

## **Balancing Human Rights Protections and Security Concerns: Korean Perspective**

Only recently has human rights become one of the main factors for policy making in the Republic of Korea. Previously, Korea was recognized as the last nation on earth divided by the Cold War and the site of a potentially explosive military confrontation. Furthermore, Northeast Asia's security situation, including on the Korean peninsula, has taken center stage in the world since the early 90s when North Korea's nuclear development program was discovered.

In fact, the situation on the Korean peninsula has worked as an enormous obstacle to Korean citizens' stability in life and economic prosperity.

Security of the nation took precedence over all other concerns including human rights. But the restless efforts of many human rights organizations have made human rights a primary concern of the South Korean people and an important factor in the policy-making process. It is the establishment of the National Human Rights Commission (NHRC) that has helped bring changes in the security views of South Korean citizens.

The Security paradigm in South Korea has been a traditional one which is based on a possible military confrontation on the peninsula. However, this type of national security paradigm historically has been a source of authoritarianism which forced restrictions on Korean citizens' political, economical and social rights.

Therefore, under the authoritarian government in the past, presenting an opinion opposed to the security policy of the government was prohibited. However, from early 1990s when the civilian government was formed, there have been counterarguments made against the traditional notion of national security-first doctrine.

Moreover, since the Commission was established, its recommendations to security-related policies such as opposition to the Terrorism Prevention Bill (or Anti-terrorism Bill) and the dispatch of troops for the Iraqi War has raised public awareness that human rights issues should be taken as a prior consideration in the policy-making.

I would like to share particularly the progress of discussion on the Terrorism Prevention Bill (hereinafter 'Bill') out of those cases.

The Bill introduced by the National Intelligence Service(NIS) was originally submitted to the National Assembly by the government in November of 2001, a few days before establishment of the NHRC. According to the Bill, all the actions related to the anti-terrorism are supposed to be under the jurisdiction of the NIS. It also contained many potentialities for human rights violation.

The National Human Rights Commission expressed opposition to the anti-terrorism bill in February of 2002 to the National Assembly, political parties and related government bodies. At that time, when I, as president of the Commission, met with the speaker of the National Assembly, I stressed the possible human rights violations in the Bill. Many NGOs also expressed their dissenting opinions about it.

I thought that the incident was concluded after the Bill died in the National Assembly. But after a shift of administration and a new President, the NIS once again submitted the partially-amended bill to the National Assembly in September 2003. The Commission once again expressed its objection to the National Assembly concerning the amended anti-terrorism bill around October 2003. Currently, this bill is under deliberation in the Information Committee of the National Assembly at the moment.

The reason that the National Human Rights Commission opposed the enactment of the above anti-terrorism bill is as follows:

First, existing laws and infrastructure can provide for protection, prevention, and punishment of terrorist acts.

Second, there are concerns about the possibility of it being used as a device for an intelligence agency like the NIS to intervene in the work of other national bodies and its administrations.

Third, since the definition of “terror” outlined in the anti-terrorism bill is very vague and abstract, it violates the principle of the legality of crimes and punishment.

In conclusion, the standpoint of our Commission on the anti-terrorism bill is that there needs to be a balance between human rights and security. Specifically, the Commission stresses that the measures related to security be kept within limits that do not violate the rights that are outlined under the International Human Rights Act and its related laws.

This is identical to the standpoint of the U.N. Commission on Human Rights. The nation’s countermeasures against terrorism have to be established according to the U.N Declaration of Human Rights(UDHR), and the International Human Rights Act like International Covenant on Civil and Political Rights, and cannot violate substantial and procedural human rights that are assured by the International Human Rights Act. I believe this process is the only way to balance human rights and security.

In addition, I believe that the genuine definition of security must be based on the protection of freedom, dignity, equality, and human rights.

Now, I would like to finish my speech citing the Sectary General Mr. Kofi A. Annan’s speech on the 21st century reform plan of the United Nations. “Human Rights

are integral to the promotion of peace and security, economic prosperity and social equity.”

Thank you very much for your attention.