



## Online Series

2022. 02. 23. | CO 22-06

# The Characteristics and Implications of North Korea's Recent Acts of Legislation

- Property Execution Law, Child Care Law, and Protection of Rights of North Koreans Overseas Law -

**Lee, Kyu-Chang**

(Senior Research Fellow, Humanitarianism and Cooperation Research Division)

On December 15, 2021, North Korea adopted the property execution law as its first law in the area of civil execution. This appears to be motivated by policy to implement the socialist enterprise responsibility management system through the enactment of lower-level laws, following the revision of the constitution. It is expected to contribute to the spread of a sense of rights to property in North Korea. Attention needs to be paid to how it might affect the North Korean society and its system of property rights. Meanwhile, North Korea adopted the child care law and the protection of rights of North Koreans overseas law as laws of the Supreme People's Assembly (SPA) on February 7, 2022. The laws were passed through unprecedented steps such as an announcement of the law and deliberations. The adoption of these two laws serve several policy-related purposes, including the strengthening of internal control by highlighting the spirit of loving the people, cultivating the image of a fatherly leader, and responding to criticism of human rights by the international community. Considering the economic crisis in North Korea, it is also considered to be related to other policy goals, namely to expand the mobilization of female labor and the hosting of foreign investments.

Through the course of revising its legal system from December 2021 to February 2022, North Korea passed several laws that are noteworthy in terms of its process, style, and substance. This study analyzes the characteristics and significance of the adoption of the property execution law, the child care law, and the protection of rights of North Koreans overseas law from the perspective of the North Korean legal system. It is necessary to note that the analysis below is limited since the laws have not yet been fully released. The study therefore focuses on news reports from North Korea's state-owned media outlets.

## I . Property Execution Law

### First Law in the Area of Civil Execution: Specialization and Development of the Civil Legal System

On December 15, 2021, North Korea held the 18<sup>th</sup> Plenary Meeting of the 14<sup>th</sup> term of the Presidium of the Supreme People's Assembly (SPA) and adopted the property execution law as a directive of the Presidium. Regarding the law, the Korean Central News Agency (KCNA) reported that the property execution law "specifically details issues related to the processes, methods, and legal responsibilities pertaining to requests for the execution of property and the issuance of execution clauses in order to establish a system and order to rule, judge, arbitrate, and decide on property with which to protect the civil rights and interests of institutions, enterprises, organizations, and citizens."<sup>1)</sup> Substantive laws such as civil law, the inheritance law, and the damage compensation law, as well as a procedural law in the civil procedure law have already been enacted by North Korea, but there had not been an independent law on civil execution. The significance of the property execution law is that it is the first law regulating civil execution which indicates that North Korea's civil legal system is specializing and developing. While the court sentence and decision implementation law includes the Korean word for 'execution' in the name of the law,

---

1) Korean Central News Agency, December 15, 2021.

its meaning differs from the execution of property.

### **Reflecting the Implementation of the Socialist Enterprise Responsibility Management System**

The property execution law regulates the protection of civil rights and interests of ‘institutions, enterprises, and organizations.’ The property execution law is not the first time that the protection of the rights and interests of these entities have been detailed in the North Korean legal system as they are mentioned in article 240 of the civil law and article 3 of the damage compensation law. Related laws can also be found in articles 1 and 2 of the maritime litigation law enacted in 2011. Despite this, that ‘the protection of civil rights and interests of institutions, enterprises, and organizations’ is specified in the property execution law is noteworthy as it appears connected to the implementation of the socialist enterprise responsibility management system. Immediately after the death of Kim Jong-il in December 2011, Kim Jong-un ordered the preparation of plans for an ‘economic management method for our-style of socialism.’ He then announced the ‘socialist enterprise responsibility management system’ through a speech on May 30, 2014. In 2019, North Korea deleted the existing law on ‘alternative management systems’ and specified the implementation of the socialist enterprise responsibility management system in article 33 of the constitution, thereby providing its constitutional foundation. Regarding the protection of rights and interests, the main features of the socialist enterprise responsibility management system, intended to broaden the freedom of enterprises, include the expansion of rights to set prices and resell as well as the rights to obtain funds and manage the budget. Given this, the property execution law seems to be intended to more actively implement the socialist enterprise responsibility management system by revising lower-level laws.

## Contributing to the Increasing Sense of Rights to Property in North Korea

In addition to the growing trends of marketization, the sense of rights to property is also increasing among the people of North Korea. Along with existing North Korean laws that regulate the rights to private property, the property execution law is expected to further enhance this sense among the people as it stipulates the ‘protection of rights and interests of the people.’ It is in this regard that close attention needs to be paid to the changes to North Korean society that the enactment of the property execution law will bring. Moreover, whether the law will precipitate a change to North Korea’s system of property also needs to be closely watched. North Korea’s system of property consists of three types: state property, property of social-cooperative organizations, and private property.<sup>2)</sup> Private property is strictly limited to on-the-side accounting activities. The property of social-cooperative organizations is also restricted to land, farm machinery, ships, small- and mid-size factories, and enterprises. Meanwhile, the term ‘rights to material property,’ which is not specified in the North Korean legal system, has begun to appear in various North Korean legal documents as the economic system has changed.<sup>3)</sup> This illustrates that civil rights and interests are being recognized as *de facto* property rights in North Korean society. But the rights and interests of institutions, enterprises, organizations, and citizens’ activities are not yet officially recognized as property rights under North Korean law.

---

2) Article 21, 22, and 24 of North Korea’s Constitution; Article 37 of North Korea’s civil law.

3) Eun-Jung Lee, “Recent Trends in North Korean Civil Legislation: Focusing on Change of Economic System (in Korean),” *Unification and Law* 46 (2021): 88.

<Table 1> North Korean Laws and Regulations related to the Protection of Civil Rights<sup>4)</sup>

Law	Dates	Regulations
Socialist Constitution	Adopted on December 27, 1972 Revised on August 29, 2019	Article 24: <b>Private property</b> is property owned and consumed by individual citizens. ... The State shall protect <b>private property</b> and guarantee by law the right to inherit it. Article 33: The State shall enforce the <b>socialist enterprise responsibility management system</b> in economic management, and shall make proper use of such economic levers as cost, price, and profit.
Civil Law	Adopted September 5, 1990 Amended March 20, 2007	Article 60: ... A citizen may possess, use or dispose of <b>property he or she owns</b> according to socialist standards of life and for the purposes of his or her consumption. Article 240: <b>Institutions, enterprises, organizations, and citizens</b> shall bear civil liability in cases where they have violated <b>the civil rights of another</b> or have violated their <b>civil duties</b> .
Civil Procedure Law	Adopted January 10, 1976 Amended November 11, 2017	Article 16: Cases to resolve through civil judicial processes are as follows. 4. Cases to confirm facts that have <b>civil rights</b> and legal significance
Inheritance Law	Adopted March 13, 2002	Article 2: Protecting <b>privately owned property</b> is the consistent policy of the Democratic People's Republic of Korea. The State shall guarantee a right of inheritance over <b>privately owned property</b> .
Damage Compensation Law	Adopted August 22, 2001 Amended April 19, 2005	Article 3: The State shall fully compensate damage that has decreased or unable to be increased caused by violating the property or person of <b>institutions, enterprises, organizations and citizens</b> .
Maritime Litigation Law	Adopted January 19, 2011	Article 1: The maritime litigation law of the Democratic People's Republic of Korea ... satisfactorily guarantees parties' right to litigate maritime disputes and contributes to the protection of <b>civil rights and interests</b> . Article 2: The terms included in this law mean the following. 3. Maritime litigation refers to the demands for certain actions of <b>institutions, enterprises, organizations and citizens</b> regarding the violation of their <b>legitimate interests</b> by others.
Property Execution Law	Adopted December 15, 2021	<ul style="list-style-type: none"> <li>○ Guaranteeing the civil rights and interests of institutions, enterprises, organizations, and citizens</li> <li>○ Process, method, and legal responsibilities pertaining to requests for the execution of property and the issuance of execution clauses</li> </ul>

## II. Child Care Law and protection of rights of overseas Koreans law

From February 6 and 7 at the Mansudae Assembly Hall, North Korea held the 6<sup>th</sup> meeting of the 14<sup>th</sup> term of the SPA and adopted the child care law and the protection of rights of overseas Koreans law.<sup>5)</sup> Given the title of the legislation, the child care law is expected to include laws regulating child care. The new child care law has the characteristic of a special law related to North Korea's childcare and educational law. Despite this latter law, North Korea does not have a law independently regulating the issue of child care. Meanwhile, article 15 of the Constitution of North Korea stipulates that the rights and interests of North Koreans overseas are protected. The protection of rights of overseas Koreans law appears to consist of rules pertaining to this fact. A news report from the *Choson Sinbo* largely refers to two aspects. One is 'issues related to rights of North Koreans overseas in their host countries,' and the other is 'policy measures and related issues undertaken by North Korea for North Koreans overseas.'<sup>6)</sup> The protection of rights of overseas Koreans law is the first instance where the word 'right' is included in the title of a North Korean law. While it remains partial and limited, this demonstrates that awareness of rights is increasing in North Korea.

### Announcing Legislation and Deliberation

Unprecedentedly, North Korea announced in advance the adoption of the child care law and the protection of rights of overseas Koreans law, while also holding a debate at the SPA on these laws. On December 15, 2021, North Korea advertised that the two laws would be deliberated in Pyongyang at the 6<sup>th</sup> meeting of the 14<sup>th</sup> term of the SPA on February 6, 2022.<sup>7)</sup> The SPA was held on February 6 and 7 as announced to conduct a study on, and deliberate a draft of, both the child care law and the

---

4) Dates of revision refer to the final revision (amended and supplemented) date.

5) *KCNA*, February 8, 2022.

6) *Choson Sinbo*, February 12, 2022.

7) *KCNA*, December 15, 2021.

protection of rights of overseas Koreans law before adopting them as laws of the SPA.<sup>8)</sup> North Korea's announcement and deliberation of laws was highly unusual. In the past, the North Korean media would simply report on the adoption of laws without such processes. Here, deliberation does not refer to an open discussion but rather a forum in which the guidance of the dear leader or the policies of the Workers' Party of Korea (WPK) are supported and reiterated given the North Korean political system. But it is nevertheless a meaningful change. It will be worth paying attention to whether this legislative process at the SPA will remain a one-time event or become the norm in the future.

### Adoption of Laws of the SPA

Different from other laws, the child care law and the protection of rights of overseas Koreans law were adopted as laws of the SPA. North Korea's legislative system consists of laws, directives, decisions, orders, and directions.<sup>9)</sup> Major issues are legalized in the form of laws and directives, as stated in article 11 of the legislation law of North Korea. This can be further divided into two categories. First, North Korean rules that are the equivalent of South Korean laws are generally adopted or amended by the Presidium of the SPA in the form of directives, as stated in article 120 of the Constitution. On the other hand, issues that are more important from the perspective of national policy are adopted as laws of the SPA, according to article 97 of the Constitution. "On the implementation of a comprehensive 12-year compulsory education system"<sup>10)</sup> or "on firmly consolidating the status of a defensive nuclear state"<sup>11)</sup> are key cases of laws of the SPA being adopted during the Kim Jong-un era.

---

8) *KCNA*, February 8, 2022.

9) Article 97, 105, 111, 120, 136, 144, and 150 of the Constitution of North Korea.

10) Adopted at the 6<sup>th</sup> meeting of the 12<sup>th</sup> term of the SPA on September 25, 2012.

11) Adopted at the 7<sup>th</sup> meeting of the 12<sup>th</sup> term of the SPA on April 1, 2013.

### Legislating the Guidance of the Dear Leader

Given this, why does North Korea consider the child care law and the protection of rights of overseas Koreans law so important, so much so that it announced the legislation in advance and adopted them as laws of the SPA? The reason can be found in the dear leader's interest in the issue of child care. Since becoming the leader, Kim Jong-un has cultivated an image of a leader that loves and cares for children. As an example, the North Korean media reported how the Pyongyang child care center and orphanage was completed and later visited by Kim Jong-un in October 2014, soon after his rule began.<sup>12)</sup> In particular, Kim Jong-un stressed at the 3<sup>rd</sup> plenary meeting of the 8<sup>th</sup> term of the WPK on June 17, 2021 that "there is not a more important revolutionary ideology than healthily raising the children well," and that "fostering an improved environment for child care is the most crucial and most aspired policy of the Party and the State." The Kim Jong-un regime has further highlighted child care policies through measures such as publishing a photo book of the ten-years of child care policy under the Kim Jong-un regime in December 2021.<sup>13)</sup> The legislation of child care policy not specified under the North Korean Constitution illustrates the reality of North Korea's legal system in which the guidance of the dear leader<sup>14)</sup> operates above the constitution.

### Serving a Complex Range of Policy Purposes

It appears that the adoption of the child care law and the protection of rights of overseas Koreans law serve a number of purposes. Adoption of the child care law can be viewed as intended to strengthen internal control by highlighting the spirit of loving the people, while also being designed to cultivate the image of a fatherly leader that loves his children. It also seems to be a response to criticism of human

12) *Rodong Sinmun*, October 26, 2014.

13) MBC Korea Reunification Observatory, "Emphasizing Child Care Policy (in Korean)," December 11, 2021, [www.youtube.com/watch?v=XLVD12DqANo&t=304s](http://www.youtube.com/watch?v=XLVD12DqANo&t=304s) (accessed February 14, 2022)

14) Instructions of Kim Il-sung, words of Kim Jong-il, and directions of Kim Jong-un.



rights issues in North Korea raised by the international community through the issues of child care and women. From a similar perspective, the protection of rights of overseas Koreans law can also be considered as a way to demonstrate how Kim Jong-un is invested in the protection of rights and interests of North Koreans living abroad. In its report on the adoption of these two laws, the KCNA stated that they ‘reflected the Party’s noble view of the next generation and its ideology of appreciating North Koreans overseas.’<sup>15)</sup>

Beneath the surface, however, these measures also appear to be intended to overcome current challenges facing the regime. As is well known, North Korea faces three threats in the form of sanctions, natural disasters, and the COVID-19 pandemic. The 4<sup>th</sup> plenary meeting of the 8<sup>th</sup> term of the WPK Central Committee held from December 27 to 31, 2021 spent much time on economic issues while discussing few details on foreign policy. In this context, it appears that North Korea seeks to expand the mobilization of female labor through the adoption of the child care law. Likewise, the protection of rights of overseas Koreans law also seems to be addressing the economic crisis by increasing investments through North Koreans living abroad as specified in its laws regulating the foreign economy. These intentions can be discovered in mentions by participants during deliberations for these two laws that stressed how the adoption of the child care law and the protection of rights of overseas Koreans law ‘will provide a strong legal foundation on which a new victory in the construction of socialism will be achieved.’<sup>16)</sup> Meanwhile, there is also the view that North Korea sought to preemptively acquire justification for its policy on Koreans abroad by adopting the protection of rights of overseas Koreans law before South Korea passes its basic law on overseas Koreans. While it is impossible to rule out such political motives, this may be an exaggeration considering North Korea’s internal situation and how South Korea already has a law<sup>17)</sup> regarding its policy on overseas Koreans.

---

15) KCNA, February 8, 2022.

16) KCNA, February 8, 2022.

17) Act On The Immigration And Legal Status Of Overseas Koreans.

&lt;Table 2&gt; Laws and Regulation Regarding the Protection of Rights and Investments of Overseas North Koreans

Law	Regulation
Constitution	Article 15: The Democratic People's Republic of Korea shall champion the democratic national rights of Koreans overseas and their rights recognized by international law as well as their interest.
Rason Economic and Trade Zone Law	Article 4: ... Korean compatriots residing outside the territory of our country may also invest in the economic and trade zone according to the law. Article 7: In the economic and trade zone, the property, legal income, and rights given to investors shall be protected by law. ...
Hwanggumpyong Island, Wehuado Economic Zone Law	Article 5: ... Korean compatriots residing outside the territory of our country may also invest in the economic zone according to this law. Article 8: The property, legal income, and rights given to investors in the economic zone shall be protected according to law. ...
Economic Development Zone Law	Article 5: ... Overseas Koreans may invest in economic development zones, and can establish corporations, branches, and offices as well as freely conduct economic activities. Article 7: The rights, invested property, and legal income in the economic development zone shall be protected according to law.
Foreigner Investment Law	Article 5: ... Overseas Koreans may also invest according to this law.
Protection of Rights of Overseas Koreans Law	<ul style="list-style-type: none"> <li>○ Issues related to the rights of overseas Koreans raised in their host countries</li> <li>○ Issues related to policies by North Korea for overseas Koreans</li> </ul>

©KINU 2022

※ The views expressed in this paper are entirely those of the author and are not to be construed as representing those of the Korea Institute for National Unification (KINU).