

Going Beyond Economic Engagement: Why South Korea Should Press the North on Labor Standards and Practices

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In recent years, despite a history of enmity and armed conflict that never really ended after the Korean War more than 60 years ago, South Korea has been a major investor in North Korea, and South Korean firms have employed more than 50,000 North Korean workers. South Korea's stated goal has been to encourage sufficient economic progress by North Korea, emboldening it toward establishing a meaningful basis for reconciliation and,

ultimately, national unification. The expectation, or at least the hope, has been to use economic engagement to lessen the North's direct state control over the economy and to encourage the development of a middle class that might demand greater internal opening. The goal, as enunciated by former South Korean President Kim Dae-jung, has also been to foster a rise of interest groups with an enhanced stake in peaceable external relations.¹

The transformational vision articulated by advocates of engagement rests on unexamined assumptions about the nature of North-South economic integration, however. The North Korean regime views the engagement policy with perhaps understandable skepticism, as a Trojan horse designed to change its fundamentally distrustful and combative nature. The evidence suggests that North Korea's actions are successful at attenuating or forestalling any transformational impact of the economic exchanges.

This Policy Brief reviews the results from an original survey of South Korean employers, which indicate that the North Korean government has largely circumscribed exposure of North Korean citizens both to South Koreans and to new, more market-oriented economic practices. Hiring is largely conducted via the North Korean government, which prescreens workers, possibly on political criteria, and sets wage rates administratively, demands payment in foreign currency, and takes a large cut. South Korean investment in North Korea may well benefit both the firms and workers involved, but evidence

1. This comment by Kim is exemplary in this regard: "With deepening economic exchanges and cooperation...the North Korean economy will overcome to a considerable degree its capital shortage and technological backwardness through its policy of open doors to the outside; and will show greater vitality in its economic relations with the outside world. As the planned economic system gradually turns toward a market economy, the North Korean economy is expected to experience rapid growth, and the economic disparity with South Korea will begin to narrow. When and if such developments occur, along with improved living standards for its citizens and the inevitable change in their world view and/or perception of the outside world, we would project that there would inevitably be demands for changes even in their political system. As these trends take root, it would be unavoidable for the North Koreans to tolerate or even accept the multi-party system and the principle of free elections" (Kim 1997, p. 121).

of the broader spillovers that proponents of engagement sometimes assert is not apparent.

The behavior of South Korean investors is no doubt well-intentioned if also self-serving, and it is consistent with various international agreements and covenants to which the governments of North and South Korea have committed. As an alternative to the failed efforts by South Korea so far, the Policy Brief

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also explores whether these international covenants or voluntary labor codes could be used to encourage employment practices more likely to generate the desired transformation of the North.

The Policy Brief concludes by calling for, among other things, a South Korean campaign organized around worker's rights, based on the South Korean constitution and on international norms and covenants, as a helpful complement to the economic engagement with North Korea. Such a step would probably require further negotiations between North and South Korea to reform the labor practices of South Korean firms operating in North Korea.

SURVEY BACKGROUND

In the case of South Korea, the particular history of North-South relations has resulted in a situation in which exchange occurs through three quite distinct modalities. When cross-border integration began in the 1990s, while some trade (mainly the importation of North Korean natural resource products) took the form of arm's-length transactions between unrelated entities, the majority of trade took the form of processing-on-commission (POC) relations. Under this arrangement, South Korean firms shipped inputs to North Korea for assembly by North Korean partners, with the South Korean investor re-exporting the finished products, typically garments, for sale in South Korea or other third-country markets.

A third modality of exchange subsequently developed at the Kaesong Industrial Complex (KIC).² Firms in the KIC are

2. The zone, which opened in December 2004, sits just north of the North-South border and is easily accessible from Seoul. It was closed in a diplomatic dispute in April 2013 but reopened in September 2013.

also engaged in processing and assembly activities but without North Korean corporate partners. Inputs are sourced from South Korea, transported to the KIC, fabricated into finished products by North Korean workers hired via a North Korean government labor bureau, and then transported back to South Korea for sale locally or for reexport to third-country markets.

The results reported here are derived from a March 2010 survey of 200 firms engaged in trade or investment in North Korea.³ At its peak in the late 2000s, roughly 400 South Korean firms were engaged in economic activities in the North outside of the KIC; activity at Kaesong peaked in 2013 with 123 firms and has since declined. At the time it was undertaken, the survey sampled more than half the universe of South Korean firms doing business in North Korea. Forty-six of the firms surveyed reported hiring North Korean labor.

Most of these employers, 33 out of 46 firms (72 percent), operate in the KIC, though not necessarily exclusively there. Eight firms (17 percent) engage in POC trade outside the KIC. A handful of firms are engaged exclusively in arm's-length importing or exporting, and one firm engages in both arm's-length importing and exporting activities.

Nearly half of the firms (43 percent) are involved in textiles and apparel, followed by watches, parts, and accessories (13 percent); natural resource products (9 percent); machinery, motors, and parts (9 percent); and electronic parts (9 percent). Apart from the KIC, the respondent firms had operations in the capital city Pyongyang and the provinces of North Hamgyong, North Pyongan, and Gangwon.

EMPLOYMENT PRACTICES

The vast majority of South Korean firms reported hiring via a North Korean government labor agency, and this was the almost exclusive means of hiring for operations in the KIC (table 1). The only other avenue of hiring that received a noticeable response was that North Korean joint venture partners supplied the workers (11 percent overall), which was highly correlated with firms engaged in arm's-length transactions and those involved in the natural resources sector.

When South Korean employers were asked if they believed that their workers had to pay their North Korean counterparties bribes or kickbacks for the privilege of working for the South Korean employer, a plurality of firms responded negatively, though most of those obtaining their labor via North Korean counterparties believed this to be the case. When asked if they were required to employ members of the Korean Workers' Party (KWP), most firms said no, though 27 percent of the firms operating in the KIC indicated that they

3. See appendix for a complete description of the survey methodology.

Table 1 Methods of hiring North Korean labor

Hiring method	Total firms (n=46)		KIC firms (n=33)		Non-KIC firms (n=13)		Firms engaged in POC trade (n=8)		Firms engaged in arms-length trade (n=5)	
	Frequency	Percent	Frequency	Percent	Frequency	Percent	Frequency	Percent	Frequency	Percent
Directly	1	2	0	0	1	8	0	0	1	20
From a North Korean government labor agency	38	83	31	94	7	54	7	88	0	0
North Korean partners supply the workers	5	11	1	3	4	31	1	13	3	60
Other	2	4	1	3	1	8	0	0	1	20

KIC = Kaesong Industrial Complex; POC = processing-on-commission

Note: Columns may not total 100 percent due to rounding.

Source: Author's survey of South Korean employers in North Korea.

were forced to employ KWP members. If this is the case, then it is a function of labor agency prescreening, since the firms rarely hire directly.

When asked about wage rates, the overwhelming response (83 percent overall, 94 percent within the KIC, and 54 percent outside the KIC) was that wage rates were set by the North Korean government. Other responses included wage rates set by North Korean partners (9 percent overall and 60 percent for the firms engaged in arm's-length transactions) or by the South Korean government or supply and demand (4 percent each). Despite the fact that Article 32 of the KIC Labor Law stipulates that North Korean workers must be paid directly in cash, the vast majority of firms reported paying wages to the North Korean government and not the workers directly (93 percent overall, 97 percent in the KIC, and 85 percent outside the KIC), 4 percent reported paying directly to the workers, and one firm operating in the KIC said it paid both the government and the workers directly.⁴ These results foreshadow the finding below that wages going to the workers are largely unknown.

This pattern of indirect payment is consistent with the observation that wages were overwhelmingly paid in US dollars or another foreign currency (93 percent overall, 100 percent in the KIC, 81 percent outside it, and 100 percent for the arm's-length group), not North Korean won, although

it is technically illegal for domestic residents to hold foreign exchange.

For example, at the time of its closure in April 2013, the minimum wage at the KIC was \$67.05 per month, and once all payments and bonuses were accounted for, the average wage was \$130.⁵ Workers, however, were not receiving \$130 per month; the North Korean government was thought to retain roughly 30 to 40 percent of this payment, ostensibly to cover social security payments, transportation, and other in-kind benefits. More importantly, while South Korean firms pay in US dollars, North Korea pays the workers in North Korean won converted at the wildly overvalued official exchange rate. Evaluated at the black-market rate, North Korean workers may have been netting less than \$2 per month. Alternatively, market prices for rice have been on the order of 4,000 to 5,000 won per kilo, suggesting that monthly after-tax wages might purchase roughly 2 to 3 kilos of rice.⁶ Workers do receive nonwage benefits: free lunches and snacks, showers, etc. And from personal observation, the working conditions in the KIC factories are clearly better than in North Korean state-owned enterprises. So despite the apparently low wages, there appears to be no shortage of North Koreans willing to work on these terms.

There is some evidence of incentive pay. While most respondents indicated that they paid workers on the basis of

4. That these payments go directly to the North Korean government has become a concern to US Under Secretary for Terrorism and Financial Intelligence David Cohen, because multiple UN Security Council resolutions impose restrictions on financial transactions with North Korea in response to its nuclear and missile programs (*VOA News*, "US Targeting Secret Funds of North Korea's Kim," <http://www.voanews.com/content/us-targeting-secret-funds-of-north-koreas-kim/1641871.html>, accessed April 7, 2014).

5. Park Seong Guk, "Kaesong Wages Rise by 5%," *DailyNK*, August 6, 2012, <http://www.dailynk.com/english/read.php?catId=nk00100&num=9633> (accessed November 7, 2013). The government of North Korea has demanded a 60 percent increase in the base wage, from \$67 to \$107 monthly (*VOA News*, "N. Korea Demands Pay Raise for Kaesong Workers," February 12, 2014).

6. Figures for December 2013, <http://www.dailynk.com/english/market.php> (accessed January 29, 2014).

a set daily or hourly wage rate, 22 percent reported paying overtime, 15 percent reported paying a piecework rate, and 7 percent reported paying bonuses for exceeding production targets. Consistent with relatively greater regulatory oversight, and more direct North Korean government pecuniary interest, overtime is paid more frequently in the KIC (27 percent versus 8 percent outside the KIC), but piecework is more common outside the zone (12 percent inside the KIC versus 23 percent outside of it). Half of the POC firms and nearly half of the KIC operations use some kind of incentive pay. Yet even the incentive payments go to the North Korean counterparty, and it is unclear how much, if any, actually reaches the workers.

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Given that wages are usually paid to the North Korean government, the firms hiring via the government were asked if they knew exactly how much money their workers were in turn receiving from the government. *A majority of the employers refused to answer the question.* Of those that did, their responses were split nearly evenly between those who said that they knew (21 percent) and those that did not (18 percent). *In other words, only one in five firms indicated that they knew how much their workers were actually paid.* Remarkably, none of the firms that reported paying piecework rates indicated that they knew how much the workers were paid—they simply paid their North Korean counterparty and left it at that. However, when asked the follow-up question whether they believed that the government took a large amount of money that was supposed to go to their employees, a majority responded affirmatively.

In sum, hiring is largely via the North Korean government, which prescreens the workers, possibly on political criteria, sets wage rates administratively, demands payment in foreign currency, and absorbs the lion's share of wage payments.

INDUSTRIAL RELATIONS

South Korean managers generally do not directly supervise North Korean workers. Supervision is normally done through a North Korean intermediary manager. Direct supervision occurred more frequently outside of the KIC (15 percent). The lack of direct

supervision appears to come at a cost: Most South Korean firms agreed that it was difficult to supervise North Korean workers, but this issue was greatest in the KIC, where firms tend to rely on the intermediation of North Korean managers.

Most South Korean employers surveyed had generally positive appraisals of their North Korean workers (figure 1), and when asked the bottom-line question of whether, given the skill level, the employment of the North Koreans was advantageous at the prevailing wage rates, large majorities answered affirmatively (91 percent overall).

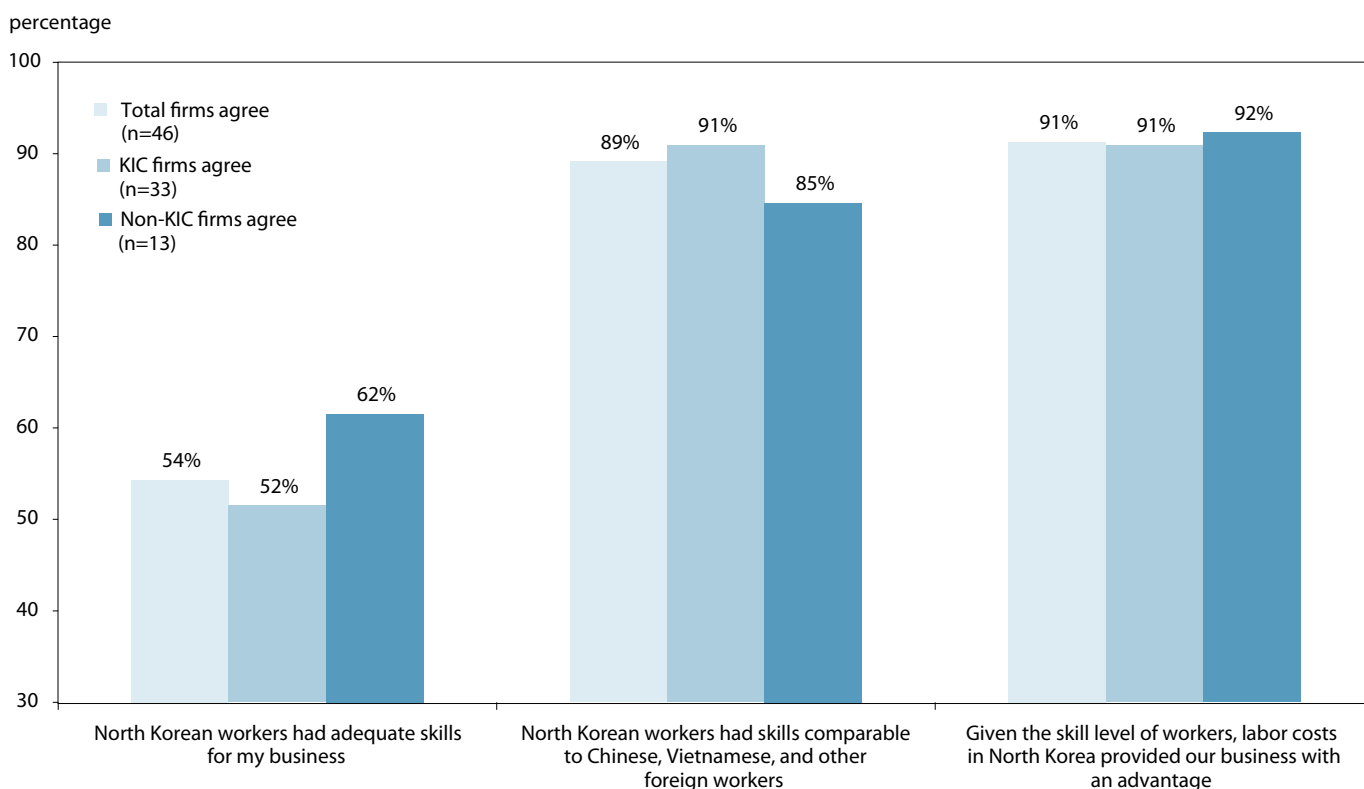
Relatively few firms acknowledged that workers complained about conditions in their South Korean-operated factories. There was no correlation between direct supervision and responding that workers complained, i.e., the absence of complaints did not appear to reflect lack of familiarity or contact. In fact, large majorities indicated they thought their employees considered themselves lucky to be employed by South Korean firms. This general acceptance of working conditions seems to be borne out by low turnover rates: 76 percent of the respondents indicated that a benefit of hiring North Korean workers was that the percentage who quit was low.

When asked how they handled situations involving unsatisfactory or unnecessary workers, 28 percent responded that they had never confronted this problem, including half of the POC firms. For the POC firms, which make piece-rate payments to their North Korean counterparties, this result may reflect the internalization of the pecuniary incentive of the North Korean counterparty management to weed out unproductive workers.

Among the firms that did acknowledge needing to dismiss workers, none said that they were able to do so without obtaining some kind of approval or permission. Most firms that reported making dismissals (77 percent) said they had to get the permission of the North Korean labor agency to dismiss a worker. Ten percent said they had to get permission from the KWP, and another 10 percent said they had to get permission from their North Korean partner. One firm reported paying severance.

Work stoppages occur infrequently: Most firms reported that they had not experienced strikes or work stoppages. (Indeed, according to anecdotal evidence related in Human Rights Watch [2006], these workers would not know what a strike is.) Among those firms that had experienced labor unrest, there appeared to be no standard method of dispute resolution. Some in the KIC (though none outside of it) appealed to the South Korean government or the North Korean government.⁷ The POC firms that experienced strikes

7. According to Human Rights Watch (2006), the KIC Labor Law stipulates that labor-management disputes should be resolved through consultation between workers and their employers, and if this does not resolve the dispute,

Figure 1 Firm opinions on quality of North Korean labor

KIC = Kaesong Industrial Complex

Note: Bars represent percent of firms out of subsample that responded positively to the corresponding survey question. Positive responses aggregate “agree” and “totally agree.”

Source: Author’s survey of South Korean employers in North Korea.

or work stoppages most often appealed to their Chinese office or a Korean-Chinese intermediary for help. Other employers indicated no method of settling disputes at all.⁸ When the South Korean employers were asked if a benefit of hiring North Korean workers was that they were not unionized, 61 percent responded affirmatively (58 percent in the KIC, 69 percent outside the KIC). Eighty percent of the firms engaged in arm’s-length transactions agreed with this sentiment.

LABOR STANDARDS

The labor practices documented above appear both exploitative and unlikely to generate desired transformational effects (Human Rights Watch 2006). Are these conventions consistent

with international norms, and are there mechanisms that could be used to encourage the adoption of more humane and potentially transformative practices?

South Korea is a member of the International Labor Organization (ILO), as well as the Organization of Economic Cooperation and Development (OECD), which has promulgated its *Guidelines for Multinational Enterprises* (OECD 2011), which obligate investors to ensure that North Korean workers are aware of their rights and how to exercise them. Both countries are also members of the United Nations, which has released a set of *Guiding Principles on Business and Human Rights* (United Nations 2011). Finally, the South Korean government could extend regulation over its investors extra-territorially; indeed, the constitution of the Republic of Korea makes claims over the entire peninsula, raising the issue of the extent that South Korean firms investing in North Korea ought to be subject to “domestic” standards and regulations. To what extent, if any, is the behavior of South Korean investors in North Korea constrained in principle, if not in reality, by these covenants?

the workers or employers can request the KIC Management Committee to mediate.

8. Haggard, Lee, and Noland (2012) and Haggard and Noland (2012) obtain similar results regarding weak or nonexistent mechanisms for resolving commercial disputes for Chinese enterprises operating in North Korea.

Both the UN and OECD guidelines are largely oriented toward prescribing behavior for multinational firms in an environment in which the host government is committed to upholding international norms. The problem with their application in the North Korean case is that it is not so much that private firms subvert the government's attempt to do the right thing, but rather the state opposes or pays only lip service to the international norms, and the investor stands to benefit.

For example, the OECD guidelines state that investors should respect human rights "within the framework of internationally recognized human rights, international human rights obligations of the countries in which they operate" (OECD 2011, p. 31), and then go on to reference "the International Bill of Human Rights, consisting of the Universal Declaration

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of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights" and the ILO principles (OECD 2011, p. 32). North Korea is a state party to the International Covenant on Economic, Social, and Cultural Rights. For example, the covenant obligates states to ensure "[e]qual opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence" (Article 7)—an obligation eviscerated by North Korea's *songbun* system of political classifications (Collins 2012) and the rights of citizens to form and join trade unions of their choice and strike (Article 8). This would seem to establish both the government of North Korea's obligation under its international commitments to ensure certain rights and for employers to respect those rights. But the OECD guidelines go on to say that "obeying domestic laws is the first obligation of enterprises... in countries where domestic laws and regulations conflict with the principles and standards of the OECD guidelines, enterprises should seek ways to honor such principles and standards to the fullest extent which does not place them in violation of domestic law" (OECD 2011, p. 17). In North Korea, the state's unwillingness to meet its international legal obligations would seem to emasculate any salutary impact of the OECD guidelines.

However, the OECD guidelines also specify that adhering countries establish National Contact Points (NCPs), which are partly oriented toward supporting the implementation of the guidelines by home country entities in non-adhering countries. The South Korean NCP is the Korea Commercial Arbitration Board. In December 2013, officials there indicated that the government was working to raise the awareness of the OECD guidelines among South Korean companies operating in non-adhering countries. However, the issue had not come up in the context of the KIC or investment in North Korea more generally, and the government had not formulated a policy.

The UN's principles face similar difficulties, but they do suggest that states may need to consider extraterritorial application of the law. Article 3 of the South Korean constitution declares that the territory of the Republic of Korea consists of "the Korean Peninsula and its adjacent islands" (Article 103 of the North Korean constitution makes a mirror claim to the entire peninsula). The South Korean constitution then goes on to elaborate a number of economic rights including Article 33: "To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action." Article 6a reads "Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea." One could interpret these articles and other similar provisions, together with South Korea's international law obligations, as forming the constitutional basis, nationally and internationally, for encouraging if not requiring South Korean firms to facilitate labor rights in North Korea.

However, the obstacle to the extraterritorial application of South Korean law is not a lack of legal foundations; it is that South Korea's diplomatic commitment to engage North Korea trumps labor rights concerns, together with South Korean firms' perception that the North Korean status quo confers benefits. There is no evidence that the South Korean government has undertaken any steps to date that would encourage or require its firms to abide by any standards whatsoever.

The same calculus does not hold for all of South Korea's trade partners, however. For example, the South Korean request for goods produced in the KIC to be classified as "made in South Korea" and receive duty-free treatment was rejected by US negotiators in the Korea-US Free Trade Agreement talks. The two sides ultimately adopted a face-saving gesture of creating a binational commission under Annex 22-B to study the issue with the tacit understanding that the United States would never agree to duty-free treatment under the current economic and political conditions prevailing in North Korea. Other free trade agreement partners—Singapore, for

example—have acceded to the South Korean request. Since the 2013 KIC closure, there have been signs that South Korea would like to “internationalize” the KIC, the thought being that having firms from third countries in the zone would deter North Korea from interfering (Stangarone 2013). But another implication of bringing in non–South Korean firms is that those firms may be subject to a different set of legal constraints and political pressures than the South Korean firms are, as the

One [possible remedy] would be to encourage corporate codes of conduct similar to the Sullivan Principles for foreign companies investing in South Africa during that country’s apartheid period.

foregoing examples demonstrate. In particular, foreign firms investing in the KIC might be subject to pressure in their home countries to abide by the provision in the KIC Labor Law that requires wages be paid directly to workers and not to the North Korean government.

That leaves private activism as a possible remedy. One possibility would be to encourage corporate codes of conduct similar to the Sullivan Principles for foreign companies investing in South Africa during that country’s apartheid period.⁹ The Sullivan Principles inspired a number of similar initiatives in other controversial situations, including the MacBride Principles (Northern Ireland), the Slepak Principles (the Soviet Union), the Miller Principles (China and Tibet), the Malquiladora Standards of Conduct (Mexico), and the Ceres née Valdez Principles (code of corporate environmental conduct), making them a natural starting point for developing a similar strategy with respect to North Korea.

The introduction of the Sullivan Principles did not occur in isolation. Their development occurred symbiotically with a

growing anti-apartheid movement, which included shareholder resolutions, divestment campaigns, and, at the level of state and local governments in the United States, selective purchasing policies with respect to government procurement.¹⁰ US investors in South Africa came under considerable pressure either to adopt the Sullivan Principles or divest. In turn, a burgeoning anti-apartheid movement and growing frustration over the apparent lack of progress in South Africa led Sullivan to expand the Principles in 1984, adding a provision committing signatory firms to “working to eliminate laws and customs that impede social, economic, and political justice.” The following year, President Ronald Reagan issued an executive order requiring firms to conform to fair employment standards similar to the Sullivan Principles, but this could not stem the rising tide of sentiment in favor of more decisive action, and in 1986 the US Congress passed sanctions legislation.

Evaluating the Sullivan Principles’ impact, McCrudden (1999) writes:

“[T]here is some indication that the Principles had several positive effects: first, that corporations found them useful by providing a focus for their social and political activities in South Africa; second, that the Principles brought about some changes in conditions for black workers which may not otherwise have occurred; third, that the Principles led to increased funding by companies of social causes in the South African community, and fourth, that they may have increased pressure on government for the recognition of black trade unions, an important factor in the development of organized black politics. It is difficult, however, for the effect of the Principles to be distinguished from the effect of other similar activity, outside the context of the Principles, such as undertaken by other countries, or from larger political and economic forces operating at that time in South Africa” (p. 177).

The apartheid regime ultimately fell, and in 1999, Reverend Leon Sullivan and UN Secretary General Kofi Annan formulated the Global Sullivan Principles of Corporate Social Responsibility in 1999, an antecedent to the UN principles examined above.¹¹ In contrast to the UN principles, and consistent with their origins as guidelines for corporate activity, the Global Sullivan Principles focus on firm, not state, behavior. They call for multinational companies to proactively advocate

9. The Sullivan Principles, developed by Reverend Leon Sullivan in 1977, were: 1. Non-segregation of the races in all eating, comfort, and work facilities. 2. Equal and fair employment practices for all employees. 3. Equal pay for all employees doing equal or comparable work for the same period of time. 4. Initiation of and development of training programs that will prepare, in substantial numbers, blacks and other nonwhites for supervisory, administrative, clerical, and technical jobs. 5. Increasing the number of blacks and other nonwhites in management and supervisory positions. 6. Improving the quality of life for blacks and other nonwhites outside the work environment in such areas as housing, transportation, school, recreation, and health facilities. 7. Working to eliminate laws and customs that impede social, economic, and political justice (added in 1984). Available at www.marshall.edu/revleonsullivan/principles.htm (accessed November 11, 2013). When this tactic did not bear fruit, eventually Leon Sullivan called upon companies to exit South Africa.

10. For example, the state of Maryland adopted a policy that firms bidding for contracts in excess of \$100,000 had to certify that either they did no business in South Africa or adhered to the Sullivan Principles.

11. The Global Sullivan Principles, <http://www1.umn.edu/humanrts/links/sullivanprinciples.html> (accessed November 11, 2013).

for universal human rights and the rights of their employees, and unlike the OECD guidelines, they do not contain the loophole of operating within the constraints of national law.

CONCLUSION

Years of on-and-off economic engagement by South Korea have fallen short of bringing about any kind of transformation in the North's belligerent, isolated attitude toward the rest of the world. One reason may be that most North Koreans are so isolated that even economic investment and engagement has a hard time breaking through. On the one hand, nearly any exposure to foreigners and new ways of doing things has to be regarded as positive. Yet the survey of South Korean employers cited in this Policy Brief suggests that the North Korean government has restricted exposure of North Korean citizens both to South Koreans and to new, more market-oriented economic practices.

Most South Korean employers, in fact, report that their North Korean operations are profitable, and they frankly appear to value the docility of their nonunionized North Korean workers. Given the constellation of interests between the North Korean state and the South Korean employers, it is doubtful that much impetus to improve the working conditions of North Korean workers will come from these sources.

Change is likely only if the South Korean public agitates for it. At present, however, there is no consensus within South

Korea on the issue of North Korean human rights. The absence of a coherent position among South Korea's progressives is particularly noticeable.¹² This impasse needs to be broken. A campaign organized around worker's rights, anchored in both the South Korean constitution and existing international norms and covenants, would be a good place to start. A broad political consensus within South Korea favors economic engagement with North Korea. Adding an appropriately calibrated set of principles presents risks—it could serve as a poison pill ending economic engagement. But it could also be more than that if backed by popular engagement. Such principles could center on providing for basic labor rights, recognition of labor organizations, and nondiscrimination on the basis of *songbun*. But to be clear, the Sullivan Principles—the corporate conduct agenda first developed in the 1970s to end apartheid in South Africa—were successful because they were accompanied by actions, such as divestiture, selective purchasing, and sanctions. Applying voluntary labor standards in North Korea would require a similar political context and negotiations between the governments of North and South Korea to reform the labor practices of South Korean firms operating in North Korea. Amending the KIC Labor Law to explicitly guarantee the fundamental right to freedom of association and collective bargaining would be a start.

Kim Dae-jung's transformational vision is unlikely to be fulfilled under current practices. A more proactive approach to labor rights would be a means to achieve it.

12. See Wolman (2013).

APPENDIX: SURVEY METHODOLOGY

A pilot survey was conducted in November 2009 using a survey instrument designed by Stephan Haggard and Marcus Noland with the actual interviews conducted by Millward Brown Media Research. Millward Brown was responsible for securing any local permits and ensuring that the survey was conducted according to ESOMAR rules.¹³ The final survey was conducted during November 2009 and March 2010. The predominant means of conducting the survey was through telephone interviews, though some interviews were conducted face-to-face. Among the reasons that interviews could not be conducted were the enterprise refused to participate prior to or during the interview, contact could not be established with the enterprise, or the person within the enterprise eligible to respond according to the survey instrument was unavailable. The data—and particularly firm addresses—were subject to post-survey verification by random spot-checking.

Given that there are no known or available registries of all firms doing business in North Korea, the sample of firms doing business in North Korea was of necessity a sample of

convenience. The sample was developed using North Korean, South Korean, and Western press accounts, as well as information gathered by Millward Brown in the process of the pilot and interviews with other firms. The sample was drawn from enterprises operating throughout South Korea including the control group of firms not doing business in North Korea.

The design involved a survey of 250 firms, with 200 doing business in North Korea, from which 199 valid responses were received, and 50 valid responses from firms not doing business in North Korea. The survey authors defined firms doing business in North Korea to include those that were involved in trading (imports, exports, or both), investment, processing-on-commission activities, or that maintained representative offices in North Korea as well as 18 firms that had done business there and later quit. The control group consisted of 50 firms that had never done business in North Korea.

The survey began with a pilot of 50 firms from throughout South Korea. Although it was understood this was a sample of convenience, enterprises reflecting a broad distribution of size, sector, and provincial location were targeted. Following the successful completion of the pilot—which did not require fundamental modification of the survey—the authors were able to transit directly to the full survey, and all of the pilot firms were included in the final 249 firms.

13. Available at <http://actrav.itsilo.org/actrav-english/telearn/global/ilo/guide/iccmr.htm> (accessed April 16, 2014).

REFERENCES

- Collins, Robert. 2012. *Marked for Life: Songbun North Korea's Social Classification System*. Washington: Committee for Human Rights in North Korea.
- Haggard, Stephan, Jennifer Lee, and Marcus Noland. 2012. Integration in the Absence of Institutions: China–North Korea Cross-Border Exchange. *Journal of Asian Economics* 23, no. 2: 130–45.
- Haggard, Stephan, and Marcus Noland. 2012. *Networks, Trust, and Trade: The Microeconomics of China–North Korea Integration*. Working Paper 12-8. Washington: Peterson Institute for International Economics.
- Human Rights Watch. 2006. *North Korea: Workers' Rights at the Kaesong Industrial Complex*. Available at <http://www.hrw.org/legacy/backgrounder/asia/korea1006/korea1006web.pdf> (accessed on March 21, 2014).
- Kim, Dae-jung. 1997. *“Three-Stage” Approach to Korean Reunification*. Los Angeles, CA: The Center for Multiethnic and Transnational Studies, University of Southern California.
- McCrudden, Christopher. 1999. Human Rights Codes for Transnational Corporations: What Can the Sullivan and MacBride Principles Tell Us? *Oxford Journal of Legal Studies* 19, no. 2: 167–201.
- OECD (Organization for Economic Cooperation and Development). 2011. *OECD Guidelines for Multinational Enterprises*. Paris: OECD.
- Stangarone, Troy. 2013. Zone of Engagement: Can North Korea's Kaesong Complex Be Internationalized? *Global Asia* 8, no. 2.
- United Nations. 2011. *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. Available at <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed on November 7, 2013). Geneva: United Nations.
- Wolman, Andrew. 2013. South Korea's Response to Human Rights Abuses in North Korea: An Analysis of Policy Options. *Asia Pacific Issues* no. 110. Honolulu, HI: East-West Center.

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