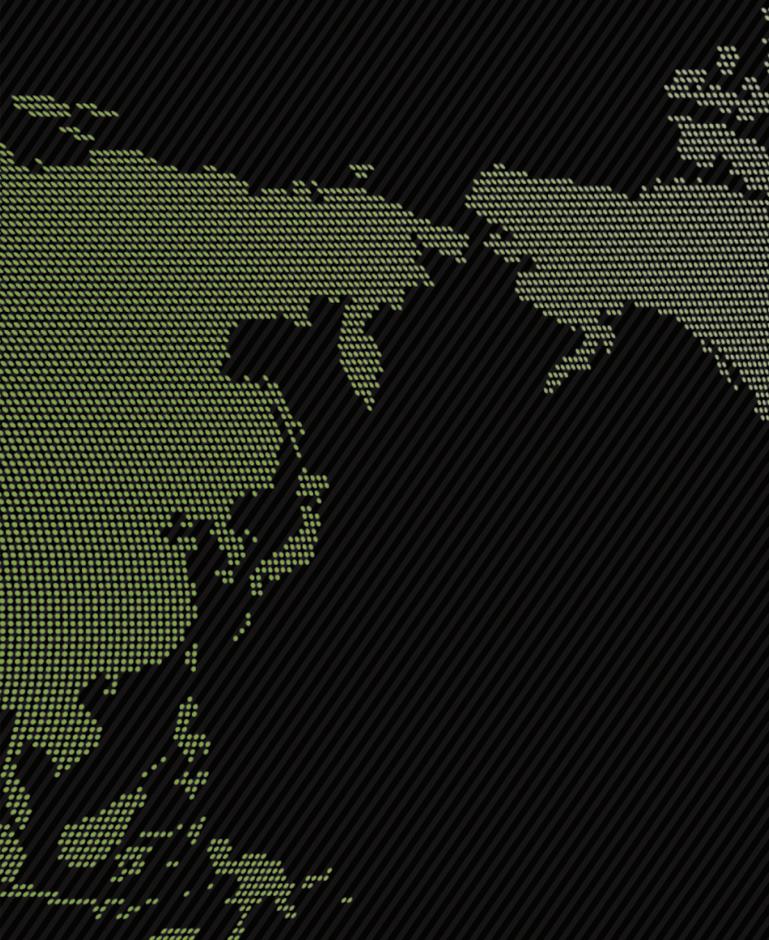


Study on Changing Trends of Human Rights Institution and Situation in North Korea

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Study on Changing Trends of Human Rights Institution
and Situation in North Korea

Korea Institute for National Unification

1. Introduction



1. Introduction

A. Objective and Scope of Study

This study contemplates the institution and situation of North Korea's human rights from the 1990s to 2016 in terms of continuity and change, and analyzes the influencing factors in order to provide the base reference in devising a measure to improve human rights in the Democratic People's Republic of Korea (DPRK). To this end, the study bases changing trends of North Korea's institution on the enactment and amendment of relevant legislations. There are, however, limitations to assessing the degree of respect for human rights solely based on the existence or maintenance of human rights-related legal provisions in North Korea that has yet to establish the rule of law. Yet, the enactment or amendment of basic legislations on human rights allows an objective assessment of institutional protection of human rights in North Korean society, and acts as an indicator of changes in policy and perception held by North Korean authorities concerning the improvement of human rights. Moreover, change in legislation fundamentally reflect changes in society, and allow the internal and external factors that induce such changes to be easily identified given that pinpointing the exact time of legislative enactment is possible. Meanwhile, the situation of human rights of North Korean residents can be confirmed by analyzing the operation of relevant

institutions. Therefore, this study analyzes the effect of normative changes in the North Korean human rights situation based on changes in relevant legislations.

The study analyzes the trends in changes of North Korea's human rights institution as well as its situation, with a focus on civil and political rights, which constitute the core of the right to freedom, and the right to equality. It can be outlined as follows. Section II reviews the trends of changes in civil rights focusing on North Korea's criminal law. It reviews the right to liberty, the right to a fair trial, the right to assistance by counsel, the right to due process, and the right to legal remedy for violation of human rights. Section III analyzes the changes in political rights focusing on the election system. This section reviews whether the following rights are exercised in North Korea - freedom of expression, right to hold public office, and the right to vote. Section IV analyzes whether North Korea's right to equality is being practiced by reviewing the institutional changes made concerning the elimination of discrimination against women and the changes of women's status in society and household.

Although the study mostly covers the changes in North Korea's human rights institution and situation from 1990 onwards, it also refers to historical cases when necessary. The issue of North Korea's human rights had started to attract international attention in the 1990s following activities of international workers, an increase in the number of North Korean escapees due to an economic crisis, and the subsequent revelations of North Korea's domestic circumstances. In the 1990s, North Korea witnessed

socialist states experiencing regime changes after the end of the Cold War and experienced changes in international relations following the two Korea's entry into the United Nations. Internally and externally, North Korea experienced an increase in economic and social anxiety due to natural disaster and food shortage amidst transitioning to a sole leadership system under Kim Jong-il, after Kim Il-sung's death in 1994. Meanwhile, when the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted the first resolution on North Korea's human rights situation in 1997¹⁾, North Korea attempted to withdraw from the International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR).²⁾ However, in 1998 Constitutional revision, North Korea has accepted some requests made by the international community to improve the human rights situation by, for example, explicitly stipulating freedom of residence and travel (Article 75, "citizens have freedom of residence and travel"). Meanwhile, since the Kim Jong-il regime officially came into power, North Korea had demonstrated active participation in the UN human rights regimes by, for example, submitting its long-overdue periodic report on the implementation of the ICCPR (December 25, 1999). These policies concerning North Korea's

1) UN Doc. E/CN.4/1998/2 (1997).

2) On August 25, 1997, North Korea sent a notification of withdrawal from the ICCPR. After reviewing the Vienna Convention on the Law of Treaties, the UN Secretary General stated in an aide-memoire of September 23, 1998, that as a Covenant that does not contain a withdrawal provision, it would not be possible to withdraw unless all State Parties to the Covenant agree with such a withdrawal. UN Doc. C/N/467.1997 (1997). After declaring intent for withdrawal, North Korea submitted its second state report on the implementation of the ICCPR in 1999. However, in the 2014 Report by the Association for Human Rights Studies, North Korea has once again declared its withdrawal from the ICCPR, demonstrating an inconsistent approach.

human rights in the 1990s can be summed as “Pragmatic Diplomacy of Transition and the Duplicity of Human Rights Diplomacy.”³⁾ In fact, North Korea experienced a severe economic crisis and food shortages, and has since adopted a pragmatic approach by demonstrating selective concessions concerning human rights issues for the purpose of acquiring international aid and economic cooperation. Since then onwards, it has become possible to trace improvements in North Korea’s human rights affected by the international influence or engagement, and thus it is necessary to review North Korea’s human rights institution and situation with the 1990s as the starting point.

B. Method of Research

This study has reviewed major changes in legislations on North Korea’s human rights and assessed whether these changes took place in accordance with international human rights standards. To begin, legislative measures concerning human rights have been assessed based on North Korea’s obligations as a party to International Human Rights Convention. While the changes are broadly grouped into the periods of the 1990s, 2000s, and 2010s for the purposes of assessing major changes, more appropriate groupings have been allowed depending on the issue at hand.

North Korea ratified the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as ICESCR) in

3) Lee Keum-soon, *et al.* White Paper on Human Rights in North Korea (2005) (Seoul: KINU, 2005), pp. 15-16.

September 14, 1981. In 1990, North Korea signed (August 23) and ratified (September 21) the Convention on the Rights of the Child. And in 2014, it signed (September 9) and ratified (November 10) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography. In 2001, the DPRK ratified (February 27) the Convention on the Elimination of all Forms of Discrimination against Women (hereinafter referred to as CEDAW), and signed (July 3) and ratified the Convention on the Rights of Persons with Disabilities on December 6, 2016. Signatories to International Human Rights Convention have an obligation to acknowledge and guarantee the rights stipulated in such convention. Parties need to take active measures to implement these obligations domestically. And the institutional guarantee through legislative measures is a primary standard to assess the party's domestic implementation.

Changes in North Korea's legislations have been reviewed with reference to legal provisions made public by North Korea and regulations introduced in North Korea's state reports that were submitted to the UN. As party to the ICCPR, North Korea has submitted two state reports in 1983 (initial report) and 1998 (second periodic report) to the Human Rights Committee.⁴⁾

4) The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) Within one year of the entry into force of the present Covenant for the States Parties concerned; (b) Thereafter whenever the Committee so requests. (Article 40, ICCPR). North Korea ratified the ICCPR in 1981 and submitted its first report on October 24, 1983. (UN Doc. CCPR/C/22/Add.3 (1983) (original deadline was December 13, 1982). The ICCPR Committee, tasked with reviewing the reports submitted by State Parties requested that North Korea submit a report after three years (October 13, 1987). However, North Korea submitted its second report on

Moreover, as party to the CEDAW ratified in 2001, North Korea submitted its initial report⁵⁾ in 2002, and submitted its long-overdue second periodic report calling it an integrated form of the second, third, and fourth periodic reports to the Committee on the Elimination of Discrimination against Women in April 11, 2016.⁶⁾ Meanwhile, North Korea received the Universal Periodic Review (hereinafter referred to as UPR) in 2009 and 2014, and has submitted a state report to the UN Human Rights Council session based on its resolution. Through the state report, North Korea has introduced legislative measures to protect and promote human rights, and expressed its position of either accepting or rejecting the recommendations for improvement made by the international community. This study reviews the voluntarily publicized positions of North Korea written in the report and analyzes factors relevant to North Korea's position on human rights improvement. In the meantime, after the UN Commission on Inquiry on Human Rights in the Democratic People's Republic of Korea published a report in February 7, 2014, stating that systematic, widespread and grave violations of human rights are occurring in North Korea,⁷⁾ North Korea published its own Report by the Association for Human Rights Studies on September 13, 2014⁸⁾ as a way to counter the international community's criticism on North Korea's human rights. The report has also been used to track changes in North Korea's

December 25, 1999 (UN Doc. CCPR/C/PRK/2000/2 (2000)). The Committee requested a third report to be submitted by January 1, 2004. However, North Korea has yet to submit the third report as required by the Convention.

5) UN Doc. CEDAW/C/PRK/1 (2002).

6) UN Doc. CEDAW/C/PRK/2-4 (2016).

7) UN Doc. A/HRC/25/63 (2014).

8) Association for Human Rights Studies, Report by the Association for Human Rights Studies (Pyongyang: Association for Human Rights Studies, 2014).

human rights institutions in this research.

The White Paper on Human Rights in North Korea, published by the Korea Institute for National Unification (KINU) since 1996, has been used as the basic resource to analyze North Korea's human rights situation. The White Paper has been drawn from various sources, including extensive questionnaires and interviews with North Korean new settlers (North Korean escapees in South Korea), reports published by multilateral government organizations, and consultation with working-level officials, and reports and testimonies by international non-governmental organizations. In addition, changes in North Korea's human rights situation have been reviewed based on the relevant research output. Meanwhile, how the aforementioned legislative changes have affected the situation of North Korea's human rights has been taken into consideration in the process of evaluation.

This report will summarize some of the perpetuating factors and factors for change regarding the trends of changes in North Korea's human rights institutions and situations in the core areas of civil rights based on the research objectives and methods mentioned above. Specific institutional and situational changes based on different periods can be found in the Korean version of this paper.

2. Civil Rights: Focus on Criminal Law



2. Civil Rights: Focus on Criminal Law

Changes in North Korea began with the complete revision of its criminal law in 1987 and the criminal procedure law in 1992. In particular, the 1987 revision of criminal law introduced a regulation imposing limits on the analogical interpretation, and the 2004 revision of criminal law adopted a principle of “no penalty without a law,” the basic core function that ensures human rights in modern criminal law. The 1992 revision of the criminal procedure law has shown positive changes in terms of institutions by, for example, stipulating principles to ensure human rights and taking specific steps onwards. However, regulations in substantive portions of the law are still unclear or abstract, and thus are in danger of abuse and misuse depending on the law enforcement agency. In particular, in the process of operationalizing the criminal law, positive institutional changes have not been reflected in political crimes, and criminal justice procedures are carried out with no respect to due process.

A. Perpetuating Factors

Perpetuating factors concerning the trends of change in North Korea’s criminal law include (1) fundamental factors, (2) institutional factors, and (3) factors concerning the situation at hand. First,

regarding the operational status of North Korea's criminal law and criminal procedure law, fundamental factors can be found in the inadequate nature of the rule of law and the differences with a socialist rule of law. Legal norms and institutions form in the context of one society's history and culture. In particular, the judicial system, including criminal justice, is specific to each state, making it difficult to make a balance with the requirements of universal human rights. Criminal law in a liberalistic legal system plays the role of protecting the legal interests of one's life, body, and property. However, in a socialist legal system, the criminal law considers the legal interests of the state and society to be more important, and the protection of the socialist system is emphasized over protection of individual human rights. Fundamentally, law in North Korean society is a means for the state to manage class struggle and socialism, and criminal law, in particular, is an important means to realize the dictatorship of the proletariat, the main objective of which is to protect the socialist system. Therefore, there are limitations to revising sections of legal regulations without making a change in the nature and function of the criminal law. In fact, North Korea's criminal law is defined as "an aggregate of legal norms that define crimes and penalty enacted by the state for the purposes of crushing anti-revolutionary criminals, who oppose the realization of revolutionary achievement and overturn the socialist system and rights of laborers and farmers of Joseon, and deterring ordinary criminals, who hinder the solid development of the socialist system."⁹⁾ North Korea sees the criminal law as a means to protect state sovereignty and the socialist system, and

9) Kim Geun-sik, *Criminal Jurisprudence* (Pyongyang: Kim Il-sung University Publication, 1996), p. 6 (unofficial English title).

considers the protection of civic and social interests and human rights to be a secondary concern. From the perspective of punitive action, the significance of punishment is not to ensure basic rights of an individual, but to maintain order in a totalitarian context.

Moreover, North Korea does not follow the rule of law. The rule of law refers to a legal community where laws govern not only individual citizens but also state power. A constitutional state allows state power to be restricted by the law and therefore prevents abuse of power and protects individuals' freedom and rights. North Korea emphasizes that a socialist state should be governed by law and it is indeed such a "socialist constitutional state."¹⁰⁾ However, the system of North Korea is not based on a rule of law which respects the law, but a rule by law which sees the law as a means of governance. At its basic, law is seen as a tool to realize dictatorship by the proletariat and to implement party policies. Fundamentally, given the inadequate rule of law, maintaining a facade of international compliance is meaningless, and it is questionable whether demanding the North Korean authorities to revise human rights regulations that do not meet universal standards will have a substantive effect on improving North Korea's human rights. These factors inevitably limit the role of criminal legislations concerning the realization of North Korean civil rights.

Second, regarding the application of North Korea's criminal law

10) Choi Il-bok, "The Originality and Legitimacy of Juche Ideology on the Construction of a Socialist Constitutional State," *History, Jurisprudence* Vol 61. (Pyongyang: Kim Il-sung University Publication, 2015), pp. 73-76 (unofficial English title); Jin Yu-hyun, "Juche Theory on the Construction of a Socialist Constitutional State," *History, Jurisprudence* Vol 51. (Pyongyang: Kim Il-sung University Publication, 2005), pp. 45-49. (unofficial English title).

and criminal procedure law, one can point to institutional factors, such as the lack of an independent judiciary, which has been consistently criticized by the international community.¹¹⁾ An independent judiciary is a key aspect of ensuring human rights. This is because individual human rights can only be guaranteed when a judge, independent from the state, can exercise judicial power solely based on law and conscience. However, North Korea does not acknowledge the separation of power and explains that North Korea's constitutional socialism is based on democratic centralism. The relevant North Korean literature states, "The principle of separation of powers (legislative, executive, and judiciary) shall not be invoked as a means of establishing a rule of law. To assume that the rule of law is not possible without separating power is a bourgeoisie mind-set and a very dangerous way of thinking."¹²⁾ In fact, North Korea's judiciary is more accurately described as being a cooperative agency to power rather than being

11) In 2005, the Committee expressed concerns about constitutional and legislative provisions that seriously endanger the impartiality and independence of the judiciary, namely article 162 of the Constitution that the Central Court is accountable to the Supreme People's Assembly. Furthermore, article 154 of the Constitution limits the tenure of judges to five years and article 129 of the Criminal Code subjects judges to criminal liability for handing down "unjust judgments." Given the roles assigned to the judiciary under articles 2 and 14, paragraph 1, of the Covenant, these legal provisions have an adverse impact on the protection of human rights guaranteed under the Covenant and endanger the independence of the judiciary required by article 14.1 of the Covenant. UN Doc. CCPR/CO/72/PRK (2001), para 8. The report prepared by the UN Human Rights Council in the Second UPR states that North Korea's justice system is subservient to the State, and judges, prosecutors, lawyers and juries are part of the State machineries, thus lacking in independence of the judiciary and safeguards of the accused. UN Doc. A/HRC/13/47 (2010), para 30, para 33.

12) Ri Kyong-chol, "Fundamental Characteristics of Our Style of the Socialist Constitutional State," p. 40 (unofficial English title).

independent from it and is also used as a means to realize the political ideology of the leadership in a party. Although the North Korean Constitution, its Law of Court Organization, and its criminal procedure law, amongst other laws, stipulate that the court is to be an independent agency, it does not mean that the judiciary is independent. Rather, it refers to an independence in terms of organizational structure in a court, not a guaranteed independence of the judge. Thus it cannot be described as being independent in the genuine sense of the word. Moreover, North Korea's judicial authorities, including the Central Court, come under the Party or Supreme leader's control according to the principle of party superiority and democratic centralism, and are also managed and overseen by the Supreme People's Assembly. Thus, a judiciary that cannot be independent inevitably has a limited role in protecting individual human rights. The lack of judicial independence and regulations granting the Supreme People's Assembly the greatest responsibility demonstrate the institutional failure of an independent judiciary. This shows the institutional limitation in terms of a fair and independent trial to protect individuals' human rights.

Third, in the application of North Korea's criminal justice system, chronic corruption by those in the legal profession is another factor that hinders the development of functions that ensure human rights. North Korea's socialist rationing system broke down after the economic crisis in the 1990s, and a malfunctioning planned economy has triggered the expansion of illegal and anti-socialist acts that has encouraged the pursuit of private gains. At present, abnormal corruption has become almost a natural part of life at the

central, local, and provincial levels. In particular, corruption at the investigation and trial stage is a factor that reduces trust in the judiciary - the very same agency that is in charge of protecting the human rights of individuals. At the same time, such corruption violates individuals' rights to be equal before the law, as well as the rights to a fair trial. For example, officials have received bribes during the preliminary hearing before a trial, and have reduced the sentence or distorted the facts so that one would receive a lighter punishment. Judges and prosecutors, who are bribed during the actual trial, give bail, probation, or a reduced sentence to the accused. These factors hinder equal application and realization of human rights in operating North Korea's justice system. Chronic corruption widespread in North Korean society violates the people's rights to be equal before the law and receive equal protection without any form of discrimination. In particular, if one is unable to offer a bribe in the trial process, he or she is likely to receive an unfair punishment, ultimately affecting the realization of judicial justice. Such situation hinders the equal application of operating the judicial system regardless of developments in North Korea's criminal justice.

B. Factors for Change

It is not easy to find direct factors concerning North Korea's criminal law system and changes in the situation. Even if there were changes in North Korea's legislative system, it is unclear what kind of discussion precedes the legislation and in what context. One can only infer based on the information of domestic situations

that has been made public. Nevertheless, to pinpoint factors for a change, one can distinguish the factors into (1) external, and (2) internal, similar to changes in any other society's legislative system.

First, one of the external factors is the North Korea's response to international requests to improve its human rights and to promote the international awareness of human rights issues. As mentioned previously, starting with a discussion at the 1997 UN sub-committee on human rights, the UN Commission on Human Rights adopted resolutions in 2003 and 2004 on the human rights situation in North Korea. Through these resolutions, a special rapporteur was appointed, and the reports submitted by the special rapporteur as well as the secretary general formed the basis for the resolutions on human rights in North Korea that have been adopted by the UN General Assembly every year since 2005. Regarding international discussion on North Korea's human rights issues, North Korean authorities have maintained "our unique approach to human rights" and have rejected various resolutions and reports published by the UN. Meanwhile, North Korea has accepted some international requests and criticisms. For example, North Korea submitted its long-overdue second periodic report in 1999, after the human rights issues gained international attention in the late 1990s.¹³⁾ Moreover, when the international concern increased following the publication of the UN COI report in February 2014, North Korea published its own report by the Association for Human Rights Studies in September of the same year. Through this process, North Korea has, to some degree, streamlined domestic legislations to be in accordance with international human rights

13) UN Doc. CCPR/C/PRK/2000/2 (2000), paras 7-17.

norms and has propagandized them to the international community.

In particular, for the first time, North Korea stated the words “human rights” in the Constitution following its revision in 2009.¹⁴⁾ The inclusion of the concept was not the purpose of the revision, and it has been criticized that such mention of the words does not make North Korea a country that respects human rights.¹⁵⁾ One can argue that the expression “protection of and respect for human rights” stated in North Korea’s Constitution can be interpreted differently from the universal meaning, and that North Korea’s Constitution is still very much merely decorative and is therefore nothing more than a collection of political rhetoric for domestic and international audiences. Nevertheless, it is fair to interpret that North Korea intended to diffuse international criticism on North Korea’s human rights situation through constitutional revision. Moreover, such change demonstrates that North Korean residents’ human rights problem is being discussed as an international agenda, and reflects the pressure imposed on North Korea following the adoption of resolutions condemning its human rights situation.¹⁶⁾

14) Article 8 of the Constitution, “The social system of the DPRK is a people-centered system under which the working people are masters of everything, and everything in society serves the working people. The State shall defend and protect the interests of the workers, peasants, soldiers, and working intellectuals who have been freed from exploitation and oppression and become masters of the State and society.”

15) Kim Hyung-song and Cho Jae-hyun, “Study on the Characteristics and Prospect of North Korean Constitutional Change,” *SungKyunKwan Law Review*, Vol.24 (2012), pp. 15-16.

16) Park Sun-young, “A Study on the Constitution of DPRK on the View of the Enactment and Amendment,” *Public Law Journal*, Vol.16, No.4 (2015), pp. 27-67.

Second, concerning North Korea's criminal law and changes in situations, external factors include (1) the need to strengthen control over the residents as a result of marketization and the corresponding increase in economic criminals; and (2) the need to modify its legislative system according to changes in the hereditary structure and strengthen control over the residents. In the 1990s, North Korea modified its legislative system in various fields by attempting an overall systemization following a need to provide legislative support to promote policies under the Kim Jong-il rule. Among the changes, the complete revision of the criminal law in 1987 and subsequent revision in 1990 are assessed to reflect changes in the legal system and the increasing need to open up. The complete revision of the criminal law and criminal procedure law in 2004 is assessed to be a result of changes in the social and economic order following the July 1 economic management reform measures as well as measures of expanding foreign contact and trade as an effort to overcome the economic crisis. It is well-illustrated by the fact that regulations and punitive provisions on acts of commerce, or management of foreign currency and smuggling have been newly established in sections of criminal law on the violation of an economic order. In addition, the introduction and expansion of regulations that punish various customary crimes that violate the socialist culture reflect the changes that took place in North Korean society in the 2000s. Meanwhile, the revision of regulations concerning regime maintenance through the revision of the criminal law in 2009 is seen as a part of measures to strengthen internal control with reference to Kim Jong-un's hereditary rule. While reforming the power structure throughout 2012 following Kim Jong-il's death, North Korea also carried out measures aimed

at public safety, in order to control the residents. In this regard, North Korean escapees testified that North Korea's social control has strengthened following Kim Jong-il's death. These changes in North Korea's criminal law and actual situation on the ground appear to be based on internal and external factors needed to control the residents and modify the legislative system following changes that came with the hereditary rule.

3. Political Rights: Focus on Electoral System



3. Political Rights: Focus on Electoral System

Methods to resolve problems concerning universal human rights need to be specific. Therefore, efforts to assess relevant legislative system must be preceded in order to grasp and improve a state's human rights situation. Moreover, efforts must be made to observe how such laws are applied in reality. A review of the past 70 years of North Korea's electoral system demonstrates that there have been some changes and developments in North Korea's political rights and institutions. Given the long period over which these changes were made, the scope of changes had been limited both in the institution and situation on the ground. The next section will discuss in more detail why North Korea's system and the situation concerning elections have not witnessed significant changes.

A. Perpetuating Factors

North Korea's Constitution and Election Laws have consistently stated the principles of general, equal, direct, and secret elections. In addition, specific regulations including voter and electoral eligibility, election precinct, and voting methods have shifted reflecting the changes that took place in society. These changes have taken the form of a reduction in voting age, and suffrage expansion by lowering social, economic, political, and cultural

barriers to electoral participation. Therefore, North Korea's electoral system has changed in ways that are closer to elections in democratic states. However, expansions in the institutional aspect of suffrage and stipulation of democratic electoral principles have not led to democratic elections in North Korea. Thus, North Korean residents' suffrage in elections and political rights in general have not been guaranteed since the establishment of the North Korean regime.

Suffrage is the driving force that supports a democratic state. It is an important right and means for residents to express their opinions in the process of establishing policy. Residents themselves decide whether to participate in the voting process and have the freedom to choose their candidate. Such suffrage is an important element that makes it possible for humans to exercise their free will. As stated in the Universal Declaration of Human Rights and International Human Rights Convention, people are the source of government power. Thus, all people must have equal voter eligibility and electoral eligibility and can exercise such rights without any limitation to participating in political processes. Furthermore, the minimal standard to guarantee such free election is to hold general, equal, and secret elections on a regular basis.

However, these principles are not being properly exercised in North Korea's elections. Since various election laws have been set up to select officials to head respective organizations in order to establish the regime in the 1940s, the election system has been used as a political propaganda for North Korean authorities. In other words, North Korea considers the inherent suffrage rights that the

residents have as a means to strengthen and maintain the system as well as hereditary succession. The fundamental reason why the broad spectrum of political rights, including elections, has been used as a means of strengthening the regime lies in the hereditary dictatorship based on one-party and one-family. Such characteristic has consistently inhibited the regular exercise of residents' political rights. Specific factors that have yet to improve the situation of political rights, including elections, can be analyzed into the following three points.

First, there is a lack of leaders who can lead the civil society. This is caused by a lack of voluntary societal or political organizations that can allow assembly or association to flourish. Fundamentally, freedom of speech needs to be ensured in order to form societal or political organizations. Through free expression of thoughts and communications, individuals can seek shared interests and gains. This is the basis on which individuals create the incentive to form societal and political organizations. North Korean authorities censor media broadcasts or publications when it is deemed to “threaten national security.” In other words, North Korean authorities and the party's arbitrary discretion have limited the process of forming the free political will amongst the North Korean residents.

Moreover, all social organizations, not only political parties, are controlled by the Party. This reality makes it difficult for social groups or organizations to gather North Korean residents' requests and express or reflect them in the political process. In fact, these organizations are used to mobilize residents' support for the Party's objectives and policies at national events. Indeed, North Korea's

Constitution guarantees the rights to assembly and association. However, through other regulations such as the criminal law, North Korea controls the collective formation of opinion and action. As a result, the core essence of election process – formation of political opinions – has not been able to function properly.

Furthermore, the absence of an opinion-forming process has led to a lack of leader figures that can bring about social reform. The role of social leaders in strengthening the democratic process has been critical in both democratic and authoritarian states. Such social leaders are nurtured in civil society, or, in other words, voluntary organizations made up of various people. Civil society leaders play the role of gathering the opinions of people who request specific demands. They then expand the people's rights and lead on to bringing social reform. However, a lack of civil society in North Korea means that, in addition to a lack of political rights, including elections, there is no social leader who can take the initiative to address various social problems.

Second, the fact that political parties other than the Worker's Party are unable to carry out activities is a significant factor that hinders North Korea's electoral system. As a result, one candidate nominated by the Worker's Party is the sole candidate, as opposed to having various candidates. This has led to a political structure which discourages multiple party competition. Actually, since 1948, North Korea's Constitution has guaranteed activities of democratic parties. However, in reality, North Korea criticizes multiparty political systems, stating that the Western multiparty system and democracy is a product of corruptive capitalism.

Furthermore, North Korea propagandizes that the multiparty system triggers the cutthroat competition for power, racial and ethnic disputes.¹⁷⁾

Free expression of political opinion forms the precondition of exercising political rights. Political parties allow a venue for people with various political opinions to share a common denominator and present policy alternatives. Political parties also nurture politicians who can connect such policy alternatives into policy output. However, such party activity is not guaranteed in North Korea. Therefore, even if direct elections are carried out via secret ballot, there is no diversity in terms of policy or candidacy. This means that even from the onset, there is no mechanism that can receive and collect people's various political opinions.

Third, there has been no fundamental change in how North Korean authorities and residents have viewed elections. North Korean authorities see elections as a means of regime propaganda. Regular elections are not seen as a means to hold the leader accountable, but a way of displaying regime stability and mobilizing residents' support. Moreover, voters, or North Korean residents, do not see elections as a means to consistently reflect their political preferences onto the political process. In other words, there is an absence of common understanding that by regularly changing leadership, election acts as a mechanism to induce responsible policy decisions by policy makers and state power. It appears there is a lack of awareness that elections are a medium for assessment, not

17) This section cites Choi Eui-chul *et al.*'s White Paper on Human Rights in North Korea (2001), p. 79 which refers to the content in the Rodong Sinmun from October 5, 1997.

mobilization. More fundamentally, there is a lack of understanding by both political elites and residents that political rights are a part of human rights.

B. Factors for Change

The political reality of North Korea's one-party dictatorship, and moreover the one-man, one-family system inevitably limit one's freedom to exercise their suffrage. Therefore, it is difficult to witness dramatic changes in the electoral system and its surrounding situation. Still, it can be said that regulations concerning overall political rights, including suffrage, have become more institutionally elaborate, as the framework of the North Korean regime took shape with societal change. One of the most important factors behind these institutional changes is the international community's participation. Specifically, through exchanges with other socialist states, such as the former Soviet Union and China, as well as other neighboring countries, North Korea followed suit as these states modified their legislative system. Another reason is the accumulation of North Korea's institutional experience. As is the case with most states, North Korea has been able to develop institutional structure and composition by accumulating the experiences through adjustments made reflecting changes in the domestic and external environment. In other words, a process of trial and error formed the basis of legislative modification.

However, despite developments in its institutional content concerning political rights, including the electoral system, it appears there have

not been significant changes in the actual situation. As discussed previously, this is because of a lack of political and social support which makes “fair elections” – described in the Constitution and Election Laws - possible. Fundamentally, this is because of characteristics of the North Korean regime - a totalitarian rule based on the one-family hereditary dictatorship.

However, it is important not to be excessively skeptical of possible societal change due to the limitations of such one-family hereditary dictatorship. In particular, close attention should be given to changes in small institutions or realities concerning freedom of expression, assembly, and association. In world history, cases of democratic or liberal transition have been triggered by small institutional changes relating to citizens’ expression, assembly, and association. In other words, minor institutional changes that were made by the few that dominated the government or was in power as a means to strengthen the regime led to unexpected outcomes of democratization. In some cases, even without institutional changes, educational and technological developments alone had led to increased opportunities for citizens to express their political opinions. As a result, some societies have experienced changes in the overall system.

Therefore, efforts must be made to closely follow even the smallest institutional changes in North Korea. For example, according to testimonies by North Korean escapees, a discussion on the candidate was carried out in the 2010s even if it was only a formality. This was not the case prior to the 2000s. In other words, there appeared to be a form of election campaigns. Recent active

electioneering and debate in Chinese elections initially started in ways that resemble North Korea's case. According to other testimonies, there have been people who expressed criticisms toward North Korea's leaders. In private discussions, people have already begun to express political dissatisfaction. It will take time for these individuals' critical way of thinking and dissatisfaction to become systematic or a force of power. In many cases, such momentum dissolves rather than gain influence. However, the accumulation of experiences where political opinion is expressed is the cornerstone of a civil society. This kind of experience can become organized and expressed in a relatively short time period, as was the case of the Arab Spring.

Therefore, close attention must be given to signs that suggest the voluntary formation of home-grown civil society in North Korea. Furthermore, the South Korea government and the international community should make efforts to seek measures to encourage a home-grown civil society. Specifically, it is important to increase ways for North Korea to promote human and material exchanges with other countries, not just South Korea, through various channels. This is because such exchanges provide residents with the opportunity to increase awareness and obtain new information. Political system and political awareness are mutually reinforcing. In addition to efforts to induce changes in North Korea's system, it is necessary to seek measures to drive changes in the public awareness.

An expanded rights in other aspects of life can spill over to actual improvements or demands for overall improvements in the political rights and the electoral system. Recently, institutional changes on

women's rights, children's rights, and political prison camps have been detected in North Korea. These changes can become the impetus for expanding human rights. Therefore, it is necessary to closely observe trends in other kinds of human rights.

4. Rights of Gender Equality: Focus on Discrimination against Women



4. Rights of Gender Equality: Focus on Discrimination against Women

The historical development and institutional aspects of North Korean women's rights and human rights reveal that gender regulations had been strengthened by the revision of the Family Law in the 1990s. In the 2000s, North Korea joined the Convention on the Elimination of All Forms of Discrimination Against Women and began discussions on international norms concerning women's rights. After 2010, at around the time of the emergence of third-generation rule under Kim Jong-un, North Korea established policies on women's rights. However, it appears that women's rights became a sub-category of policies on maternal and childbirth, which are a part of policies on the regime reproduction.

In terms of the actual situation concerning North Korean women and human rights, women appear to have endured poverty and suffering especially in the 1990s as a result of traditional patriarchy and the Arduous March. In the 2000s, marketization and the development of information society had led to "bottom-up change" and "top-down pressure," in which women were held responsible for the family's livelihood or economic activities under the regime's Military-First Politics. Since the 2010s to date, 20-plus years of economic activities have raised the awareness on human rights amongst North Korean women. Subsequently, the enactment of the

Women's Rights Act reflects the Kim Jong-un regime's moves to modify relevant legislations.

Given such historical trends, what are the perpetuating factors and factors for change? It is not easy to clearly categorize such factors when actors in question are regime and women. Societal changes occur very slowly, and in particular, judging the way people live risks the chances of over-generalization. Moreover, the working mechanisms behind institutions or a specific situation inherently contain a certain degree of ambiguity where the perpetuating factors and factors for change function in multifaceted ways. Nevertheless, to enhance academic clarity, it is necessary to organize the major factors. Both perpetuating factors and factors for change can be discussed from an international, domestic (North Korea), and inter-Korean relations perspectives.

A. Perpetuating Factors

Perpetuating factors can be discussed from three perspectives. First, as an international factor, one can point to the strengthening discourse on the universality of human rights versus its relativity in the confrontation between the international community and North Korea's nuclear problem. The international community's criticism and discourse on political legitimacy had the effect of legislative continuity. In this regard, as seen previously, North Korean authority has consistently emphasized various declarative legislations, claiming that since Korea's liberation and passing and application of the Kim Il-sung's women's liberation policy, the legislative

system has been modified and mothers and women have been prioritized via the Law on Sex Equality, among others. Furthermore, North Korea claimed that the Juche ideology contained within the suryong's sole leadership is North Korea's version of human rights, and continues to emphasize the uniqueness and superiority of North Korea's human rights while spreading relevant discourse. The logic of such discourse is that in North Korea, women's liberation is a gift given by suryong, or the regime's progenitor, Kim Il-sung.

Second, in terms of domestic factors, the most influential perpetuating factors are North Korea's militarism, dictatorial system, and hereditary rule. There are factors that perpetuate gender discriminatory patriarchy in the Military-First Politics and the suryong dictatorial regime that have been institutionalized since the 1990s. Moreover, there is a need for regime stability and the three-generational hereditary rule from Kim Il-sung to Kim Jong-il to Kim Jong-un. In the process of North Korea's Military-First Politics, most men are appointed to positions in the military or relevant industries and in the weapons and munitions industry. Such concentration of power and its violent nature have become the foundation for social hierarchy. Thus, in a system that prioritizes men and the military, resources and authority are usually allocated to the men. The same applies to the distribution of social authority.

The same factors are at work in the Kim Jong-un regime following Kim Jong-il's death. Since assuming leadership in 2012, the gender framework embedded in national and social viewpoint and tactics for the public rule under the Kim Jong-un regime has been along the lines of succession of Juche and Military-First ideology, the

Kim Il-sung and Kim Jong-il's people, and Kim Il-sung-Kim Jong-il-ism. Therefore, military-oriented gender perception under the Military-First Politics has adhered to a national family framework embodied in the socialist concept of the 'great family.' Under the banner of Kim Jong-il Patriotism, North Korean women in the Kim Jong-un era must look up to revolutionary mothers such as Kim Jong-suk and Kang Ban-suk and their families as role models. Moreover, in the era of high-technology as represented by nuclear weapons and long-range missiles, or what North Korea refers to as satellites, North Korean women must look up to revolutionary laborers, who created the Masikryong Speed and Choson Speed as well as other knowledge-based economic ideas. Ultimately, they must demonstrate dedication and driving force in their production activities to build a strong state.

In particular, the Kim Jong-il Patriotism is an ideology that has been widely propagandized in society and among women through the Women's union. In May 2012, the Korean Worker's Party stated that "All workers, party officials, and labourers are expected to hold the banner of Kim Jong-il Patriotism high as they march onwards,"¹⁸⁾ and "It is the intention of the party to ensure that the people, all of whom have been armored with Kim Jong-il Patriotism, realize the achievements of Kim Il-sung-Kim Jong-il-ism throughout society."¹⁹⁾ Hence, patriotism based on the Juche ideology and Military-First ideology has been designated as Kim Jong-il Patriotism.

18) Commentaries, "Workers should preserve a dedicated service mind-set for the peoples," Rodong Sinmun, May 12, 2012 (unofficial English title).

19) "Let us strengthen education on Kim Jong-il patriotism," Rodong Sinmun, May 21, 2012 (unofficial English title).

In addition, since the purge of Ri Yong-ho, Chief of the General Staff of the Korean People's Army in July, Kim Jong-un personally stepped forward and declared that "Kim Jong-il patriotism is equal to suryong centralism and refers to being as loyal as one can be to oneself."²⁰⁾ Similar to how Kim Jong-il idolized Kim Il-sung to acquire legitimacy for his rule as suryong, Kim Jong-un is using Kim Jong-il Patriotism to idolize Kim Jong-il, in order to strengthen his own legitimacy. This is also intended to alleviate public anxiety over his young age and lack of experience. Moreover, it is also used to regulate public loyalty toward the suryong's third generational leadership.

As North Korean men's military mentality and training have been toughened through the realignment of Military-First Politics sharpening the bullet-like mind and regulations, the roles of traditionally revolutionary workers and revolutionary mothers have been propagandized and emphasized to North Korean women. Specific code of ethics and regulations that apply to women are as follows: the ideology of "gratitude and service" toward Kim Jong-un as a way of repaying the grace of Kim Il-sung and Kim Jong-un; the discourse which sees women as having to be "caring and dedicated" to not only family but also the military and society. The latter ideal is grounded on role-based theory which sees men leading from the front and women from the rear under the military-readiness system where all-out-efforts and resources of the state are mobilized for possible war in everyday life. Moreover, women must be proactively responsible for agriculture, light

20) "Let us realize Kim Jong-il patriotism to construct a strong homeland," Rodong Sinmun, July 26, 2012 (unofficial English title).

industry, and various mobilization projects in order to enhance people's livelihood and pave the way for building a strong state. Lastly, "diligence, frugality, and shrewdness" are qualities that women – who set North Korea's version of regulations on collective livelihood – should embody.

It is clear that there have been changes in the lives and mentality of North Korean women and increase in the socio-economic spheres of activity. And with developments in commerce, women's occupations have seen similar development and their social roles and status have also improved. However, their value has not been changed. In other words, although the Kim Jong-un regime has slightly reconstructed gender perception as deemed necessary, traditional male/female roles, state sponsored patriarchy, and patriotism based on the unity of state and family, among other traditions, are strictly adhered to. The numerous slogans and moral codes designed under the control of power and role-based ideology demonstrate the gender perception projected by the Kim Jong-un regime's policies concerning women.

Third, one can point to inter-Korean relations. Fascism, emerged from the divided state institutionalized since the end of the Korean War, has served as a factor that has supported patriarchy in North Korean society. The aforementioned two factors operate in mutual connection with inter-Korean relations. Moreover, it appears that sexual violence has increased in North Korea with the ill of marketization and capitalism becoming prevalent in its society. However, in a society that supports antagonistic militarism centered on men, the rights of women victims of sexual crimes actually seem

to be on the decline. For example, in accordance with the criminal law, the punishment for sexual violence has been reduced from less than 2 years to less than 1 year.

B. Factors for Change

First, one can point to international factors. There are various factors for change: entry to the UN, which occurred in the transition of a real socialist bloc and the process of seeking a way for regime survival; the need to receive international aid; increase in trade and the subsequent need to introduce reform and exchange, if only partially; and the need to adjust to changes in China's system. Although there were differences in speed and extent, North Korea – like other socialist states – faced a situation where it could only survive if it engaged international organizations and acted in accordance with the trends of globalization. Subsequent changes ended up being reflected in areas concerning North Korean women's human rights. For example, North Korea's 2010 Women's Rights Protection Law share similar traits with the China's 1992 Law on the Protection of Women's Rights and Interests. Moreover, since the reform and opening, China's position has been expressed to the international community through the modification of domestic legislative system. For example, the enactment of the 1985 Law of Succession and provisions on women in the revision of the 1999 Socialist Labour Law have influenced North Korean's modification of the legislation concerning women.

Second, domestic political and economic factors have influenced society. In terms of political factors, there have been two changes of regime throughout the past 30 years. While acknowledging the hereditary nature of the successions, the transfer of power brought in a new regime and new suryong, and corresponding policy changes have been made. In particular, since the 2000s, Kim Jong-il had carried out efforts to acquire regime survival and legitimacy by promoting the banner of constructing a strong state in the international community. Moreover, since the 2010s, Kim Jong-un has put forth efforts to reconstruct North Korea as a normal state (the so-called construction of a civilized state), one on a par with other states in the international community.

In terms of economic factors, the food crisis of the 1990s led North Korean residents to spontaneously establish a form of marketization from below and promote informal economic activity, which in the 2000s took the shape of a market system. In the 2010s, the market could not be managed by the central government's will or control, and became an important institution that held up the North Korean economy. In the process of marketization, North Korean women grew into a new actor in North Korea's economy and society, and at the same time advancement of informatization regarding changes in China led to an increase in the voices of North Korean women. Such changes in economic circumstances and actors have led to changes in the situation and legislative system concerning human rights and North Korea women.

Third, changes in inter-Korean relations are another factor. In the process of increasing inter-Korean exchanges after the inter-Korean

summit in 2000, North Korean residents had become aware of the developments that took place in South Korea. Moreover, as informatization progresses, Hallyu, or the Korean Wave, flows into North Korean society, bringing changes amongst North Korean residents by becoming exposed to the superiority of the South Korean system - at the very least, in terms of economic aspects and a glimpse into a liberal society. In the process, North Korean residents have begun to realize concepts of economic rights and the right to live at their free will. Moreover, North Korean authorities have become aware of such developments and begun to feel a sense of threat. And this has influenced the modification of various legislative systems intended to win the residents over.

5. Conclusion



5. Conclusion

North Korea has strongly rejected the international community's call for human rights improvement, while showing a "dual response" of selectively choosing international human rights standards by revising its domestic law. Although the change of law itself can be viewed as partly contributing to the improvement of human rights, it is difficult to conclude that its human rights situations have actually improved just by the change of relevant laws. In particular, North Korea's enactment of human rights related laws are based on its own view of human rights, so it is difficult to assess that its human rights conditions have improved simply because "human rights" were stipulated in related legislations. Still, considering that the primary duty of State Parties to the international human rights treaty is state enactment of legislation, the development of legislation deserves more than a negative response simply even though what is specified in legislation is different from reality. In fact, North Korea's legislation has embraced and reflected changes of international and domestic situations, both in terms of content and form. The revision of laws shows that North Korea's laws may function and act as objective social norms, and that it may prompt a transition from the rule of leader to the rule of law.

This research identifies North Korea's human rights institution and changes in situations mainly based on civil and political rights and

equal rights - the key components of civil liberty. Section II discusses North Korea's civil rights, related system, and changes of situations based on criminal law. From a human rights perspective, criminal law is closely related to civil rights. Before and after the 1990s, North Korea had improved its pre-modern criminal law regulations. In particular, the complete overhaul of criminal law in 1987, adoption of the theory of analogical interpretation, complete revision of the criminal procedure code in 1992, and stipulation of the principle of human rights protection can be seen as positive changes strengthening human rights protection in criminal law. Also, legislation of the attorneys-at-law act in 1993, the judgment enforcement law in 1997, the law of court organization, and the prosecution surveillance law in 1998, among others, show the overall revision of legal system in the 1990s. In the 2000s, North Korea had adopted the principle of legality with the overhaul of the criminal law and the criminal procedure law, showing signs of change to criminal law system on crime control. However, despite such development, the actual regulation is unclear or abstract and there are dangers of abuse by the law enforcement. Meanwhile, as of 2007, with the legislation of supplementary provision in criminal law, North Korea's criminal law has become more inclined to political crimes, showing signs of transitioning to a forced regulation control.

It is not easy to find the direct and consistent factors of change in North Korea's criminal law. But as with legal changes in any society, it can be said that North Korea has faced changes from situations at home and abroad. Changes to particular criminal laws can be attributed to changing situations such as the increased need

for citizen control due to rising economic offenses within North Korea, as well as for legislation revision and citizen control due to changes in hereditary succession. It can be assumed that the international community raising questions over North Korea's human rights contributed to highlighting "humanitarian" issues and including them in laws, at least as a formality. However, there are still limits to fundamentally changing North Korea's criminal law due to the different socialist legislative system itself and poor rule of law, and lack of independence of the judiciary in the system. Regarding situations, the widespread corruption of legal workers is also one of the factors preventing improvement of criminal law system from affecting real situations. Overall, it is undeniable that in North Korean people's civil rights, there remains a gap between the system and reality.

Section III deals with North Korea's political rights and related system as well as changes in situations mainly based on its electoral system. Election is one of the most classic and typical representation of participation in politics. The study on the electoral system can show whether suffrage, from the perspective of human rights, or in a broader sense, political rights, can be realized. North Korea's Constitution and Election Law have consistently stipulated the principles of equal, direct, and secret ballot for the past 70 years. Moreover, related-detailed provisions have been developed in a more systematic and concrete manner. In this regard, it can be said that on the outside, North Korea's electoral system has developed in a similar form as the electoral system under a democratic system. But political rights, including voting rights guaranteed by the Constitution and Election Law, are not practically supported by

other systems and political structures. As a result, North Korean people's general political rights are not being protected. North Korea's hereditary dictatorship can be the fundamental reason behind this. Therefore, it is difficult to expect noticeable improvements in North Korean people's political rights including voting rights and even in civil liberty. But North Korea has been continuing to communicate with the international community under the UN human rights regime. Also, there are signs of change within the country, with North Korean people expressing their opinions. Above all, as explained in Section III, there is a growing awareness on North Korean authorities' human rights problems. Thus, in efforts to strengthen the regime, North Korea may change its electoral system and situations in ways that show human rights improvements from the outside. But many authoritarian and socialist states have proven that small attempts at participation in politics can lead to revolutions. Therefore, it is vital to have a continued interest in changes to North Korea's electoral system and situations.

In Section IV, changes to system and situations on North Korea's equal rights are discussed, mainly focusing on discrimination against women and their social treatment and status. Regarding the historical traits from the legal system perspective after the 1990s, North Korean authorities have strengthened gender rules by legislating the Family Law in the 1990s. In the 2000s, North Korea joined International Convention on the Elimination of All Forms of Racial Discrimination, and started to communicate with the rules of international women's rights. In the 2010s, when the third-generation hereditary succession of Kim Jong-un started, North Korea's women and human rights policies were revised, but

maternity and birth policies, a part of regime reproduction policy, restrict women's rights. From the view of North Korean women and human rights situations, the 1990s particularly showed women's poverty and suffering caused by traditional patriarchy and the Arduous March. In the 2000s, due to progress in North Korea's market and information development, North Korean women experienced "bottom-up change" and "top-down pressure" under the regime's Military-First Politics forcing women to be responsible for family's livelihood and economic activities. Also, when looking at the situations since 2010 to today, awareness on North Korean women's rights has grown more than before with over 20 years of economic activities and Kim Jong-un has improved the legal system related to women, such as revising women's rights protection law accordingly.

From the perspective of actors, such as regime and women, it is difficult to clarify the factors that caused changes to the system and situations. Nonetheless, to look for constant factors for analytical clarity and political implications, first, there is the international factor of increased discourse on universality versus relativity of human rights in confrontation with the international community. One of the most influential constant factors is the domestic factor including militarism, dictatorship, and the process of hereditary succession. Meanwhile, fascism of the institutionalized division after the Korean War is the factor that sustains the society's patriarchy in North Korea. Factors that caused change can be viewed from three aspects. First is the international factor; situations such as joining the United Nations in the process of transitioning the real socialist regime while seeking for regime survival, the need for assistance from the global community as well as the need to at least

partially open and exchange to increase global trade, and the need to correspond to China's changing system. Second is the domestic factor. To start, from the political perspective, albeit fundamentally hereditary successions, there were two regime changes in the past 30 years. New regime and leadership were introduced accordingly, and corresponding policy changes were made. Next is the economic factor. In the process of marketization, North Korean women grew as new actors of North Korea's economy and society, and at the same time, with progress in the development of information on China's changes, North Korean women's voices became significantly stronger compared to the past. Such economic situation and change of actors have prompted changes to North Korean women and human rights-related legal system and situations. The third factor is the change of inter-Korean relations. After the inter-Korean summit in 2000, in the process of increased inter-Korean exchanges, North Korean society and its people have become aware of South Korea's development. Moreover, in the process of information development, Hallyu (or the Korean Wave) spread into the North Korean society and the superiority of South Korean system in terms of economic or free social life at the very least influenced North Korean people to change. In the process, awareness of economic rights and the right to live freely started to spread among North Korean people. Also, being aware and threatened by this, North Korean authorities came to reorganize various legal systems to bring North Korean people to their side.

Human rights are rights that all humans are naturally endowed with, and are not subordinate to a particular state or government's approval or legislation.²¹⁾ Nor is North Korea's human rights-related

legislation subordinate or limited to North Korean people. Of course, basic rights embodied in North Korea's constitution can be superior in legitimacy, under the premise that they are human rights issues based on universal agreement and concrete agreement by the people with sovereignty. Therefore, as a first step, North Korea's human rights clause in its legislation should be examined and the direction of human rights improvement should be suggested urging North Korean authorities accordingly. Although human rights are not embodied in basic rights, they are universal standards that are "not restrained by politics and boundary, and can become the global standards for assessment and judgment."²²⁾ Therefore, pointing out to North Korean authorities the realities that violate human rights regulations and urging them to follow and implement them, and even presenting human rights issues that need improvement based on universal human rights standards should come first. To prepare for a meaningful human rights dialogue with North Korea, it should be remembered that the primary responsibility of human rights protection of its people lies with North Korean authorities, and the international community's discussion should focus on creating conditions within and outside North Korea for its authorities to improve human rights situations on their own. Also, such preparation should not be unilateral rebuke, but draws a distinction between areas that have already been improved and the ones that have the potential for improvement. Such discussion can be part of an effort to prepare for unification.

21) James W. Nicker, *Making Sense of Human Rights* (translated by Cho Guk) (Seoul: Myung In Publishers, 2010), p. 5.

22) *Ibid.*, p. 5.