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## Unified Korea between U.S. and China: Its Strategic Choices for the Future\*

Sung-han Kim\*\* and Scott A. Snyder

Even if a unified Korea emerges as a potential major economic and military power with a combined population of 80-million, it will have to deal with U.S.-China strategic competition that goes beyond the Korean peninsula. The United States will make efforts to persuade a unified Korea to maintain its military alliance for broader strategic purposes, and China will try to bring Korea onto China's side by offering incentives such as investment and financial support for the reconstruction of the Northern part of a unified Korea. Considering that a unified Korea will need help from both the U.S. and China in order to stabilize former North Korean territory and build essential industrial infrastructure there, unified Korea's realistic policy would be to encourage both great powers to accept unified Korea's unique status in an effort to resolve or mitigate differences between neighboring powers while not strongly aligning itself with either major power. Rather than providing the line of defense for either of the great powers, a unified Korea will need to maintain a loose alliance relationship with the U.S. while actively pursuing cooperation with China in all aspects aside from conventional military security.

**Keywords:** Korean unification, Unified Korea-U.S. alliance, North Korea, Strategic buffer state, U.S.-China relations

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## **I. Korean Unification and Two Neighboring Giants**

The North Korean leader Kim Jong Un is unlikely to avoid the strategic trajectory of Korean unification according to South Korea's terms, while he appears to be ready to negotiate over denuclearization with the United States. The Soviet Union collapsed not as a result of military attacks from the West, but rather under the weight of its own internal systemic contradictions. North Korea under Kim Jong Un could take a similar path as the Soviet Union unless he shifts to stand on the right side of history and tries to overcome the structural forces that may lead to his demise. If the United States, China, and South Korea can talk about the future of the Korean peninsula in a candid manner, they might be able to discover the ways to resolve the North Korean problem while alleviating the strategic uncertainties about Korean unification.

In this vein, the vision for a "unified Korea" that South Korea, or the Republic of Korea (ROK), can legitimately present to the international community is that of a state which is committed to the principles of liberal democracy and market economy; maintains close cooperative relationships with neighboring actors as a non-nuclear state; and contributes to the peace and prosperity of the international community. Since it is highly probable that unification will be led by South Korea that is a liberal democratic state, it is only reasonable that her current politico-economic values and national objectives will be included in the vision of a unified Korea.

Korean unification will be a historic event that catalyzes the spread of liberal democracy and market economy—the twin principles upon which today's ROK is founded—across the entire Korean peninsula. It will further lay the groundwork for the birth of a new "North-east Asian era," driven by the continued expansion of cooperation between neighboring states that play various direct or indirect roles during the unification process. Until now, the ROK has had to resign itself to a lonely, island-like existence, detached from the larger Eurasian continent by the facts of peninsular division and North Korean isolation. Should the peninsula be united, the ROK will become recon-



nected with the rest of Eurasia. This, coupled with continued intimate cooperation between the ROK and her traditional maritime partners such as the United States and Japan, will place the unified Korea at the crossroads of Northeast Asia which will be a much more energetic and cooperative region than it is today. To be sure, a significant period of time immediately following unification will be devoted to the economic reconstruction of the Northern half of the Korean peninsula, which could constrain opportunities for a unified Korea to contribute to the international community. However, once unification enters its final phase and the foundations for inter-Korean integration and reconstruction have been established, a unified Korea will emerge as a state that can make a significant contribution to international peace and prosperity.

The U.S. stance toward Korean unification is one of support for ROK-led unification, as formally expressed in the June 2009 U.S.-ROK Joint Vision Statement.<sup>1</sup> It further wishes to see commitment to the principle of denuclearization reaffirmed in a unified Korea, since the ROK-U.S. alliance is unlikely to be sustained should a unified Korea acquire nuclear weapons. Washington's concern is the possibility that, as Korea continues to invest enormous resources toward reconstructing its Northern region in the period following unification, a unified Korea might attempt to free itself from the resulting defense burdens by breaking the traditional commitment to denuclearization and building a nuclear arsenal, thereby posing a serious challenge to the U.S.-led global nonproliferation regime. Thus, it is very probable that the United States will feel the need to continue the ROK-U.S. alliance, if only to encourage its steady commitment to denuclearization. At the same time, a unified Korea that initially will be focused inward on domestic issues of reconciliation, integration, and reconstruction will continue to need a security guarantee against external interference from larger neighboring powers. As a unified Korea devotes itself to reconstruct-

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1. "Joint Vision for the Alliance of the United States of America and the Republic of Korea," (June 16, 2009), The White House Office of the Press Secretary, <<https://obamawhitehouse.archives.gov/the-press-office/joint-vision-alliance-united-states-america-and-republic-korea>>.

ing the North, the United States' strategic focus will be to foster the continued progress of organically cooperative relations between the ROK-U.S. alliance and the U.S.-Japan alliance.<sup>2</sup>

On the other hand, an additional concern from the U.S. perspective is that changes in Korea's domestic politics and surrounding environment may lead to the deterioration or loosening of the alliance. An additional worry is the possibility that Korea will align itself with China after unification by virtue of geographic proximity or cultural affinity, or that the ROK-U.S. relationship will sour due to the duress generated by Sino-ROK relations.<sup>3</sup> In short, an important strategic issue for the United States, when it comes to Korean unification, is whether or not a unified Korea will remain a loyal American ally as it attempts to overcome the legacies of division. A prominent American expert argues that the maintenance of a strong U.S. security relationship with Korea has played a critical role in ensuring U.S. influence across the Pacific, which in turn is critical to U.S. strategic and security interests in East Asia.<sup>4</sup> How this question is resolved will bear directly on the fate of the U.S. Forces in Korea (USFK), and on the distribution of costs that the United States will have to pay should large-scale structural adjustment of her defense posture in Northeast Asia become necessary.

China has long regarded North Korea as a "buffer state" that keeps U.S. influence a safe distance from China's borders.<sup>5</sup> With the

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2. Daniel Sneider, "Advancing U.S.-Japan-ROK Trilateral Cooperation: A U.S. Perspective," *The National Bureau of Asian Research*, March 30, 2016, <<http://www.nbr.org/research/activity.aspx?id=662>> (date accessed April 15, 2018).
  3. About U.S. perspectives on China-South Korean relations, see Jae Ho Chung, "How America Views China-South Korea Bilateralism," *Center for Northeast Asian Policy Studies*, The Brookings Institution, July 1, 2003, <<https://www.brookings.edu/wp-content/uploads/2016/06/chung2003.pdf>> (date accessed March 15, 2018).
  4. See Michael J. Green, *By More than Providence: Grand Strategy and American Power in the Asia Pacific Since 1783* (New York: Columbia University Press, 2017).
  5. Joel Wuthnow, "Warning: Is China Pivoting Back to North Korea?," *The National Interest*, March 8, 2016, <<http://nationalinterest.org/feature/warning-china-pivoting-back-north-korea-15427>> (date accessed January 15, 2018).

onset of unification, China will likely seek to preserve its buffer by extending the North Korean buffer to the whole of the peninsula. Buffer states are typically thought to be capable of preventing conflict between great powers by pursuing neutrality; allying with the stronger of two great powers while maintaining friendly relations with the other; or enlisting the intervention of a third-party great power and pooling capabilities with her. Provided that a unified Korea might result in a drastic weakening of its alliance relationship with the United States while simultaneously enabling an improved relationship with China, China will probably expect a unified Korea to play the role of a buffer state, preventing U.S. power from reaching her territory by persuading a unified Korea to maintain a status of de facto neutrality. From this perspective, China is likely to demand a unified Korea to abandon the ROK-U.S. alliance and its participation in the ROK-U.S.-Japan security cooperation network, pointing to the demise of the North Korean threat. China worries that, in accordance with Washington's wishes, the ROK-U.S. alliance and the U.S.-Japan alliance will evolve into a full-fledged tri-lateral alliance between the three powers and eventually come to target China.<sup>6</sup> Furthermore, if Korean unification materializes into an inexorable historical event, China can be expected to contribute to unification in the hopes of winning support of the Korean public, distinguishing herself as having played an even more central role in the unification process than the United States. Only by doing so will Beijing be able to make headway toward the objective of converting a unified Korea into a buffer state.

## II. Regional Security Environment after Korean Unification

The main consequences that the arrival of a unified Korea can

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6. Jin Jingyi, Jin Qiangyi, Piao Euzhe, "*Hanbando tongilyi joonggukye michil peonikbiyong bunseok* (A Study to Analyze Cost-Benefits of the Reunification of Korean Peninsula for China)," Korea Institute for International Economic Policy, May 14, 2015, <[http://businessnews.chosun.com/nmb\\_data/files/economic/kiiep\\_27.pdf](http://businessnews.chosun.com/nmb_data/files/economic/kiiep_27.pdf)> (date accessed January 25, 2018). [In Korean].

potentially have for regional relations include contributions to the non-proliferation regime; the cultivation of a regional atmosphere conducive to the establishment of a Northeast Asian multilateral security structure; increased opportunities for democracy to spread both throughout the Korean peninsula and possibly to neighboring states; the consolidation of Northeast Asia's regional economic integration through the removal of the North Korean economic sinkhole that has sapped potential for full regional economic integration; and increased regional volatility with the intensified U.S.-China strategic competition over a unified Korea, or alternatively efforts to turn a unified Korea into a strategic buffer state. The most direct effect of Korean unification will be the demise of the North Korean nuclear problem, which will eliminate what has thus far represented a serious challenge to the global nonproliferation regime. By reaffirming its status as a non-nuclear state, a unified Korea will be able to mitigate the likelihood of neighboring Japan or Taiwan developing nuclear capabilities.<sup>7</sup> And as a non-nuclear state, a unified Korea will be able to play an appreciable role in maintaining the Nuclear Non-Proliferation Treaty (NPT) regime.

Thus far, North Korea has been one of the single largest impediments to the institutionalization of Northeast Asian multilateral security cooperation. It follows that the emergence of a unified Korea should allow the cultivation of a diplomatic atmosphere conducive to the growth of regional multilateral security structures. In fact, the institutionalization of multilateral security cooperation will probably be an essential element of efforts to strengthen regional stability by mitigating the risk of increasing geostrategic competition over the strategic orientation of a unified Korea. In other words, we can reasonably hope to see the emergence of a multilateral security consultative body through which a unified Korea can discuss and resolve pressing secu-

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7. Unified Korea, even if it took the path of developing nuclear weapons to deter North Korea's nuclear weapons and then faced the collapse of North Korea before unification, will dismantle all of its nuclear weapons with a view to eliminating surrounding countries' concerns and attracting their contributions to the reconstruction of the Northern part of a unified Korea.

riety issues and conflicts among neighboring states. Importantly, if U.S.-led alliance systems (i.e., ROK-U.S. alliance, U.S.-Japan alliance) are maintained in the aftermath of unification, the United States has little reason to oppose the birth of such a multilateral body in Northeast Asia. It is worth noting that, despite the end of the Cold War, European nations allowed the United States to play a leading role in European security by refusing to dismantle the North Atlantic Treaty Organization (NATO). As a result, the United States did not oppose but rather cooperated with the creation of the Organization for Security and Co-operation in Europe (OSCE), allowing post-Cold War European security to be firmly undergirded by the two—NATO and OSCE—coexisting security institutions.<sup>8</sup>

The United States and Japan are likely to hope that the emergence of a unified Korea as a democratic state could spur the democratization of China and Russia, paving the path for a “democratic peace” in Northeast Asia. Additionally, there is a high possibility that the birth of a unified Korea will fuel further economic cooperation in Northeast Asia, possibly accompanied by the establishment of a ROK-China-Japan free trade agreement (FTA). Should the movement toward economic integration in Northeast Asia gain momentum, such a trend will support the expansion of economic cooperation throughout Southeast Asia and the entire Asia-Pacific region. Of course, if China ends up dominating Northeast Asian economic integration efforts, concerns may be raised in the United States over the potential strategic ramifications this will have for the region.<sup>9</sup>

If a unified Korea emerges as a potential major economic and military power with a combined population of 80-million strong, then it may aspire to play the role of a “strategic buffer state” that helps resolve or mitigate differences between neighboring powers while not

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8. See Dennis Sandole, “The OSCE: Surviving NATO and the End of the Cold War” in Dennis Sandole, *NATO after Sixty Years: A Stable Crisis* (Ohio: The Kent State University Press, 2012).

9. Shannon Tiezzi, “How China Could Benefit From a Unified Korea,” *The Diplomat*, January 14, 2014, <<https://thediplomat.com/2014/01/how-china-could-benefit-from-a-united-korea/>> (date accessed, January 15, 2018).

strongly aligning itself with any one of them. To be sure, a unified Korea will first have to complete its economic reconstruction and integration efforts on the Korean peninsula, and thus a unified Korea may find it difficult to play such a role for at least two decades following unification. If, on the other hand, regional powers—particularly the United States and China—intensify their competition to strategically win over Korea promptly after unification, volatility in the regional political environment could increase. The United States will make efforts to persuade a unified Korea to maintain its military alliance, while China will try to bring a unified Korea into her strategic fold by offering economic incentives such as investment and financial support for the reconstruction of the Northern part of a unified Korea.

### **III. ROK-U.S. Relationship after Unification**

#### ***1. Continued Alliance Relationship***

There remains a significant possibility that, with the demise of the North Korean threat following unification, various segments of the Korean population will begin to question the need to maintain the ROK-U.S. alliance and advocate the establishment of a new security arrangement. Likewise, many Americans will also question the need for U.S. forces on the Korean peninsula following Korean unification. As the original rationale behind the ROK-U.S. alliance becomes more vulnerable after the North Korean threat disappears, a unified Korea may prefer improvements in their relationship with China or at least a transition to neutral status as the most reasonable way to minimize post-unification security burdens.

While there are many compelling rationales for a continued alliance relationship, including a residual USFK (U.S. Forces in Korea) presence on the peninsula after unification, foremost among them is the fact that a unified Korea will still find itself surrounded by great powers and that it will therefore continue to require powerful alliance support, at least until Northeast Asian stability becomes immutably

consolidated. More specifically, a unified Korea may find such support necessary in order to check or defend against the expansion of Chinese or Japanese military power. And if the security needs of a unified Korea indeed require an alliance, it is only rational that a unified Korea maintains such a relationship with its traditional alliance partner—the United States. It is widely recognized that the United States is a remarkably suitable candidate for such an alliance, as a maritime power that is located far away from Northeast Asia and accordingly harbors few territorial ambitions in the region.<sup>10</sup> Most Koreans can be expected to support the maintenance of the alliance and a USFK presence provided that they perceive the U.S. as having made significant contributions during the unification process. Otherwise, unified Korean people would oppose continued alliance with the United States.<sup>11</sup> The U.S. interest in a continued alliance with a unified Korea will be tied to the need to maintain regional stability and the risk of strategic and economic encroachment on a weak unified Korea by neighboring powers during its reconstruction phase.

It is obvious that a unified Korea will not need the current size of the armed forces once the hostilities between the two Koreas are resolved once and for all. In order to ensure stability and order in the Northeast Asian region, the United States will likely attempt to check the expansion of Chinese influence throughout the Asia-Pacific region by not only revamping its alliance relationship with both a unified

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10. Patrick Cronin and others, "Solving Long Division: The Geopolitical Implications of Korean Unification," Center for New American Security (2015); David F. Helvey, "Korean Unification and the Future of the U.S.-ROK Alliance," Institute for National Strategic Studies, National Defense University, *Strategic Forum* (February 2016); Derek J. Mitchell, "A Blueprint for U.S. Policy Toward a Unified Korea," in *Korea-U.S. Relations in Transition: Korea-U.S. Alliance in Retrospect and Prospects for a New Strategic Partnership*, eds. Jong-Chun Baek and Sang Hyun Lee (Sungnam: The Sejong Institute, 2002). For an opposite view, see Ted Galen Carpenter and Doug Bandow, *The Korean Conundrum: America's Troubled Relations with North and South Korea* (New York: Palgrave Macmillan, 2004).

11. If the United States approached China to maintain the status quo rather than promote unification after the North Korean contingency had broken out, it would not be able to expect a unified Korea to continue the alliance relationship with the United States.

Korea and Japan, but also constructing a trilateral security cooperation network linking a unified Korea, Japan, and the United States.<sup>12</sup> China, on the other hand, is expected to demand that a unified Korea develop as a pro-Chinese state rather than play a contributing role in the United States' containment strategy towards China, and will probably oppose the continued stationing of the USFK by questioning the rationale for continuing the alliance in the absence of a North Korean threat. In short, a unified Korea will have to consider the role and size of the USFK in order to ensure self-reliant defense capabilities in the face of U.S. and Japanese efforts to bring it into their maritime strategic network and Sino-Russian efforts to integrate it into their continental sphere of influence.

While there has been no specific agreement on a suitable arrangement for the USFK's post-unification presence on the peninsula, there would be little disagreement that the ROK-U.S. military command structure will have to be one in which each country commands its own forces. In other words, at some point before unification, wartime operational control (OPCON) over the ROK armed forces will be transferred back to Korean authorities, and the ROK will come to possess both peacetime and wartime OPCON within the Korean Theater of Operations (KTO).<sup>13</sup> As such, it is highly likely that the size of the USFK will be reduced to a symbolic level, possibly comprising a single brigade of ground forces together with current levels of naval and air units. Rather than being a force for America's pursuit of hegemony in Northeast Asia, the USFK will hopefully play a constructive role by helping to reduce defense expenditures, manage interstate conflict, and maintain regional stability. The appropriate location for the USFK

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12. Regarding a U.S. wish toward a trilateral alliance among U.S., Japan, and Korea, see McDaniel Wicker, "America's Next Move in Asia: A Japan-South Korea Alliance," *The National Interest*, February 24, 2016, <<http://nationalinterest.org/feature/americas-next-move-asia-japan-south-korea-alliance-15301>> (date accessed January 18, 2018).

13. Even if it didn't happen before unification, the United States will transfer wartime operational control to a unified Korea due to the disappearance of the rationale for the ROK-U.S. combined forces command.



will have to be a place that avoids militarily provoking China—in other words, somewhere south of the 38th parallel. Once the United Nations Command (UNC)’s mission is accomplished following unification, leading to the dissolution of its organization, it is desirable that the USFK continue to play a stabilizing role in the Northeast Asian region. Discussions for the full-scale withdrawal of the USFK should be considered anew only after a definitive Northeast Asian collective security system is built and a military arrangement for the maintenance of regional stability within this system is established to replace U.S. contributions to unified Korea’s defense and deterrence against outside aggression.

## ***2. USFK: Stabilizing Force for Asia***

The role and size of the USFK should be determined within a range that is consistent with the following military policies and strategy of a unified Korea. First, during peacetime, the goal should be to deter the outbreak of war and to contribute to the maintenance of Northeast Asian stability and peace in the international community. Second, in the event of a localized or limited conflict, the force should be capable of denying the adversary the objectives of its provocation and imposing arrangements to prevent its recurrence. Third, in the event of an all-out invasion, the force should be able to defeat the adversary and to deny the adversary the objectives of its aggression. In such ways, the USFK will be able to help maintain peace and stability in Northeast Asia as a stabilizing force while simultaneously being a provider of military cooperation and support against the threat of attack by potential aggressors in the region.

The most important factor to take into account when contemplating changes in the role of the USFK is the question of how to alleviate China’s concerns. Assuming the maintenance of the ROK-U.S. alliance in the aftermath of unification, it will first be necessary to firmly define the role of the USFK as a “regional stabilizing force in Asia” as opposed to a force targeting any specific state (i.e., China). Second, a key way to help mollify Chinese concerns would be to station the

USFK below the current demilitarized zone (DMZ), and in a Southern region of the peninsula if at all possible. Third, a unified Korea will have to definitively reaffirm its promise of denuclearization to the international community. Fourth, active efforts should be made to expand military trust-building measures among states neighboring the peninsula. Some specific initiatives to consider would be to invite Chinese observers to ROK-U.S. combined (not regular but intermittent) military exercises, or to restructure the form of such exercises altogether (e.g., a transition from the current ROK-U.S. bilateral exercise to a regional/multilateral exercise).

Thus far, many studies in South Korea on the post-unification structure and size of the USFK have advocated a reduction of U.S. ground forces after unification and restructuring the force as one primarily composed of naval and air forces. In terms of ground units, the first phase of reduction would be to a level of approximately 10 thousand personnel in order to cope with the “chaos” that could be expected to occur in the transition period that immediately follows unification. In the next phase, a reduction to the level of brigade (approximately 3 to 5 thousand personnel) would be desirable if the peninsula’s surrounding environment remains stable. In the final phase, reducing the footprint of ground forces to the furthest possible extent is the best way to reduce suspicions about the United States’ strategic intentions toward the Northeast Asian region while simultaneously checking efforts by neighboring states to restrain a unified Korea’s activities.<sup>14</sup>

On the other hand, consistent with the discussion on wartime OPCON transition, it is expected that the current ROK-U.S. Combined Forces Command (CFC) will be replaced by the US Korea Command (KORCOM) after unification, with the U.S. forces playing a supporting role for the ROK Joint Chiefs of Staff.<sup>15</sup> We may also expect a unified Korea’s armed forces to change in accordance with three new strategic

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14. See, for example, Nam-hoon Cho, “Evaluating the Uncertainties of Korean Unification and Korea’s Future Policy Directions,” *Strategic Studies*, vol. 22, No. 1 (2015), pp. 51-52. [In Korean].

15. Burwell B. Bell and Sonya L. Finley, “South Korea Leads the Warfight,” *Joint Forces Quarterly*, Issue 47 (4th Quarter 2007), pp.80-86.

objectives: focusing on imposing unacceptable costs to adversaries that seek to threaten Korea's regime; developing mobility capabilities that enhance the armed forces' reach towards the Indian Ocean in order to enable the protection of sea lines of communication (SLOC); and maintaining internal safety and order in the immediate aftermath of unification, particularly in areas previously controlled by North Korea. Furthermore, it would be desirable for the Korean peninsula to establish itself within Washington's global military posture as a suitable location for the rotational deployment of U.S. forces and the hosting of combined exercises.<sup>16</sup>

In addition, changes in the status of the UNC are expected to become inevitable with the demise of the North Korean threat after unification and the conclusion of the current armistice maintenance mission on the peninsula. This is because the very existence of the UNC finds its legitimacy in the division of the Korean peninsula and the armistice regime. Currently, in anticipation of wartime OPCON transition and the dissolution of the CFC, it appears that the United States seeks the maintenance of the UNC and the reinforcement of its functions on the peninsula. In offering specific reasons for its position that the UNC should continue its activities even after the establishment of a peace mechanism on the peninsula, the United States would argue in the first instance that the UNC was established on the basis of a United Nations Security Council resolution, and that its dissolution is therefore not a matter that should be determined via deliberation by the ROK government. Second, the United States sees the UNC as a body that is legitimate according to international law, and thus capable of deterring North Korean provocations and preventing escalation in the event of a provocation through crisis management. Third, should situations on the peninsula make it necessary, the UNC can be an insti-

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16. David Eunpyoung Lee, Elbridge Colby, Hannah Suh, Patrick Cronin, Richard Fontaine and Van Jackson, "Solving Long Division: The Geopolitical Implications of Korean Unification," Center for New American Security, December 16, 2015, p. 21, <<https://www.cnas.org/publications/reports/solving-long-division-the-geopolitical-implications-of-korean-unification>> (date accessed Januray 15, 2018).

tutional mechanism through which member states could send forces to Korea without an explicit resolution by the United Nations Security Council. Fourth, although changes in the status of the UNC after unification (i.e., dissolution) would require a new resolution on the part of the United Nations, it should be taken into consideration that some wish to see the UNC become an alternative mechanism for ROK-U.S. bilateral military cooperation after the dissolution of the CFC.<sup>17</sup>

Following major changes in the status of the UNC, realistic forecasts expect its Military Armistice Commission (UNCMAC) and Neutral Nations Supervisory Commission (NNSC) to be dissolved or transformed accordingly. The basis for the existence of the UNCMAC will disappear with the conclusion of the armistice maintenance mission after unification, along with the supervisory duties of the neutral nations. It is thus anticipated that both bodies will be dissolved in a fairly natural process. Rather than simply discarding institutions such as the UNC, the UNCMAC, and the NNSC in the aftermath of unification, however, options to transform them into new peace maintenance institutions should be considered.<sup>18</sup>

Finally, while keeping the ROK-U.S. alliance at the center of its foreign policy, a unified Korea could also create a network of multi-tiered, complex relations meant to promote the perception that the ROK-U.S. alliance and the ROK-China relationship are not mutually exclusive. Towards this end, it would be desirable for a unified Korea to support high levels of Korea-U.S.-China trilateral security cooperation, while at the same time pursuing the balanced growth of mini-multilateral relations whose multiple layers comprise cooperation between Korea, U.S., and Japan or Korea, China, and Japan. The

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17. For this view, see Cheol-ho Chung, "The Status and Role of the UNC after the Transfer of the Wartime Operational Control," *Sejong Policy Studies*, vol. 6, no. 2 (2010), pp.197-239. [In Korean].

18. The future status of the UNC and its expected change is a controversial issue among many Korean experts. The majority view supports the continuation of the UNC in a substantially modified organization, rather than completely rescinding it. See Il-young Kim and Sung-yol Cho, *US Forces in Korea: Its History, Controversies, and Prospects* (Seoul: Hanwool Academy, 2003). [In Korean].

aim, in short, is to deliberately create a complex network of relations.

#### **IV. Unified Korea-China Relationship after Unification**

One of the biggest obstacles a unified Korea will face as it determines the orientation of its foreign policy following unification is how to maintain a security alliance with the United States while providing assurances to China that perpetuation of an alliance between a unified Korea and the United States will not pose new security challenges for Beijing. Since China's primary objective in the event of Korean unification will be to replace North Korea as its security buffer, China will actively oppose unified Korea's efforts to perpetuate the security alliance with the United States.<sup>19</sup> China is likely to use a variety of economic and political instruments in an effort to neutralize and win over a unified Korea geopolitically to China's side and to loosen its ties with the United States and Japan. But it will be desirable that in its initial phase and possibly longer, a unified Korea facing the challenges of reconstruction and integration of the North will desire to continue the alliance with the United States, especially in the initial phases of unified Korea's economic and political integration.

##### **1. China's Expanded Economic Influence on Unified Korea**

Perhaps the major instrument China is likely to use in its efforts to gain leverage with a unified Korea and to blunt the influence of the United States will be its growing economic influence on the Korean peninsula.<sup>20</sup> China will seek to protect existing economic interests in

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19. Richard C. Bush, "China's Response to Collapse in North Korea," *On the Record*, Brookings Institution, January 23, 2014, <<https://www.brookings.edu/on-the-record/chinas-response-to-collapse-in-north-korea/>> (date accessed January 18, 2018).

20. See Sui-lee Wee and Jeyup S. Kwaak, "China's Harsh Words Mask a Trade Boom With South Korea," *New York Times*, September 29, 2017, <<https://www.nytimes.com/2017/09/29/business/china-south-korea-trade.html>>

the North Korean territory while taking steps to strengthen Sino-Korean economic ties as a means by which to enhance China's economic influence on a unified Korea and bring it into China's economic orbit. Toward this end, China may become an active aid donor and financier for reconstruction within the former North Korea, may offer humanitarian assistance in an effort to stabilize and extend its influence into areas inside a unified Korea near the Chinese border, and will search for economic instruments by which to strengthen China's economic influence within a unified Korea.

The three Chinese Northeastern provinces that share a border with North Korea will be most active in trying to extend economic influence into the Northern part of a unified Korea, both as a means by which to extend China's economic and political influence across the border and in order to secure maritime access for China's Northeast through ports of entry in the former North Korea.<sup>21</sup> Chinese firms that have experience and prior trading relationships with North Korea may opportunistically seek to expand access to North Korean infrastructure and mining sectors during a moment of transition when protections of these resources in a unified Korea and needs for capital to spur development are particularly acute.<sup>22</sup> For China's Northeastern provinces,

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(date accessed December 23, 2017).; Steven Denney, "South Korea's Economic Dependence on China," *The Diplomat*, September 4, 2015, <<https://thediplomat.com/2015/09/south-koreas-economic-dependence-on-china>> (date accessed March 2, 2018).; Asia Experts Forum, "Stephen Haggard on China-North Korea Trade," McKenna College, October 5, 2017, <<http://asiaexpertsforum.org/stephen-haggard-china-north-korea-trade/>> (date accessed March 2, 2018).

21. Chong Woo Kim, "Open North Korea: Economic Benefits to China from the Distance Effect in Trade," Asan Institute for Policy Studies, March 14, 2014, <<http://en.asaninst.org/contents/open-north-korea-economic-benefits-to-china-from-the-distance-effect-in-trade-2/>> (date accessed January 25, 2018).; "China Investing Heavily in N. Korean Resources," *Chosun Ilbo*, April 12, 2007, <[http://english.chosun.com/site/data/html\\_dir/2007/04/12/2007041261016.html](http://english.chosun.com/site/data/html_dir/2007/04/12/2007041261016.html)> (date accessed January 25, 2018).
22. Sang-hun Choe, "North Korea Rents Out Its Resources to Stave Off Reform," *New York Times*, October 25, 2011, <<http://www.nytimes.com/2011/10/26/world/asia/north-korea-rents-out-its-resources-to-stave-off-reform.html>> (date accessed February 5, 2018).

such efforts will represent a natural extension of local interests in promotion of economic integration of the former North Korea.

China's provincial interests in economic integration across the Sino-Korean border will align with interests in Beijing that desire to utilize economic instruments to preserve China's geopolitical and security interests during a time of political transition in Korea. Beijing will support expansion of Chinese economic influence into a unified Korea as a source of potential leverage to influence Korean politics, to establish a rationale for a unified Korea to maintain a friendly relationship with China, and to persuade a unified Korea to take Chinese political and security interests into account in an effort to make a unified Korea into a buffer state that would protect China from having to directly face potential adversaries such as Japan and the United States.<sup>23</sup>

The complex security situation on the Korean peninsula has heretofore been an obstacle to serious Chinese efforts to apply its One Belt One Road (OBOR) plans to the Korean peninsula, but a changed security environment in which Korea becomes unified would remove those constraints on Chinese financial and project investment in a unified Korea and would make the Northern part of a unified Korea a particularly attractive target for Chinese investment in large-scale infrastructure projects alongside efforts to strengthen preferential terms of access on the Korean peninsula.<sup>24</sup> China would likely be a ready source of reconstruction funding, grants, and humanitarian aid to the Northern part of a unified Korea, but Chinese economic largesse would likely come with political strings and conditions that will require a unified Korea to navigate carefully as it defines its reconstruction goals while also trying to preserve its independence.

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23. See Scott Snyder and See-Won Byun, "China-Korea Relations: Two Koreas Defy, Chinese Sanctions," *Comparative Connections*, vol. 19, no. 1 (2017), pp. 83-94. <<http://cc.csis.org/2017/05/two-koreas-defy-chinese-sanctions/>>, for an illustration of how China has been seeking to use economic leverage against both Koreas.

24. Anthony Miller, "The Chinese Dream in Peril: Xi Jinping and the Korean Crisis," *The Diplomat*, October 7, 2017, <<https://thediplomat.com/2017/10/the-chinese-dream-in-peril-xi-jinping-and-the-korean-crisis/>> (date accessed March 5, 2018).

## **2. *China's Pursuit of Political Cooperation with a Unified Korea***

China's main political objectives in establishing a relationship with a unified Korea will be primarily geopolitical; to block foreign influence on the orientation of a unified Korea toward the United States and Japan and to neutralize a unified Korea geopolitically as a potential threat on China's periphery. The political instruments China may use in pursuit of those objectives may include political coercion strategies alongside the economic-oriented influence expansion strategies detailed above. But political coercion efforts will be tempered by the need to establish a mutually positive and cooperative strategic relationship between the two countries.

Thus, China and a unified Korea will likely start off by recognizing each other's geographic and geopolitical importance and by renewing pledges to maintain positive momentum toward having good relations with each other. A unified Korea will value a good relationship with China even more deeply as it seeks both regional political peace and stability and resources for reconstruction of the Northern part of the peninsula.

While China will share unified Korea's interest in maintaining stability on China's periphery, Beijing may also mount a strong political challenge to efforts by a unified Korea to maintain a security alliance with the United States in case of post-Korean unification on grounds that the rationale for the alliance has dissolved in the absence of an inter-Korean conflict. China has already telegraphed its objections to alternative rationales for Korea to maintain an alliance with the United States as part of its opposition to the installation of THAAD (Terminal High Altitude Area Defense) system in South Korea. China's main objections were based on the idea that the missile defense system had regional application beyond the military balance on the Korean peninsula, an assertion that the United States and South Korea roundly denied.<sup>25</sup>

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25. Sungtae (Jacky) Park, "How China Sees THAAD," Center for Strategic and International Studies, March 30, 2016, <<https://www.csis.org/analysis/pacnet-32-how-china-sees-thaad>> (date accessed March 8, 2018).



However, Chinese objections to the deployment of THAAD were an important marker defining Chinese opposition to the idea that the scope of the U.S.-ROK security alliance should extend beyond deterrence of the threat from North Korea.<sup>26</sup> China's subsequent efforts to impose boundaries on South Korean security commitments through the informal establishment with the Moon Jae-in government of the "three noes" (no more THAAD batteries in Korea, no regional integration of missile defenses with Japan and the United States, and no establishment of a trilateral U.S.-Japan-South Korea defense alliance) provide further evidence of China's opposition to an expansion of the scope of the U.S.-ROK alliance beyond the North Korean threat; thus China would assert that there is no longer a compelling rationale for a U.S. security alliance with a unified Korea.<sup>27</sup> Although most of China's geopolitical strategies for enhancing influence in a unified Korea while strengthening coercive instruments designed to discipline a unified Korea from taking measures perceived as countering Chinese interests will be focused on limiting the scope of a unified Korea security ties with the United States, the primary point of geopolitical conflict between security interests on the Korean peninsula is really between China and Japan, both of which see a friendly unified Korea as critical to their respective security interests.<sup>28</sup> For this reason, it is likely that China will step up efforts in relations with a unified Korea to foment distrust of Japan and to limit unified Korea's strengthening of security arrangements with the United States that involve Japan or serve Japan's interests. Likewise, adjustments in Japan's policies toward a unified Korea,

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26. Jung-yeop Woo and Eileen Block, "Misinformation Hinders Debate on THAAD Deployment in Korea," *Asia Pacific Bulletin*, no. 319, East-West Center, August 11, 2015, <[https://www.eastwestcenter.org/system/tdf/private/apb319\\_0.pdf?file=1&type=node&id=35254](https://www.eastwestcenter.org/system/tdf/private/apb319_0.pdf?file=1&type=node&id=35254)> (date accessed January 25, 2018).

27. Jeongseok Lee, "Back to Normal? The End of the THAAD Dispute between China and South Korea," *China Brief*, vol. 17, Issue 15, Jamestown Foundation, November 22, 2017, <<https://jamestown.org/program/back-normal-end-thaad-dispute-china-south-korea/>> (date accessed March 8, 2018).

28. Sungtae (Jacky) Park, "If Korea Were to Unite..." *The Diplomat*, January 31, 2013, <<https://thediplomat.com/2013/01/if-korea-were-to-unite/>> (date accessed April 3, 2018).

possibly including economic, political, and security strategies, may be motivated primarily by the need to counter the risk that strengthening political ties between China and a unified Korea would put Japanese interests at risk.

Another sensitive area that has potential to influence the tone in management of political relations between China and a unified Korea will involve management of cross-border issues between the two countries. A unified Korea would inherit the legacies and historical precedents established by North Korea in managing cross-border issues, but the nature and specific problems involved in managing cross-border relations may change as a result of a shift in tone and style of management of the overall China-unified Korea relationship. Among the historical legacies around that relationship that could become a focal point for political conflict will be the question of whether a unified Korea challenges existing borders on historical grounds, (including the controversial cession of the Kando peninsula to China in 1907 when Korea was under Japanese control), review of any special access arrangements for Chinese companies to unified Korea ports and mines, and ongoing disputes over historical relics and their provenance dating from the Koguryeo and Parhae kingdoms over one thousand years ago.<sup>29</sup> At the same time, there would be powerful motivations for China and a unified Korea to manage border issues cooperatively as a manifestation of positive relations consistent with the rising mutual interests in establishing as good (an optimal or ideal) a political relationship as possible.

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29. "What China's Northeast Project Is All About," *Chosun Ilbo*, May 30, 2008, <[http://english.chosun.com/site/data/html\\_dir/2008/05/30/2008053061001.html](http://english.chosun.com/site/data/html_dir/2008/05/30/2008053061001.html)> (date accessed March 8, 2018); Taylor Washburn, "How an Ancient Kingdom Explains Today's China-Korea Relations," *The Atlantic*, April 15, 2013, <<https://www.theatlantic.com/china/archive/2013/04/how-an-ancient-kingdom-explains-todays-china-korea-relations/274986/>> (date accessed April 8, 2018).

## **V. ROK's Strategic Considerations**

Through this research focused on envisioning Korea's post-unification foreign and security policy, particularly in regards to the ROK-U.S. alliance and the ROK-PRC relationship, we have arrived at a number of key strategic factors that must be taken into consideration. First, in order for Korea bent on unification to maximize the pursuit of its national interests under this situation, it must carefully manage the "speed" of and motivations behind cooperation with China by managing the nature and purposes of economic collaboration while taking gradual steps to strengthen cooperation in the political and security arenas; assure the United States that the ROK-U.S. alliance remains the cornerstone of Korean security; build enough confidence to avoid excessive fear of China; and pursue ROK-U.S. technological collaboration in order to enhance their "brain power" as seen in the case of the U.S.-India relationship.

Second, ROK policymakers should prepare to cope with the ROK-U.S. "global alliance dilemma." While both Washington and Seoul agree that the ROK-U.S. must continuously evolve with changes in its surrounding situation, there remain elements of friction between the U.S. effort to expand the purview of its military alliances to encompass regional and global missions and the Korean preference for limiting the military aspect of the alliance to the peninsula (backed by Chinese pressures to delimit and potentially even to eviscerate the U.S.-ROK security alliance) while welcoming non-military cooperation in the global arena. This is what might be properly termed a ROK-U.S. global alliance dilemma that does not allow Korea to expand the scope of the "military" alliance to a global level. In this situation, the ROK must make preparations to realize wartime OPCON transition at the earliest possible period rather than to postpone it indefinitely, and must pursue more intensive "non-military" cooperation with the United States in pan-global concerns such as climate change, nuclear proliferation, economic development, and human rights.

Third, since a sustainable balance between security and economic cooperation has yet to be reached when it comes to the ROK-China

relationship, ROK policymakers must be able to respond appropriately to this issue as well. Priority must be placed on advancing an acceptable vision for a unified Korea in order to persuade China to abandon its reservations regarding unification, and the establishment of a systematic strategic dialogue between the two countries is critical in this regard. A specific, realistic way to make this happen would be to hold a so-called "1.5-track" strategic dialogue involving experts from both countries (government officials would not participate in the initial phases of the discussion, and only become involved gradually). And to assuage perceptions that ROK-China strategic discussions are overtly focused on political issues, comprehensive exchanges should be pursued by expanding the framework to resemble a "Strategic and Economic Dialogue," such as which currently exists between the United States and China.

Fourth, strategic discussions between the ROK, U.S., and China should be energized in tandem with efforts discussed above in order to handle questions related to the construction of a peninsular peace mechanism and to enhance prospects and potentially, to define institutional arrangements capable of undergirding post-Korean unification regional stability. If China adheres to its traditional position, we may expect that it will criticize the USFK problem, mutual distrust between North Korea and the U.S., and differences in roadmaps proposed by the Koreans and those proposed by neighboring countries. In the past, China suggested that the North Korean nuclear problem will only be resolved when the United States succeeds in alleviating the "rational security fear" harbored by the North Korean regime. If the Chinese view has not changed, the establishment of a peace mechanism on the Korean peninsula will become extremely difficult due to outstanding differences in perception between the U.S. and China regarding the peace mechanism, and cooperative relations between the ROK, U.S., and China will be called into question. It is thus critical that a solution to this problem be devised.

Fifth, a "consultative body for the management of a North Korean crisis" should be activated between the ROK and China, or among the governments of the ROK, the United States, and China. There is no

need to presume that China will reject discussion on these matters with the ROK, and in fact, there is ample reason to believe that the ROK is one of the countries with whom China is most anxious to hold discussions regarding a potential contingency in North Korea.<sup>30</sup> Because Chinese public opinion is gaining more and more influence on Beijing's decisions on this issue, it is imperative that an atmosphere that is friendly toward the ROK be cultivated within China in order to secure its cooperation. Towards this end, the ROK must reinforce its ability to monitor Chinese public opinion and its efforts to cultivate a favorable social atmosphere.

Finally, ROK policymakers must respond in a proactive manner to China's diplomacy toward its neighbors. Some of influential Chinese scholars have recently argued that "the tributary system of pre-modern eras was not necessarily all bad," signaling a desire to manage relations with neighboring countries, including the ROK, in a more assertive manner.<sup>31</sup> In order to check Chinese efforts to consolidate "hierarchical" relations with her neighbors, the ROK will have to strengthen its bilateral and multilateral cooperation with other states in China's vicinity.

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30. See Jia Qingguo, "Time to prepare for the worst in North Korea," *East Asia Forum*, September 11, 2017.

31. Fangyin Zhou, "Equilibrium Analysis of the Tributary System," *Chinese Journal of International Politics*, vol. 4, no. 2 (2011), pp. 147-78; Gungwu Wang, "Ming Foreign Relations: Southeast Asia," in *The Cambridge History of China*, vol. 8 (Part 2): *The Ming Dynasty, 1368-1644*, eds. Denis Twitchett and Frederick Mote (Cambridge: Cambridge University Press, 1998), p. 304.

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## Historical Relations between Poland and North Korea from 1948 to 1980\*

Nicolas Levi\*\* and Kyungyon Moon\*\*\*

This article focuses on relations between Poland and North Korea from 1948 till 1980, focusing on places of remembrance of Poles in North Korea, and North Korean citizens in Poland. During this period, bilateral relations between these countries were very close due to their belonging to the same ideological movement. The article focuses on political, ideological, cultural, and economic relations based on three historical phases of the Korean War (1950-1953), Post-Korean War (1953-1960) and disturbance of Poland-North Korea relations (1960-1980). The paper argues that although Poland did make efforts to successfully foster mutual relations, sometimes regardless of Polish interest, the behavior of DPRK authorities reduced the benefits Poland could gain from maintaining relations with this country. The DPRK focused on its interest and not on the interest of fraternal nations. This led to a negative image of the DPRK authorities among the Polish leadership and automatically to negative views concerning the DPRK population among Poles.

**Keywords:** Asymmetry of relations, North Korea, Poland, Communism, *Juche* ideology

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## I. Introduction

How were two countries—the Republic of Poland (hereafter ‘Poland’)<sup>1</sup> and the Democratic People’s Republic of Korea (hereafter ‘DPRK’ or ‘North Korea’)—which were so different, able to collaborate? Where are Poles remembered in the DPRK, and where are DPRK citizens remembered in the territory of Poland? The aim of this article is to present some key issues concerning the cooperation between Poland and North Korea for the period 1948-1980 when both countries belonged to the same bloc of the socialist countries. The article is not in any case an attempt to collect all issues related to relations between both countries, but rather a consideration of the most important matters that directly concerned bilateral relations between these two states, including Polish memories in the DPRK, and DPRK memories in Poland. Therefore, the paper has a nature that is not only historical but also geographical.

In methodology, the article uses a combination of quantitative and qualitative methods and source criticism to analyze the mentioned topic. The whole is done to develop important observations and draw conclusions. On the other side, based on statistical data provided by the Polish Ministry of Economy, and by the Archives of the Polish Ministry of Foreign Affairs, some elements are quantifiable and may affect the analysis of the considered policy. The paper aims at interpreting the policy of the two countries with a focus on diplomatic, economic, and cultural issues based on archives of the Polish Ministry of Foreign Affairs (MOFA). DPRK documents dedicated to its relations with Poland are scarcely mentioned in this paper. Therefore, oral descriptions of individuals engaged in the described events are highly valuable. This article supports the hypothesis and theoretical conclusion that the DPRK national interest was prioritized in the establishment of relations with Poland and that therefore there is an asymmetry in the quality of relations between both countries.

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1. The Polish People’s Republic (*Polska Republika Ludowa*) was the official name of Poland between 1952 and 1989. The country was renamed as the Republic of Poland (*Rzeczpospolita Polska*) in 1989.

To fulfill these aims, the paper divides the period of relations between Poland and North Korea into four phases. The first phase from 1948 to 1950 is a short outline of bilateral relations until the outbreak of the Korean War. The second phase tackles relations between Poland and North Korea during the Korean War from 1950 to 1953 and will be followed by the analysis of Poland-North Korea relations between 1950 and 1960 when Poland provided multilateral support for post-war recovery of North Korea. This paper lastly deals with the period 1960-1980, emphasizing the rupture of relations between both countries due to an ideological disagreement.

## **II. Theoretical Background**

In international relations, the existing literature seeks to explain how to interpret the behavior of nations and states in the case of alliances or wars. Within the last decades, new approaches dedicated to the theory of International Relations appeared. One of them is the rational theory of international relations. Rational choice theory is rooted in the assumption of instrumental rationality. Rationalism is a behavior that can be optimally adapted to the situation considering the availability of the information. A rational actor is one who, when confronted with "two alternatives which give rise to outcomes, will choose the one which yields the more preferred outcome."<sup>2</sup> Kahneman and Tversky, two Israeli-American researchers, developed a prospect theory to gather these patterns into a theory of choice. Two phases are distinguished.

The first one is the reference point, the options available and potential outcomes. In the present case, the editing phase will be the post-Korean War period when North Korea used as many opportunities provided by the Polish People's Republic as it could. It is also important to underline that the outcomes depend on preferences, which are determined by each entity or states. The American political

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2. Howard Raiffa, Duncan Luce, *Games and Decisions: Introduction and Critical Survey* (Mineola: Dover Publications, 1989), p. 50.

scientist Kenneth Waltz focuses on three sorts of factors related to security strategies: motivation of a state; its capabilities and the information it collects; and the capacities and intentions of others. The rationalist theory deduces the circumstances under which states will seek to cooperate or compete. It is a strategic choice theory for a state (in the present case North Korea) facing an international environment that presents constraints and opportunities.<sup>3</sup> The problem of asymmetric information was also explored by George Akerlof, who argued that, in the case of uncertainty, actors attach probability estimates to the occurrence of events and then attempt to maximize their utility based on these probabilities.<sup>4</sup> During the considered historical period, in the case of relations between the two considered countries, the behavior of Polish authorities was to a large extent guided by Soviet authorities, thus North Korean authorities may have considered that Poland would keep a particular commitment to North Korean issues considering Soviet authority's commitment to North Korea.

The second phase is the evaluation, which is described within a Utility model (applied in microeconomics) that can be associated with the behavior of North Korea. It assumes that the state will make rational decisions to maximize its gains within its relations with Poland. The potential gain for North Korea will be an inflow of goods and know-how through different channels. In other words, institutional actors will use the expected utility as the basis for their economic and political decisions.

This paper applies this theoretical framework to the case of Poland and DPRK relations. The research questions of the article are to examine and chronicle relations between Poland and the DPRK in order to show what the relations between ideologically and culturally distant countries looked like, whether the countries belonging to the socialist community could really rely on each other, and why such relations, which were good in the beginning, changed.

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3. Charles Glaser, *Rational Theory of International Politics: The Logic of Competition and Cooperation* (Princeton: Princeton University Press, 2010), p. 10.

4. George Akerlof, "The Market for 'Lemons': Quality Uncertainty and the Market Mechanism," *The Quarterly Journal of Economics*, vol. 84, no. 3 (1970), pp. 488–500.

As far as the rationalist explanations are used for the purpose of this article, a hierarchy of preferences shall be established. During the studied period, the primary goal of the North Korean leadership was its welfare. The regime tried to obtain as much monetary support, but also food and equipment, as it could. During the period 1948-1980, North Korea was not jeopardized by foreign states. As of now, with a growing American interest in North Korean issues, the priority of the North Korean state organizations is their survival instead of welfare issues. As relations between countries are not static, we can also assume that the preferences of North Korean authorities consist of a mix of survival and welfare issues.

### **III. Chronicle Review of Poland-DPRK Relations**

#### **1. Phase I: The Establishment of the DPRK (1948-1950)**

On 9 September 1948, the Polish People's Republic was the second country of the socialist block, after the USSR, to establish dialogue with the DPRK shortly after it gained independence. It diplomatically recognized the DPRK on October 16, 1948. The Soviet Union was the first country to recognize the DPRK on September 12, 1948, followed in October-November, 1948 by Mongolia, Czechoslovakia, Romania, Hungary, Bulgaria, China, Albania, and East Germany in 1950.<sup>5</sup>

Bilateral ambassadors, however, were not immediately appointed. Choe Il, a former employee of the DPRK embassy to China, was nominated by Pyongyang as the first DPRK ambassador to Poland. He arrived in Warsaw in 1951.<sup>6</sup> Comparatively, Poland established diplo-

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5. Nicolas Levi, "Zarys Stosunków między Polską Republiką Ludową a Koreańską Republiką Ludowo-Demokratyczną" in *Świat i Polska wobec globalnych wyzwań*, ed. Ryszard Żelichowski (Warszawa: Instytut Studiów Politycznych PAN - Collegium Civitas, 2009), p. 345.

6. Since then, the embassy of the DPRK edited newsletters or conveyed newsletters with limited circulation edited by the Ministry of Foreign Affairs in Pyongyang, aimed at presenting the vision of the DPRK regarding its role in international affairs.

matic relations with Mongolia in April 1950, followed by appointing ambassadors in 1953, and an embassy in North Vietnam was opened four years after diplomatic relations were established in 1950.<sup>7</sup>

The establishment of the bilateral relations between both countries was only an introduction to the creation of diplomatic missions in both countries. Until September 14, 1954, Polish interests in the DPRK were represented by the Polish embassy in China. The large involvement of Poland in the Far East resulted in creating a special department dedicated to Asian Affairs in the Polish MOFA in 1954, which dealt with this part of the world.<sup>8</sup> Later in August of the same year, Jerzy Siedlecki was appointed as the first Polish ambassador to the DPRK and, at the same time, increasing the rank of diplomatic relations. Afterwards, due to difficulties to recruit people from Poland, wives of diplomats were employed as secretaries and such tradition maintained until present. Many Koreans were also employed at the Polish embassy, especially in the military section.<sup>9</sup>

## 2. Phase II: The Outbreak of Korean War (1950-1953)

The literature on the Korean War is abundant. The role of Poland in this conflict has been analyzed many times by historians and political theorists.<sup>10</sup> However, these publications were skewed in favor of the Polish People Republic's own historiography, claiming that the Korean War was provoked by South Korea and 'American Imperial-

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7. Wojciech Kowalski, *Polska w świecie 1964-1956* (Warszawa: Książka i Wiedza, 1988), p. 547.

8. Gerard Labudy, Waldemar Michowicz (eds.), *Historia dyplomacji polskiej w X-XX wieku* (Warszawa: Wydawnictwo Sejmowe, 2002), p. 602.

9. Wojciech Kowalski, *Polska w świecie 1945-1956* (Warszawa: Książka i Wiedza, 1988), p. 551.

10. Marcei Burdelski, *Czy Korea będzie zjednoczona do końca XX wieku?* (Toruń: Adam Marszałek, 1995); Christian Birchmeier, Marcei Burdelski, Eugeniusz Jendraszczyk, *50-lecie Komisji Nadzorczej Państw Neutralnych w Korei* (Toruń: Wydawnictwo Adam Marszałek, 2012), no. 1, p. 28.



ists.<sup>11</sup>

When the Korean War broke out, Poland and the USSR protested a South Korean and American military operation (under the UN banner). The struggles of the DPRK started to surface in 1950 when the Korean War broke out.<sup>12</sup> Since September 14, 1950, those reports showed the futility of the DPRK defense and on September 23, 1950, the official reports read that 'imperialists' had an overwhelming superiority over communist troops.<sup>13</sup> Movies, such as 'Korea Oskarża' (Korea accuses) from 1951 were filmed thanks to Bronisław Wiernik, the first Polish journalist to visit the Far East of Asia.

In Poland, as in other socialist states, mass meetings were held in solidarity with slogans such as 'Hands off Korea' ('*Precz ręce od Korei!*'). Documents emanating from the Polish Communist Party started to show a stronger involvement of Polish diplomacy in the Korean case. Economic and financial aid for the DPRK was initiated by Poland and other socialist states already in 1951. Machinery, resources and other products were sent to support Korea, amounting to 18 million rubles at the time. On June 2, 1951, Poland and the DPRK signed a treaty to export Korean products as a form of credit. The Presidium of the Communist Party of Poland decided, however, to revise a large part of the treaty due to the Korean War.

Since early spring in 1952, some countries and the DPRK were exchanging views on organizing control commissions in case of the war ended.<sup>14</sup> By autumn in 1952, during the 7th UN assembly, the Polish delegation presented a resolution project entitled '*On avoiding the*

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11. Władysław Góralski, *Problemy pokoju i bezpieczeństwa w Azji* (Warszawa: Polski Instytut Spraw Międzynarodowych, 1979), p. 30; Stefan Kojło, Anatol Dikij, Polska-KRLD. *Gospodarka, współpraca* (Warszawa: PWE, 1975), p. 55; Mieczysław Kunstler (ed.), *historia polityczna Dalekiego Wschodu 1945-1976* (Warszawa: PWN, 1986), p. 139; Kim Jong-suck, "Rola Polski w wojnie koreańskiej" (Ph.D. Thesis, University of Warsaw, 1996).

12. Janusz Wróbel, "Wojna koreańska w polskiej propagandzie," *Gwiazda Polarna*, August 9, 2003.

13. Trybuna Ludu, "Wojna w Korei," September 14, 1950.

14. Alex Svamberk, "Czechoslovakia in the Neutral Nations Supervisory Commission," *Transactions of the Royal Asiatic Society Korea Branch*, vol. 88 (2013), p. 4.

*threat of new world war and consolidating peace and friendly cooperation between nations.*' The project treated directions for peace in Korea, the division of the peninsula and determining the armistice agreement. When the American general William Harrison and the DPRK general Nam Il signed a ceasefire agreement putting end to a three-year war on the Korean peninsula at the demarcation line in Panmunjom on June 27, 1953, it was clear that the conflict could not be resolved by military means only and that the formation of organs insuring the respect for the armistice was necessary.

Therefore, two institutions were created to respect the previously mentioned ceasefire: The Neutral Nations Supervisory Commission (NNSC) and the temporary Neutral Nations Repatriation Commission (NNRC).

The NNSC was appointed to make sure no military actions would be undertaken in Korea, to investigate possible violations of the armistice and insure their implementation. The NNSC inauguration took place in Panmunjom on August 1, 1953. According to the arrangement signed in the first weeks of 1952, Poland and Czechoslovakia (both countries were selected by leaders of the Chinese People's Volunteers Army) were stationed in the North and Sweden and Switzerland (chosen by the US Leadership) in the South.<sup>15</sup> These four countries were also chosen by India to be members of the NNRC. During the Spring 1952, Poland and Czechoslovakia prepared special actions that were supposed to be deployed in the DPRK.

In June 1953, a Reconnaissance Group of 30 Polish military officials (under the governance of brigadier general Mieczysław Wągrowski) went on a delegation to the Korean Peninsula. But it was only based on the order no. 0077/ORG, signed on December 10, 1953 of the Polish Ministry of Defense, that a mission called Military Unit 2000 was created. This unit participated also later in peace missions to Cambodia, Nigeria, Vietnam, and in the Middle-East. The first team sent to the Korean Peninsula was checked by the Polish Secret Police

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15. Alex Svamberk, "Czechoslovakia in the Neutral Nations Supervisory Commission," *Transactions of the Royal Asiatic Society Korea Branch*, vol. 88 (2013), p. 2.

(Urząd Bezpieczeństwa, commonly known as UB).<sup>16</sup>

This mission was composed of 330 officers and soldiers who were supposed to leave Poland for Korea, but only 301 arrived and started to fulfill their obligations on August 1, 1954.<sup>17</sup> In comparison, the Czechoslovak Reconnaissance Group departed for the DPRK in July 1953.<sup>18</sup> The previously mentioned first team consisted of soldiers for the Polish Army, translators and employees of the Ministry of Foreign Affairs and Ministry of Internal Affairs. After a few months of training (foreign languages, legal and political aspects of the DPRK), the first team of 301 people was sent, including women who usually served as nurses and typists.<sup>19</sup> Due to the economic crisis, and to a lack of infrastructure as the result of the Korean War, the Polish mission brought over the entire requested goods and supplies, such as electronic devices, clothes, and basic items like pens, paper, and beds, but also Polish made cars called *Warszawa*. Another difficulty for Poles was the presence of exotic diseases and the lack of health infrastructure in case of difficulties. Many soldiers suffered from infections such as diarrhea and dysentery.

Later personnel changes took place regularly every 9 to 11 months<sup>20</sup> and concerned less than 100 people. In 50 years of the Polish mission to the DPRK, more than 1,100 officers and Ministry of Foreign Affairs workers were employed. Throughout this time, they took vari-

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16. Marek Wąs, "Polscy misjonarze obrzuceni granatami w Korei," *Gazeta Wyborcza* (Warsaw), August 31, 2015.

17. Przemysław Benken, "Problematyka stosunków między Misją Polską do Komisji Nadzorczej Państw Neutralnych a Sztabem Wojskowej Komisji Rozejmowej strony Koreańskiej Armii Ludowej/Chińskich Ochotników Ludowych w Kaesongu oraz wytyczne w tej sprawie," *Pamięć i Sprawiedliwość* 1, vol. 23 (2014), p. 440.

18. Alex Svamberk, "Czechoslovakia in the Neutral Nations Supervisory Commission," *Transactions of the Royal Asiatic Society Korea Branch*, vol. 88 (2013), p. 7.

19. Christian Birchmeier, Marcei Burdelski, Eugeniusz Jendraszczak, *50-lecie Komisji Nadzorczej Państw Neutralnych w Korei* (Toruń: Wydawnictwo Adam Marszałek, 2012), no. 1, p. 28.

20. Marcei Burdelski, "Sytuacja w Korei Północnej po szczycie w Phenianie," In *Korea: doświadczenia i perspektywy*, ed. Elżbieta Potocka, Krzysztof Gawlikowski (Toruń: Wydawnictwo Adam Marszałek, 2001), p. 131.

ous actions to secure implementation of the armistice agreement signed in Panmunjom such as controlling the Chinese People's Volunteers Army, who were present in the DPRK until October 1958, through mobile teams traveling all over the DPRK. Poles also investigated violations of the armistice agreement. In the memories of officer Marian Reinberger, we learn that during weekends officials used to go to the Polish restaurant in Pyongyang called *Warszawa* (Warsaw).<sup>21</sup> Polish cooks worked there, serving typical dishes of Polish cuisine. It is worth mentioning that this Polish restaurant was only one of three foreign restaurants in Pyongyang. The first one was a restaurant with hot dishes prepared by a Japanese citizen with Korean roots, the second one was a Hungarian restaurant, and the third one the Polish one. The Polish restaurant was located on Changwang Street, around 100 meters from the Koryo Hotel. Interestingly, there was also a DPRK restaurant in Warsaw, under the name of 'Phenian' (Pyongyang in Polish), with the address Senatorska 27, in the center of Warsaw. Half of the working team was Polish, and half came from the DPRK. In the late 1970s, the name of the restaurant changed to *Insam*.<sup>22</sup>

It is difficult to consider the NNSC as being neutral, considering the indoctrination of the DPRK MOFA who tried to monitor Poles and Czechoslovakian officers. Poles were also spied on, especially by their DPRK drivers, who were forced to indicate to their superiors who and where they were driving, what Poles bought, who they talked to, etc. Poles were conscious that they were under continuous control by DPRK authorities.<sup>23</sup> These controls were also the result of a situation

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21. Marian Reinberger, "Wspomnienia z Korei," *Wyd. ZD ZZŁWP, Wrocław*, 2005, p. 3, <<http://209.85.129.132/search?q=cache:Nrn65Q01BsJ>> (date accessed May 4, 2017).

22. Another DPRK restaurant was established in Krakow in the 90s. This facility was co-managed by the sister of the former Prosecutor of the DPRK, Ri Kilsong, and some former DPRK students who lately became responsible for hiring DPRK workers supposed to work in construction projects in Poland. Bertold Kittel, "Polskie interesy z Kim Dzong Ilem," *PortalMorski.pl*, May 30, 2006, <<http://www.portalmorski.pl/zegluga/2921-polskie-interesy-z-kim-dzong-ilem>> (date accessed June 12, 2018).

23. Przemysław Benken, "Problematyka stosunków między Misją Polską do Komisji

where Poles provided some information to the U.S. side. A former Polish driver was regularly providing information to U.S. soldiers, but any contact with the Southern side was forbidden. Being caught by the Czechoslovakian delegation, he was quickly removed and sent back to Poland.<sup>24</sup>

With time, the team's range of activities changed, thus limiting the number of soldiers in the Polish contingent. This was due to public protests in Korea against Poles, which started at the end of 1953, when the DPRK and ROK authorities jointly criticized the role of Poland and Czechoslovakia concerning their management of the NNRS and their presence on the Southern side of the DMZ. Moreover, the complicated situation may have also been due to incidents involving the killing of some Polish soldiers on November 7, 1955. Meanwhile, three Polish officials, Zygielski, Rudnik, and Zielinski, were killed in the DPRK.<sup>25</sup> Due to difficult living conditions, and constant control by DPRK authorities, the size of the Polish mission was regularly reduced over the years. The first decrease of the number of Polish soldiers took place with the dissolution of the NNRC in February 1954. Consequently, in 1969, the Polish mission consisted of only ten people but was still led by a brigadier general.<sup>26</sup>

### **3. Phase III: The Post-Korean War Recovery (1953-1963)**

#### **a. Polish Economic Support**

When parties announced the ceasefire, the Polish government voted on July 28, 1954 for a resolution that guaranteed economic aid to

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Nadzorczej Państw Neutralnych a Sztabem Wojskowej Komisji Rozejmowej strony Koreańskiej Armii Ludowej/Chińskich Ochotników Ludowych w Kaesongu oraz wytyczne w tej sprawie," *Pamięć i Sprawiedliwość*, no. 1, vol. 23 (2014), pp. 448-449.

24. Marek Waś, "Polscy misjonarze obrzuceni granatami w Korei," *Gazeta Wyborcza*, August 31, 2015.

25. *Ibid.*

26. Wojciech Kowalski, *Polska w świecie 1964-1956* (Warszawa: Książka i Wiedza, 1988), p. 551.

the DPRK and in 1955 signed a treaty enacting non-refundable relief aiming at rebuilding the country. Cotton fabrics, linen, tarpaulin, sugar, meat, bearings, machineries, and mechanical parts, all amounting to 350 million Polish Zloty, were sent.

There was also a global initiative from European communist countries to send medical teams to support DPRK authorities in the development of the medical sectors. Bulgarians, Czechoslovakians, Hungarians, Romanians and Poles sent medical teams and medical products to the DPRK.<sup>27</sup> Poles worked first in the city of Huichon, then in Hungnam,<sup>28</sup> in a building that consisted of the former fertilizers plants of the city. One month later they moved to the city of Hamhung, where considering the needs of the population, they set up an orthopedic hospital which is still running today and is considered the best orthopedic institution in the DPRK.<sup>29</sup> Polish doctors were rewarded with a salary in Chinese Yuan and DPRK Won.<sup>30</sup> Doctors also gave lectures to future DPRK medical employees. Lectures were prepared in Polish, then translated into Russian, due to a lack of Polish translators, then translated into Korean.<sup>31</sup> When it opened in 1956, it consisted of eight barracks serving as a trauma center. The local Polish team was composed of engineers, technicians and specialists in hospital construction. As of 2017, 'Caritas Polska' is still supporting the hospital in Ham-

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27. Aleksandra Frenkel-Czarniecka, "Bratni Szpital," *Karta*, no. 79, 2014, p. 108; MOFA, Poland, *Uchwała nr 277/52 Prezydium Rządu z dnia 5 kwietnia 1952 r. w sprawie szczepionek i środków leczniczych do zwalczania schorzeń zakaźnych dla Koreańskiej Republiki Ludowej*, Group 11, Bundle 23, Folder 432.

28. Hungnam became a ward of Hamhung in 2005.

29. The head of the second team of Polish medical doctors servicing the hospital said to PNA: "During my 8-month stay, having 150 at disposition and 12 specialist clinics, doctors made 700 surgeries, provided ambulatory aid to more than 110,000 people. RTG lab made 12,000 x-rays and about 3,500 pictures. There were about 400 prescriptions per day."

30. Aleksandra Frenkel-Czarniecka, "Bratni Szpital," *Karta*, no. 79, 2014, p. 112.

31. Krystyna Knypl, "Polska misja medyczna w Korei: Szpital Polskiego Czerwonego Krzyża w Korei," *Gazeta dla Lekarzy*, June 2014, pp. 23-28; Krystyna Knypl, "Polska misja medyczna w Korei," *Gazeta dla Lekarzy*, May 2014, pp. 25-28.

hung, but medical 'tools' are still from the 60s, to treat current patients.<sup>32</sup>

Already in the 1950s, several articles in the Polish press were dedicated to the mission fulfilled by Polish doctors based on the Korean Peninsula.<sup>33</sup> Except doctors, Poland also sent numerous teams of specialists including miners and urbanists engineers who over time trained DPRK citizens. Polish experts also helped rebuild locomotive and carriage factories in Pyongyang and other cities of the DPRK. For instance, Poles participated in modernizing three coal mines, including one in Anju,<sup>34</sup> the largest coal producing area in the DPRK.

Polish urbanists also came up with the plan of rebuilding Chongjin and created projects for two residential compounds in this city. Polish technicians, who arrived in Wonsan, helped to revive destroyed railway companies. In Wonsan, the following companies and Polish cities were involved in this project: a rolling-stock company from Poland, machinery tools produced by Rafmet, lathes from the city of Pruszków and compressors from the company Chrzanowska Fabryka Lokomotyw. A first group of specialists in transportation arrived in Pyongyang on December 7, 1953. In addition, first silicate plants in Korea were established under contract signed between the Foreign Trade panels: Korean Daesong and Polish Polimex-Cekop.<sup>35</sup> Concrete came from ZREMB 'Makrum' in Bydgoszcz.

Regarding economic issues, supplies provided between 1954 and

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32. Janina Ochojska, "Fundacja Polska Akcja Humanitarna - Raport za rok 2005," <[https://www.pah.org.pl/app/uploads/2017/06/2017\\_PAH\\_RAPORT\\_PL\\_2005.pdf](https://www.pah.org.pl/app/uploads/2017/06/2017_PAH_RAPORT_PL_2005.pdf)> (date accessed March 13, 2018), p. 23.

33. Marcin Cegielski, "O pracy pierwszej ekipy szpitala PCK w Korei," *Polski Tygodnik Lekarski*, vol. 11, no. 5 (1956), pp. 193-195; Janusz Daniłoś, Teresa Horzela, Jan Oszacki, "O pracy II ekipy szpitala Polskiego Czerwonego Krzyża w Korei," *Polski Tygodnik Lekarski*, vol. 11, no. 5 (1956), pp.195-197; Jadwiga Kuczyńska-Sicińska J, "Wspomnienia z pracy w szpitalu PCK w Korei," *Polski Tygodnik Lekarski*, vol. 13, no. 14 (1958), pp. 528-530.

34. The Polish geologist Adam Dudek mentions the Anju coal mine in his book: *Poszukiwacze* (Katowice: Krajowa Agencja Wydawnicza, 1987), p. 127.

35. Krystyna Konecka, *Koreański koń Czholima* (Białystok: Krajowa Agencja Wydawnicza, 1989), p. 40.

1959 were used to implement the Korean '5-year planification plan.' The aid usually consisted of free deliveries of materials, resources, machinery and appliances provided by selected allies of the Soviet Union, mainly European countries and Mongolia. Initially each of these countries was theoretically supposed to be specialized into a specific branch, nevertheless Korean economic needs were so important that these countries were involved in various branches of the Korean economy. For instance, Czechoslovakia provided electronic machines, measuring devices, chemicals, paper and medicine, a car factory in Tokchon, machinery for cement mixing plants, and a few hydrological power plants in Huichon and Unsan. Hungary delivered machine tools, machinery, electrical appliances, pipes, metal wires, and oil products. Hungarians also built a factory producing chemicals, paper and medicine. East Germany built rolling mills and an engine factory.<sup>36</sup> Wires, cement, glass and medicine came from Bulgaria. Mongolia is the only country that specialized in one specific area of the humanitarian aid brought to the DPRK. Mongolian authorities provided 10,000 horses, sheepskin and meat. This specialization was because this country likewise needed foreign support.

Poland became the fourth humanitarian supplier to the DPRK in the period following the Korean War. The Polish support was based on a treaty signed on January 14, 1955. In this document, it was stipulated that the DPRK was supposed to receive financial support worth 365 million zloty for the period 1955-1959.

Globally speaking, the DPRK is the country that received the biggest financial support from other socialist countries during the period of the communist alliance (1945-1991).<sup>37</sup>

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36. Balazs Szalontai, *Kim Il Sung in the Khrushchev Era: Soviet-DPRK Relations and the Roots of North Korean Despotism, 1953-1964* (Stanford: Stanford University Press, 2005), p. 46.

37. Blaine Harden, *Le Grand Leader et le Pilote* (Paris: Belfond, 2016), p. 232.



Table 1. Financial support to the DPRK for the period 1954-1956<sup>38</sup>

Providers	Aid (in million. of ruble)	As a percentage of the total aid
Soviet Union	292.5	38%
China	258.4	34%
East Germany	122.7	15%
Poland	81.5	10%
Romania	5.6	1%
Hungary	5.6	1%
Bulgaria	4.5	1%

### b. Educational and Cultural Support

Poland and other communist countries provided not only economic support, but also provided some free education to the DPRK youth. These young Korean citizens had nowhere to study after the Korean War. The main educational sites were destroyed. The Kim Il-sung University lacked lecturers. That is why those who were sent to Europe and other communist countries were supposed to participate in the intellectual reconstruction of the DPRK and to the replacement of non-DPRK specialists based in the DPRK.

In the early 1950s, there were already more than 500 DPRK students in Poland.<sup>39</sup> They usually attended technical majors<sup>40</sup> in cities such as Gdansk, Gliwice, Poznan, Warsaw (especially at the Technology University of Warsaw, at the University of Warsaw, and at the Warsaw University of Life Sciences). Many of them also studied at the University of Science and Technology (AGH) in Krakow, which prepared

38. Nicolas Levi, "Zarys Stosunków między Polską Republiką Ludową a Koreańską Republiką Ludowo-Demokratyczną," in *Świat i Polska wobec globalnych wyzwań*, ed. Ryszard Żelichowski (Warszawa: Instytut Studiów Politycznych PAN - Collegium Civitas, 2009), p. 351.

39. Paulo de Carvalho, *Studenci obcokrajowcy w Polsce* (Warszawa: Uniwersytet Warszawski – Instytut Socjologii, 1990), pp. 23-25.

40. Ri Chun-su (DPRK Cultural Attaché to Poland) in discussion with the author, April 2006.

them for future work in the mining industry. According to official Polish statistics, there are estimates saying that in 1955 and 1956 out of 575 foreign students, 367 came from the DPRK.<sup>41</sup> Although many DPRK students knew Polish quite well, they lived separately while still maintaining contact with Polish students.<sup>42</sup>

The first treaty on cultural cooperation between both countries was signed on May 11, 1956 and came into force on January 31, 1957. According to the treaty, both sides were annually supposed to send delegations to both countries to update on its status. Protocols regarding education, religion, radio, film, and health were also mentioned in this global agreement. Nevertheless, cultural cooperation started earlier. During the World Festival of Youth, which took place in Warsaw from July 31 till August 15, 1955, a DPRK delegation of 158 persons came, including 39 athletes, 98 dancers, and 21 journalists.<sup>43</sup> A few months later, the orchestra of the Polish Army came to the DPRK, while at the Dramatic Theater of Pyongyang, an exhibition devoted to the Polish Author Adam Mickiewicz was organized. In 1957, an exhibition of Polish Art was also shown in Pyongyang. In 1960, an exhibition of DPRK arts was presented in Poland.<sup>44</sup>

In 1957 an agreement on technical and scientific cooperation was signed. A Polish-DPRK committee was supposed to hold meetings on a yearly basis. Untill 1971, the committee held ten meetings, signed 122 resolutions in favor of Korea and 60 in favor of the Polish side, i.e.,

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41. Meanwhile, there were 53 students from China, 41 from Bulgaria. The figure related to students from Soviet Union is not mentioned, but may be considered lower than 15. Paulo de Carvalho, *Studenci obcokrajowcy w Polsce* (Warszawa: Uniwersytet Warszawski – Instytut Socjologii, 1990), pp. 23-25.

42. Based on the authors' personal correspondence with Janusz Kochanowski, a former Commissioner for Civil Rights Protection of the Republic of Poland, addressed on 20 June 2007.

43. MOFA, Poland, *Raport Polityczny Ambasady Polskiej Rzeczpospolitej Ludowej w Koreańskiej Republice Ludowo-Demokratycznej za okres od 1 maja do 30 czerwca 1955 r*, Group 12, Bundle 17, Folder 401.

44. Władysław Kutte, "Polska a Koreańska Republika Ludowo-Demokratyczna," in *Stosunki Polski z innymi państwami socjalistycznymi*, ed. Czesław Mojsiewicz (Warszawa: Państwowe Wydawnictwo Naukowe, 1973), p. 261.

allowing Polish scientists to go the DPRK. On the same basis, DPRK engineers and technicians had internships in Poland, for example, in the mining industry, and scientists from Poland learned about breeding and plant cultivation. Botanists, such as Leon Stuchlik, went to Korea for scientific expeditions.

### c. DPRK Orphans in Poland

The Soviet Union, China, European communist countries and Mongolia agreed on a global project focusing on taking care of Korean children who lost their parents during the Korean War. Already during the Korean War, as a sign of solidarity with Korean authorities, Polish authorities proposed some social and financial initiatives to DPRK officials in which Poland could undertake the care of some DPRK orphans. This large initiative was not only conducted for humanitarian reasons, but for propaganda as well, criticizing the consequences of the U.S. intervention in the Korean conflict.

Therefore, Poland brought about 200 orphans and placed them in orphanages all around Poland in 1951. Firstly, they found a home in Gołotczyzna (close to the city Ciechanów), then starting from November 23, 1951, they were brought to various parts of Otwock, such as Świder (one orphanage on Komunardów Street) and Sopliców.<sup>45</sup> In particular, the building construction of Świder was partially funded by the DPRK embassy in Warsaw.<sup>46</sup> Pak Jon-suk is the name of the first

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45. Jacek Kałużsko, "Z Korei na otwockie wydmy," *Linia Otwocka*, March 19, 2004, < [http://krlld.pl/krlld/czytelniateksty/kom\\_osw/\[niedatowany\]%20Dwa%20teksty%20z%20gazety%20%27%27Linia%20Otwocka%27%27,%20na%20temat%20koreanskich%20sierot%20wychowywanych%20w%20Polsce%20i%20wizyty%20Wielkiego%20Wodza%20Towarzysza%20Kim%20Ir%20Sena%20w%20Polsce%20w%201956%20r.%20.pdf](http://krlld.pl/krlld/czytelniateksty/kom_osw/[niedatowany]%20Dwa%20teksty%20z%20gazety%20%27%27Linia%20Otwocka%27%27,%20na%20temat%20koreanskich%20sierot%20wychowywanych%20w%20Polsce%20i%20wizyty%20Wielkiego%20Wodza%20Towarzysza%20Kim%20Ir%20Sena%20w%20Polsce%20w%201956%20r.%20.pdf) > (date accessed February 12, 2018). In the 70s Otwock was Sunchon's partner town and a Polish-Korean friendship rural cooperative is located there. See also: Krystyna Konecka, *Koreański koń Czollima* (Białystok: Krajowa Agencja Wydawnicza, 1989), p. 49.

46. This building was quickly called the Korean House (*Dom Koreański*).

DPRK orphan registered at this orphanage.<sup>47</sup> Before their departure in 1959, the orphans planted pines and birch trees; their journey is also commemorated with a stela.<sup>48</sup>

The orphanage of Świder was visited by Kim Il-sung in July 1956. In the assembly hall of this orphanage, there is a commemorative tablet saying: “In this house we gladly exchanged wishes in 1951-1959. Forever we will remember the motherly care of the Polish nation.”

Picture 1. A stela and DPRK orphanage in Poland



(left) A monument dedicated to the Polish support of orphans based in Świder. The stela was erected in July 1959, just before the departure of DPRK orphans to their home country; (right) Pines planted by DPRK orphans in the garden of the orphanage of Świder (photographs taken by the author)

Other orphans lived at Bernardyńska Street 13 and Zacisza Street 54 (regarding the latter, it was a famous building in Otwock called *Willa Anulka*, which was destroyed in the mid-90s). Children went to primary

47. Jacek Kałuszko, “Z Korei na otwockie wydmy,” *Linia Otwocka*, March 19, 2004, < [http://krlld.pl/krlld/czytelniateksty/kom\\_osw//\[niedatowany\]%20Dwa%20teksty%20z%20gazety%20%27%27Linia%20Otwocka%27%27,%20na%20temat%20korejskich%20sierot%20wychowywanych%20w%20Polsce%20i%20wizyty%20Wielkiego%20Wodza%20Towarzysza%20Kim%20Ir%20Sena%20w%20Polsce%20w%201956%20r.%20.pdf](http://krlld.pl/krlld/czytelniateksty/kom_osw//[niedatowany]%20Dwa%20teksty%20z%20gazety%20%27%27Linia%20Otwocka%27%27,%20na%20temat%20korejskich%20sierot%20wychowywanych%20w%20Polsce%20i%20wizyty%20Wielkiego%20Wodza%20Towarzysza%20Kim%20Ir%20Sena%20w%20Polsce%20w%201956%20r.%20.pdf) > (date accessed February 12, 2018).

48. The orphanage in Świder served since 2012 as the Architecture and Construction Department of the administration of Otwock.

school no. 1, 2, and 5 in Otwock, but the majority of them were educated at a primary school located at Wojskiego Street. This school was around two kilometers from the orphanage based at Bernardynska Street. The building at Bernardynska Street was destroyed in 2016, and as of 2017, new homes are being built there. Nearby was a small Korean monument, which is inaccessible as of now, due to construction.

On January 1, 1955, some 1,270 new Korean orphans were placed in Płakowice, near Lwówek Śląski. When DPRK orphans arrived there, they were in touch with other orphans from Greece, Poland and the Soviet Union. This large institution constituted a school, some dormitories and boarding homes, and two pitches. Korean children were educated by Polish teachers and teachers from the DPRK, including Korean people responsible for their security. These young orphans were taught various classical subjects such as Mathematics and biology, but also learnt the Polish language. After a few months, many of them were able to speak proficiently in Polish. Some other orphans were placed in Zgorzelec, close to the German border.<sup>49</sup> Older kids started higher education in technical schools in Warsaw; many of them also went to schools with dormitories, such as City and Suburbs Construction High School of Wrocław (*Wrocławskie Technikum Budowy Miast i Osiedli*). Therefore, until 1959, a relatively large DPRK population, mainly composed of young people, lived in Poland.

Some Polish historians consider that the issue of DPRK orphans was kept in secret.<sup>50</sup> However that is untrue, as inhabitants of the previous mentioned cities were in touch with these young Koreans, for example going together to primary schools, etc. In addition, their quiet life in Poland was interrupted by the visit in July 1959 of Jon In-saen, the DPRK minister of education. This DPRK official came to Poland to discuss the return of DPRK orphans to their home country, providing limited explanations to Polish authorities. The orphans suddenly left Poland and came back to the DPRK. After arriving to the DPRK some of them continued to

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49. Oskar Kubrak, "Pamięć i pozostałości po sierotach północnokoreańskich na ziemiach polskich w latach 50 XX wieku—na przykładzie ośrodków w Płakowicach i Otwocku," *Prace Etnograficzne*, no. 4 (2016), p. 388.

50. *Ibid.*

live in orphanages. They were sent to DPRK orphanages with other orphans from abroad. Orphans grouped themselves based on the country where they were educated. This created factions such as the Chinese one, for those coming from China, the Romanian one, the Polish one, etc., but the most powerful was the Chinese one, due to its population domination.

Initially some of the Polish orphans wrote letters to their tutors in Europe, but finally, it became more or less difficult for them to communicate with those who educated them in Europe. Despite a law forbidding them to do so, some DPRK students formerly based in Poland tried to send 10 letters to Poland, explaining that DPRK orphans based in Europe were badly treated in comparison to those based in China and Albania.<sup>51</sup>

The process of the removal of DPRK orphans started earlier, in 1958, when all of them became classified according to their Songbun, a DPRK caste system subdividing the population of the country into 3 classes and 51 categories of ranks of trustworthiness and loyalty to the Kim family. A few years later, a minority of them considered to be less loyal toward the Kim family were supposedly either sent to labor camps or killed.<sup>52</sup>

The 'return policy' was also applied to DPRK students based in Poland. For the academic year 1960 and 1961, there were only 108 DPRK students out of 740 foreign students in Poland. For the academic year 1965 and 1966, none of the 1364 foreign students were from the DPRK.<sup>53</sup> According to Paulo de Carvalho, it does not mean that there were no DPRK students. It simply indicates that the number of DPRK students in Poland was very low and probably less than 5 on a yearly basis.

Their sudden return raised speculation. This situation may have been due to the following elements. First, several events in Europe and in Soviet Union indicated a relative opening of communist minds. The

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51. MOFA, Poland, *Uzupełnienie notatki z 23 grudnia w sprawie byłych studentów koreańskich w Polsce z dnia 2 stycznia 1963 r.*, Dept V, Group 32/66, Bundle 1, Folder 0-557.

52. MOFA, Poland, *Sprawozdanie z pobytu w Koreańskiej Republice Ludowo-Demokratycznej w latach 1964-1968 Władysława Napieraja*, Dept V, Group 15/73, Bundle 2, Folder 0-242-3-68.

53. Paulo de Carvalho, *Studenci obcokrajowcy w Polsce* (Warszawa: Uniwersytet Warszawski – Instytut Socjologii, 1990), pp. 23-25.

majority of information reaching Kim Il-sung was available in reports prepared by the DPRK Embassy in Warsaw and secret information from journalists and Korean students staying in Poland. He thought that these young Korean citizens, in touch with the relative liberalization, would constitute a danger to his power.

Secondly, Kim Il-sung was afraid of the students who fled from Central Europe. Some DPRK students left Hungary, using the Budapest crisis of September 1956. Some others based in Poland also tried to escape in June 1957, but their attempt was unsuccessful. These DPRK students based in Poland initially contacted the U.S. embassy in Warsaw, but finally, DPRK authorities caught them in cooperation with Polish and French authorities based in Warsaw, who contacted the DPRK embassy there.

Despite a large geographical distance and cultural differences, these events were a warning sign for things that might happen in the DPRK, especially after constitutionalizing (anti-Kim Il-sung) opposition and the possible attempt of triggering 'Korean Poznań'.<sup>54</sup> Kim Il-sung could not openly question the 20th assembly and provoke the USSR and other socialist bloc states, at least due to all the aid they provided. The 50s and crises in Hungary, Poland and the GDR was a sign for him that the regime must be moderated but attention must be tightened. Very soon after salaries increased by 35%, the processing of some goods decreased by 25%, daily rice shares were increased by 100g<sup>55</sup> and at the same time repressions against opponents of the system were radically toughened. Exemplary trials against members of the Chondoist Chongu Party with 200 death penalties were publicized in Polish diplomatic notes.<sup>56</sup>

Repatriation of DPRK citizens based in Central Europe was also extended to DPRK officials based there. The previously mentioned events may also have been the reason for the dismissal of the DPRK ambassador to Poland, Ho Guk-bon (1954-1958), considered to be rela-

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54. MOFA, Poland, *Notatka z rozmowy z tow. Pieliszenko radcą Ambasady ZSRR z dnia 26.07.57*, Dept V, Group 12, Bundle 427, Folder 18.

55. Waldemar Dziak, *Kim Ir Sen. Dzieło i Polityczne Wizje* (Warszawa: Instytut Studiów Politycznych, 2000), p. 245.

56. Polish MOFA Archives: Dept V, Group-12, Bundle 427, Folder 18, *Notatka z rozmowy z tow. Pieliszenko radcą Ambasady ZSRR z dnia 26.07.57*.



tively open-minded by other diplomats, who openly discussed religious issues in the Polish press. The diplomat indicated as follows:

“This matter is complicated. Our village strictly professes Buddhism. However, only elderly people are sincerely religious. Young Buddhists are rare anymore. The Catholic population prevailed among the urban population, while the war destroyed all catholic temples. The Japanese occupation [...] introduced a third religion to the country, which was used as an instrument of their politics. The war against Japan was also a war against their religion. Our youth, however, is already completely progressive, and the Buddha statues are found only in distant and less accessible mountains.”<sup>57</sup>

Meanwhile, Rim Chum-su, the DPRK ambassador to Bulgaria was also purged and removed from his position in Sofia and sent back to Pyongyang in 1963.<sup>58</sup>

Additionally, relations between Poland and the DPRK worsened after the publication of an article written by the Polish journalist Wanda Melcer entitled *Obiad w Pjongjangu*, which provided a negative image of the DPRK. As a result, no Polish delegation was invited to the 15th anniversary of the birth of the DPRK.

Some of the older orphans with a higher Songbun were able to study and get jobs working with Eastern European engineers sent to the DPRK. They worked in the following places: the Polish Hospital in Hamhung (DPRK translation: *폴스까병원*), the Polish Mission at the Neutral Nations Supervisory Commission, and at the Polish embassy in Pyongyang.<sup>59</sup> Others worked in fields where Polish specialists were based, and where knowledge of Korean was requested. For fulfilling their jobs, no university degree was requested. As proof we can quote the case of Ri Hang-sik, who worked for ‘Fabex-ZREMB’ as a transla-

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57. Roman Burzyński, “Rozmowa z panem Ho Guk Bon ambasadorem Koreańskiej Republiki Ludowo-Demokratycznej,” *Przekrój*, no. 28, July 7, 1957, p. 3.

58. Christine Loken-Kim, *North Korea Handbook* (New York: ME Sharpe, 2003), p. 906.

59. Krystyna Konecka, *Koreański koń Czholima* (Białystok: Krajowa Agencja Wydawnicza, 1989), p. 42.



tor in spite of having only a primary education.

Later, some of these orphans came back to Poland for professional matters. For example, Kim Je-ming (born in 1941), who was initially a translator for Polish companies in the DPRK in the 1970s. He came back to Poland in the 1980s and was used as a translator for 5 DPRK artists who worked as cartoonists in the Cartoon Studio of the city of Bielsko-Biała (*Studio Filmów Rysunkowych Bielsko-Biała*). Another orphan was a translator for a group of overseas DPRK workers delegated to Kleczanów in 2004.<sup>60</sup> The Department of Polish Studies at the Kim Il-sung University has been headed since its creation in 2007 by one of the orphans from Plakowice, Jo Song-mu. It is also known that a wife of a DPRK ambassador was also an orphan based in Otwock. She used to return there to visit a doctor at the Marchlewski Sanatorium in Otwock. A military *attaché* at the DPRK embassy in Warsaw was also an orphan based in Poland. Both names are unavailable. Yun So-hyon, the current officer of the Committee for Cultural Relations of the DPRK, and the secretary of the association of Friendship between France and the DPRK, and between Poland and the DPRK, is the daughter of Yun Myong-jin, a former Secretary of the National Commission of the DPRK to UNESCO and a former orphan based in Poland. Her father taught her Polish, a language she manages perfectly.<sup>61</sup> As of October 2017, Yun So-hyon has traveled five times to Poland.

These Korean children inspired many books, poems and articles. The most famous were authored by Marian Brandys, such as *Dom odzyskanego dzieciństwa* (the book was published for the first time in 1953; two additional editions were made public in 1954 and 1956; there is one edition in Czechoslovakian entitled *Dom na vřzvřrnatoto detstvo* published in 1954 with the support of the author R. Pečikova) and a similar one entitled *Koreańczycy Gołotczyzny*, a shorter version aimed for younger children. We must also mention the book *Grupa Słowika* (1954) by Marian Bielicki. Monika Warneńska wrote in her book entitled *Karolinka z Diamentowych Gór* of a protagonist who is sent to join a

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60. Monika Wojniak, "Korea w Kleczanowie," *Słowo*, March 30, 2006.

61. Józef Myjak, "Spotkanie z Koreańczykami," *Więści Lipnickie*, no. 27, June 2017, p.11.

group of small Korean children who settled in Płakowice, near Wrocław. A 15-minutes movie entitled *Dzieci Koreańskie* was also prepared by Władysław Marko in 1953, describing the life of Koreans in Poland. Also, according to chronicles from the Polish Television, Radio Pyongyang broadcasted “*War orphans, go to Sinuju! From there you will be evacuated to places where there is no War.*”<sup>62</sup>

There is also a particular place for the book *Mały łącznik Kim E-cho*<sup>63</sup> (1951), written by Weronika Tropaczyńska-Ogarkowa. In her book entitled ‘*Mały łącznik Kim E-cho*’ there is an 18-page story related to the life of a young DPRK child during the Korean War. It is also worth noting that the first books were introduced to Korean literature appeared at the same time, such as *Na południe od 38 równoleżnika. Sztuka w trzech obrazach* (1951), Bronisław Troński; *Korea walczy. Wiersze poetów koreańskich 1950-52* (1954), Jerzy Ficowski; *Korea walczy. Zbiór opowiadań* (1952), Marek Lechowicz; *Bajki koreańskie* (1954), Czesław Jastrzębiec-Kozłowski. *Ziemia* (1955). Since there were no Poles available to speak Korean,<sup>64</sup> these five previously mentioned books were translated from the Russian version.

The history of DPRK orphans in Poland has also been presented many times in the media. Journalist Jolanta Krysovata’s program entitled *Osieroceni* (2003), in which two orphans were found, was awarded the Europa Award in Berlin. She co-directed a similar documentary called *Kim Ki Dok* (2006), with the famous director Patrick Yoka. This production was focused on the life of the orphan Kim Ki-dok, who lived and was buried in the Osobowicki cemetery in Wrocław in Poland. This film was presented by the Polish embassy in Seoul in 2016, as a part of the Film Festival organized by the European Union

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62. Levi Nicolas, “Zarys Stosunków między Polską Republiką Ludową a Koreańską Republiką Ludowo-Demokratyczną,” in *Świat i Polska wobec globalnych wyzwań*, ed. Ryszard Żelichowski (Warszawa: Instytut Studiów Politycznych PAN - Collegium Civitas, 2009), p. 261.

63. Weronika Tropaczyńska-Ogarkowa, *Mały łącznik Kim E-Cho* (Warszawa: biblioteka Promyka, 1951), pp. 121-139.

64. The only one was the military official Remigiusz Kwiatkowski, but he passed away in 1962.

National Institutes for Culture.<sup>65</sup>

The humanitarian support provided to Korean orphans was not forgotten by DPRK authorities. As a sign of gratefulness, the DPRK government gave 3,000 tons of wheat to Poland in 1982.<sup>66</sup> The DPRK press remembered one of Kim Il-sung's visits to an orphanage in Poland in a document issued by the Korean Central News Agency in 2006.<sup>67</sup> Furthermore, the city of Otwock maintained contacts with DPRK and its officials by organizing a meeting with DPRK ambassadors. In 1984, an official delegation of representatives from Otwock consisting of four people went to the DPRK.<sup>68</sup> Another delegation was sent in 1990. Moreover, on the Juche Tower in Pyongyang, among "friendly" cities, there is a tablet from Otwock, being the only Polish city listed.

Other socialist states also took care of DPRK orphans. During his visit to Czechoslovakia in June 1956, as a part of his grand tour of Eastern Europe, Kim Il-sung referred in his speech at a mass rally in Pilsen to the "*Numbers of our students and war orphans who are freely studying ... in your country.*" He went on to observe that, "*when they come back to their country after finishing their study, they will become excellent workers in the labor struggle for the development of the national economy.*"<sup>69</sup> In a report on friendship communication between the DPRK and Czechoslovaki-

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65. In the near future, the South Korean producer Chu Sang-mi is preparing a film concerning DPRK orphans in Poland. The working title is 'Children went to Poland.' Principal photography began during Autumn 2016 in Płakowice.

66. Jolanta Kryśowata, "Sieroty koreańskie," *Karta*, no. 42, 2004, p.1998.

67. KCNA, "뽕스까에서 김일성주석의 고아원 방문 50돐 기념집회 (Memorial rally for the 50th anniversary of President Kim Il Sung's visit to an orphanage in Poland)" <<http://www.kcna.co.jp/calendar/2006/05/05-19/2006-0519-002.html>> (date accessed August 20, 2014).

68. Jacek Kałuszko, "Z Korei na otwockie wydmy," *Linia Otwocka*, 19marca, 2004 < [http://krlid.pl/krlid/czytelniateksty/kom\\_osw//\[niedatowany\]%20Dwa%20teksty%20z%20gazety%20%27%27Linia%20Otwocka%27%27,%20na%20temat%20koreanskich%20sierot%20wychowywanych%20w%20Polsce%20i%20wizyty%20Wielkiego%20Wodza%20Towarzysza%20Kim%20Ir%20Sena%20w%20Polsce%20w%201956%20r.%20.pdf](http://krlid.pl/krlid/czytelniateksty/kom_osw//[niedatowany]%20Dwa%20teksty%20z%20gazety%20%27%27Linia%20Otwocka%27%27,%20na%20temat%20koreanskich%20sierot%20wychowywanych%20w%20Polsce%20i%20wizyty%20Wielkiego%20Wodza%20Towarzysza%20Kim%20Ir%20Sena%20w%20Polsce%20w%201956%20r.%20.pdf) > (date accessed February 12, 2018).

69. Direction d'Asie Oceanie no 973/AS Communiqué à: secrétariat général no 974/SGL, Séoul le 18 octobre 1957.

an schools (March 7, 1957), Pyongyang mentioned that children from one Czechoslovakian school had recently combined their talents in “friendship art circles performances” with Korean children of the Kim Il-sung School in Czechoslovakia. It is assumed that around 600 orphans were raised in Czechoslovakia. On 27 December 1956, Pyongyang broadcasted the following dispatch from Budapest: “Hundreds of Korean children who have been attending Hungarian schools left for home by special train yesterday and today. Mostly war orphans, they were invited by Hungary. While in Hungary, the children were studying in 60 schools in Budapest and dozens of other cities.”<sup>70</sup>

#### d. Kim Il-sung’s Visit to Poland in 1956

On 1 June 1956, Kim Il-sung and an impressive delegation of DPRK officials left their country by train for a fifty-day tour around the Soviet Union, the Mongolian People’s Republic and allies of the Soviet Union in Europe. It was not only the longest foreign travel of the DPRK leader, but also his longest absence from his country. The aim of the visit was to collect positive reactions concerning financial and material support, which would be used to fulfill assumptions of the DPRK economic plan covering the period 1957-1961.<sup>71</sup> As a part of his European tour, Kim Il-sung visited Poland between 2 and 7 July 1956. In Warsaw he thanked Poland for its support and asked for continuing the aid and cooperation in realization of the DPRK economic strategy. Implementation of the resolutions of the Presidium of the Council of Ministers of Polish People’s Republic, including aid for Korea was being discussed at that time. While in Poland, Kim Il-sung visited the orphanage in Świder and in ‘Gwardia’ Hall where he met with inhabitants of Warsaw. Finally, he was awarded the Order Polonia Restitu-

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70. Headquarters United States Army Japan and United Nations Command – Eight United States Army, “North Korean orphans in Hungary,” September 18, 1957.

71. Waldemar Dziak, *Kim Ir Sen. Dzieło i Polityczne Wizje* (Warszawa: Instytut Studiów Politycznych, 2000), p. 236.

ta.<sup>72</sup> Inhabitants of the city of Głogów received a reward as an expression of gratitude for equipping Korean schools destroyed by the War.<sup>73</sup>

Queries made by Kim Il-sung were only partially fulfilled, which constituted a failure for Kim Il-sung. Edward Ochab, the current Secretary of the Polish Communist Party, did not declare anything above what was promised before. DPRK authorities expected military support, consisting of 200 Polish military men, 45 cars, and food support. Konstanty Rokossowski, then the Polish Minister of Defense, only allowed sending no more than 20 officers.

Visits to other states also did not match the Korean leaders' expectations. Aid from Russia was not as significant as previously thought. In 1956, DPRK received 300 million rubles, but it was much less than after the end of the Korean War. The GDR authorities declined continuing special aid and production support of diesel engines. Hungarians declared that they would not provide 15 million rubles. Romania declined providing 25 million rubles. In total, economic and technical aid did not exceed 500 million rubles, less than 50% of what was expected.<sup>74</sup>

In response to Kim Il-sung's visit in April 1957, Józef Cyrankiewicz, then Prime Minister of Polish People's Republic, traveled to Pyongyang for a three-day meeting. Cyrankiewicz's visit aimed at consolidating friendship and developing cooperation between Poland and the DPRK. Poland continued aiding in the rebuilding of the DPRK and attempted to create a basis for regular economic relations. What needs to be remembered is the fact that although with other Asian countries the basis for trade exchange was established earlier and on a completely different basis, real economic cooperation between the PPR and the

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72. Wojciech Kowalski, *Polska w świecie 1964-1956* (Warszawa: Książka i Wiedza, 1988), p. 552.

73. Ho Guk-bon, then Ambassador of DPRK to Poland, informed that furniture and learning aids would reach the prominent Kim Il-sung University in Pyongyang. Roman Burzyński, "Rozmowa z panem Ho Guk Bon ambasadorem Koreańskiej Republiki Ludowo-Demokratycznej," *Przekrój*, no. 28, July 7, 1957, p. 3.

74. Kim Ir Sen, *O budownictwie socjalistycznym i rewolucji południowokoreańskiej w KRL-D* (Phenian: Wyd. Literatury w Językach Obcych, 1970), pp. 51-52.

DPRK began only in 1961.<sup>75</sup>

#### **4. Phase IV: Disturbance in Poland-DPRK Relations (1960-1980)**

##### **a. Construction of Partnerships, But Ideological Estrangement**

The period starting in 1960 was a period announcing a new era in the relations between both countries. From 1965, Kim Il-sung changed his foreign policy: first, he did not want his country to be subordinated neither to the Soviet Union, nor to China. Kim wanted to reinforce his autonomy. This line of thought was exposed in the Juche ideology aiming at tightening relations with Third World Countries and Eastern Europe, including Poland.<sup>76</sup>

Picture 2. The Korean street in Warsaw



*The Polish-DPRK friendship was reinforced by the inauguration of the Korean street in Warsaw in 1963. The street is in the Saska Kępa district of Warsaw (photography taken by the author).*

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75. In June 1961, an agreement for the mutual exchange of products was signed. With other socialist countries the same agreement was signed already in the 1950s (in 1950 the Polish Trade delegation stayed in CPR and in 1955 in Ceylon).

76. Kim Il Sung, *Le mouvement de non-alignement est une puissante force révolutionnaire anti-impérialiste de notre temps* (Pyongyang: Editions en Langues Etrangères, 1976).

Kim viewed the Soviet Union as a state where 'modern revisionism' prevailed. He also dismissed the Chinese view of shifting the 'world revolution' with Beijing at its epicenter because, as he said, "it is impossible to shift revolution from one country to another. Moreover, a situation where one country would be the center of world revolution or that any party would stand on top of international communist movement is impossible."<sup>77</sup>

In the 1970s, attempts of DPRK diplomacy to consolidate the relationship and cooperation with Poland resulted in signing yet another agreement on March 26, 1970 forecasting an increase in trade exchange of 35% in comparison to the 5-year plan of 1966-1970. DPRK vice minister, Pak Song-chol, paid a visit to Poland on February 21, 1972. The same year delegates of the DPRK Supreme People's Assembly also came to Poland.

The question of the possible unification of Korea was constantly on the minds of DPRK officials. For example, in June 1973, the DPRK Ambassador to Warsaw met with Franciszek Kaim,<sup>78</sup> then Deputy Prime Minister, to discuss the question of Korean unification. During this meeting, the creation of the Koryo Confederation was suggested and later was agreed upon by Poland. Kim Tong-gyu, the DPRK WPK Secretary of Foreign Affairs and the Minister of Foreign Affairs Ho Dam, visited Poland in 1974. On May 22, 1974, Tadeusz Białkowski, the Polish Ambassador to the DPRK met with the DPRK Prime Minister Ri Jong-ok, to discuss the reunification issue.

Under some circumstances, Polish foreign policy was supported by the DPRK. The arrangements for normalization and mutual relations between Poland and West Germany, signed on December 12, 1970 by Józef Cyrankiewicz and Willy Brandt were considered by the DPRK government as a victory of the Polish nation. However, Poland

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77. Kim Ir Sen, *O dzucze w naszej rewolucji* (Phenian: Wyd. literatury w językach obcych, 1977), p. 571.

78. On 29 June 1973, notes taken during a discussion of Deputy Prime Minister Kaim with DPRK Ambassador in Poland- Kim Hi Soun regarding the unification of Korea [Note from the Author: exact writing of the name of the DPRK ambassador to Poland].



was not the DPRK's ideological ally. A closer country to DPRK propagandists was Romania. Its president Nicolae Ceausescu visited China, the DPRK and North Vietnam in 1974. He came back to Bucharest, fascinated by the mass demonstration of the WPK. After his return to Bucharest he presented July Theses echoing his experiences. The Romanian leader pressed for increasing the role of the Party and ideology in daily life. His following actions were based on Juche. The shared concept of the cult of personality had the effect of tightening DPRK relations with countries such as Romania and Albania, where the Party directory conducted all actions of the state ideologically and economically. The DPRK began looking for allies in African countries that had no previous experience with socialism, drifting way from Soviet and Chinese influences.<sup>79</sup> Equally, relations with European communist states gained a mainly economic character.

#### b. The Intensification of Poland-DPRK Economic Relations

Economic relations between the DPRK and communist states intensified in the 1970s. Bilateral government commissions were formed to watch over economic, scientific and technical cooperation. The DPRK had raw materials, such as zinc, silver, talcum powder and graphite. Poland in return provided heavy machinery, car and tractor parts, and control apparatuses. First, a multiannual trade agreement (1962-1965) was signed in 1961. It provided credit on products imported to complete industrial buildings. Credits were given on very convenient terms, with interest rates at 2% per annum and refund payments were supposed to begin after a period of 7 years. The DPRK was supposed to pay back the credit in the form of imports of magnetite, talcum, and graphite. New industrial buildings were constructed in Korea between 1962 and 1970, such as a factory for medical tools, glass polishing, and candy factories, challenging the demand for European products.

In 1969, Poland was the 5th largest trade partner of the DPRK, pre-

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79. Kim Jong Il, *Pour une connaissance précise de l'originalité du Kimilsungisme* (Pyongyang: Editions en Langues Etrangères, 1984).



ceded respectively by the Soviet Union, China, East-Germany and paradoxically Japan, a country considered as its enemy. Machineries dominated Polish exports to the DPRK (more than 60%), mostly machine tools, AN-2 aircrafts and coke, also—due to market deficiency—consumer goods, such as glassware or porcelain. Imports from the DPRK consisted mostly of raw materials, such as magnetite or talcum powder.<sup>80</sup> The DPRK-Poland trade exchange represented only 0.2% of the total Polish trade as of 1972, but some interesting facts shall be underlined. For instance, in 1972 the DPRK imports of the following products represented the following percentage of the Polish imports: 56% of the talcum, 49% of magnetite, 18% of fluorite, 49% of porcelain ware, 7% of lead, and 4% of herbal products were respectively imported from the DPRK.

In 1972, an agreement to form an Economic, Scientific and Technical Consultative Committee was signed. Their responsibilities included:

- Examining possibilities for development and expanding cooperation between the two countries;
- Considering the implementation of agreements and protocols concluded by the competent authorities of both parties;
- Taking necessary measures for the further development of cooperation.

During the first sitting of the committee, both parties concluded that by mid-1970 the trade exchange could reach 100 million rubles. On August 13, 1973, a treaty on a scientific exchange between Poland and the DPRK for the years 1973 and 1974 was signed, and they also agreed to pursue a trade exchange agreement for the next four years on February 14, 1976. Then Minister of Foreign Affairs of Poland made a visit to Pyongyang in June 1977,<sup>81</sup> and Wojciech Jaruzelski, then Defense Minister, followed in September 1977.

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80. Stefan Kojło, *Współpraca KRLD z krajami socjalistycznymi* (Warszawa: Państwowe Wydawnictwo Ekonomiczne, 1975), p. 169.

81. MOFA, Poland, *Wizyta Tow. Ministra E. Wojtaszek w KRLD w dniach 26-29 czerwca 1977 r.*, Dept V, Group 28/79, Bundle 3, Folder 220-3-77.

Table 2. Trade exchange between Poland and the DPRK from 1960 to 1972

Year	Trade exchange (million ruble)	Export (million ruble)	Import (million ruble)	Dynamic of increase index 1960=100
1960	2.9	1.2	1.7	100
1961	3.9	1.3	2.6	134
1962	6.6	3.0	3.6	228
1963	7.5	4.0	3.5	259
1964	7.1	3.7	3.4	245
1965	9.8	4.3	5.5	338
1966	11.0	5.2	5.8	379
1967	8.7	6.4	2.3	300
1968	19.1	10.7	8.4	659
1969	18.7	11.2	7.5	646
1970	17.0	7.8	9.2	586
1971	11.0	4.5	6.5	379
1972	14.9	7.2	7.7	574

Sources: Unknown, *Rocznik Statystyczny Handlu Zagranicznego 1970* (Warszawa: Główny Urząd Statystyczny 1971), p. 26; Unknown, *Rocznik Statystyczny Handlu Zagranicznego 1973* (Warszawa: Główny Urząd Statystyczny 1974), p. 31.

Table 3. Trade exchange between the Socialist Bloc and the DPRK (1960-1973/ million rubles).

Country	1960	1965	1970	1973
Soviet Union	102.7	160.0	329.3	357.3
East Germany	8.3	7.0	28.6	27.5
Romania	7.5	7.6	12.5	25.0
Bulgaria	1.5	1.2	5.9	13.7
Czechoslovakia	13.8	11.9	13.7	13.4
Poland	2.9	9.9	17.0	10.3
Hungary	6.7	4.0	6.0	5.6
Mongolia	1.0	1.5	2.3	3.9
Total:	143.0	203.0	415.3	484.6

Source: USSR Academy of Sciences, "Ekonomika i politika zarubieźnych stran socjalizma: Koreanska Narodno-Demokratskeja Republika," (Moscow, 1975), p. 128.

The development of trade exchange and imports was followed by increased interest in transportation, especially naval shipping.<sup>82</sup> Korean ports in Chongjin, Hungman and Nampho started to receive goods on a regular basis in the early 1960s. On November 19, 1965, a treaty was signed establishing a Polish-Korean Shipbrokers Association (*Koreańsko-Polskie Towarzystwo Maklerów Morskich*), also known as Chopol (Cho from Choson, and Pol from Polska, the Polish name of Poland) in charge of naval cooperation.<sup>83</sup> The shipbroker association had two ships under their command and manned by bi-national crews. The association controlled by Polish and Koreans was supposed to buy, sell and rent ships, and transport coke and magnetite. By comparison, the Polish-Chinese Association of Shipbroker–Chipolbrok was already operating since 1945. Two Polish ships, *Narvik* and *Mickiewicz*, were used. Accordingly, per the bilateral agreements, 70% of the fleet of the *Mickiewicz* was Korean. Poles complained often about the behavior of Korean shipmen, who tried to do some propaganda during journeys. Chopol still exists as of 2017.

### c. Poland-DPRK Cultural and Sport Cooperation

During the period 1960-1980, the most important pillar of the educational cooperation between both countries was the partnership signed between the Polish Academy of Sciences and the DPRK Academy of Sciences in 1963. This DPRK institution was supposed to establish a branch in Warsaw, to attract DPRK researchers (especially from technical fields) to Poland. The branch existed between 1968 and 1974 but was suddenly closed in 1974. On a regular basis Polish artists were traveling to the DPRK, such as the Flok Group ‘Śląsk’ which was in the

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82. In 1972, Polish shipyards conducted refurbishment of the Korean Fleet; S. Kojło, “Współpraca KRLD z krajami socjalistycznymi,” (Warszawa: Państwowe Wydawnictwo Ekonomiczne, 1975), p. 182.

83. On 11 February 1987, the name of the company changed to Koreańsko-Polskie Towarzystwo Żeglugowe Sp z o.o., still emphasizing its Korean origin in the name of this economic entity, but from the legal perspective, transforming it into a society with a limited liability (*Spółka z ograniczoną odpowiedzialnością*).

DPRK between November 19 and 27, 1966.

Another subject of cooperation became the sport area. Among DPRK students based in Poland in the 1970s, some of them started to teach taekwondo to Poles interested in this sport. Firstly, they were teaching karate, but after a certain period, they begin to teach Poles a karate technique called kyoksul. Kyoksul was already exported to Poland in the 60s, when KAL officials who were in contact with Polish officers discussed this martial art. Furthermore, DPRK sport was at least seen once in Poland, in a match played between the football club of Wisła Kraków and the Amrokkang Football Club, which sold out tickets with a 3-3 draw.<sup>84</sup>

The first taekwondo section opened in 1977. The first coaches arrived in April 1979. Transportation was ensured by DPRK authorities; other logistical issues were fulfilled by the Polish side. The first invited coach was Han Ho-hun, who coached some foreigners during journeys in the Soviet Union. Han Ho-hun came over to Poland, as he was already known by a student based in Warsaw. He came to Poland for three months. He left in July but came back for a 6-month journey between December 1979 and June 1980.

After June 1980, Han Ho-hu disappeared, but some versions insisted that the Military Unit GROM is the elite counter-terrorism unit of Poland. After his disappearance, he was replaced by a DPRK student based in Warsaw. Some others came to Poland, but their fate changed after 1980, being forcibly recalled to their home country, due to the coldness of relations between DPRK and Poland.

#### d. Mixed Marriages between DPRK and Polish Citizens

The purge mentioned in the second chapter concerned not only DPRK orphans and students, but also men married to Polish women (the reverse seems to have not existed). Starting from 1963, mixed marriages were considered forbidden by DPRK law. Previously many Polish women who met DPRK students married them.

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84. Andrzej Cichowicz, "Dobra Klasa Piłkarzy Koreańskich," *Tempo*, September 16, 1968.

The most famous example is the story of Halina Ogarek-Czój. This lady born in 1931 is the daughter of the previously mentioned Weronika Tropaczyńska-Ogarkowa. Halina Ogarek-Czój, the most famous Polish researcher on Korean issues, also founded the faculty of Korean Studies at Warsaw University. During her studies of Chinese philology at the University of Warsaw, she met her future husband, and both emigrated to the DPRK in the early 1960s. Before, she defended her doctorate at the Kim Il-sung University in 1957, a daughter was born, and the family moved to the DPRK in 1962. Due to the previously mentioned policy, the family was separated in 1965, and Halina Ogarek-Czój was forced to come back to Poland with her daughter named Anna. In Poland, her DPRK diploma was not recognized and she rewrote her doctorate thesis on the Korean writer Song Yeong and defended it in 1974.

In 1977, with the cooperation of the DPRK student Cho Un-hak, she published a book on the Korean language entitled *Teksty do nauki języka koreańskiego*. Regarding professional matters as a translator, she later came back to the DPRK as a translator of official delegations, but never saw her husband again. She passed away in 2004. Another example is the situation of the Polish woman, Dorota Kudlak. She married in 1960 and lived with him until 1963, giving birth to a daughter in Pyongyang. Later they were separated, and Mrs. Kudlak and her daughter were repatriated to Poland. Mrs. Krystyna Li and her husband were demoted to Hungnam, but she left for Poland after a few months. Mrs. Rzepko-Łaska tried to commit suicide because she couldn't live with her husband. Another Polish citizen was Mrs. Hanna Marchwicka.<sup>85</sup> Hanna Marchwicka came back to Poland in the mid-60s. She came back to Poland with a son whose name was Ri Jeon-Ran. A similar situation occurred to other mixed-families, such as the Romanian woman Georgeta Mircioiu (1936–2015) and her husband Jo Jung-ho, a former DPRK orphan in Romania. Some DPRK citizens who married abroad (with a Soviet woman in this case), such as Kim Ji-il, a

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85. MOFA, Poland, *Notatka dotycząca ograniczeń stosowanych przez władze Koreańskiej Republiki Ludowo-Demokratycznej z dnia 7 czerwca 1963 r.*, Dept V, Group 32/66, Bundle 1, Folder 0-557.

former student of the University of Technology of Kharkov (former Soviet Union, currently Ukraine) managed to flee to South Korea in the 1990s.

#### **IV. Conclusion**

The purpose of the article was to present an outline of relations between Poland and the DPRK. Initially the paper aims to show how the relations between ideologically and culturally distant countries looked like and whether the countries belonging to the socialist community could really rely on each other.

Poland and North Korea were in the same ideological family, but the behavior of North Korean authorities reduced the advantages Poland could take from relations with this country. In this case, it can be stated that North Korea focused on its interest and not on the interest of fraternal nations. The size, the type, and the scope of Polish-North Korean cooperation was largely decided by Pyongyang. It was Pyongyang which decided to limit movements of Polish diplomats in North Korea without official approval of the North Korean MOFA starting from 1978. It was Pyongyang that did not support the Polish embassy when it was flooded in 1967. It was again Pyongyang which decided when the Polish envoy could meet Kim Il-sung. It was Pyongyang which dictated payment rules in the case of an economic transaction. Such North Korea's policy changes were justified by the ideological battle against Imperialism. On the other side, it can be noted how much effort the Polish side made to improve mutual relations, sometimes regardless of their interest. From North Korea, we can denote a major calculation on the part of its leadership. This led to a negative image of North Korean authorities among the Polish leadership and automatically to negative views concerning the North Korean population among Poles.

Although Poland-North Korea relations ruptured eventually around 1980s, the memory of people who came from North Korea is still present in the mind of people who were in touch with them

during the Communist era. A perfect example illustrating this situation are the memories of the citizens of cities where North Korea orphans used to live. To a lesser extent, a similar situation can be described with those who lived closely to the Polish Hospital in Hamhung. The importance of cooperation between Poland and North Korea on the issue of orphans was a driver for the deepening of relations between both countries for the next 50 years. In a hermetic society like North Korea, these Polish and North Korean adoptees who lived or traveled abroad played the role of civilian messengers and informal diplomats. Documents released from Polish historical files in recent years have proven that North Korean citizens living in Poland were clearly in communication with Polish citizens. It has also been proven that these people were discussing their experience of living abroad after they came back to North Korea. This element is crucial as it provides a better understanding of the penetration of foreign cultures in the isolated North Korea. The past and European values are then absorbed in the consciousness of the North Korean orphans who lived in Central Europe. Therefore, there is a constant imperative to learn and debate, to have a better chance of finding the right balance when discussing the isolation of North Korean society.

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1. DPRK ambassadors to Poland (1951-1979)

Identity	Korean transcription	Diplomatic position	Employment period
Choe Il	최일	Ambassador	1951-1953
Choe Bin	최빈	Ambassador	1953-1954
Ho Guk-bon	허국본	Ambassador	1954-1958
Jaen Myong-su	제명수	Chargé d'affaires a.i.	1958-1959
Kim Hak-in	김학인	Ambassador	1959-1962
Ri Dok-hyon	리덕현	Ambassador	1962-1968
Kwon Bong-ryong	권봉룡	Ambassador	1968-1970
Kim Hi-sun	김희순	Ambassador	1970-1973
Jeon Ju-ji	전주지	Chargé d'affaires a.i.	1973
Jong Jong-ryu	정종류	Chargé d'affaires a.i.	1973-1974
Paek Nam-sun	백남순	Ambassador	1974-1979
O Man-sok	오만석	Ambassador	1979-1998

Source: own document

2. Polish ambassadors to the DPRK (1951-1979)

Identity	Diplomatic position	Employment Period
Stanisław Dodin	Chargé d'affaires a.i.	1948-1950
Juliusz Burgin	Ambasador	1950-1951
Marcin DREWNIAK	Chargé d'affaires a.i.	January 1951
Ryszard Deperaszyński	Chargé d'affaires a.i.	April 1951
Stanisław Kiryluk	Ambassador	1952-1954
Jerzy Siedlecki	Ambassador	1954-1959
Józef Dryglas	Ambassador	1959-1964
Władysław Napieraj	Ambassador	1964-1968
Józef Dryglas	Ambassador	1968-1971
Tadeusz Białkowski	Ambassador	1971-1978
Jerzy Pękała	Ambassador	1978-1981

Source: own document

## Review on the Form and System of North Korean Law\*

Hyowon Lee

The Unification Law is a legal system related to the unification of the North and South Korea, and further, the institutional unification can at last be completed through legal integration. A systematic understanding of North Korean law is essential for effective prosecution of inter-Korean exchange and cooperation. It is the basis for interpretation and application of laws and systems of the two Koreas in the process of achieving peaceful reunification. The North Korean law is based on socialist law theory, but its contents are changed according to the Juche theory of law and the perspective of the revolutionary leader.

North Korea maintains the system of the written law, and the Constitution is known to have the highest authority. There are important sector laws and general sectors law under the peak of constitution, and regulations, bylaws, and rules are systemized below. The North Korean Constitution stipulates decrees and decisions that can be adopted by the Supreme People's Assembly. The decrees, decisions, and directives refer to the way in which laws such as sectoral laws or regulations are adopted, not the forms of laws themselves. On the other hand, the North Korean Constitution recognizes treaties as international law, and distinguishes between general and important treaties. In North Korea, common law and case law are not recognized as legal sources according to socialist law theory. However, the directive of the Central Court may serve as a guideline for judicial proceedings in practice.

**Keywords:** The Unification Law, North Korean law, Inter-Korean exchange and cooperation, Socialist law theory, Form and system of law

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## I. Introduction

The Unification Law is a legal system related to the unification of the North and South Koreas, and their institutional unification can at last be completed through legal integration. The Unification Law is a norm that governs inter-Korean relations in the process of achieving peaceful unification. The inter-Korean relationship is special in that North and South Korean laws differ in their ideology and system, and thus they are applied in contradiction to one another. If the dual status of North Korea is approved in accordance with the theory of the special relationship between South and North Korea, the normative effect of North Korean laws can be recognized and applied to the inter-Korean relations in areas where North Korea acts as a partner that cooperates for peaceful unification.<sup>1</sup>

In the Kaesong Industrial District and the Mt. Kungang Tourism District, the Kaesong Industrial Zone Act enacted by North Korea was directly applied to South Koreans as well. In addition, various inter-Korean agreements have normatively recognized the laws and institutions of each other, adhering to reciprocity. Thus, a systematic understanding of the laws of North Korea is one of the important areas of the Unification Law. North Korea, which has the nature of a state, has enacted and implemented North Korean law with normative grounds in accordance with the legal system including the Constitution. It is an effective law that is applied directly to North Korea and its people. North Korean law also applies to foreigners who enter North Korea as well as South Koreans who enter North Korea for inter-Korean exchange and cooperation.

North Korea published the Code of the Democratic People's Republic of Korea (supplementary edition) in 2016 and cited Kim Il Sung's teaching in its preface and announced as follows:

The Socialist Law is an important means for the people's government to

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1. About North Korean Law's domestic legal effect, Hyowon Lee, *The Normative System of Inter-Korean Exchange and Cooperation* (Kyungin Munhwasa, 2006), pp. 192-213.

realize politics, and is a collective code of conduct that everyone must observe. We shall enact and complete the laws and regulations of the state to fulfill the needs of the developing reality, strengthen the socialist judicial life so that all national economic institutions act strictly on the law, and all workers keep the socialist law in a self-sustaining manner.

The North Korean Constitution does not clearly define the form and system of North Korean law, and various opinions have been presented. A systematic understanding of North Korean law is essential for effective prosecution of inter-Korean exchange and cooperation. It is the basis for interpretation and application of laws and systems of the two Koreas in the process of achieving peaceful reunification. It is a basis as well for organizing the laws and institutions in case the North changes its system in the future, and is also a necessary task in preparation for legal integration and unification of courts in the future unified Korea.

## **II. The Theory of North Korean Law**

### **1. Socialist Law Theory**

#### **a. Socialist State View and Legal Theory**

Article 1 of the North Korean Constitution states that “the Democratic People’s Republic of Korea is an autonomous socialist country that represents the interests of the entire Korean people,” and Article 11 states that “the DPRK shall carry out all activities under the leadership of the Korean Workers’ Party.” The preamble to the Korean Workers’ Party Code also states that

The Workers’ Party of Korea... strengthens Kim Il Sung-Kim Jong Il’s culture, and rejects all kinds of reactionary and opportunistic ideas such as capitalist ideology, feudal Confucianism, revisionism, dogmatism, toadyism and adheres to the revolutionary principles of working-class principles and Marx-Leninism.

In other words, North Korea declares its national identity to be a socialist state based on Marx-Leninism. Therefore, in order to systematically understand North Korean law, it is necessary to understand the socialist state view and the legal theory, which is the basis of North Korea's national ideology.

The socialist state and legal theory were originally based on the traditional Marx-Engels materialistic view of history, but was partially amended in the course of carrying out Soviet revolution and constructing a socialist state in 1917. However, since the Soviet Union collapsed in the 1990s and East and West Germany became unified, socialist law theory has been changing. China and Vietnam especially have introduced legal systems that are contradictory to traditional socialist law theory, promoting external reform and opening since the 1980s. Since then, the normative meaning of socialist law theory has been changing drastically. Socialist law theory is fundamentally characterized by the following qualities.

First, according to the Marx-Engels theory, the state is the governing body of the bourgeois class, and law is a means used by the state to realize violent repression and exploitation.<sup>2</sup> In Marx's Declaration of the Communist Party, he stated that "the state is the product of class struggle," and Engels said in *The Origin of Private Property and State* that "a state is an instrument for one class to suppress other classes," meaning that the bourgeoisie with economic power created a violent governing body—a state—as a means to oppress and exploit the weaker proletarian class. That is, law is the measure for the bourgeoisie to suppress the proletarian class, as the state uses it as the most important weapon for such violent repression and exploitation.

According to the Marx-Engels materialistic view of history, social institutions and laws are elements of superstructure, and are based on the underlying substructure formed around the economic production relations of the time. Thus, law does not stand by itself. It cannot exist beyond economic structure. Additionally, legal reform cannot bring

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2. Gwang Hew Shin, "The Legal Theory of Socialist Countries and Constitutional Theory of North Korea," Hankuk University of Foreign Studies Essay Collection no. 25 (1992), p. 685.



about any social change by itself. Also, according to the theory, if the socialist revolution and the socialization of the means of production achieve communist equality without class confrontation, then the state will eventually disappear. This is the theory of state extinction. At the same time, the law as a means of oppression and exploitation becomes no longer useful and ceases to exist.<sup>3</sup>

Second, Lenin actively recognized the functions of the state and the law in the course of the Soviet revolution and argued for a semi-national theory. He reinterpreted the nature of the proletariat dictatorship and the theory of state extinction, while accepting Marxist class theories in *State and Revolution*. That is, the proletariat constructs a proletarian autocratic state as a transitional socialist state in the process of overthrowing the capitalist state and establishing a communist state through violent revolution, which is the anti-state that distinguishes it from the conventional bourgeois state.<sup>4</sup>

The proletarian state continues to carry out dictatorship to suppress the remaining bourgeois rebellion even after the revolution, and the law continues to function as a means to realize this authoritarian power. A proletarian autocratic state realizes the communist ideal by establishing a new communist economic order, where people work according to ability and get distribution according to need, while using law as a means to suppress and eliminate the disobedience of the overthrown hereditary class during the course of socialist revolution. Also, the proletarian state is responsible for creating a new type of human being that is able to live autonomously without any legal constraints in the communist state where the state and law are extinct. This is possible by training people through powerful law enforcement.

Lenin recognized the necessity of strengthening state power and law even after the proletarian revolution, and transformed socialist law theory to justify this. In the proletarian autocratic state, law plays a leading role in all spheres as a powerful weapon and as a measure to

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3. Kyung Bae Min, "The Characteristics and Structure of Legal Systems in Transition Countries," *Unification Issues Research* no. 46 (2006), p. 222.

4. Dal Gon Choi & Young Ho Shin, *Introduction to North Korean Law* (Sechang Publications, 1998), p. 4

maintain the regime. Completion of communism would bring complete annihilation of the hereditary class and the eventual extinction of the state and law.

Third, Stalin developed a new theory to strengthen the role of state power and law until the socialist state becomes annihilated. Stalin said that the socialist autocratic state of the proletariat is the most powerful nation in human history, as a new type of state that distinguishes itself from the capitalist state as well as the anti-state of Lenin. Such a socialist state should protect the fruit of revolution from attacks by capitalist states in order to protect the interests of the proletariat and the new production relations created by the violent proletariat revolution, as a component of protective superstructure. Thus, the change of the economic infrastructure, the formation of the proletarian class consciousness, and the transformation into the new communist human being can be achieved through the state-led revolution from the top.<sup>5</sup>

Stalin argued for a single socialist state. That is, in a situation where the immediate world revolution by the proletariat is difficult to achieve, the socialist revolution in the Soviet Union should be completed first and foremost. He also argued that up to a certain level, social structures and laws—superstructures—lead the substructure, and at the next stage, the substructure develops by repeating the process of leading the superstructure. This idea was against the traditional Marx-Engels materialistic view of history.<sup>6</sup> The socialist state that Stalin advocated strengthened state power through law, and socialist law theory emphasized the repressive nature of the state.

Stalin's state view and the theory of law were reflected in the Stalin Constitution of 1936, and they criticized the theory of law denial that has been traditionally claimed in socialist law theory. Vyshinsky argued, "Why should we defend the law? It is because by protecting the law, the driving force of the political system and national control can be strengthened." He criticized the allegation that socialist law should be abolished as soon as possible, for it is putting bourgeois law

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5. *Ibid.*, p. 5; Gwang Hew Shin, *op. cit.*, p. 687.

6. Dal Gon Choi & Young Ho Shin, *op. cit.*, p. 7.

and socialist law on the same level.<sup>7</sup> Stalin positively emphasized the function of law in the socialist countries and recognized that law is not simply a reflection of the economic infrastructure but rather a creative function that can improve and develop the infrastructure. He pointed out that the socialist state is responsible for coordinating and planning social relations and economic productivity by law, and that law plays a role in deliberately modifying human ideologies and emotions.

### b. The Nature and Qualities of Socialist Law

A socialist state is based on the instrumentalist perspective of law, which sees law as a compulsive and oppressive means used by the ruling class on the subjugated class.<sup>8</sup> In the socialist state, law is a means to realize the political goal—construction of a communist society—of the communist party. Therefore, the communist party, which is subordinate to politics and dominates political power, guides law. In a socialist state, the positive law including the constitutional law is a mere materialization of the party norms such as the constitution, policies and instructions of the communist party. Thus, the doctrines and decisions of the communist party are practically superior to the constitution. The law in the socialist state is only a tool of political power, so factors such as the intrinsic value and ideology of the law, the uniqueness of the law, and legal stability are not acceptable. The law of a socialist country essentially has the following functions:

First, it serves as a tool to realize the proletarian dictatorship that suppresses the counterrevolutionary bourgeoisie, to protect the socialist system from the counterrevolutionary forces at home and abroad. That is, the law forms a protective superstructure. In other words, socialist law systematizes the organizational structure of all societies in order to keep the supremacy of the proletarian class, so compliance with law is required for this purpose. The rule of law to control political power is not allowed. In this respect, socialist law has a hierarchical and political

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7. *Ibid.*, p. 9; Gwang Hew Shin, *op. cit.*, pp. 690-691.

8. Do Kyun Kim, "Über die Rechtsbegriffs- und Rechtsstaatlichkeitslehre in Nordkorea," *Seoul National University Institute of Law*, vol. 46, no. 1 (2005), p. 453.

nature as a superstructure protecting socialism, and it is characterized by the fact that originality and stability of law cannot be recognized.<sup>9</sup>

Second, the socialist state socializes the means of production. It decides and enforces the production, distribution and use of all goods through a centralized economic plan. The law should have a strong force to establish, organize and maintain such socialist economic order. Laws in the socialist state play a role in transforming all peoples into human beings fit for the future communist society where the state and the law cease to exist. The socialist state teaches individuals about communist norms by enacting laws that include contents such as social sharing of property, duties before rights, and the whole before individuals. For this reason, the law in the socialist state is a "law as a teacher and a parent," and it serves as an ideology to voluntarily mobilize individuals for the construction of socialism by converting them through enlightenment and education into human beings suitable for socialism.

Socialist law scholars have explained in *Marxist State and the Law Theory* that socialist law adopts the following as basic principles in order to perform the above functions and roles as a tool of political power.

First, the proletariat is recognized as the sovereign authority, as a source of state power. It is the principle of people's sovereignty. It is actualized to ensure and prioritize the rights of working people, and is most fully realized in a mature socialist country.

Second, the socialist state operates according to the will of sovereign working people. This is fundamentally different from a bourgeois democracy where it means the exploitation of minority by majority as a democratic principle. In socialist law, democratic principles are realized not only in the political sphere but also in all areas of livelihood, including economic and social areas.

Third, in a mature socialist country, citizens' equality is guaranteed in all areas of economic, political, social and cultural spheres of life. This clearly shows the difference between socialist and bourgeois laws in that citizens' rights and obligations are inseparably linked. In other words, the wealth and rights are concentrated in the ruling class

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9. Dae Kyu Yoon, "Changes in Socialism and Socialist Legal Principles," *Law and Society*, vol. 6 (1992), p. 210.

while duties and burdens are concentrated in the subjugated class under bourgeois law; whereas, in socialism, the equality of citizens is shown not only in equality of social benefits but also in their responsibilities to society and the state.

Fourth, the equality of all races and peoples is internationally guaranteed and the right of self-determination is recognized, and internationalism is recognized as the basic principle. Thus, based on the universal values of mankind, it becomes the basis for guaranteeing the true prosperity of individuals by eliminating the framework of class egoism inherent in capitalism.

## **2. Characteristics of the North Korean Law**

### **a. Influence of Socialist Law**

North Korea, at the time of its establishment, was decisively influenced by the Soviet Union under the control of Stalin. Soviet legal theory was accepted in North Korean law, defining the nature and function of North Korean law. North Korea promoted the 1948 Constitution as the most universal and democratic constitution in the world, for it went through nationwide debate in its drafting and it succeeded the most democratic characteristics of the Stalin Constitution. North Korean law is based on the theory of socialist law and has the characteristics of a political and classical norm as a means of achieving the political goal of building a socialist state.

Kim Il Sung also proclaimed, "What is the law we ask for today? Today we live in a socialist economic system, and workers, peasants and other wider working people live under a people's regime that suppresses anti-revolutionary rebellion of landowners and capitalists in order to build socialism. It is therefore clear that our law should be a weapon to defend our socialist system and gains, and it should be a weapon of the proletarian dictatorship."<sup>10</sup>

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10. Il-Sung Kim, *To Carry Out Our Party's Judicial Policies*, A selection of Kim Il-sung's works, vol. 2 (Pyong-yang: Korean Workers' Party Publications, 1968), p. 142.

## b. The Juche Theory of Law and the Theory of Revolutionary Leader

The preamble to the North Korean Constitution states,

The Socialist Constitution of the Democratic People's Republic of Korea is a Juche socialist country that embodies the ideals and principles of the great Kim Il Sung and Kim Jong Il comrades. ... The Socialist Constitution of the Democratic People's Republic of Korea declares the Kim Il Sung-Kim Jong Il Constitution, which legalized the national constructions ideals and achievements of Juche by the great Kim Il Sung and Kim Jong Il.

Article 3 of the North Korean Constitution states that "The Democratic People's Republic of Korea takes the Juche idea as a guideline for action, which is a people-centered worldview and a revolutionary idea to realize the independence of the mass." Article 11 states that, "The Democratic People's Republic of Korea conducts all activities under the leadership of the Korean Workers' Party." The Covenant of the Korean Workers' Party states in the preface that

The Workers' Party of Korea is a Juche revolutionary party with the great idea of Kim Il Sung-Kim Jong Il as the sole guiding ideology. ... The Workers' Party of the DPRK adheres to, inherits and develops the revolutionary tradition of Juche accomplished by the great Kim Il Sung and Kim Jong Il, and adopts it to be the cornerstone of party construction and party activities.

The Juche idea is the highest legal principle and the fundamental rule of North Korea.

North Korean law is based on socialist law theory, but it also uses the Juche ideology of Kim Il Sung as the guiding ideology and its legal theory as the legal basis. The Juche ideology consists of the following as its fundamental principles: independence in politics; self-reliance in economy; and self-preservation in national defense as its fundamental principles. The legal theory of Juche is the idea of Juche systematized in the areas of jurisprudence, and it develops all legal arguments in terms of independence. Unlike socialist law theory, the essence of the

Juche law is characterized by emphasis on spiritual factors such as independence, creativity and consciousness of social people rather than socioeconomic factors. The legal theory of Juche is a North Korean legal theory which combines socialism realization and nationalist tradition. The worker's public self is identified as a subjective factor in the outbreak and development of all legal phenomena and it emphasizes that all laws should serve the working people.<sup>11</sup>

The legal theory of Juche justifies centralized individual dictatorship by combining with the theory of revolutionary leader that explains that the working masses, the master and key of the law, can carry out the communist revolutionary movement only if they receive the command of the excellent leader. In the Juche idea of North Korea, the leader is supreme over the working class party and the masses, creating the party's revolutionary tradition and guiding ideology, and is the only center that organizes the party and the people into one, as the supreme leader of the proletariat dictatorship.<sup>12</sup> The popular mass is the driving force of historical development, but its power does not manifest itself; it is revealed by an excellent leader who organizes the popular masses. North Korean law thus transforms socialist law theory by adopting the legal theory of Juche and the theory of the revolutionary leader and operates it in the North Korean way.

### c. Socialist Legal Life Theory

Law in North Korea is an indispensable means of realizing communism, as it is a weapon against the capitalist counter-revolutionary forces while maintaining the dictatorship system achieved through the

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11. Eun Jung Park, "Basic Principles of North Korean law and the Search for Unification Law Ideology," *North Korea Research*, no. 1 (1998), Seoul: Ewha Womans University Graduate School of North Korean Studies, pp. 84-115; Heung Lak Choi, "Dear Leader Kim Jong Il is a Great Ideological Theorist who Systemized the Juche Legal Theory," *Social Science*, no. 1 (1985), Pyongyang: Science and Encyclopedia Publications, pp. 48-49.

12. Social Science Publications, *Philosophical Dictionary* (Pyongyang: Social Science Publications, 1985), p. 379.

proletarian revolution. Therefore, in order for North Korea—that claims to have accomplished the socialist revolution—to build a communist society, socialist legal compliance is demanded of the state institutions, organizations, and enterprises as well as citizens. They must faithfully comply with the revolutionary ideology of the leader, the policies of the Chosun Labor Party, and the national legislation that specifically implements them.

Socialist legal compliance is said to be an important means of realizing proletarian dictatorship, a strong weapon against the remaining capitalist ideology in people's consciousness, and a way to teach workers communistically and to construct socialism. Such socialist legal compliance is the purpose of the North Korean legal system as an indispensable means to properly manage and operate socialist society. Socialist compliance is also reflected in the North Korean Constitution. Article 18 and 82 respectively state that "Respect for law and strict enforcement is mandatory for all agencies, organizations and citizens. The state completes a socialist legal system and strengthens socialist legal life," and "Citizens must observe the state laws and socialist living standards, and must adhere to the honor and dignity of the people of the Democratic People's Republic of Korea."

The socialist legal life theory directly reflects and theorizes such socialist legal compliance with respect to civil lives. The theory of socialist legal life came into being when in 1977, in commemoration of the 5th anniversary of the promulgation of the North Korean Socialist Constitution, Kim Il Sung criticized the bureaucracy of North Korean society in the report of 'Let us Strengthen the People's Regime.' He had proposed for the leaders of the state and economic institutions to strengthen socialist judicial life as a way of engaging in anti-bureaucratic struggle.<sup>13</sup> In 1982, in 'Strengthening the Life of Socialist Justice,' he declared that strengthening the life of socialist justice was the lawful

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13. Guk Pyo Hong, "Strengthening socialist judicial life is an important task of the people's regime," in *Social Sciences* (Pyong-yang: Science and Encyclopedia Publications, 1981), p. 17.; Byung Ki Kim, "Understanding the North Korean Legal System," in *Understanding the North Korean System*, ed. System Integration Research (Myungin Munhwas, 2009), pp. 149-150.



requirement of revolutionary development, socialism, and communist construction. This means that all members of society work and live according to the laws and regulations established by the socialist state. It is a nationwide communal system where the working people following state legal order lead subjectively disciplined lives, in which people work in unison and realize joint action.<sup>14</sup>

The socialist legal life theory proposes three ways to strengthen this.<sup>15</sup> First, it is necessary to make good laws. That way it is possible to articulate the standards of conduct that conform to the collective nature of socialist society, unify the behavior of people, ensure group discipline and order, and control illegality in all areas. It is important to revise the law as the laws should be revised as much as the revolution is constantly developing to a higher level. Second, in order for the residents to observe these laws and to behave in compliance with the law, a revolutionary law-abiding spirit should be established and the ideological education and ideological struggle for the working masses should be strengthened. Third, the state should establish a system of guidance on legal life and instruct all members in a unified manner. The Socialist Legal Life Guidance Committee plays that role. The Socialist Legal Life Guidance Committee is a non-governmental organization that understands, directs and controls the legal life status of all the institutions, factories, organizations, and residents. Its main task is to establish a revolutionary legal compliance spirit for the whole society by legally controlling the leaders of state and economic organizations so that they do not abuse power.

#### d. The Nature and Characteristics of North Korean Law

The ideology and system of North Korean Law depend on social-

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14. Chang Sub Seo, *Legal Construction Experience* (Pyong-yang: Social Science Publications, 1984), p. 117.; Jong-Il Kim, "About Strengthening Socialist Legal Life," in *Collection of Jong-Il Kim's Writings*, vol. 7 (Pyong-yang: Korean Workers' Party Publications, 1982), p. 2.

15. Jong-Il Kim, *Ibid*, pp. 20-21.; Il-Sung Kim, *Collection of Il-Sung Kim's Writings*, vol. 6 (Pyong-yang: Korean Workers' Party Publications, 1982), p. 427.

ist ideology and state view, for both are based on the socialist legal theory. The nature of North Korean law can be examined through the nature and function of law in North Korea. Law in North Korea is a means of class struggle and socialist state administration, and is conceived as a weapon to defend the victories that have been won in the revolution. The mission of North Korean law is to realize the proletariat dictatorship and to actively contribute to the Juche socialization. Kim Il Sung also declared that "North Korean law is a weapon to defend the socialist system, to defend the proletariat dictatorship already established in North Korea."<sup>16</sup>

In North Korea, in principle, the privatization of the means of production is not allowed; so all economic activities are carried out according to the state plan and execution. All laws in North Korea are a powerful means of enforcing all state actions related to such economic activities. The law in North Korea has the function of transforming individuals into new communist humanoids, in order to achieve communism in which the state and law cease to exist. In other words, it is the ideology and purpose of the law to make people submit to a centralized ruling system, and to make them more fit for collectivism which values responsibilities over rights and the whole over individuals.

North Korean law is based on socialist law theory. At the same time, it has developed a unique legal theory such as the Juche legal theory and the socialist legal life theory with the following characteristics.

First, North Korean law acts as a means to fulfill the purpose of the state's political power, considering its political ideals and functions. Thus, North Korean law does not control or regulate political power, but is subordinated to the policies of the Chosun Labor Party dominated by Juche ideology. The Korean Workers' Party is a constitutional body that prescribes and supervises national policies and norms over all state powers, and directs and supervises the policy execution of state institutions and individuals. The nature of North Korean law and the status and functions of the Korean Workers' Party are also

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16. Il Sung Kim, "To promote and develop the socialist system in Korea," in *A selection of Kim Il-sung's works*, vol. 5, ed. Korean Workers' Party Publications (Pyong-yang: Korean Workers' Party Publications, 1972), p. 96.

reflected in the normative system of North Korean law.

The North Korean Constitution states in its preface that

the Democratic People's Republic of Korea and its people hold up the great Kim Il Sung and the Kim Jong Il comrades as the eternal leader of the Juche Chosun and advocate their ideals and achievements under the leadership of the Korean Workers' Party; we will complete the Juche revolutionary feat to the end.

Article 11 stipulates that "The Democratic People's Republic of Korea shall carry out all activities under the leadership of the Korean Workers' Party." The Korean Workers' Party Covenant also stipulates in the preface that "The Chosun Labor Party is a Juche revolutionary party that makes the great Kim Il Sung-Kim Jong Il the only guiding ideology."

Second, the highest norm in North Korea is Juche Ideology and the teachings of Kim Il Sung and Kim Jong Il. The codes, covenants and policy decisions of the Korean Workers' Party try to practice this function as the upper norms to all laws including the socialist constitution.<sup>17</sup> Because of such characteristics of North Korean law, the North Korean Constitution is not a control norm to guarantee individual rights and prevent state power abuse. The interpretation and application of all laws including the Constitution are restricted by the upper norms. It can be concluded that the constitutional norms and the rule of law recognized in constitutional democracy are not adopted, since all the state organs established by the Constitution are merely executive bodies enforcing national policies determined by the Korean Workers' Party.

As for the relationship between politics and law, Kim Il Sung said,

You can neither go out of politics to know the law, nor can you enforce the law. The law of our country is an important weapon to realize the policy of our country. Our state policy is our party policy ... The law is

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17. Ministry of Justice, *North Korean Legal System Outline (North Korean Legal System Data No. 1, Legal System Data, 157s, Ed.)* (Seoul: Seo-deung, 1991), p. 16.

an expression of politics, so it must be subject to politics, and it cannot be separated from it. So who today sets up a line for our state's revolution and all its policies? The answer is unquestionably our party.<sup>18</sup>

Third, North Korean law does not clearly distinguish individual rights from obligations. This is because North Korean law is based on totalitarianism and collectivism in accordance with socialist law theory.<sup>19</sup> That is, North Korean law understands reciprocal relations between not only individuals but also among individuals, society, and the state as having mutual organic relevance as a part and a whole. They are conceived not to have conflicting interests, but rather develop together in the same direction according to the laws of historical development. Therefore, on the assumption that individuals, society, and the state conflict with each other, it is difficult to assume the right of individuals to be infringed by the power of society or the state, and it is difficult to establish an obligation corresponding to rights.

Even if North Korean law provides a specific right, it should be understood from a functional point of view. Such right contributes to the purpose and interests of the whole; thus, it functions directly as an obligation in itself. After all, in North Korean law, only the state actually has rights because the whole or the nation prevails over individuals. The individual as a part will bear only the obligations corresponding to the rights of the state, and there is no room for the individual to assert their own rights.

Fourth, North Korean law has no distinction between public and private law, and all laws have a public nature.<sup>20</sup> North Korea, in accordance with the socialist law theory, does not recognize the privatization of the means of production, and all laws function as a means for effective policy enforcement. Thus a judicial system based on private autonomy is beyond controversy. North Korea does not recognize the private ownership of property as a rule, so the property ownership

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18. Il Sung Kim, *Kim Il Sung Selections* vol. 2 (Pyong-yang: Korean Workers' Party Publications, 1968), p. 144.

19. Ministry of Justice, *op. cit.*, p. 11.

20. Ministry of Justice, *op. cit.*, p.1.

institution of the private law system does not apply. Contracts between individuals and organizations also have meaning only as a means or procedure for enforcing the national economic plan. It is recognized that commerce through intermediate profits is unfair as it is not based on labor, and family law emphasizes social security through active involvement of the state as well.

About the enactment of civil law, North Korea declared as follows:

On February 1, 1958, the Government of the Republic made a decision on writing and preparation of civil law and civil procedure law. Drafting participants are putting wisdom and endeavor in, and are committed to reflect the base results that we have achieved under the wise leadership of our party after the liberation, based on the Marxist and Leninist legal theory and the advanced legislative experience of the Soviet Union.<sup>21</sup>

Therefore, in North Korean law, there is no room for private law that is governed by an independent court system, and civil and commercial laws also function as public laws governed by administrative legal principles.

### **III. Form and Effect of North Korean Law**

#### ***1. The Form of North Korean Law***

##### **a. The Juche Ideology**

North Korean law is ideologically based on Juche legal ideology and the theory of the revolutionary leader—Kim Il Sung’s teaching. The Korean Workers’ Party Code and Covenant, specifying the ideology and theory, are basis and limits for all North Korean laws. The ideologies, including the Juche ideology, form the basis of North Korea’s legal theory and serve as guidelines for enacting, interpreting, and

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21. Chang Sub Seo, “On the Civil Code System of the Republic,” Democratic Justice Act no. 5, May 25, 1959, p. 28.

enforcing the laws and regulations, and function as laws and regulations themselves, but do not exist in legal forms.

North Korea's civil law textbook declares that "Juche Ideology is the only guiding principle in the study of the Republican Civil Law." It also explains that

The Juche Ideology, founded by the great leader Kim Jong Il, is the great idea claiming that the master of revolution and construction are the people and the power to lead them also belongs to the people. It most correctly reflects the demands of the new era and the lawfulness of revolutionary development and the desire of the people. It is the most precise Marxist-Leninist ideology of our time that gives a clear answer to fundamental questions of revolution and construction, and it is a guideline for the study of the Republican Civil Law.<sup>22</sup>

Thus, in North Korea, Kim Il Sung and Kim Jong Il's teachings, which embody Juche ideology, are the guiding principle and the constitutional norm of law application.

## b. The Written Law

According to the North Korean Constitution, the forms of written law in North Korea consist of constitutional law, sector laws and regulations as domestic laws, and treaties as international law. Sector laws are divided into the general and important sector law, and treaties can be divided into general and important treaties. They differ in subject, procedure, and execution.

The North Korean Constitution does not directly prescribe the supreme normality of the Constitution, but indirectly recognizes it as the highest written law. The Supreme People's Assembly, the supreme sovereign authority, has the right to amend and supplement the Constitution (Article 91, Paragraph 1), and the amendment and supple-

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22. Kim Il Sung University Press, *Civil Law (I)* (Pyong-yang: Kim Il Sung University Publications, 1973), p. 5, quoted in Jong Go Choi, "North Korean Laws and Ideologies," *North Korean Laws and Legal Theories* (1988), Kyungnam University Far East Research Institute, p. 39.

mentation of the Constitution requires a two-thirds majority of the representatives of the Supreme People's Assembly (Article 97).

The North Korean Constitution distinguishes between the sector law and the important sector law. The Supreme People's Assembly may enact, amend or supplement the sector laws (Article 91, Paragraph 2) and approve the important sector law adopted by the Standing Committee of the Supreme People's Assembly during the recess of the Supreme People's Assembly (Article 91, Paragraph 3). The Standing Committee of the Supreme People's Assembly shall deliberate on and adopt new legislation, regulations and amendments and supplementary provisions of the current laws and regulations, which were raised during the adjournment of the Supreme People's Assembly. Among the sector laws adopted and implemented in this way, important sector laws shall be approved by the Supreme People's Assembly next time (Article 116, Paragraph 2). Legislation Law enacted in 2012 prescribes "The sector law means the basic legal form by which the supreme sovereign authorities control social relations according to constitutional law" (Article 2, Paragraph 2). Although the Supreme People's Assembly can make its own decisions on the important sector law, the Standing Committee of the Supreme People's Assembly cannot decide on its own, and the Supreme People's Assembly should approve their decision. However, there is no standard on which sector laws are considered as important sector law, and there is no provision for the effect of the general and important sector laws.

North Korea defines 'regulations' from the 1998 Constitution as a form of law. Article 116 of the Constitution states that

The Standing Committee of the Supreme People's Assembly has the following duties and powers to: 2. Deliberate and adopt amendments and supplementation of new sector laws and regulations, current laws and regulations during the recess of the Supreme People's Assembly, and... 4. Interpret the Constitution and current laws and regulations.

Article 125 states, "The Cabinet has the following duties and powers to: 2. Prescribe, amend or supplement regulations related to nation-

al administration based on the Constitution and sector law." Legislation Law prescribes that "Regulations mean the concrete legal form which materialize sector laws or control immature sector without sector law" (Article 2, Paragraph 3). The Cabinet has the power to enact regulations based on the Constitution and sector law.

Article 9 of the Kaesong Industrial Zone (KIZ) Act, enacted in 2002, stipulates that "economic activities in the KIZ shall be in accordance with the provisions of this Act and its norms for implementation." In Article 4 of the Mt. Kumgang Tourism District Act, it states that "tourism and other economic activities in the tourism district must comply with the provisions of this law and its performance." Accordingly, the "Establishment and Operation Regulations of Enterprises" was enacted. According to the North Korean Constitution and the Kaesong Industrial Zone Act, regulations are interpreted to be subordinate to the sectoral law as the written law of North Korea.

Legislation Law prescribes "The detailed rules mean the more minute legal form which materialize sector laws or regulations or control special sector in order to execute sector laws or regulations" (Article 2, Paragraph 4). The Local People's Assembly and its Committee in Province (a city under the direct control of the central government) have the power to enact the detailed rules (Article 40, 41).

In Article 22 of the Kaesong Industrial Zone Act, the central industrial zone guidance organ is entitled to issue the detailed rules for the enforcement of industrial zone regulations. The Mt. Kumgang International Tourism Special District Act, established in 2011, stipulates in Article 8 that "The development and management of international tourism special zones, tourism, and other economic activities shall be in accordance with the provisions of these laws and regulations," thus arranging rules as the form of written law as well. In addition, the law on special economic zones, such as the Rajin Economic and Trade Major Law revised in 2011, the Grand Prix of Gyeongpyeong and Gyeonghwa Island in 2011, and the Economic Development District Legislation enacted in 2013, provide bylaws as being subordinate to regulations. However, the North Korean Constitution stipulates only the Constitution, sector law, and the regulations as a form of domestic



written law. But Legislation Law stipulates ‘the detailed rules’ as one of general legal forms. Specially, Legislation Law prescribes “The Standing Committee of the Supreme People’s Assembly has the power to interpret and construct sector laws and the regulations, which has the same effect with the sector laws and the regulations” (Article 24).

The North Korean Constitution provides treaties as international law. The Cabinet may conclude a treaty with other countries (Article 125, Paragraph 11), and the Standing Committee of the Supreme People’s Assembly may ratify or abolish the treaty concluded by the Cabinet (Article 116, Paragraph 14). On the other hand, Article 103 of the North Korean Constitution bisects the right to ratify and abolish the treaty by stating that “The Chairman of the National Defense Commission of the Democratic People’s Republic of Korea has the following duties and authority to: 4. Ratify or abolish any important treaties with other countries.” However, there is no provision on the criteria and the effect of general and important treaties.

There are various views on whether or not decrees exist as a form of law in North Korea. Although decrees in South Korea encompass laws and ordinances, there is an understanding that laws in North Korea are conceived as legal documents that have the highest legal effect, being enacted and promulgated by the highest legislative body.<sup>23</sup> However, looking at the process of change in the North Korean Constitution, it is reasonable to understand decrees as a way of adopting laws, not as a form of law.

The Gwang-Myeong Encyclopedia published in North Korea states as follows:

The decree is the law adopted by the highest authority. It is divided into basic and common laws of the state. The basic laws of the state include the Constitution. Common laws include laws other than the Constitution:

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23. Ministry of Government Legislation, *North Korean Statutory Terminology Dictionary (I): Basic Law and Constitutional Law* (Seoul: Korea Legislation Research Service, 2002), p. 114.; Korea Legislation Research Institute, *Analysis of Legal Terms in North Korea (I): Constitution* (Seoul: Korea Legislation Research Institute, 1995), pp. 274-276.

criminal law, criminal procedure law, civil law, decrees on the people's economic plan, and decrees on the state budget. The laws of our republic are adopted only by the Supreme People's Assembly, the supreme legislative body, and have the highest legal validity among all laws and regulations. In our country, legislation is enacted through legislative proposal, deliberation, and approval. Interpretation of the decree is done by the Standing Committee of the Supreme People's Assembly. In some capitalist countries, the term 'decree' is used to refer to laws and ordinances, and in a broader sense, it refers to all legislative norms such as laws, orders, ordinances, and rules. In our country, only the law adopted by the Supreme People's Assembly is called the decree.<sup>24</sup>

The North Korean Constitution stipulates about decrees from the 1948 Constitution to the present Constitution in concept, but only until 1959 are decrees enacted in real, and are not to be found thereafter.<sup>25</sup> In particular, until the 1992 Constitution, Article 91 states, "The Supreme People's Assembly has the following powers to: 2. Enact or amend decrees," and Article 97 states "Supreme People's Assembly makes laws and decisions." Decrees were recognized as a form of legal adoption as well as a form of law. However, since the 1998 Constitution, only sector laws and regulations have been recognized as forms of law, and not the decrees. Therefore, according to the current North Korean constitution, decrees should be understood to mean a way of legal adoption, not a form of law.

Some view decisions stipulated by the North Korean Constitution to mean a norm that defines attitudes and behavioral directions of the state or residents.<sup>26</sup> However, a decision is a way to concretely imple-

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24. The Chosun Encyclopedia Compilation Committee, *The Chosun Encyclopedia* (Pyong-yang: Gwangmyung Encyclopedia Compliation Commitee, 2006).; Korea Legislation Research Institute, *Dictionary of North Korean legal terms* (Sejong: Korea Legislation Research Institute, 2017), pp. 324-325.

25. Wook Yoo, "North Korea's Legal System and How to Understand North Korean Law: Focusing on the Law Forms, Elements, Decisions, etc. in the North Korean Constitution," *Unification and Law*, vol. 6 (2011 May), Ministry of Justice, pp. 70-71.

26. Korea Legislation Research Institute, *Analysis of Legal Terms in North Korea (I): Constitution* (Seoul: Korea Legislation Research Institute, 1995), pp. 271-273.

ment the law, and should be understood to mean a way of adopting sector laws or regulations. According to Legislation Law, the Standing Committee of the Supreme People's Assembly and the Cabinet promulgate regulations in the form of 'decisions' (Article 23, 31).

### c. Common Law

North Korea, following the socialist law theory, does not recognize common law as a legal source. That is, the customs of the past and the social order based on them are opposed to the interests of the socialist revolution. In establishing a communist regime, North Korea saw all existing social order as being contrary to the interests of the revolution, and believed that only by defeating the existing social order, the socialist revolution could be accomplished. Thus, they denied common law as a legal source because the capitalist ruling class had used common law to oppress and exploit the workers, and because it legally fixated the Japanese colonial law and feudal customs.<sup>27</sup>

Since the establishment of the regime, North Korea has begun to work on enacting individual laws to establish the socialist revolution order and to annul all pre-existing laws and ordinances from the Japanese colonial period. In the process, however, no written law was enacted. Because the form and contents of the written law that was hastily enacted were unclear, other legal sources were needed to supplement it. Nevertheless, they did not recognize common law to meet the demands of the times to fulfill the socialist revolution.

### d. Case Law

The North Korean Constitution establishes a judicial system with the Central Court at the top; however, it does not recognize case law as a legal source, in accordance with socialist law theory. The North Korean court is not a judicial body that is independent of state institutions.

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27. Ministry of Justice, *Systematic Review of North Korean Law (I): Civil Relations Act*, (Seoul: Ministry of Justice, 1992), pp. 20-21.

Thus, it is not responsible for final legal interpretation. Since the Court is only a subordinate body to enforce national policies, it cannot provide a uniform standard of legal interpretation. However, there is controversy as to whether the directive of the Central Court can be a source of law.<sup>28</sup> In the former Soviet Union, the court recognized the court order of the Supreme Court as a legal source. In the former Soviet Union and other socialist countries, the Supreme Court issued a directive for the lower courts to adopt as a rule of law. Such directives, though not cases themselves, served as important guidelines for resolving legal disputes that could arise in the civil lives as well as in the courts. Thus, in the former Soviet Union, the Supreme Court of Justice recognized the directives of the Supreme Court to be a legal source, for such directives contain more than mere interpretations of the law, and many systems of civil law have been created by them.

In North Korea, the directive of the Central Court is not accepted as a source of law, for the task of the Court is to apply the law and not to enact it. In North Korea, the independence of ideology and the value of law are hardly recognized due their political and hierarchical qualities. Law is only a means of realizing party policies and there is little room for the court to stretch or reduce legal interpretations. In addition, unlike the former Soviet Union, the history of the court is so brief that it might have been difficult to admit its directives to be legal sources.<sup>29</sup> However, the North Korean court often makes judgments according to the democratic legal consciousness due to absence of the written law and such directives of the Central Court can serve as a practical court guideline.

#### e. Logic

From the process of establishing the regime, North Korea has modified its legal system in stages by liquidating the laws from the Japanese colonial era and enacting laws in accordance with socialist

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28. *Ibid.*, pp. 21-22.

29. Dal Gon Choi and Young Ho Shin, *op. cit.*, p. 93.

law theory. However, the written laws were not systematized formally, and their contents were unclear or contradictory. Due to the absence of the law, the legal life of the inhabitants was not regulated. In order to solve these problems, North Korea prepared standards for legal interpretation and application, which were expressed as 'legal consciousness,' 'democratic consciousness,' and 'democratic legal consciousness,' and were responsible for filling the defects and voids of the written law.<sup>30</sup> Such democratic legal consciousness means the totality of socialist ideologies and principles related to legal problems. It is acted as a means to reflect the policies of the Korean Workers Party in legal matters.

Socialist law theory recognized logic as one of the sources of law, considering the liquidity of law in terms of political ideology. Logic played an important role in cases such as in North Korea where there were many legal vacancies in the process of revising laws through the revolutionary process. Article 20 of the *Basic Principles on the Composition and Duties of the Judicial Branch, Courts and Prosecutors' Office of the People's Committee of the People's Republic of Korea*, promulgated in 1946, stipulates that "judges should judge on the basis of democratic legal sense and the interests of the Korean people," and declared that the democratic legal consciousness could become a source of law. The democratic law consciousness does not merely play a passive role supplementing the defamiation of the written law, but rather functions to prevent legal confusion and agitation until the new law is established after the nullification of an existing statute, and to carry out a stable socialist revolution. In the end, the democratic legal consciousness in North Korea means the totality of socialist ideologies and principles related to legal issues, and it is evaluated to function as a weapon to reflect the party's policies in concrete matters.

## **2. The Ways of Adoption of North Korean Law**

Regarding the written law, the North Korean Constitution distin-

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30. Ministry of Justice, *Ibid.*, p. 24; Dal Gon Choi and Young Ho Shin, *op. cit.*, p. 94.

guishes between a form of law and a method of adoption. In other words, there exist constitutional law, sector law, important sector law, regulation and detailed rule as forms of the written law, and there are decrees, ordinances, decisions and instructions as ways of adopting such written laws. First, the Constitution is amended and supplemented by the Supreme People's Assembly (Article 91, Paragraph 1) and amended and supplemented by a two-thirds majority of the representatives of the Supreme People's Assembly (Article 97). Therefore, the enactment, amendment and supplementation of the Constitution are carried out under the exclusive power of the Supreme People's Assembly, and the adoption of sector laws other than the Constitution is carried out in various ways according to the Constitutional institutions: the Supreme People's Assembly decides the decrees and makes decisions (Article 97); Chairman of the State Council gives orders (Article 104); the State Council makes decisions and instructions (Article 110); the Supreme People's Assembly Standing Committee issues orders, decisions, and instructions (Article 120); the Cabinet may make decisions and instructions (Article 129); Cabinet Committees and the State may issue instructions (Article 136). In addition, the provincial people's council issues decisions (Article 144), and the provincial people's committee can issue decisions and instructions (Article 150).

According to Legislation Law, the constitutional law and sector laws enacted by the Supreme People's Assembly may be promulgated in the form of 'decrees' (Article 16). The method of adopting sector law and major sector is decided by the decree of the Presidium of the Supreme People's Assembly, and the method of approval of the sector law is decided by the decree of the Supreme People's Assembly. Most of the sector laws enacted by North Korea since the 1998 Constitution were adopted by the Supreme People's Assembly Standing Committee. In North Korea's 2004 Code of Democratic People's Republic of Korea (for the people), there are 10 sector laws, including the Childcare Education Act, but these were all revised and supplemented by the decree of the Supreme People's Assembly Standing Committee. In addition, since the 1972 Constitution and prior to the 1998 Constitution, the decision of the Standing Committee of the Supreme People's

Assembly, not the decree of the Standing Committee of the Supreme People's Assembly, is used as a way to adopt sector law. The Supreme People's Assembly of the DPRK seems to adopt the law in the form of a sector or major sector law in the Supreme People's Assembly because the meeting is too short in duration to enact, amend or supplement the sector law. Therefore, most of the sector laws and major sector laws are formulated by the Standing Committee of the Supreme People's Assembly and convened during the adjournment of the Supreme People's Assembly. The important sector law is to be approved by the Supreme People's Assembly.

The Gwang-Myeong Encyclopedia published in North Korea states,

The ordinance is the legal document issued by the organ of the supreme state authority to carry out its duties. The Standing Committee of the Supreme People's Assembly, the supreme sovereign authority during the recess of the Supreme People's Assembly, adopts the decree. Since the adoption of the Socialist Constitution of the Democratic People's Republic of Korea on December 27, Juche year 61 (1972), the Central People's Committee issued an ordinance until the Socialist Constitution was amended and supplemented on September 5, Juche year 87 (1998). The ordinance is adopted in order to solve the important problems of social life which are raised both inside and outside the country, following the party's policies. The contents of the ordinance include the appointment and summons of diplomatic representatives, badges and medals, the enactment and award of honorary titles, the execution of ambassadors and special envoys, and the bringing in and fixing of administrative units and districts. Some ordinances have national character, and some are limited to a sector of the people's economy or individual state institutions, enterprises and social co-operative organizations, and citizens or certain regions. They are classified as such depending on the scope of their influence.<sup>31</sup>

According to Legislation Law, the sector laws enacted by the Standing Committee of the Supreme People's Assembly may be pro-

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31. The Chosun Encyclopedia Compilation Committee, *op. cit.*, 2006; Korea Legislation Research Institute, *op. cit.*, 2017, p. 676.

mulgated in the form of 'ordinances' (Article 23). The regulations enacted by the Standing Committee of the Supreme People's Assembly or the Cabinet Assembly may be promulgated in the form of 'decisions' (Article 23, 31). Among the forms of written law, North Korea adopts "rules" as a form of decision of the Standing Committee of the Supreme People's Assembly or as a decision of the Cabinet. All provisions except the 16 sub-regulations of the Kaesong Industrial Zone Act and the 10 sub-regulations of the Mt. Kungang Tourism District Act were adopted by the Cabinet. Sub-regulations of the Kaesong Industrial Zone Law and the Mt. Kungang Tourism District Act were adopted, amended and supplemented by ordinances of the Standing Committee of the Supreme People's Assembly. They are adopted by the decision of the Standing Committee of the Supreme People's Assembly, which is a higher institution than the Cabinet. This is because they had been enacted in special economic and tourism districts and established in accordance with the inter-Korean agreement on economic cooperation.

According to Legislation Law, detailed rules enacted by the Cabinet Committee or Council may be promulgated in the form of 'instructions' (Article 38). The detailed rules enacted by the central government Local People's Assembly and its Committee in Province (a city under the direct control of the central government) may be promulgated in the form of 'decisions' (Article 43).

North Korea has recently enacted laws on Special Economic Zones and laid down bylaws as subordinate norms to regulations. Kaesong Industrial Zone Act, Mt. Kungang Tourism District Act, Mt. Kungang International Special Tourism District Act, Rasun Economic Trade Zone Act, Hwanggumpyong Island and Wihwado Economic Zone Act and Economic Development District Act grant the right to make bylaws to central industrial zone guidance institution of Kaesong Industrial Area, central tourist district guidance institution, international special tourism district guidance institution, Rasun people's committee, North Pyeongan people's committee and so on, which are central guidance institutions. These regulations do not present any specific methods for adopting bylaws, and merely state "drawing up



of bylaws for the enforcement of industrial zone regulations,” and “drawing up of bylaws to enforce law and regulations.” In particular, the Rason Economic and Trade District Law, the Hwanggumpyong Island and Wihwado Economic District Law, and the Economic Development District Law prescribe rules as being subordinate to bylaws. In these Acts, rules as well as laws, regulations and bylaws are recognized as norms that are applied to special economic zones, and relevant administrative bodies should prepare the rules necessary for development and management.

### **3. Ranking the Force of the Written Law**

In North Korean law, the Juche ideology and the Chosun Labor Code and Covenant that specify the Juche ideology, have precedence over law, which is a means of practically realizing the ideology. The Constitution does not directly state the supreme normality of the Constitution amongst the forms of written law including constitutional law, sector laws and important sector laws, regulations, and bylaws. But, Legislation Law concretely prescribes the effect of constitutional law, sector laws, regulations, and detailed regulations. According to Legislation Law, constitutional law, sector laws, regulations, and detailed regulations have decreasing power in that order (Article 45, 46).

The amendment and supplementation of the Constitution is done only by the Supreme People’s Assembly, which is a supreme sovereign authority. Also, unlike any sector laws, it requires a special weighted quorum and a two-thirds majority of the representatives of the Supreme People’s Assembly. This shows how the Constitution is a superior norm with superior force over other laws.

As discussed above, the Supreme People’s Assembly can establish sector laws and important sector laws alone, but the Standing Committee of the Supreme People’s Assembly cannot decide on its own. It is required to obtain the approval of the Supreme People’s Assembly, demanding stronger democratic legitimacy. However, there exists no standard to distinguish important sector laws from general ones, and

there are no provisions on the effectiveness of general and important sector laws as well. Therefore, it cannot be concluded in haste that important sector laws have superiority over general sector laws. If the method of adoption of sector laws and major sector laws is different—decree of the Supreme People's Assembly or decision of the Standing Committee of the Supreme People's Assembly—the ranking of their powers may be controversial.

In the cases of sector laws or important sector laws, the ranking of their force may be controversial when there is a difference between the case where the adoption method is the ordinance of the Supreme People's Assembly and the case of the decision of the Supreme People's Assembly Standing Committee.

Considering the subjects and methods of adopting sector laws, the sector law adopted by the decree of Supreme People's Assembly may appear to have a superiority over that adopted by the decision of the Supreme People's Assembly Standing Committee. However, as discussed above, the session of the Supreme People's Assembly is so short that the Standing Committee of the Supreme People's Assembly exercises its powers on the occasion of its absence, and all sector laws adopted by the decree of the Supreme People's Assembly are passed to the Supreme People's Assembly Standing Committee for revision and supplement. Considering such factors, it can be concluded that the superiority of effect cannot be determined based on their adoption methods.

The ranking of the effectiveness between sector laws, regulations, bylaws, and rules can be inferred through the interpretation of special laws related to special economic zones such as the Constitution and the Economic Development District Act. The Constitution prescribes sector laws before regulations and stipulates in Article 125, Paragraph 2 that "The provisions related to state management shall be enacted, amended or supplemented based on the Constitution and sector laws." In addition, the adoption method of sector law is the decree of the Supreme People's Assembly or decision of the Standing Committee of the Supreme People's Assembly, and the manner of adopting the regulations is decided by the Cabinet. The Kaesong Industrial Zone Law

and the Mt. Kumgang Tourism District Act stipulate that "Economic activities should be in accordance with the provisions of this law and its enforcement." The Mt. Kumgang International Tourism Special Act and the Rason Economic and Trade Zone Act state, "...in accordance with the provisions of this Act, regulations and bylaws for the enforcement of this." The Economic Development District Act stipulates that "The enforcement regulations and bylaws in accordance with this law shall be applied." Hwanggumpyong Island and Wihwado Economic District Act state that "The regulations, bylaws, and rules for the enforcement of this Act shall apply."

It also states that the central guidance authority in the Special Economic Zone has the authority to make regulations, and that the management agency receiving such guidance has the authority to make bylaws and rules. In light of these regulations, the sector laws, regulations, bylaws, and rules of the sector are interpreted to have decreasing power in that order.

In North Korean law, it is possible to judge the rank of effect according to the superiority of the normative power. However, in cases other than the written laws such as the order of the chairman of the council, decrees, decisions, orders, decisions, and directives, the ranking of their mutual effect is still unclear.

The order of the constitutional organs in North Korea is not the form of written law as prescribed by the Constitution, but since it practically holds legal effect, its rank of effectiveness has a significant meaning. The rank of force of orders with legal effect is determined not by their names or forms but by the position of constitutional authorities that issues them. The law in North Korea functions as a means to realize the policies of the Chosun Labor Party according to the guiding ideology such as Juche Ideology and Songun Ideology. Therefore, the effect of the order depends on the status, duties, and powers of the state institutions prescribed by the Constitution. Legislation Law prescribes the same. The regulations enacted by the Standing Committee of the Supreme People's Assembly have a superior effect to those enacted by the Cabinet (Article 47). The regulations enacted by the Cabinet have a superior effect to those enacted by the central gov-

ernment Local People's Assembly and its Committee in Province (a city under the direct control of the central government) (Article 48). This is the same in the case of detailed regulations (Article 49, 50).

North Korea revised the 2009 Constitution and set up an independent chapter for the Chairman of the National Defense Commission. It stipulated the Chairman of the National Defense Commission as the best leader and chief commander, and strengthened its position and authority by emphasizing Songun ideology as the ruling ideology. In the 2012 Constitution, the National Defense Commission changed its name to the first chairman of the National Defense Commission. In the 2016 Constitution, the National Defense Commission changed its name to the State Council. Accordingly, the order of the powers of the Constitutional organs came to be listed in order of the Supreme People's Assembly, the Chairman of the State Council, the State Council, the Standing Committee of the Supreme People's Assembly, the Cabinet, and the Local People's Assembly. Their decrees, ordinances, orders, decisions and directives have superior effect over each other in the said order. In the end, in North Korea, the Juche ideology and the code of labor and the covenant, and the guidelines and policy decisions of the Chosun Labor Party with Kim Il Sung and Kim Jong Il directing at the top have the highest normative power over any written laws. As of written law, normative power is held foremost by the Constitutional ordinance, with guidelines, decision, and the written law having less power in that order.<sup>32</sup>

In general, there is a principle of superior law priority, principle of special law priority, and principle of new law precedence as the principle of legal interpretation that resolve contradictions and conflicts of laws, and it is necessary to examine whether these interpretation principles also apply to the cases of North Korean law. The North Korean Constitution states in Article 109 that

The National Defense Commission has the following duties and powers to: 3. Abolish the decisions and directives of the national authorities that are inconsistent with the orders of the Chairman of the State Council of

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32. Hyowon Lee, *op. cit.*, p. 24.

the Democratic People's Republic of Korea and the decisions of the State Council.

Article 116 states,

The Standing Committee of the Supreme People's Assembly has the following duties and powers to: 6. Abolish the decisions and directives of the national authorities that are inconsistent with the Constitution, the Supreme People's Assembly decrees and decisions, the DPRK Chairman's orders, the decisions and orders of the National Defense Commission and decrees, and decisions and directives of the Supreme People's Assembly. Also, to suspend wrong decisions by the local people's assembly."

As for the ranking of the effectiveness of North Korean law, constitutional law and the Legislation Law clearly stipulate this. In North Korea there is also a principle of superior law priority, principle of special law priority, and principle of new law precedence as the principle of legal interpretation that resolve contradictions and conflicts of laws. The Constitution is recognized as the highest norm. The principle of the higher is recognized because superior power is acknowledged in the order of the sector laws, regulations, and bylaws. The Legislation Law acknowledges a principle called the 'the special law priority principle of new law precedence' (Article 51). Specifically, in case there is contradiction and conflict between a new general norm and an old special norm, the authority has the power to make a decision about which norm may be applied (Article 54, 55).

North Korea enacted the Family Law based on the decision of the Standing Committee of the Supreme People's Assembly in 1990, and revised and supplemented it four times until 2009 based on the Constitution of the Presidium of the Supreme People's Assembly. Chapter 5 provides for inheritance. On the other hand, North Korea enacted the inheritance law under the ordinance of the Standing Committee of the Supreme People's Assembly in 2002 and stipulated it in detail throughout a total of 4 chapters and 57 articles. The previous family law consisted of 8 articles. While enacting the inheritance law, North

Korea has kept the existing family law in place, and amended and supplemented it without deleting the provisions of chapter 5 on inheritance.

## **IV. System and Classification of North Korean Law**

### ***1. Need for Systematization***

The difference between the political system and ideology of the two Koreas is reflected in the law of the two Koreas. Interpreting North Korean law from the point of view of the liberal democratic legal order—the basic principle of South Korean law—can lead to misinterpretation of the nature and function of North Korean law. Comparing the individual laws of North and South Korea without considering the overall structure and function of the law of North Korea has a risk of not only ascertaining the superiority of the South Korean law, but also failing to understand North Korean law accurately. Therefore, in order to understand North Korean law correctly, it is necessary to exclude the viewpoint of the South Korean legal system and grasp it from the perspective of the North Korean law itself. Based on this, individual laws should be classified and systemized in the framework of the overall legal structure, following the ideals and values of North Korean law. In short, it is necessary to systemize North Korean law in order to understand it accurately.

A precise understanding of North Korean law is a prerequisite for unification and subsequent integration of the two Koreas. A unified Korea should be based on a single legal value and ideology, and for this purpose, the legal integration of the two Koreas is essential. Various scenarios can be anticipated about the legal integration of North and South Korea according to the unification method, but the general standard of legal assimilation can be applied. Assimilation of law means heterogeneous laws changing equally under a single legal system.

Even in the case of North and South Korea, no matter what type of unification process is planned, the provisional application of North

Korean law for a certain period of time can be anticipated in order to achieve stable integration of the two Koreas. If the general principles of legal assimilation are applied to the case of South and North Korea, South Korean law should be revised to conform to the unification situation, and North Korean law shall be classified and revised. If North Korean law cannot be applied, new legislative action must also be needed to fill the gap. All of these tasks must be based on an accurate understanding of the North Korean legal system.

## **2. Criteria for Classification of North Korean Law**

In order to categorize and systematize laws, normative standards should first be established in order to distinguish the laws. However, it is difficult to propose a unified standard for uniformly distinguishing between the qualities and nature of law in various personal, social, and national domains. In the case of South Korea, individual laws and regulations are classified according to institutions, subjects, fields, and in alphabetical order, not according to a special system. The National Law Information Center of the Legislative Office divides them into 17 fields, the legal information system of the National Assembly into 44 fields, and the Legal Information Support Center of the Korea Legislation Research Institute divides them into 16 fields.<sup>33</sup> Law books also bind individual laws and regulations together into one based on the above classification. Such a classification system plainly lists various laws such as the Constitution, civil law, criminal law, environmental law, economic law, labor law, social security law, and tax law, and does not classify the special laws into subgroups. So it is difficult to say that they are systemized. However, this is inevitable to some extent because it is meant to enable a quick and accurate legal search by the users of the legal information system.

Unlike South Korean law, North Korean law does not distinguish between public and private laws. In North Korea, most administrative law is applied in the private sector, so the system of administrative law

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33. "The National Law Information center" <<http://www.law.go.kr>>; <<http://likms.assembly.go.kr/law>>; <<http://www.klri.re.kr>> (date accessed June 20, 2018).

is important. It is difficult to systematically classify administrative laws in South Korea as well. Administrative law areas are divided into administrative organization law, administrative action law, and administrative relief law. There is a view to systematize tax, economy, environment, labor, and social laws into separate legal areas.<sup>34</sup> This view systematizes the legal domain of dozens of administrative law subdivisions according to the administrative law classification model, and sets standards for academic research, not legal searches. What is fundamentally problematic in the systematization of South Korean law is how to clearly set the margin of administrative law. In the meantime, laws such as tax law and competitive law, which have traditionally been the subjects of administrative law, occupy the status of independent laws. In addition, it is unclear whether areas like environmental law, which is recognized as a subdivision of administrative law, belong to administrative law as well. The boundary between administrative and private law, such as civil law, is unclear as well and their qualities tend to be mixed.

In South Korea, various attempts have been made by state agencies or private research groups to organize and classify North Korean law. However, they do not provide any specific criteria for classification, and they classify them based on the South Korean legal system. Typically, the North Korean Legislative Information Center of Legislative Information Center classifies North Korean Law as follows: 1. Constitution, 2. Administration, 3. Judicial system, 4. Criminal law, 5. Civil and trade, 6. Finance and economy, 7. Diplomacy and commerce, 8. Industrial resources, 9. Land and transportation, 10. Agriculture, forestry and fisheries, 11. Education, Science and Technology, Culture and Publishing, 12. Health, 13. Environment, 14. Information and Communication, 15. Intellectual Property Rights, 16. Labor and Welfare, and 17. Special Zones and Economic Cooperation.

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34. Jong Go Choi, *Introduction to Korean Law* (Seoul: Pakyungsa, 2003).



### 3. Classification of North Korean Law

So far the views on the classification and system of North Korean law have basically modeled the classification and system of South Korean law. Despite differences in legal ideologies and values, the two Koreas share common qualities in terms of their functions as state administrative agencies. Also, it is reasonable to compare the laws of North and South Korea in relation with each other. In addition, a unified Korea, after achieving peaceful reunification, is expected to adopt South Korean law as its base, and South Korea law will be an important standard even if North Korea pursues open reform policy or system transformation. Therefore, it would be useful to classify and systemize North Korean law based on the systematization model of South Korean law. However, such systematization poses a risk of misinterpreting and misunderstanding the function and role of North Korean law. In addition, some opinions have failed to meet the goal of systemization of North Korean law, for they bind various individual administrative laws into a single item. Some viewpoints are unbalanced for they recognize the land and cooperative laws, which constitute a socialist planned economy, as separate areas from economic law.

In the past, North Korea has sorted laws into constitutional law, laws for strengthening state and economic institutions, laws for deepening ideological revolution, laws for deepening technological revolution, laws for deepening cultural revolution, and sector laws. Such classification of the law based on its political purpose and function makes it difficult to systematically understand North Korean law.<sup>35</sup> The DPRK Code of Law, which was first published in 2004 for the public, puts the Constitution first and lists the remaining 111 North Korean laws alphabetically, meaning they are not classified or systematized according to specific standards. North Korea published the DPRK Code of Law (2nd edition) in 2012 and published an additional edition in 2016. In it, the Constitution is listed first, followed by the systematic classification of laws by sectors: sovereignty, administration, criminal

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35. Guk Pyo Hong, *DPRK Lawmaking History*, (Pyong-yang: Scientific Encyclopedia Publications, 1986), pp. 224-287.

and civil, economy, trade, industry and land, infrastructure and transport, the land, transport and maritime affairs, people's service, construction, urban management, terrestrial environment protection, finance, insurance, science and technology, intellectual property, education, culture, sports, health, social welfare, and foreign economy. It is not clear what criteria North Korea followed to classify as above. However, examining such a classification is useful in understanding North Korea's viewpoint of legal systemization.

## **V. Conclusion**

North Korean law is based on socialist law theory, but its contents were changed according to Juche theory of law and the perspective of revolutionary leader. North Korean law differs from South Korean law in its ideology and system. North Korean law functions as a means to fulfill the purpose of the political power of the state, and Juche ideology and Kim Il Sung and Kim Jong Il's teachings are superior to the actual laws. The doctrine and codes of the Korean Workers' Party, especially, function as norms above the constitutional and other written laws. However, North Korea maintains the system of the written law, and its Constitution is known to have the authority. There are important sector laws and sectors law under the peak of constitution, and regulations, bylaws, and rules are systemized below.

The North Korean Constitution stipulates decrees and decisions that can be adopted by the Supreme People's Assembly. The decrees, decisions, and directives refer to the way in which laws such as sectoral laws or regulations are adopted, not the form of law themselves. On the other hand, the North Korean Constitution recognizes treaties as international law, and distinguishes between general and important treaties. In North Korea, common law and case law are not recognized as legal sources according to socialist law theory. However, the directive of the Central Court may serve as a guideline for judicial proceedings in practice. On the other hand, democratic legal sense is regarded as a holistic socialist ideology and principle related to legal problems,

and functions as a weapon to reflect the party's policies in concrete matters. In this scope, it can be partially recognized as a source of law.

In North Korean law, the Juche ideology and the Chosun Labor Code and its rules that embody such ideology have precedence over the law that practically realizes them. Among the forms of written law, the superior effect exists in the order of the Constitution, sector law and important sector law, regulation, bylaws, and rules. However, there are no regulations on the effectiveness of the general and important sector laws. On the other hand, effectiveness of laws and decisions—which are methods of adoption in North Korean law—are determined by the status of the Constitutional Ordinance which invokes them rather than their names or forms. In other words, law in North Korea functions as a means of realizing the policy of the Chosun Labor Party according to the guiding ideologies such as Juche and Songun ideologies. That is, their effects are determined according to the status, duties, and authority of the state organs as prescribed in the Constitution. In other words, the laws, ordinances, orders, decisions, and instructions of the Supreme People's Assembly, the Chairman of the State Council, the State Council, the Standing Committee of the Supreme People's Assembly, the Cabinet, and the Local People's Assembly have decreasing power in this order of state organs.

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