



Tom Lantos Human Rights Commission Hearing

Civil and Political Rights in the Republic of Korea: Implications for Human Rights on the Peninsula

Thursday, April 15, 2021
10:00 a.m. – 12:00 noon
Virtual via Cisco WebEx

Rep. Chris Smith (R-NJ)—Co-Chair

Excerpt of Remarks

I'd like to begin by thanking all our witnesses for joining us today as we explore the state of civil and political rights as they exist in our close friend and ally, the Republic of Korea, and the implications of that on the people of South Korea and on the human rights discourse on the Korean peninsula and, indeed, beyond.

This hearing also comes at a critical time when the Biden Administration is faced with a number of policy choices that impact the peninsula, including the interplay between human rights and nuclear non-proliferation. It is my hope that

we will receive suggestions as to how both the Administration, and Congress, should engage on these issues.

I would also like to note that this hearing has already generated widespread interest among Korean media, civil society and among the population in general.

This hearing is not intended to be an overt intervention in Korean politics – indeed, it was purposefully scheduled *after* last week’s elections in Seoul and Busan so that it would not be used as a political cudgel by either side.

Rather, this hearing is consistent with a deep and longstanding concern and commitment I personally and the Commission as a whole have had with the issue of human rights on the peninsula.

Over the years I have done seven hearings focused exclusively on Korean human rights including [Protecting North Korean Refugees in 2017](#) .

I have also engaged extensively with the government of South Korea on human trafficking and refugee issues, which sometimes brought me at odds with past governments of the Republic of Korea, that claimed I should not criticize an ally for its record on trafficking.

I pushed back against such claims. Thus in 2001, under the Administration of George W. Bush, the Republic of Korea was named a Tier 3 violator on human trafficking under a law I authored, the [Trafficking Victims Protection Act of 2000](#). I

had a series of frank meetings and exchanges with members of the Korean government. The end result, however, was that the Korean National Assembly, to its everlasting credit, passed a series of laws to protect both Korean women and other women trafficked from other nations to South Korea including from the Philippines and Russia. Within one year, Korea rose to Tier 1—the highest ranking.

For our part, I also met with high-ranking members of the US military, including Major General Leon J. LaPorte, Commander, United States Forces Korea, as to how U.S. soldiers visiting brothels contributed to the trafficking of Korean women and women from other nations. General LaPorte did an amazing job combatting the cruelty of human trafficking. I also asked DOD Inspector General Joseph E. Schmitz to investigate—which he did—which in turn led to a zero-tolerance policy with respect to US military personnel complicity with sex trafficking and prostitution. Both gave expert testimony on this at another [hearing in 2004](#).

Thus, to better defend and safeguard the vulnerable and at risk of human rights abuse, true friends like the United States and South Korea must have frank and honest conversations.

Which brings us to today's topic on the state of civil and political rights in the Republic of Korea.

The idea for this hearing first germinated in December, when I made a [public statement](#) critical of legislation pending in the Korean National Assembly, promoted by the Administration of President Moon Jae-in, which would criminalize the transmittal of information to the people of communist North Korea via balloon – the so-called anti-leafletting law, or as I have labeled it, the anti-Bible and BTS Balloon Bill, as often the balloons carry religious information and items of Korean pop culture, such as music of the popular K pop band BTS, across the border.

I believed then and I believe now that this law, currently under review by the Korean Constitutional Court, unduly infringes upon freedom of expression under both the Korean constitution and the International Covenant on Civil and Political Rights, or ICCPR.

To those critics who say that this concern constitutes undue interference in the internal affairs of Korea, I must point out that as a fellow State Party to the ICCPR, the United States and members of Congress have an obligation to speak out in particular on this issue, and more broadly, on human rights issues in general, as these are universal principles binding upon all.

True friends point out the flaws in the other friends' human rights records precisely out of friendship, and this principle is a reciprocal one.

It must also be said that the Republic of Korea is a democracy, and its commitment to fundamental rights stands in stark contrast to the Kim family brutal dictatorship to the north in the Democratic People's Republic of Korea.

Nevertheless, surveying the state of civil and political rights in Republic of Korea, I must say that I am alarmed by what Professor Shin Gi-wook of Stanford University has termed "South Korea's Democratic Decay."

I do not wish to be unduly critical of President Moon Jae-in and his Administration in this regard, nor do I think it is fair to single it out for criticism on civil and political rights without acknowledging that the conservative government of his predecessor Park Geun Hye also had flaws when it came to upholding these liberties.

I do believe, however, that the power that had been given the Moon Administration, including a supermajority in the National Assembly, has led to a gross overstepping of authority.

In addition to passing laws which restrict freedom of expression, we have seen politicization of prosecutorial powers to harass bureaucrats based their

viewpoints and the harassment of civil society organizations, particularly those engaged on North Korea issues.

But what I really think is extremely alarming is a retreat by the South Korean government from its longstanding commitment to human rights vis-à-vis North Korea and China, ostensibly in the cause of fostering better relations or achieving nuclear non-proliferation.

But as one of our witnesses today, John Sifton, points out, it's a mistake to focus on "security and weapons counter-proliferation strategies, or trust building exercises in the context of North-South relations" without incorporating concern for the "freedom, health and well-being of the 25 million people of North Korea."

In this he echoes Andrew Natsios, our former Administrator for USAID under President George W. Bush, who at a [2014 hearing I chaired on "Human Rights Abuses and Crimes Against Humanity in North Korea,"](#) called such a policy which delinked human rights from nuclear talks "an abject failure."

We see the Moon Administration delinking human rights in refusing to [cosponsor a resolution](#) at the United Nations Human Rights Council condemning North Korea's human rights violations.

Indeed, we see this acquiescence to the Kim Family Dictatorship in the sequence of events leading to the passage of the controversial anti-leafleting legislation that inspired this very hearing.

In June of last year, North Korea blew up a liaison office between the two Koreas. The North justified this outrageous act by blaming the balloons launched from the free South by human rights activists. Indeed, shortly following criticism from Kim Yo Jong, the sister of North Korea's dictator Kim Jong-un, members of President Moon's party introduced legislation to ban the balloon launches, and the Moon government began a campaign of investigation and harassment that targeted civil society organizations involved in the balloon launches, including a number of NGOs run by defectors from North Korea, such as Park Sang-Hak.

Talk about a heckler's veto when it comes to free speech!

But perhaps even more significant than the bending of the knee toward North Korea, are efforts to equidistance Korea *from* the United States and *toward* China.

For those of us concerned with human rights, this is very troubling. China's Communist government views human beings as a means to an end, engaging in systematic human rights abuses, including the its pervasive use of torture, its persecution of religion, the barbarism of harvesting organs, the cruelty to women

and children of forced abortion and involuntary sterilizations, the incarceration of millions of Uyghurs in concentration camps —part of Xi Jinping’s genocide—to the mass jailings of Hong Kong human rights activists.

Further, the Chinese government rejects the notion of human rights as a universally-binding construct, claiming that human rights discourse amounts to an imposition of Western values.

And this is where the failure of the Moon Administration – and of former human rights attorney Moon Jae-in himself – comes into sharpest focus.

As I wrote in an [essay published](#) on Human Rights Day, December 10, last year in commemoration of the 72nd Anniversary of the Universal Declaration of Human Rights, the UDHR tapped many wellsprings of inspiration in affirming principles that are universally-binding.

As I noted, among its principal drafters was Peng-chuan Chang, “who drew from the Chinese philosophical tradition and contributed a Confucian Natural Law perspective – the *tao* that is written on the heart.”

Yet today China rejects that tradition – its own tradition – and offers instead a dystopian world vision where human rights and human beings have no value.

It is at this historical inflection point – should the world follow a Chinese communist model or a liberal democratic one – where Korea can truly lead, *if* it were to articulate a vision of universally-binding human rights that was entirely consonant with an Asian, Confucian system of values.

Such a Korea would be immune from criticism which we defenders of human rights in the United States – indeed at this very Commission – hear, that we are seeking to impose a “Western” value system upon others.

Just as Korea has grown into a cultural powerhouse, influencing trends not only in Asia but also globally, a resurgently-democratic Korea, which reversed what Professor Shin referred to as “democratic decay,” could also become the world’s leading voice on human rights for the next generation, influencing the next generation of leaders in an ascendant China.

This then is the message I wish to close with – Korea must resume its commitment to civil and political rights in particular, and human rights in general. It must do so, not only for the sake of Korea both South and North, but also for the entire world.

Thank you, and I look forward to your testimony.