Ilmin International Relations Institute

Working Paper Series

Sponsored by

MacArthur Foundation's Asia Security Initiative

No. 03

Kim Jong-il's Absence and North Korean Contingency: International Cooperation and South Korea's Response

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August 2010

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I. Foreword

This article supposes a North Korean contingency resulting from Kim Jong-il's ill health conditions. Premised on such a hypothesis, it will diagnose the possibility of a contingency in North Korea in case of Kim Jong-il's absence and seek ways in which we may respond to various international cooperation issues should a contingency take place.

When Kim Jong-il fell ill in August 2008, it appeared more likely that a North Korean contingency would stem from Kim Jong-il's absence rather than a military *coup d'etat*, a popular uprising, or a mass exodus of people from North Korea. Kim Jong-il's absence means the end of governing powers through "monolithic leadership," which has hitherto been the means of ruling North Korea. If Kim Jong-il dies, or if he is unable to rule the country due to deteriorating health conditions before he establishes an official succession system, it is highly likely that the North Korean ruling system will be immediately paralyzed and the government will degenerate into a state of contingency.

A North Korean contingency ties in with the fundamental changes of the post-Cold War Northeast Asian order. Hence, if neighboring countries try to pursue only their own interests in the wake of a North Korean contingency, conflict and friction may be inevitable. In this light, a North Korean contingency

is no longer just North Korea's problem: it is an opportunity for South Korea and neighboring countries to build a new cooperative relationship; at the same time, it is a challenge that will engender a new set of issues.

We can anticipate a number of problems following a North Korean contingency, to include: 1) the jurisdiction of the North Korean region; 2) the control of North Korean weapons of mass destruction (WMD), such as nuclear weapons and missiles; 3) the recognition of North Korea's interim government; 4) response to the North Korean army's armed provocations; 5) coping with mass influxes of North Korean refugees and providing emergency aid to North Korea; and 6) the unification of the Korean peninsula. Each one of these issues will be too overwhelming for a single country to bring under control or resolve alone. In conclusion, a North Korean contingency will require as much "international cooperation" as the North Korean nuclear issue.

Accordingly, the crux of our preparation for a North Korean contingency will be how to elicit "cooperation" from neighboring countries and link it to South Korea-led unification.

II. . Concept of North Korean Contingency

In this article, a "North Korean contingency" will be understood as a "transitional" concept that takes into account the causes and outcomes of an outbreak of a situation. In this case, then, North Korean contingency can be defined as a "process by which the international community, led by neighboring countries, carries out military and nonmilitary intervention when a situation breaks out and it escalates into unstable rule, over which North Korea cannot recover control on its own."

A widely accepted concept of North Korean contingency has been "a state of anarchy, or an overall paralysis of governing and administrative powers, compounded by a weakened concentration of military power." In short,

it coincides with the concept of "collapse," where a state no longer exists as a state.[1]

Such a definition of contingency, however, is based on a static-dynamic concept centered on the one specific final situation and fails to see contingency as a "process" in which a series of events take place. As a result, research on North Korean contingency has faced the constraints of starting from "hypotheses" that are out of touch with North Korea's reality. Hence, North Korean contingency studies should start not from a specific outcome that is "hypothesized" ahead of time but from a series of inevitable outcomes of a specific event, in short an outbreak of a situation.

Second, the existing concept of North Korean contingency does not take into account any "outside intervention" factors which can change the nature and course of a North Korean contingency.

There is room for tragic human rights violations or bloody atrocities during a North Korean contingency, and not only "North Korea's own ability to respond" but also "neighboring countries' intervention in North Korea" will have a decisive impact on how those specific events unfold. In other words, why, when, and how international organizations and neighboring countries intervene can play a critical role in preventing human rights violations or bloody massacres from expanding in North Korea. In this context, the "outside intervention" variable will need to be examined as an important factor in North Korean contingency research.

III. Kim Jong-il's "Absence" and North Korean Contingency

[1] Kim Hak-joon, "Present and Future of Kim Jong-il's Leadership System," presentation at the Third *Seoul Sinmun* International Forum, "North Korea: How Long Can It Last?" (September 26, 2009). For systematic research on a possible North Korean contingency, see: National Intelligence Service (NIS), "Ways for International Management of North Korean Contingency" (1997); Nam Joo-hong and Yoon Tae-young, "Crisis Management Plans for North Korean Contingency," ROK National Assembly National Defense Committee's policy research report (October 2005); and Park Kwan-yong, et al. in Korea University North Korea Studies Institute, *North Korean Contingency and Our Response* (Seoul: Hanul, 2007).

1. Unstable Rule of North Korea

Since Kim Jong-il's illness in September 2008, the North Korean military has witnessed a series of destabilizing factors which can undercut Kim's ability to rule.

First, the North Korean army has had more and more difficulty in unit management. Since the inauguration of the Lee Myung-bak Government, South Korea has scaled back on the hundreds of thousands of tonnes of food and fertilizer it had provided North Korea in aid on a regular basis for more than a decade. Not only that, North Korea has suffered from reduced cash revenues by more than millions of dollars per month. The suspended food aid and decreased cash revenues led to North Korea's measures to tighten its grip over the markets. The aid South Korea had provided North Korea for more than 10 years prior to the advent of the Lee Myung-bak Government had been used to maintain and operate North Korean military units. When the aid decreased, military supplies in local North Korean military units began to make their way out to the markets rapidly. Hence, Pyongyang's strong market control measures can be interpreted as a response to the spread of munitions in the markets. In other words, reduced aid to North Korea led to the Kim Jong-il regime's decreased support to the North Korean military, and that, in turn, inevitably resulted in local military units' military supplies flowing into and spreading in the markets.

If the Kim Jong-il regime neglects the flow of military supplies into the markets as the country continues to take a hit from the financial sanctions, the North Korean military's discipline will become increasingly lax across the board. Yet, by taking stronger "market control" measures, the regime might aggravate the North Korean army's discontent and end up losing control over the military.

Second, the unity of the North Korean leadership is disintegrating. The pendulum of power has shifted rapidly to a group of up-and-coming junior officers since Kim Jong-il fell ill. A review of past North Korean military

leadership reshuffles shows that North Korea made efforts to preserve the integration of the North Korean military by respecting the institutional age-based hierarchy. In a break with the long-standing practice of maintaining the institutional military hierarchy, however, Kim Jong-il appointed Colonel General Ri Yong-ho, commander of the Pyongyang Defense Command, as the chief of the General Staff of the North Korean army in February 2009. It was a shocking promotion.

A review of the profiles of the 11 chiefs of the North Korean army's General Staff and the eight Pyongyang Defense Command chiefs since the establishment of the North Korean regime shows that no Pyongyang Defense Command chief had ever been appointed as the chief of the General Staff.[2] Moreover, Ri Yong-ho was one of the many all-t00-average North Korean generals whom it took 10 years to be promoted from a major general to a lieutenant general. Ri Yong-ho's promotion to the chief of the General Staff must have been an extraordinary destruction of the military hierarchy in the eyes of Kim Myung-kook, the incumbent director of the Operations Bureau who knows the North Korean military like the back of his hands, and former Operations Bureau Director Ri Myung-soo, who has been a close confidant of Kim Jong-il. The transitioning power in the North Korean military probably led to personal conflicts, which probably explains Operations Bureau Director Kim Myung-kook's and former Operations Bureau Director Ri Myung-soo's demotions by one rank sometime at the end of 2009 or early 2010. Demoting high-ranking North Korean military personnel by one rank was officially unprecedented over the past two decades, when Kim Jong-il took charge of military personnel reshuffles.

Kim Won-hong, vice director of the Cadres Bureau, was recently promoted to the chief of the Guard Command, a general-level position. Kim Won-hong was but a major general in the early 1990s, when Kim Young-chun,

[2] Koh Jae-hong, "Composition and Characteristics of North Korean Army's Next-Generation Leadership" in National Defense University Security Affairs Institute, *National Defense Studies,* Vol. 50, No. 1 (June 2007), pp. 111-146.

the current minister of the People's Armed Forces, and Operations Bureau Director Kim Myung-kook were full generals. What is more, U Dong-chuk, first vice minister of the State Security Department (SSD), also found himself on the fast track for promotions, promoted to a National Defense Commission (NDC) member and a full general in just over a year.

If the North Korea military is undergoing a generational shift as part of the grand scheme of establishing a succession system in the wake of Kim Jong-il's deteriorating health conditions, there is probably already a split between the group of elder cadres and the group of up-and-coming junior officers.

Third, changes have been detected in Kim Jong-il's military inspections in the wake of his worsening health problems.

A review of Kim Jong-il's inspections clearly proves how much importance Kim Jong-il attaches to on-the-spot guidance for ruling the country. Kim Jong-il dedicates nearly one-third of his year to on-the-spot guidance and inspections. Despite his failing health, Kim Jong-il continues to increase the frequency of his on-the-spot guidance.

While it may appear on the surface that Kim Jong-il's military inspections after he fell ill are not particularly different from those he conducted before his health conditions deteriorated, the units Kim Jong-il visited after September 2008 are all located in flatland areas. This means that Kim Jong-il can no longer inspect the Kkachi Peak in the frontline corps of the Central and Eastern Fronts, the guard unit located in Mt. Osung, or the smaller, nameless military units in the backwoods of the Hamgyung Provinces.[3]

If Kim Jong-il himself cannot visit the small guard posts in frontline corps or military units in remote areas of Hamgyung mountains, all of which are reportedly looking forward to Kim's visit, and if these same units found out that Kim Jong-il can no longer inspect them, it is possible that discipline will slacken rapidly and acts of deviance will spread quickly throughout these units.

[3] Koh Jae-hong, "Analysis of Kim Jong-il's Military Unit Inspection Trails" in Korea Association of Military Studies, *Military Studies Forum,* No. 52 (Winter 2007), pp. 93-115.

Should these destabilizing factors feed into Kim Jong-il's absence, a North Korean contingency will be inevitable.[4]

2. Succession vs Anti-Succession

One state of confusion that can be envisaged in relation to Kim Jon-il's absence[5] is Kim Jong-il's death without making his successor official.

The question of a post-Kim Jong-il succession system boils down to who and which organs exercise the monolithic leadership shaped by the governing powers of the party general secretary, NDC chairman, and the army supreme commander, all of which Kim Jong-il served as in his lifetime.

Should Kim Jong-il die without making his successor official, it will be difficult for the successor, in the capacity of an unofficial successor, to exercise the powers of the monolithic leadership that Kim Jong-il enjoyed. Under these circumstances, North Korea will likely launch a transitional collective leadership system centered on the unofficial successor. The North Korean leadership has never experienced the "diffusion of power" in ruling the country. Hence, not one group in North Korea will be qualified to replace or exercise the governing powers of Kim Jong-il's monolithic leadership. Accordingly, in making major domestic and foreign policy decisions, the North Korean collective leadership might break up into different factions depending on each group's interest,

[4] Paul B. Stares and Joel S. Wit, "Preparing for Sudden Change in North Korea," Council on Foreign Relations, Council Special Report No. 42 (January 2009).

[5] "Absence" can be defined as a state in which Kim Jong-il cannot conduct normal government activities due to unforeseen events, including Kim Jong-il's death. "Absence" can qualify as any one or more of the following categories: 1) deteriorating health conditions, such as a serious illness, or sudden death; 2) accidental death from an accidental attack; 3) long-term public nonappearance or disappearance for an unknown reason; 4) death from a planned assassination; and 5) removal from power or asylum in the wake of a *coup d'etat* or a popular uprising. This paper shall limit the use of "absence" to the inability to rule as a result of worsening health conditions or death.

which, in turn, might lead to a power struggle for succession.

On the other hand, even if Kim Jong-il were to make his hereditary successor official, the other resistant sons or a certain political faction may start a struggle for power against the official hereditary successor.

The crux of making the North Korean succession system official is closely linked to the question of to whom or to which group the control of nuclear weapons, which belongs to Supreme Commander Kim Jong-il, is transferred. If Kim Jong-il hands over that right of control to his hereditary successor, it is possible that the North Korean leadership will quickly break out by generation. A civil war may even ensue: those individuals or groups that were relatively marginalized during the regrouping-by-generation process may take the lead in launching a power struggle by upholding one of the sons who failed to be named the successor, or one of the sons who failed to become the successor may rally his own supporters and challenge the official successor using military force.

These suppositions are possible because the rumors of Kim Jong-un's nomination as successor, as reported by the media, almost mirror the rumors surrounding Kim Jong-chul's nomination as successor, which were prevalent in the early to mid-2000s. Furthermore, Kim Jung-nam, who serves as an honorary commander of the SSD, is known to have been exercising a certain level of influence by regularly offering gifts to North Korean cadres.

3. Denuclearization vs Anti-Denuclearization

Another possible fallout from Kim Jong-il's absence is a possible fissure in the North Korean leadership over denuclearization and anti-denuclearization and the possibility that a party-army conflict over the control of nuclear weapons may escalate into a struggle for power.

With respect to the North Korean nuclear issue, all the neighboring countries are firmly calling for North Korea's denuclearization despite the

latter's strong determination to possesses nuclear arms. Accordingly, all nuclear negotiations with North Korea, irrespective of their format, are premised on North Korea's nuclear abolition.

From the North Korean military's point of view, Pyongyang's nuclear abolition equals the option of "a weakening of the North Korean military" being forced down its throat. Nuclear abolition will signal a big change for North Korea, one that the country has never before experienced. It is difficult to assess at this point whether the North Korean army will accept nuclear abolition, which translates into a weakening of the North Korean military, or attempt to seize control over the country's nuclear arsenal instead.

It is possible that Kim Jong-il's absence will quickly separate the group that views North Korean nuclear weapons as "political objects" for bargaining, from the group that considers them absolute weapons, or as "military objects." In short, those political factions that need aid to stabilize the regime will constantly raise the utility of nuclear weapons as a political tool for denuclearization negotiations. In this light, the North Korean leadership is probably doomed to be in confusion over the "nuclear abolition" issue.

Supposing that North Korea is past the stage of nuclear development and has entered a stage of deploying nuclear weapons for actual warfare, it is possible that the North Korean army will seize control of nuclear weapons and take the lead in controlling those weapons, for the North Korean army has the right to carry out military operations. Hence, party-army conflict will likely surface over the "nuclear abolition" controversy.

4. Civilian vs Military

A third hypothetic outcome of Kim Jong-il's absence is a conflict between North Korea's civilian sector and the military and ensuing social disorder.

North Korea's "military-first politics," which justified concentrating its

"limited financial resources" in the military, and South Korea's engagement policy toward the North for more than a decade resulted in widening the gap between the civilian and military sectors in North Korea due to the different nature and speed of changes.

The North Korean civilian sector is rapidly metamorphosing into market socialism. While lax discipline and deviations are prevalent throughout the North Korean military, it remains a nonproductive organization which continues to indulge in personality cult as "Kim Jong-il's army" and emphasize strong control and regulations and the merits of no change.

In a time of Kim Jong-il's absence or any other social instability, the different aspects and pace of changes in the military and civilian sectors have the potential to widen the perception gap between the two sides on the causes of the insecurity they are facing. For example, the North Korean military will highly likely view the civilian sector's market, reform and opening up, and individualistic tendencies as being harmful to the North Korean socialist system and thus understand them as causes of systemic instability. Accordingly, the military is highly likely to mobilize physical force and suppress the civilian sector.

Moreover, an analysis of general-level promotions in the North Korean military over the past two years shows that a large proportion of those who were promoted came from the Security Command, the SSD, and the Bodyguard Command. That a majority of North Korean military officials who are promoted work in organs which are responsible for control, suppression, and surveillance corroborate the reality that North Korea, its military included, cannot be reined in *sans* physical mechanisms for control, suppression, and surveillance.[6]

Hence, if the North Korean military, which has physical force at its disposal, attempts to seize governing powers in case of Kim Jong-il's absence, North Korea will highly likely plunge into chaos it has never experienced.

[6] Koh Jae-hong, "Analysis of Latest North Korean Military Promotions" in North Korea Studies Institute, *North Korea* (June 2010), pp. 90-98.

IV. International Cooperation in Wake of North Korean Contingency

1. Neighboring Countries' Interests and Intervention

A North Korean contingency can pose a grave threat to the region's peace and security. Hence, neighboring countries, including South Korea, will have no choice but to contemplate preparations for and intervention in a North Korean contingency to protect their own national interests and security.[7]

To the Chinese leadership, China's sustained economic growth and national unity remain the foremost policy priorities; thus it does not want any situation changes, such as a North Korean contingency, that may have ramifications for China's national strategy.[8] This explains why Beijing was lukewarm toward the international community's strong sanctions against Pyongyang in the aftermath of North Korea's second nuclear test—it deemed that such sanctions may trigger a contingency in the North. In fact, even if North Korea possessed a few nuclear weapons, it is possible that China would prefer to gradually draw out North Korea to Chinese-style reform and opening up.

One of the plausible explanations why China wishes to prevent a North Korean contingency is, from an external security point of view, that China may be concerned not so much about a contingency itself but its aftermath—specifically, the possibility that the ROK-US alliance, given its superiority, may expand to the North Korean region, which borders China, and result in the United States taking advantage of North Korea as a base for its containment policy vis-à-vis China. In this light, North Korea's call for turning the Korean peninsula into a "nuclear-free zone,"[9] which would fundamentally rid of US nuclear activities on the Korean peninsula, does fit in with China's national

[7] Nam Joo-hong and Yoon Tae-young, "Crisis Management Plans for North Korean Contingency," ROK National Assembly National Defense Committee's policy research report (October 2005).
[8] Shengjun Zhang, "Cooperation or Competition Between China and USA in Northeast Asia," presentation at an INSS meeting (November 6, 2009).
[9] "Not For Public Distribution—Meeting with DPRK Ambassador Han Song-ryol," August 12, 2005.

interest. As can be seen, North Korea continues to form a geopolitical "lips-and-teeth relationship" with China in the security field. One of the political reasons for China's efforts to maintain the status quo on the Korean peninsula may be the concern that the unification of the Korean peninsula by way of liberal democracy may accelerate systemic changes in China's three northeastern provinces and Yanbian Korean Autonomous Prefecture and in the end force changes upon the Chinese Communist Party's one-party dictatorship.[10]

These security and political reasons will render China's official military intervention inevitable in a North Korean contingency. These are also the reasons China is asserting the right to conduct 1) humanitarian missions such as assisting refugees; 2) peacekeeping or "order keeping" missions; and 3) "environmental protection" missions, such as securing nuclear weapons and fissile material.[11]

In response to South Korea's right of self-determination, China can cite its historical preemptive rights, which it tried to prove in the "Northeast Project," as the grounds for intervention in North Korea. It also has the international legal grounds for intervening in North Korea by responding to the ROK-US combined forces' intervention or accepting an endangered Kim Jong-il regime's request. For instance, it looks as though China can intervene militarily in a North Korean contingency in the name of the security and protection of the border area based on the "DPRK-PRC Treaty of Friendship, Cooperation, and Mutual Assistance" signed in 1961 and the border treaties the two countries concluded in 1998 and 2001.[12]

The United States may intervene militarily and nonmilitarily in a North

[10] Interview with Takubo Tadae, vice president of the Japan Institute for National Fundamentals, in September 2009.
[11] Bonnie Glaser, Scott Snyder, and John S. Park, "Keeping an Eye on an Unruly Neighbor: Chinese Views of Economic Reform and Stability in North Korea," United States Institute of Peace Working Paper (January 3, 2008), p. 19.
[12] "Agreement on North Korea-China Border-Crossing Point and Its Management System" (November 24, 2001) and "Protocol on Cooperation in Maintaining Security and Social Order in North Korea-China Border Area" (July 8, 1998) in NIS, *Treaties on North Korea-China Border Business* (March 2006), pp. 7-42.

Korean contingency not only to maintain global peace and security but also to secure North Korea's nuclear materials and weapons, repel the North Korean army's provocation against the South, and resolve humanitarian issues resulting from bloodshed.[13] Washington can base its military and nonmilitary intervention in North Korea on the Armistice Agreement, the UN resolution adopted on October 7, 1950, UN resolutions on humanitarian interventions, Articles 42 and 43 of the UN Charter, the ROK-US combined forces' "Operations Plan 5027," which is based on the ROK-US Mutual Defense Treaty, and "Operations Plan 5029," which is aimed at WMD control.

Japan's primary interest in the wake of Kim Jong-il's absence and subsequent domestic chaos in North Korea would be to prevent an inter-Korean armed clash or mass influxes of North Korean refugees into Japan. Japan's next matter of concern would be to forestall the reemergence of a new regime on the Korean peninsula that is hostile to Japan, namely North Korea's incorporation into China's sphere of influence and the ensuing establishment of a "China-friendly government" in Pyongyang.[14] Against this backdrop, some have argued that Japan should staunchly support South Korea-led unification of the Korean peninsula in order to prevent South Korea and China from growing too close, and to check China's influence on the Korean peninsula in the wake of a North Korean contingency.

Japan may also intervene in case of a sudden change in North Korea or a contingency on the Korean peninsula in the name of defending its national security, warding off mass influxes of North Korean refugees, and protecting its nationals in North Korean territory, but in cooperation with the United States or pursuant to a UN resolution. The legal basis of its intervention would be the "new US-Japan defense guidelines" adopted in September 1997 and Japan's "emergency legislation" from June 2003. Yet, Japan's solitary military

[13] Kongdan Oh, "How To Properly Understand and Prepare for North Korea's Social Instability: US Response," presentation at an INSS international academic seminar (August 28, 2007), p. 25.
[14] Takesada Hideshi, "Six-Party Talks and Prospects for North Korean Regime," presentation at an INSS-hosted seminar (August 2007), pp. 8-10.

intervention will be highly unlikely due to the limitations of the Japanese constitution and neighboring countries' antipathy to Japan's military action. In short, Japan will be able to participate militarily as a member of the UN in line with a UN Security Council (UNSC) resolution, or as a party to the US-Japan alliance.

As a country that has traditionally shared its border with North Korea and played a decisive role in the birth of the North Korean regime, Russia has a big strategic stake in the Korean peninsula. Russia seems to be like other neighboring nations in that it views a North Korean contingency as both a threat and an opportunity: while it appears to be afraid that a contingency in North Korea may have a direct bearing on the security and economy of the Russian Far East, it also seems to regard it as an opportunity to recover its influence on the Korean peninsula, which has declined somewhat since the collapse of the Soviet Union.

As a country that shares a border with North Korea, Russia, too, may intervene in a contingency in North Korea to prevent mass influxes of North Korean refugees and protect its nationals in North Korean territory by dispatching peacekeeping forces pursuant to a UN resolution. In addition, Moscow may intervene in response to the legitimate North Korean government's request for intervention based on Article 2 of the new North Korea-Russia friendship treaty signed in 2000, as well as the North Korea-Russia Moscow Declaration from July 2000.

In sum, neighboring countries will have the international legal basis and grounds to justify their intervention should a North Korean contingency occur. In this context, North Korea will highly likely metamorphose into a ground for clashing interests among neighboring countries, including South Korea. This is precisely why we must discuss international cooperation while we are on the subject of a possible North Korea contingency.

2. International Cooperation

A. Coping With Influxes of Refugees and Emergency Aid to North Korea

How to deal with mass influxes of refugees and provide emergency aid to the North in the wake of a contingency must be a top priority for international cooperation as each country concerned prepares for a possible contingency in the North. There are a few reasons for this. First, it is difficult to gauge how many refugees a contingency might generate, and each neighboring state has different levels of accommodating refugees. Second, it is impossible to know exactly whether, if a contingency generates mass influxes of refugees, a majority of them will head for the North Korea-China border or the North Korea-Russia border or to the armistice line toward the South. Third, unexpected casualties may occur as neighboring countries reinforce border security to prevent a flood of escapees from North Korea. Moreover, they may even unilaterally intervene in North Korea in the name of preventing people from fleeing the country *en masse.* This could escalate into a diplomatic conflict among neighboring countries.

Each neighboring country has attempted to project approximately how many North Korean refugees they would be able to accommodate on their own and has made preparations accordingly. One can expect anywhere between tens of thousands of refugees to millions[15] in the wake of a contingency in the North, and depending on how it unfolds, refugees will find various routes and ways for escape. Most studies thus far have projected that a majority of North Korean escapees will flock to the North Korea-China border and that movements toward South Korea's side of the armistice line or to Japan by way of sea would be relatively limited.

Another problem is if these projections turn out to be wrong in reality. North Koreans may flood the armistice line in an attempt to cross over to South Korea. The millions of North Korean refugees who had been expected to head

[15] Hur Nam-sung, "North Korean Contingency and Our Preparation," presentation at the National Assembly's Crisis and Security Forum (June 17, 2008).

for the border with China may instead travel to the border with Russia. The number of refugees headed for Japan by sea may be less than anticipated. The problem with this scenario is that, while one neighboring country may have reached its full capacity to accommodate refugees, another country may have some more room to take in refugees. The country that can no longer accept refugees will intervene militarily in order to stop the influxes of refugees, and human rights violations may occur in the process.

In this vein, each neighboring country's independent plan to accommodate mass flows of refugees "without cooperation" with others might turn out to be useless if unexpected situations, such as those cited above, occur. This means that each neighboring country needs to turn their plan into a "cooperative" set of measures for coping with large numbers of refugees. Common sense dictates that, in the wake of a North Korean contingency, those North Koreans who reside in the North Korea-China border area are the most likely to escape their fatherland first thanks to the long borderline, and this is precisely what has worried the Chinese the most. Hence, to be prepared for that possibility, South Korea and Japan need to discuss ways to offer assistance to China independently of the international community. Likewise, emergency aid to the North will be too overwhelming a task for one country to handle. For that reason, the countries concerned will need to discuss it in advance.[16]

B. Jurisdiction Over North Korean Region

For the sake of their national interest and security, all neighboring countries have the grounds and the international legal basis for intervening in North Korea should a contingency occur there. Hence, it will be extremely difficult for any one country, South Korea included, to assert exclusive

[16] Neighboring countries should be prepared to offer North Korea an emergency aid package of at least more than 1 million tonnes of grain, or grain supplies North Korea needs for three months. Nam Sung-wook, "Contingency on the Korean Peninsula and Our Efficient Response: From an Economic Perspective" in Park Kwan-yong, et al. in Korea University North Korea Studies Institute, *North Korean Contingency and Our Response* (Seoul: Hanul, 2007), pp. 91-122.

jurisdiction over North Korea.

Under these circumstances, if one country attempts to assert or exercise exclusive jurisdiction over North Korea, it will inevitably lead to a collision among neighboring countries. Hence, the countries concerned will need to have consultations or discussions about jurisdiction in advance. If not, it could plant a new seed of conflict between South Korea and its neighboring countries. For example, when the UN forces occupied North Korea in October 1950, South Korea and the United States were in a conflict over jurisdiction in North Korea. The Chinese forces' intervention extended the war.[17]

The ROK government considers North Korea a part of the ROK territory and thus believes it should have preferential jurisdiction over the northern half of the Korean peninsula in a contingency in North Korea. Its thinking is grounded in the following: 1) pursuant to UN General Assembly Resolution 195 (III) adopted on December 12, 1948, North Korea is *terra nullius* and a region that has yet to be reclaimed, a land where a lawful government has not been established; 2) North Korea is a temporary belligerent body, according to UNSC Resolution 82 adopted on June 26, 1950; 3) Article 3, also known as the "territory article," which covers the entirety of the Korean peninsula, in the ROK constitution, which takes precedence over all international treaties; and 4) the state of armistice. Such a claim by South Korea, however, probably will not be accepted by neighboring countries, including the United States, or the UN.

On the contrary, North Korea is generally recognized as a UN member state which enjoys the status of a "sovereign state." Due to North Korea's "sovereign state" status, international law will recognize North Korea's continued status as a state even if the country falls into a temporary state of anarchy. Hence, the South Korean government's reference to the general principle of "acquiring *terra nullius* through preoccupancy" will be irrelevant. Second, North Korea's sovereign state status means that the North Korean

[17] Koh Jae-hong, "Study on Experience of Ruling the North Korean Region in Fall 1950" in Unification Policy Institute, *Survey and Research of North Korea,* Vol. 5, No. 1 (2001), pp. 108-132.

government's thoughts will take priority over all else in the wake of a contingency. In other words, it will be possible for the North Korean government to request intervention from certain countries only, for example China, and exclude South Korea in case a contingency occurs.

While it may be possible for Pyongyang to request certain states to intervene, their monopolistic intervention will result in making the mistake of turning the remaining neighboring countries into hostile powers. Since certain countries' unilateral intervention may lead to other countries' counter-intervention, neighboring countries will most likely step in in the form of "multilateral joint intervention in the name of the UN" following a North Korean contingency.[18]

The bigger problem is that certain countries may have no choice but to intervene early, militarily or nonmilitarily, depending on how the contingency unfolds. Hence, the parties concerned will need to have discussions in advance and build a consensus on the prerequisites for early intervention by one or more countries.

C. Control of Nuclear Weapons and Other WMD

The collapse of the North Korean regime signals the demise of a state possessing nuclear weapons. Hence, the countries concerned will need to make concerted efforts to control and handle North Korea's nuclear weapons.[19]

With respect to the control of Pyongyang's nuclear weapons in the wake of a North Korean contingency, China, a nuclear weapons state, and South Korea and Japan, which are non-nuclear states, may find themselves fighting to protect conflicting interests. Should neighboring countries fail to discuss in advance and cooperate on the control of WMD, such as nuclear weapons and

[18] NIS, "Ways for International Management of North Korean Contingency" (1997), pp. 76-86.

[19] Katy Oh Hassig, "ROK-US Cooperation on North Korea's Going Nuclear," presentation an INSS-hosted international seminar, "Crises of the 21st Century and Role of National Intelligence" (October 30, 2009), pp. 131-145.

missiles, South Korea and Japan, both non-nuclear states, may bolster their cooperative relations, intensifying conflict between China and Russia and South Korea and Japan as a result.

Generally speaking, two issues may arise with respect to WMD in the wake of a contingency in North Korea: how to preserve nuclear materials and related technologies and secure control of nuclear weapons; and what military measures should be taken if all goes to fail.

International law may approve neighboring states' military intervention if a certain group within North Korea seizes control of WMD in the aftermath of a contingency and threatens to transfer nuclear materials and weapons or use nuclear weapons. Yet, taking rash military measures when a group of North Koreans have already taken control over WMD may only trigger the North Korean army's resistance and may escalate into a war scale-wise. This may further imperil nuclear weapons management.

For an effective control of North Korean WMD in the wake of a contingency in the North, neighboring countries, including South Korea, will need to cooperate on an immediate "blockade" of North Korea's land, sea, and airspace as the first step. The more efficiently and earlier a blockade is implemented, the lower the possibility of North Korea's nuclear weapons and other forms of WMD flowing out to the rest of the world. Hence, the countries concerned will need to discuss and chart a plan for cooperation regarding when, how, and under whose command the blockade measures will be implemented. At the same time, they should discuss and cooperate on various steps to secure and control the nuclear materials and nuclear weapons *per se.*

It is possible to speculate that North Korea's nuclear weapons have been stowed away somewhere in one of its secret underground facilities. To find out the exact location of these weapons, neighboring countries will need to offer preferential treatment to those who provide nuclear-related information. They will also need to strike a political compromise with the group that has seized control of nuclear weapons.

The countries concerned will need to map out an effective military operations plan to immediately control and seize North Korea's nuclear weapons in case the first set of measures fail. They will need to consider operating a nuclear early-warning system, conducting intelligence military operations, quickly attacking suspected nuclear sites, and deploying special operations units to nuclear bases. In this context, constant upgrades to "Operations Plan 5029" would be highly useful. However, if South Korea and the United States fail to consult or obtain the consent of neighboring nations, particularly China, on "Operations Plan 5029," China just may carry out a "China-style 5029" independently in northern North Korea to control North Korean nuclear weapons.

The United States and China have been engaged in the Strategic and Economic Dialogue to keep this kind of collision at bay, but all neighboring countries must discuss this particular issue.

D. Response to North Korean Army's Armed Provocations

South Korea and other countries concerned will need to discuss in advance and cooperate on responses to the North Korean army's armed provocations near the armistice line or along the national borders. If not, there is a possibility that the ROK-US combined forces, the Chinese forces, and the Russian army will occupy a part of the North Korean territory in the wake of North Korean armed provocations, citing military operations as the reason.

The likelihood of the North Korean army's systematic all-out provocation against the South will not be high. Yet, following Kim Jong-il's absence and in the midst of turmoil, North Korea's incumbent regime may perpetrate provocation, local or partial, against the South out of a political intent—to a preserve the unity of the regime. If not that, the chaos may escalate into a civil war, such as a military *coup d'etat*, which may also result in armed provocation against the South. Moreover, an accidental armed clash may

occur as the defeated military faction crosses the border. These problems will not be limited to the armistice line and South Korea only; they can occur along the North Korea-China border or even the North Korea-Russia border.

If an extremely small local provocation follows a North Korean contingency, the country concerned will respond with local war operations. If the provocation is larger in scale or uses WMD, it will require a full response from the South Korean, Chinese, and Russian forces. Above all, if a particular North Korean military faction has secured WMD, it may lead to a provocation with m ore serious implications, and that will be problem for all parties concerned, not one specific country. Hence, countries bordering North Korea will need to bolster their military preparedness posture and hold advance consultations with other neighboring nations on penetrating their military forces into and occupying certain areas of North Korea in case of a clash with the North Korean army. Barring that, these countries will highly likely occupy a part of the North Korean territory for military operations on the pretext of border clashes with the North Korean military. Such acts of "occupation" will be proportionate to the political influence they yield over North Korea, which will be enough to stymie Seoul's efforts to achieve the unification of the Korean peninsula.

To prevent such a scenario, South Korea must hammer out a set of agreements with its neighbors on measures related to the occupation of the North Korean region, as follows:

First, neighboring countries need to build a network for exchanging advance information about North Korean armed provocations after a certain point in time.

Second, no country, in principle, should occupy North Korea. That means, even if the North Korean army perpetrated armed provocations along North Korea's borders with China and Russia or along the armistice line, the countries concerned would concentrate on driving back the North Korean army and would not enter the North Korean territory.

Third, even if they did inevitably enter the North Korean region during combat, they must withdraw their forces from North Korea within 48 hours. For example, if some first-line North Korean military units that are beyond central control launched provocations independently, the attacked countries may deter those provocations by simply repelling the North Korean soldiers. If they had to deal with a larger, planned provocation or a military provocation in which WMD is used, however, they would need to broaden their sphere of operations to beyond the armistice line or the national borders, though it may be temporary, to conduct operations effectively. Of course, they will need to move back to their previous positions once they have accomplished their goal and completed their operations.

Fourth, international organizations will need to formulate plans for "sanctions" in advance, in case of a country's continued one-sided military occupation of North Korea past the 48-hour deadline.

E. Recognition of Interim Government in North Korea

In case of Kim Jong-il's absence, one can envisage the establishment of an interim government that is completely different in nature from the Kim Jong-il regime. International recognition of North Korea's substitute or interim regime is also an issue that requires close consultations and cooperation among the countries concerned.[20]

The first question to consider with respect to the advent of an interim regime in North Korea is if certain countries offer premature recognition of the interim regime, irrespective of its characteristics or its ability to rule, but other countries refuse to recognize the interim regime. In this case, the recognition of the North Korean interim regime will highly likely escalate into a conflict among the countries concerned. Just as different countries recognized the two

[20] Yang Hyun-soo, "Research on Advent of New Regime in North Korea" in Unification Policy Institute, *Survey and Research of North Korea,* Vol. 2, No. 1 (1998), pp. 189-220.

governments on the Korean peninsula in 1948, an interim regime in North Korea might set off a new Cold War among neighboring nations.

Second, neighboring countries' recognition of the interim regime in Pyongyang has political significance, for recognition, depending on the nature of it, can have an enormous impact on North Korea's stabilization and on the survival of the future regime. Hence, the recognition of the North Korean interim regime which emerges in the wake of Kim Jong-il's absence may be used to resolve the North Korean nuclear issue and draw out changes in the North Korean system.

If South Korea and other neighboring countries were to recognize the North Korean interim regime, the first issue at hand would be how much complete control the interim regime has over the entirety of North Korea at the time of recognizing the interim regime. If the interim regime does not exercise enough control over the entire country, it may be replaced by another one. Second, the recognizing states will need to consider the legitimacy of the interim regime—in other words, did it not come to power by committing illegal acts, such as quelling popular uprisings by force as it was rising to power. A third factor the recognizing states may consider is if the interim regime has succeeded to and is implementing the rights and obligations that the Kim Jong-il was subject to under international law.

All in all, neighboring countries, including South Korea, need to make joint preparations for the emergence of an interim regime in North Korea. In doing so, the key task would be how to link neighboring countries' recognition of a North Korean interim regime to North Korea's renunciation of nuclear weapons and the unification of the Korean peninsula.

VI. Our Response

Broadly speaking, South Korea's response to a North Korean

contingency will be twofold: securing our leadership within the framework of international cooperation while blocking off unilateral intervention by certain countries; and how to link the North Korean contingency to an opportunity for the unification of the Korean peninsula.

First, South Korea must identify specific cases of international cooperation that would be disadvantageous to it and nip it in the bud.

The types of international cooperation that Seoul needs to prevent include 1) a form of international management that aims to preserve and sustain the North Korean regime; 2) the establishment of a mutual buffer zone for countries participating in international management or the division of areas for which each of the participating countries will be responsible; 3) international management that excludes South Korea; and 4) the aggravation of the North Korean situation due to delayed international intervention.

Second, South Korea needs to initiate a strategic dialogue on a possible North Korean contingency with each of the neighboring countries. Seoul should begin by preparing for a North Korean contingency with Washington. Not only that, it should formulate with the United States a master plan for and beyond a contingency, including South Korea-led unification of the two Koreas. Based on the master plan, it should seek to hold a "strategic dialogue" with neighboring states.

Preparations for a North Korean contingency should involve efforts to transform "individual plans," which reflect each country's interests, into "cooperative plans," which take other countries' interests into consideration. To that end, the strategic dialogue led by South Korea should center on discussions to first alleviate the concerns of each country concerned. If such cooperation turns out to be effective, it may be possible for the countries concerned to make concerted efforts across the gamut of issues, to include the control of North Korea's nuclear weapons and missiles, responses to North Korea's armed provocations against South Korea, the prevention of unilateral interventions, mass influxes of refugees, and the recognition of a North Korean

interim regime.

At the same time, in order to gain neighboring countries' support for and cooperation in South Korea-led unification, Seoul should give serious thought to what they want from inter-Korean unification and what South Korea can do for them.

Third, South Korea needs to ward off China's one-sided military intervention. China will likely prefer multilateral intervention through the UN in the wake of a North Korean contingency, but a situation may arise in which China's military intervention is realistically inevitable. For example, a group of people who staged a failed *coup d'etat* might engage in an armed clash with the Chinese army while trying to cross the North Korea-China border. Large numbers of armed North Korean soldiers may choose to cross the North Korea-China border with civilians. In either case, China may be left with no choice but a military occupation of North Korea's northern region in order to prevent such events. Irrespective of what the reason may be, the only way we can prevent China's military intervention in North Korea at this point is to postpone the transfer of the wartime operational control from the United States to the ROK slated for April 2012. We need to remind Beijing that its unilateral military intervention in North Korea could trigger a counter-intervention by the ROK-US combined forces.

Fourth, South Korea must maintain the policy of denuclearization and pacifism even after unification.

The unification of the Korean peninsula will change the balance of power in Northeast Asia. Because the change may contradict the interests of neighboring countries, Seoul will need to make efforts to relieve their concerns, particularly those of China and Japan.

China, for one, may be keeping a close eye on the politic0-military potential of a unified Korea, whose integration was led by South Korea, for fear that it may eventually rise as China's hypothetical adversary. Japan may be worried about the possibility that a unified Korea may choose China over Japan

as a new ally. In order to draw out cooperation from China and Japan, South Korea needs to promise them that a unified Korea will never be a military threat. It should do so by pledging denuclearization, relinquishment of WMD, and bold reductions of conventional forces after unification. South Korea's denuclearization and pacifist policy will prove to be a very useful tool for drawing out China's and Japan's cooperation come time for the unification of the Korean peninsula.