

Talking Points

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Today I'd like to start my talk with a provocative question to ourselves who have long cherished and respected the normative value of the NPT regime. The question is: how do we resuscitate our NPT regime that has died since Iran's nuclear hedging as well as North Korea's withdrawal from the NPT?

I think you are probably be upset by the argument that the NPT regime has been dead.

Last year, we heard bad news as well as good news. The bad news was the NPT regime was dead once more because of the third nuclear test conducted in February by North Korea. The good news was, however, we witnessed a seed of revival of the regime due to a temporary deal in November with Iran.

The Joint Plan of Action concluded between P5+1 and Iran has reminded many Korean nuclear policy experts of the two significant efforts to deal with North Korea's crises. One is the 1994 Agreed Framework between the US and North Korea, and the other is the Six Party Talks and their consequence among the US, China, Russia, Japan and both Koreas that ended a stalemate.

Some may argue it would be premature to do a comparative study of the Iran's and North Korea's cases at this time. Moreover, it looks unlikely that the study may provide us with any conspicuous lessons at this juncture, because the two cases are too different from each other and the efforts of our international community for North Korea's case have been confirmed as a total failure by the three nuclear tests conducted so far.

Nonetheless, a lot of comparative studies of the two cases will be expected, hoping on the one hand that the failure in the North Korea's case will provide us with lessons that must not be repeated during the upcoming six months for the Iran's case, and hoping on the other hand that the possible success in the Iran's case may provide us with some feedbacks in coping with the North Korea's case vice versa. Therefore, the upcoming six months will be the most significant juncture even for dealing with the North Korea's nuclear crises.

Bearing this in mind, my talk will be focused on the following four points. I have conducted a comparative research since I joined the Asan Institute and found a lot of interesting observations. Some of the other observations will be included in one of the chapters of a book to be published this year. Toby and I are co-editing the book. The four points for today's meeting are 1) the failure of the NPT and the modes of the challenges to the NPT, 2) the positions of North Korea and Iran on the use of nuclear weapons, 3) the gaps between political reality and normative values of nonproliferation in sanctions against North Korea and Iran, 4) Moral laxity or moral hazard with regard to the deals with the challengers to the NPT such as North Korea and Iran.

1. Failure of the NPT and the modes of the challenges to the NPT

The first point I'd like to raise is that the two cases I mean Iran's and North Korea's cases are showing us the typicality of the failure of the NPT regime as well as the modes of challenges to the NPT regime. For better understanding of my argument, let us look at the table 1 on the pages 1 and 2 of the handout for my talk.

The first nuclear crisis in North Korea starts with the announcement in 1993 of its withdrawal from the NPT. The announcement is more than non-compliance. It is a serious challenge to the NPT regime itself. North Korea left even the IAEA in 1994. There have been differences of opinion with regard to whether North Korea is still a party to the NPT, but there have been no differences of opinion on its status of membership to the IAEA charter. Simply speaking, while there are debates on the membership of the NPT, in contrast, North Korea is not a member of the IAEA charter any more.

However, Iran remains within the NPT regime and the IAEA charter, but has not comply with the obligations under the NPT nor under the safeguards agreements. So the Iran's crisis starts with noncompliance with the obligations. It is another challenge to the NPT regime as well, but does not deny the regime itself.

To impose an appropriate punishment against the challenges, we must decide which mode is more serious violation of the NPT obligations. I mean between the continuing nuclear weapons development after the withdrawal from the NPT and nuclear hedging, remaining within the NPT regime. However, the international community has responded that the latter I mean nuclear hedging remaining within the NPT regime is more serious than the former. If you look at the table 1 which describes the critical junctures concerning nuclear crises in North Korea and Iran, you may understand my argument, because no sanctions were imposed upon North Korea even after its reannouncement in 2003 of its withdrawal from the NPT. Instead, even after the accusation in 2002 of a secret uranium enrichment program, the first round of six party talks was held in Beijing, deceived by the lies of North Korea that it would come back to the NPT and the IAEA regimes. The UN sanctions against North Korea have not begun until the 1st nuclear test in 2006.

What was the major reason for that? I dare to say the two cases clearly show us that the political reality prevails over the norms or principles of the NPT. I mean security impact prevails over the value of nonproliferation. If the gaps between normative values and political reality continue to exist, they will jeopardize the NPT regime in the long run. For instance, any potential evil particularly with endogenous development capability may calculate which mode would be beneficial to its ambition to develop nuclear weapons program.

It is true that the ultimate goal of the NPT is not to prevent any State from the withdrawal from the NPT, but to prevent from possessing or developing nuclear weapons program itself. However, we have to admit that it would be much more difficult to prevent the State that left the NPT from possessing or developing nuclear weapons. This became reality just as shown in the North Korea's case.

Therefore, I dare to say that either nuclear hedging or continuing development after the withdrawal from the NPT is the very smoking gun which supports the argument that the NPT itself will not work if any State has intention as well as technical ability to go nuclear. The more serious problem with the NPT regime is that the NPT itself does not have its own mechanism to respond to any challenges.

2. Position of North Korea on the use of nuclear weapons

The second point I'd like to raise is that we should pay attention to the positions of North Korea and Iran on the use of nuclear weapons. As shown in the table 2 at the pages 3 and 4 of the handout, Kim il Sung and Kim jong il who are the Kim jung un's grand father and father took the position that the use of nuclear weapons in any case (I'd like to put emphasis on the expression "in any case") is violation of the UN Charter and the existing international laws.

However, the advisory opinion of the ICJ held that the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a State would be at stake. I have no idea whether this advisory opinion has influenced on Kim Jung Un's position, but unfortunately North Korea under his power passed the "Law on consolidating position of nuclear weapons state for self-defense" in April 2013. The title and some provisions of the law insinuate the legality of the use and threat of nuclear weapons for the purpose of self-defense. Kim Jung Un has changed the teachings of his predecessors that the use of nuclear weapons is violation of international law "in any case".

Anyway, if I tell you two more of the interesting observations of the comparative study of the written statements submitted to the ICJ from North Korea and Iran, first, while North Korea has never mentioned the NPT, Iran invokes the NPT. Second, Iran invokes the regional nuclear weapons free zone treaties. This has a significant implication for the development of the WMD free zone treaty in the Middle East. I will skip the detailed implications of these two observations.

3. Gaps between political reality and normative values of nonproliferation in sanctions against North Korea and Iran

The third point that I'd like to raise is that the US also cherishes more the political reality than normative values when comparing the US acts passed for sanctions against North Korea with those against Iran. Though not exhaustive, table 3 on the page 5 of the handout clearly shows how comprehensive the sanctions against Iran are than against North Korea.

For instance, many experts conclude that North Korea's nuclear program is closely linked to the regime survival of the North Korean dictatorship. However, it was hard to find any US laws that apply pressures to democratic change of North Korea. For instance, while North Korea Threat Reduction Act is focused on nuclear cooperation after its abandonment of its nuclear program, Iran Threat Reduction and Syria Human Rights Act is dealing with democratic change in Iran.

In addition, it is very strange that US has never passed North Korean Human Rights Sanctions Act. I'd like to pose to my US colleagues a question: Do you believe that the human rights situation in Iran is more serious in North Korea? This also shows that the US cherishes political reality more than normative values.

Last December, one of the powerful leaders in North Korea, Chang Sung Taek was executed in violation of human rights. Judging from his political status, it would be easy for us to calculate how serious the human rights of the ordinary persons are in North Korea. But still very strange, so in that sense, I do agree the observation of Mr. Bruce Klingner at the heritage foundation that the US response to North Korea's nuclear threats has been characterized by firm rhetoric but minimalist measures, in contrast to

stronger punitive measures imposed on Iran.

I dare to say that this response I mean the gaps between normative values and political reality with regard to sanctions will create a moral laxity or hazard of the States that have potential ambition to develop nuclear weapons whether they are parties to the NPT or not. I think this is the right time to rectify the gaps by examining the efficiencies of the sanctions against North Korea as well as Iran in order to prevent a worst scenario that Iran follows North Korea after an unexpected failure of the Joint Plan.

4. Moral laxity or moral hazard with regard to the deals with the challengers to the NPT such as North Korea and Iran

The final point I'd like to raise today is that the comparison between the 1994 Agreed Framework and 2013 JPA also shows us that the rewards may create the moral laxity or hazard of the members of the NPT, because the 1994 Framework provides more rewards including political rewards that are not found in the 2013 JPA. I mean in the Deal with Iran, even in the elements of the final step, there is no mentioning about political reward or WMD free zone in the Middle East. Do you think that the political rewards have equivalence to the abandonment of nuclear weapons program? If the answer is affirmative, we are paradoxically accepting the argument that the possession of nuclear weapons in a State concerned is the only way for its regime survival. It is something like we could not decouple possession of nuclear weapons and regime survival. In that sense, no political rewards in the deal with Iran was a sensible and wise choice. Therefore, I'd like argue that the biggest mistakes in the 1994 Agreed Framework and the Six Party Talks was the inclusion of political rewards. They have complicated and distracted all the negotiations with North Korea with regard to its nuclear programs.

In conclusion, I'd like to express my concerns about the diminishing responses and attentions of the international community to North Korea's nuclear threat. Because of the Iran deal, North Korea's crisis will be much remoter for the time being. Over the past 20 years North Korea has developed its endogenous nuclear weapons program as planned, deceiving our international community. At this critical juncture, we have to be prepared to answer to ourselves the question like which mode would be more prejudicial to the value of nonproliferation between hedging within the NPT regime and developing weapons program after the withdrawal from the NPT. The question may be expressed in a different way like Do we have any tailored measures against both modes? And how do we resuscitate the NPT by removing the gaps between political reality and normative values?

The US secretary of State Mr. Kerry once explained that the JPA is not based upon trust, but based upon verification. If we apply the explanation to North Korea, we may realize that North Korea already dissipated trust and any possible verification mechanism has disappeared as North Korea left the NPT and the IAEA. So that's why more stringent verification is required vis-à-vis North Korea or otherwise at least North Korea must return to the NPT and the IAEA and sign or accede to Addition Protocol in order to resume dialogues for its nuclear issues or to resume six party talks. Since a political reward is not an equivalent to the abandonment of the nuclear program, our international community much teach the challengers to the NPT a lesson that the political reward that the challengers seek can only be accomplished after the complete, verifiable and irreversible dismantlement of their nuclear programs.

Political reward cannot be guaranteed only by a paper, but will be automatically increased after the complete, verifiable and irreversible dismantlement of its nuclear weapons program.