdrawal from the Non-Proliferation Treaty and the unfreezing of its plutonium stocks and restarting of its graphite reactors in 2003 was destabilizing and regrettable. If it has produced the weapons it proclaimed in March 2005, that would certainly be in defiance of the international will as expressed in the Non Proliferation Treaty (NPT) and the Korean South-North "Denuclearization" Agreement (of January 1992). However, if any country has the right to develop nuclear weapons as a deterrent it has to be North Korea, because of having faced explicit nuclear threat longer than any country on earth. Today North Korea uses the only negotiating instrument it possesses to press its case for removal of intimidation, including nuclear intimidation, the lifting of sanctions, and economic and political normalization.

Unlike the US, North Korea has not committed aggressive war (at least in the past half century), overthrown any democratically elected government, threatened any neighbor with nuclear weapons, or attempted to justify the practices of torture and assassination. [42] It plainly runs roughshod over the rights of its citizens, but the suffering and denial of human rights suffered by prisoners in North Korea could scarcely be greater than, say, those of prisoners at Abu Ghraib or Guantanamo, and the proportion of the North Korean population in detention is unlikely to be higher than that of the US, which holds 2.1 million Americans (.7 per cent of the population), a hugely disproportionate number of them poor and black, in its prisons.[43] When the US president in April 2006 welcomed to the White House representatives of the Japanese families of North Korean abductees, and delivered a touching homily on the fate of the young Japanese girl long separated from her "Mom," nobody thought to mention the gross infringement of human rights of the citizens of many countries whom the CIA in recent years has been ferrying secretly around the world, delivering them to torturers in a global gulag being constructed beyond the reach of any law.

The point is that neither the US nor North Korea complies with international norms of behaviour; both are "rogue states" or "criminal states," although the proven instances of North Korean crime are either relatively trivial (smuggling and counterfeiting) or else very serious but long past and apologized for (abductions), while those of the US are major, ongoing, and unapologized.

If the label "criminal state" is to be attached to a state that manufactures counterfeit cigarettes and dollar notes, what word should be applied to the country that in 2003 launched a war in defiance of the UN charter, that declares its commitment to produce a new generation of nuclear weapons and threatens to use them preemptively and without regard to international law, and whose highest legal officers devote themselves to finding ways to justify torture?

Described by Washington as "evil," seen in its historical context North Korea is probably better understood as the fossilized encapsulation of the too-long neglected contradictions and failures of the 20th century. South Korea, and to a lesser extent Russia and China, differ from the US (and to some extent Japan) in that they seek to address the historical and structural roots of the problem rather than its superficial manifestation. Instead of squeezing North Korea, treating it as "evil" and

beyond reason, cutting trade and restricting the flow of funds to it and working covertly to seek surrender, coup, or collapse, they are all doing or planning deals, maximizing their cooperation and engagement in the two-way flow of funds and trade, and steadily incorporating North Korea into the networks of regional cooperation: i.e. precisely the reverse of US and Japanese practice. It is significant that, although all three are supposedly the US's "partner" Beijing Conference countries, none - including Japan - was joining it in its pursuit of a "criminal state" agenda.

South Korea's "Sunshine" approach, long despised by the US government as wimpish, has served to open many windows through which different winds now blow in North Korea. Since 2000 there have been 17 rounds of South-North ministerial negotiations and 165 public meetings of various kinds.[44] South Korea has pledged to double its aid in 2006 over 2005, to \$2.6 billion, and is working on a "Blueprint for Economic Cooperation", has offered North Korea an annual resource of two million kilowatts of electric power and is thinking in terms of a South-North Economic Union by 2020. In 2005, Unification Minister Chung Dong-Young met and talked together for five hours with Kim Jung Il in June, and the two sides exchanged many representatives in a series of joint commemorations of the 60th anniversary of liberation from Japanese imperialism in June and August. South Korean investment has been stepped up in the Kaesong industrial park and in tourism at Mt Geumgang and a joint, South-North Korean team for the Beijing Olympics is being planned. At the April 2006 South-North ministerial meeting, the two Koreas agreed to work towards a "practical resolution of the issue of prisoners-of-war (POW) during the Korean war and abductee civilians," and towards demilitarization. Former President Kim Dae Jung plans a second visit to Pyongyang in June 2006, which, if realized, would almost certainly accelerate the process of South-North reconciliation and blending of their two economies.

The ongoing contest over North Korea pits the American attempt to achieve regime change by the mobilization of a "coalition for punishment" against the Seoul approach of opening windows through which "sunshine" can penetrate in to North Korea. It pits Washington's Christian, fundamentalist approach of good and evil in absolute contradiction against the "Confucian" paradigm of a human nature that is fundamentally good and responsive to virtue and reason. To the Bush administration, the major South-North cooperation initiative at Kaesong is offensive because the salaries of North Korean workers are too low. [45] To the Roh government, Kim Jung Il is "*a man Seoul can do business with,*" and the Bush administration's efforts to depose him are "*fundamentalist.*" [46] The record of recent years leaves little doubt that "*dialogue, not provocative rhetoric*" is what works. [47]

By a paradoxical feedback process, no factor so helps sustain North Korea's dictatorship as US hostility, which the Pyongyang regime can exploit to justify and reinforce itself. In the long term, nothing is more certain to erode the bases of the Kim Jong Il regime, and to help "normalize" it, than expansion of "Sunshine" policies. Likewise, it may be said that no factor so helps the US maintain its military dominance over East Asia, its bases in Japan and South Korea, as the ability to point to possible North Korean aggression. The two outlaw or criminal "families," sworn enemies, need and "support" each other.

The campaign to "free" North Korea by external intervention is as likely to be disastrous in its consequences as the campaign to "free" Iraq. The US must be persuaded to put its "Operations Plan 5030" back on the shelf, to return to the principles agreed in Beijing, reconsider its outlaw path and resume its nuclear disarmament obligations, while Pyongyang must be persuaded that its security can be assured without nuclear weapons and its future within a denuclearized East Asian commonwealth would be far rosier than its present. The Beijing agreement of September 2005 is the best agreement thus far on North Korea. The China-South Korea nexus is the moral core and hope of the Beijing process, and renewed pressure on both Washington and Pyongyang to honor and extend the Agreement is the only way forward.

Notes

- 1 David L. Asher, "The North Korean criminal state, its ties to organized crime, and the possibility of WMD proliferation," Policy Forum Online, No. 05-92A, Nautilus Institute, 15 November 2005.
- 2 Jimmy Carter, "Saving nonproliferation," The Washington Post, 28 March 2005.
- 3 Steve Rendall, "Ignoring the U.S.'s 'Bad atoms,'" Z-Net, 11 May 2006.
- 4 Robert McNamara, "Apocalypse Soon," Foreign Policy, May-June 2005, reproduced in Japan Focus, 8 May 2005.
- 5 Selig S. Harrison, "Did North Korea Cheat?" Foreign Affairs, January-February 2005, and at Japan Focus, No 186.
- 6 Selig S. Harrison, "Crafting Intelligence," March 2005. Japan Focus No 229.
- 7 Selig S. Harison, "South Korea-U.S. Alliance under the Roh Govrnment," Korea Policy Review, February 2006.
- 8 Selig S. Harrison, "South Korea-U.S. Alliance under the Roh Government."
- 9 Juan Cole, "Fishing for a Pretext in Iran," Z Net, 18 March 2006.
- 10 Leon V. Sigel, "An instinct for the capillaries," North East Asia Peace and Security Network, Policy Forum Online, 9 May 2006.
- 11 "South Korea, Russia wants diplomatic push, China blames US policy," Agence France-Presse, 1 September 2003.
- 12 Charles L. (Jack) Pritchard, "Six Party Talks Update: False Start or a Case for Optimism," Conference on "The Changing Korean Peninsula and the Future of East Asia," sponsored by the Brookings Institution and Joongang Ilbo, 1 December 2005.
- 13 Joseph Kahn and David E. Sanger, "U.S.-Korean deal on arms leaves key points open," New York Times, 20 September 2005.
- 14 For relevant documents, Korea and World Affairs, vol. xxix, 3, Fall 2005, pp. 45-464.
- 15 North Korean Foreign Ministry Statement of 20 September 2005, *ibid.*, p. 458.
- 16 "U.S., Partners end N. Korean nuclear project," Associated Press, 22 November 2005.
- 17 Korea and World Affairs, pp. 455-464
- 18 See also this author's "A North Korean Visitor to the White House, 17 July 2005, Japan Focus, No. 335,
- 19 "Korea's place in the Axis," Foreign Affairs, 81, May-June 2002, pp. 79-92; and Victor D. Cha and David C. Kang, Nuclear North Korea: A Debate on Engagement Strategies, New York, Columbia University Press, 2003, p. 153.
- 20 Michael Horowitz spoke in December 2004 of his belief that North Korea would implode within the year, and of the possibility of finding generals within the North Korean military prepared to work

with the U.S. and to bring about a coup so that "Defense Committee Chairman Kim Jong Il,"he said,"won't be able to enjoy the next Christmas." Seung-Ryun Kim, "Horowitz: North Korea will explode within one year," DongA Ilbo, 24 December 2004.

21 Nicholas Eberstadt, "Tear down this tyranny," The Weekly Standard, 29 November 2004.

22 Guy Dinmore and Anna Fifield, "U.S. hardliners grab North Korean Policy reins," The Financial Times, 20 December 2005. Selig Harrison defines slightly differently what he calls the "Axis of Evil within the administration": David Addington, Vice-President Cheney's Chief of Staff, Deputy National Security Adviser J.W. Crouch, and John Bolton's successor as Undersecretary of State for Arms Control and National Security, Robert Joseph. (Harrison, "South Korea-U.S. Alliance under the Roh Government").

23 Daniel Glaser, deputy assistant secretary for terrorist financing and financial crimes, stated that North Korea "needs to cease its criminal financial activities," Quoted in Josh Meyer and Barbara Demick, "N Korea running counterfeit racket, says US," Sydney Morning Herald, 14 December 2005.

24 Philippe Pons, "Les Etats-Unis tentent d'asphyxier financièrement le regime de Pyongyang," Le Monde, 26 April 2006.

25 National Security Strategy of the United States, March 2006.

26 Bruce B. Auster and Kevin Whitelaw, "Upping the ante for Kim Jong Il," US News and World report, 21 July 2003.

27 According to a PEW survey. "American public views north as biggest threat," Joongang ilbo, 19 November 2005.

28 Peter Gregory and Geesche Jacobsen, "Freighter crew cleared of drug charges," Sydney Morning Herald, 6 March 2006.

29 One, at least, the Swiss industrial supply company Kohas AG, vigorously contested the charges. (ISN Security Watch, "Swiss firm denies 'Axis of Evil' link," 4 April 2006.)

30 State Department director Peter Praher says 41 billion cigarettes are produced annually for an income to Pyongyang of between 500 and 700 million dollars. ("US Senate Hearing on N. Korea's illicit activities," Chosun Ilbo, 26 April 2006.)

31 "US accuses North Korea of \$100 bill counterfeiting," Washington Times, 12 October 2005.

32 Meyer and Demick, cit.

33 "US says N. Korea 'criminal regime'," BBC News, 17 December 2005.

34 Kwang-Tae Kim, "Agency: North Korea not counterfeiting," Associated Press, 2 February 2006.

35 Deputy Assistant-Director of the US Secret Service to a Senate hearing, quoted in "US Senate hears about N. Korea's illicit activities," Chosun Ilbo, 26 April 2006

36 Sigel, cit, 9 May 2006.

37 Klaus W. Bender, Moneymakers -The Secret World of Banknote Printing, Weinheim, Germany, Wiley-VCH Verlag, 2006. Bender quoted here from interview with Associated Press on 19 April 2006.

- 38 Nigel Cowie (General Manager of Daedong Credit Bank), "US financial allegations - what they mean," Northeast Asia Peace and Security Network, Policy Forum Online, 4 May 2006.
- 39 Philippe Pons, "Les Etats-Unis tentent d'asphyxier financièrement le regime de Pyongyang," Le Monde, 26 April 2006.
- 40 General Assembly, Resolution 10437 of 16 December 2005.
- 41 Seymour M. Hersh, "The Iran Plans," The New Yorker, 17 April 2006.
- 42 William Arkin, "Not just a last resort: A global plan with a nuclear option," Washington Post, 15 May 2005.
- 43 Chosun ilbo, 6 June 2005.
- 44 White House Counsel Albert Gonzales, who in 2002 advised the president that the torture prohibition in the Geneva and UN Conventions was "quaint" and "obsolete," was subsequently elevated to the position of Attorney-General. Noam Chomsky, *Failed States: The abuse of power and the assault on democracy*, Crows Nest, NSW: Allen and Unwin, 2006, pp. 40-42.
- 45 Steve Lendman, "The US gulag prison system," Z-Net, 21 April 2006.
- 46 Roy U.T. Kim, "U.S. Intelligence flaws on North Korea," Ohmynews, 13 January 2006.
- 47 Jay Lefkowitz (US Special Envoy for North Korean Human Rights), "Freedom for all Koreans," The Wall Street Journal, 28 April 2006.
- 48 Unification Minister Lee Jong-seok, quoted in "US pressure on N. Korea may not be effective, Seoul," Reuters, 3 May 2006.
- 49 Yang Sung-chul (former Korean ambassador to the US), "On Korean question: rhetoric and realities," Korea Herald, 19 April 2006.

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