



Living on the Border? Human Rights and Selection Process in the Forced Migration of North Korean Defectors

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Abstract

This study analyzes North Korean human rights for North Koreans abroad using three approaches—the concepts of nationality, refugee, and migrant. The first approach is that North Koreans abroad be given South Korean citizenship under the Korean Constitution. Yet, no country except South Korea recognizes North Korean defectors as South Koreans and this approach has contributed little to the protection of North Koreans from repatriation to North Korea. The second approach is that North Korean defectors as a group be granted refugee status. Each government, however, can determine a North Korean defector's refugee status according to its own assessment of the North Korean asylum-seeker. The third approach is that North Korean defectors be considered migrants. By viewing North Korean defectors as migrants, North Korean human rights issues may be reduced to universal human rights ones with which the government of an asylum country has to deal. These three approaches should not be mutually exclusive. They each represent an aspect of North Korean human rights and they should be compromised in order to enhance the human rights of North Korean defectors in practice.

Keywords: North Korean defectors, North Korean human rights, citizenship, refugee, migrant, conceptual dilemma

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Introduction

North Korean defectors are individually dependent on their unique life paths, yet they are perceived as collective beings. North Korean defectors who defected from North Korea in the 1990s due to food shortages may have faced different life conditions from those who defected from North Korea in the 2000s and 2010s. What North Korean defectors want and need may accordingly change over time as they settle in a new place. Therefore, in order to promote the human rights of North Korean defectors, it is not enough to support and protect them as a homogeneous group; it must be admitted that they are beings with varied statuses and identities.

Advocacy groups for North Korean human rights often claim that North Korean defectors abroad are South Korean citizens or refugees. Since South Korea's Constitution defines the Korean Peninsula as a territory, some human rights NGOs and conservative politicians, including former President Park Geun-hye, also argue that the South Korean government should be responsible for North Korean defectors in China because they are South Korean citizens. Others advocate that North Korean defectors should be protected as refugees because they are likely to face serious threats if repatriated to North Korea. These approaches have rarely taken it into account the path dependencies of their lives.

North Korean defectors in South Korea are granted Korean citizenship and South Korean society expects them to finally settle in South Korea. North Korean defectors receive the same level of assistance and protection although the reasons for their defection from North Korea vary. Based on the assumption that South Korea is their final destination for migration, the South Korean government has provided social integration services; thus, when some North Korean defectors choose to move to other countries, social criticism mounts over the social integration policy. The unexpected choices and migration of North Korean defectors are considered the results of policy failures of the South Korean government.

North Korean defectors' decision regarding whether to leave North Korea, whether to return to their country, and/or whether to settle in South Korea is the decision process of forced migrants. In this process, it is

assumed that forced migrants make their decisions in the face of harsh living conditions and based on the anticipation of being victimized by the North Korean ruling group if they return to North Korea or of obtaining external support if remaining abroad. In other words, responding to the preconditions within North Korea, the socio-economic opportunities in China, and the level of assistance and protection of the South Korean government, North Korean defectors are likely to choose that option wherein the expected benefit is greater than the expected cost.

This study illustrates that a selection process model of forced migration will be useful for analyzing the multiple statuses and identities of North Koreans in response to preconditions in North Korea and external opportunities to obtain assistance. It focuses on conceptual discourses to clarify the multilayered status of North Korean defectors to protect their human rights. In so doing, this study elaborates the linkage between conceptual elements and changing realities in an attempt to extend the scope of North Korean defectors' human rights.

Conceptual Dilemma of North Korean Defectors' Human Rights

The human rights of North Korean defectors have been broadly addressed in the context of North Korean human rights. Despite growing international attention to North Korean human rights, the definition and components of concepts related to North Korean human rights have not been sufficiently explored. Particularly, the concept of North Korean human rights is developed with the policy objective of solving problems rather than for the analysis of social phenomena. Concepts developed to solve policy problems, such as North Korean human rights, tend to vary depending on the situation because they focus on problem-solving rather than analysis of the phenomenon itself (Gerring 2012; Goertz 2005; Kaplan 1964; Song 2011, 17, 22–24). Since North Korean human rights are a complex concept that includes real problems, moral values, and theoretical relations, political controversy is likely to intensify over whether North Korean human rights are a North Korean problem, a human rights issue, or a means of political

pressure.

There are two important reasons behind the occurrence of analytical ambiguity in the concept of North Korean human rights itself. First, the conceptual ambiguity of North Korean human rights is caused and deepened by the phenomenon of naturalizing the value of human rights and personifying North Korea. They are often referred to as “North Korean human rights” for convenience, but this contributes to the politicization of North Korean human rights by personifying the state or political system of North Korea (Park et al. 2013, 83–85).

Second, the conceptual ambiguity of North Korean human rights is deepened by the securitization that follows the conceptual overlap between human rights and humanitarianism. Human rights issues and humanitarian issues may be the same or different. Since the human dignity of an individual should be respected regardless of time and place, the essential value of human rights cannot vary depending on time and place. However, there may be epistemological differences in how to realize human dignity. The responsibility and method for human rights protection and promotion vary depending on whether to approach it on a community basis (Walzer 1983; Weiner 1996) or on an individual basis (Beitz 1983; Donnelly 2003; Phuong 2005). In this context, there can be no disagreement regarding the justification for realizing the human dignity of North Koreans. However, practical policy considerations are also required because it is difficult to provide an effective and sustainable solution to the North Korean human rights problem taking solely a normative approach.

North Korean defectors can be classified as North Korean citizens, South Korean citizens, refugees, or migrants. According to the South Korean Constitution and historical public sentiment, North Korean defectors abroad (i.e., outside South Korea) can be understood as South Koreans. However, it is also undeniable that North Korea is recognized as a sovereign state by the international community; therefore, North Korean defectors are citizens of the North Korean state, which holds primary responsibility for the protection of their human rights.

Whenever the issue of the forced repatriation of North Korean defectors receives public attention, the international community argues that they

should be protected as refugees by the international refugee regime. The possibility of persecution by the North Korean regime is presented as reason for granting them refugee recognition, yet whether to recognize North Korean defectors as refugees is a political decision of the relevant government of the country of their residence (Song 2016). Therefore, it has been consistently argued that North Korean defectors should be protected by universal and comprehensive human rights regulations because they have crossed the border (Park et al. 2011; Yoon 2009). North Koreans who attempt to return to North Korea while officially or unofficially engaged in economic activities may also belong to this group. If North Korean defectors are defined as refugees, the international community and the government of the country of refugee residence can carry major responsibility as the agents of human rights protection; if the North Koreans are defined as migrants, the government of residence takes primary responsibility to protect them.

North Koreans' defection and migration can be considered a decision-making process by forced migrants regarding whether to cross the border and where to settle. It is assumed that North Korean defectors make their decisions in the face of political persecution or food shortages and based on the anticipation of either being repatriated or of receiving external support once they have crossed the border. Therefore, responding to the preconditions within North Korea, the perceived socio-economic opportunities of neighboring countries, and the anticipated level of international humanitarian assistance and protection, North Korean defectors are likely to choose that option wherein the expected benefit outweighs the expected cost. North Korean defectors share incomplete information and move together based on their situated rationale for seeing refuge.

The defection of North Koreans following their migration is conceptually a multi-layered phenomenon. First, the migration of North Korean defectors is a process in which North Korean defectors, the governments of North Korea and neighboring countries, and international agencies seeking to assist and protect migrants, interact simultaneously and in sequence. In contrast to the deterministic view of the relationship between cause and outcome, North Korean defectors may or may not have

their ultimate destination in mind when they leave North Korea, and some of them may only settle on a destination in the midst of their movement. Second, the responses of neighboring states and the international community affect the decision-making processes of North Korean defectors. Third, issues surrounding North Korean defectors' human rights are taken seriously when they appear in the public discourse. Fourth, North Korean defectors do not know when and where their journey will end.

Human Rights of North Korean Defectors as South Korean Citizens

The argument that North Korean defectors residing abroad should be protected as South Koreans is based on the South Korea Constitution and nationalistic sentiments. According to Article 3 of the Constitution, "The territory of the Republic of Korea shall be the Korean Peninsula and its annexed islands," and Article 10, "All citizens have dignity and value as human beings and have the right to pursue happiness." Based on this, some advocates argue that North Korean defectors can also be South Korean citizens. From this normative perspective, therefore, the South Korean government must fulfill its obligations and responsibilities to protect North Korean defectors. But this approach does not recognize the sovereignty of the North Korea regime and is likely to be interpreted in a hostile manner by North Korea.

The declarative definition of North Korean defectors as South Koreans does not fully reflect the realities of the international system based on individual state sovereignty. Unlike Article 3 of the Constitution, Article 4 admits that Korea's sovereignty does not have a substantial effect on North Korea in international politics: "South Korea aims for unification and establishes and promotes a peaceful unification policy based on a liberal democratic order." Since the concept of *people* is derived based on national sovereignty, logical contradictions arise between declaring North Korean defectors as South Koreans and protecting them as South Koreans under the sovereign state system.

Although South Korea does not recognize North Korea as a sovereign

state due to the territorial provisions of the Constitution, North Korea is recognized as a sovereign state in the international system. The two Koreas were unanimously approved to join the United Nations at the 46th UN General Assembly on September 17, 1991. As of March 2016, North Korea had established diplomatic relations with 160 countries, and among these, 157 countries, with the exception of Cuba, Macedonia, and Syria, maintain diplomatic relations simultaneously with South Korea. In this situation, there are practical difficulties for any country to officially recognize North Korean defectors staying in its own country as South Korean citizens.

Whenever the issue of the repatriation of North Korean defectors from China to North Korea is publicized, it is argued that North Korean defectors should be protected as South Koreans. Former South Korean president Park Geun-hye also repeatedly stressed that North Korean defectors living abroad deserve to have their rights as South Korean citizens protected as soon as they cross the North Korean border (*Daily NK*, January 13, 2005). Similarly, a National Assembly member, Hwang Woo-yeo, argued that the South Korean government should amend the law to issue passports and support the costs for North Korean defectors to stay in China or third countries (*Daily NK*, June 30, 2008). A conservative National Assembly member, Park Sun-young, and others also asked the South Korean government at the time to fulfill its national protection obligations when North Korean defectors faced forcible repatriation to the North (*Yonhap News*, February 23, 2012). However, the Chinese government has only in a few cases officially allowed the South Korean government to bring North Korean defectors in China to South Korea.

The Chinese government consistently recognizes North Korean defectors as illegal migrants for economic purposes because it considers North Korean defectors as North Korean citizens rather than as South Koreans (Park et al. 2011). China cannot officially recognize North Koreans as South Koreans unless it denies North Korea's sovereignty. China puts more importance on political and social stability in northeastern China and diplomatic relations with North Korea than the protection of North Korean defectors' human rights. Therefore, in the early 2000s, the Chinese government did not officially allow North Korean defectors to move to

South Korea or a third country despite the humanitarian demands of South Korea and the international community. Only North Korean defectors who entered the embassy of South Korea, Spain, Canada, Germany, and Japan and applied for protection were able to move to the country where they wished to be settled (*Free Asian Broadcasting*, October 22, 2002; *NK Chosun*, September 30, 2004; *NK Chosun*, April 26, 2002; *Yonhap News*, September 25, 2004).

If it becomes public knowledge that the government of a third country has intervened in the process of North Korean defectors entering South Korea, that intervening government will bear a considerable political burden. Not only China but other East Asian countries have denied to intervene in this process in consideration of their official diplomatic relations with North Korea. For example, the government of Vietnam lodged an official protest with the South Korean government after it was widely and revealed to the media that 468 North Korean defectors had been flown into Vietnam in July 2004 (Park et al. 2011). The 35 North Korean defectors arrested by Chinese police in September 2011 and the repatriation of North Korean adolescents by the Laos government in May 2013 are prime examples of the diplomatic obligations governments face despite international concerns and pressures over possible human rights violations (Song 2016).

Considering the historical nature of inter-Korean relations and the value Korean society places on unification, the declarative argument that North Korean defectors have rights as South Koreans can only be applied when they arrive at a South Korean diplomatic mission or within South Korean territory. Otherwise, governments in China and other East Asian countries value the principles of international relations over humanitarian demands. In other words, there is a discrepancy between the justifiable norms of such arguments and the reality of the international system. Therefore, approaching the problem of North Korean defectors abroad in terms of protecting their rights is based on constitutional values, but at the same time reflects hopeful thinking regarding a solution to the problem.

Human Rights of North Korean Defectors as Refugees

The international community tries at times to protect North Korean defectors' human rights as refugees. There is a normative agreement among organizations operating in the international refugee regime that individuals are not refugees because they are recognized as such but because they themselves are refugees (UNHCR 2011). This proclaims the responsibility of the international community to protect refugees regardless of whether they are recognized as such or not. In this context, if there is reasonable fear of persecution and discrimination should they be repatriated, it is possible for the international community to recognize North Korean defectors as refugees (Cho 2010; Song 2016; Chan and Schloenhardt 2007). However, the argument that North Koreans should always be automatically recognized as refugees beyond time and space may not be valid considering the reality of refugee protection in the international community.

There are many differences between the international community's practice of protecting refugees and the normative agreement of the international refugee regime. In other words, the content and scope of policies to accommodate and protect refugees vary greatly depending on the degree of understanding of refugees by governments. The protocol of international organizations, including the United Nations High Commissioner for Refugees (UNHCR), to assist and protect refugees has also varied depending on time and place. Especially, the centrality of recognizing individual refugees according to the 1951 Refugee Convention, conflicting interests of refugee protection and sovereignty, and perceived security threats resulting from refugee movement affect the refugee policy of each government in its own political context (Haddad 2008; Song 2012).

First, the definition of refugees in the 1951 Convention relating to the Status of Refugees (i.e., the 1951 Refugee Convention) is based on the principle that refugee status is recognized for each individual. In other words, unless genocide or ethnic cleaning occurs, refugee status is not automatically granted because refugee status applicants have a specific nationality, but refugee status is recognized according to the individual circumstances of the applicant. In order to be recognized as a refugee by the government of the

country of refuge, it is necessary for asylum seekers to prove that individuals are facing a serious threat if they return to their home country. This process takes considerable time and is costly, and without external help, it is difficult for asylum seekers to prepare themselves and to obtain recognition for their refugee status. However, in facing turbulent violence, governments and UN refugee organizations can protect refugees as refugees without strictly applying the refugee status determination procedures.

Considering these points, it is practically unlikely that the governments of East Asian countries will automatically grant North Korean defectors refugee status. The international community made efforts to protect North Korean defectors as refugees *sur place* because they experienced mass evacuation due to extreme food shortages during the so-called Arduous March (*gonan-ui haenggun*), the period of prolonged famine in the 1990s. China was very reluctant to protect North Korean defectors, but at that time, the UNHCR recognized the possibility of refugee recognition for North Korean defectors as follows:

The distinction between an economic migrant and a refugee is, however, sometimes blurred in the same way as the distinction between economic and political measures in an applicant's country of origin is not always clear. Behind economic measures affecting a person's livelihood there may be racial, religious or political aims or intentions directed against a particular group. Where economic measures destroy the economic existence of a particular section of the population (e.g., withdrawal of trading rights from, or discriminatory or excessive taxation of, a specific ethnic or religious group), the victims may according to the circumstances become refugees on leaving the country. (UNHCR 2011, para. 63)

Since the 2000s, the argument that North Korean defectors should be recognized as refugees and their rights should be protected on the grounds that they are likely to be politically persecuted if forcibly repatriated has become convincing (Kim 2012; B. 2012; Lee 2006). However, despite these claims, the international community still does not automatically grant North Korean defectors refugee status. This is because North Korean defectors

must individually prove the possibility of persecution. It is difficult to logically refute the Chinese government's claim that North Korean defectors are illegal migrants unless the international community clearly demonstrates that they will face political persecution from the North Korean regime should they be returned. Even if there is sufficient normative and legal basis for considering North Korean defectors as refugees, whether they will obtain refugee status and their level of human rights protection will inevitably vary depending on the Chinese government's refugee policy.

Second, since the concept of refugees in the 1951 Refugee Convention is closely related to national sovereignty, large-scale inflows of refugees can pose a political burden to a host government relative to the government of the country of origin. Recognition by the government of China and other East Asian countries of the refugee status of North Korean defectors, in turns implies a diplomatic criticism of the North Korean regime for its lack of willingness and ability to fulfill its primary responsibility of protecting the human rights of its citizens. According to the principle of state sovereignty, the basic responsibility for protecting the human rights of citizens in the international community lies with the respective national government, and the international community cannot arbitrarily grant refugee status to citizens in the territory of another sovereign state. In this context, the most tragic aspect of this situation is that when the North Korean regime fails to fulfill its responsibility to protect its citizens, yet the host government is reluctant to recognize their refugee status, North Korean defectors become wanderers between borders.

The principle of sovereignty guarantees individuals the right to leave their own country but prevents them from deciding, based solely on their own will, the new state where they will settle. If a migrant does not obtain permission to settle from the government of that country where they desire to settle, it is difficult for that migrant who has left their own country to secure protection for their human rights, and the role of the international community also becomes limited. For example, if neither the North Korean regime nor the government of the country where North Korean defectors are living has the ability and will to protect North Korean defectors as refugees, they are less likely to be recognized as such. Just as European

countries tighten their borders to curb the influx of refugees, China also controls the influx of North Korean defectors by closing its borders, especially when faced with international pressures to protect North Koreans as refugees.

Third, the mass influx of refugees can pose a serious threat to national and regional security. One of the reasons the international community formed a refugee regime was due to a shared perception that the massive migration of refugees could bring about unprecedented security threats. Refugees flowing into a country may include former rebels and terrorists, and if there are refugee camps, they can be exploited as places of recruitment and resource mobilization by rebels to enhance their power and influence. In addition, increasing financial support for refugees inevitably reduces welfare expenditures on residents, thereby increasing public dissatisfaction. Due to concerns over such issues, most governments view the mass influx of refugees as a serious threat to national security.

These three components are very closely linked to the refugee concept, and the difference in perception of each government affects refugee policy implementation. Considering the components of this refugee concept, it is unlikely that the Chinese government will grant refugee status to North Korean defectors. Regarding the issue of the Chinese government forcibly repatriating North Korean defectors to North Korea in 2012, some South Korean politicians have said the South Korean government should be able to bear the costs of conducting refugee screening of North Korean defectors in China. However, these arguments were bound to be limited to political investigations. There was no close review at the levels of domestic law, international law, and international political reality of the Korean government bearing the costs of Chinese judicial procedures.

There are not only North Korean defectors but also other foreigners residing in China whose human rights are likely to be abused, and indeed, the issue of their human rights protection is often more urgent and serious than for North Korean defectors. There are currently more than 200,000 refugees from Myanmar temporarily residing in China to avoid violence in Myanmar, but the Chinese government has preferred a policy of allowing their temporary stay at the border rather than recognizing them as refugees.

When China came into diplomatic conflict with the Myanmar government, it strongly urged the Myanmar government to return its citizens, but when the bilateral relationship was cooperative, China implemented a policy of gradually reducing the number of refugees (Song 2016). Considering this situation, recognizing the refugee status of North Korean defectors would create political pressure on the Chinese government to recognize the refugee status of Myanmar migrants.

The Chinese government's refugee policy and its policy toward North Korean defectors are in the same line. China is reluctant to give refugee status to residents of any race or ethnic minority because it has concerns about the separatist movement of minorities. Therefore, both Myanmar refugees and North Korean defectors are allowed to enter China and reside there insofar as they do not threaten China's domestic stability, but the Chinese government does not recognize their refugee status. Although the number of North Korean defectors is decreasing with China's tightening control over its border with North Korea, the increasing number of North Koreans traveling to China on an official visa shows that the Chinese government tries to control the inflow of North Koreans based on its immigration policy.

It is difficult to apply the concept of refugees collectively to North Korean defectors. Some North Korean defectors are refugees for reasons such as political persecution, but others repeatedly defect from North Korea for economic reasons. For this reason, views vary from country to country as to whether North Koreans leaving their country can of itself serve as a basis for recognizing their refugee status. Diplomatic relations with North Korea and the political and security environment in the host country affect the decision-making process regarding North Korean defectors' refugee status. European countries, the United States, and Canada have traditionally recognized North Korean defectors as refugees, but in the 2010s these countries' governments have gradually grown more passive in recognizing North Korean defectors' refugee status. Western governments have come to perceive that not all North Korean defectors leave their country seeking to become refugees. Similarly, China continues to recognize North Korean defectors as economic migrants.

Human Rights of North Korean Defectors as Migrants

North Korean defectors also possess human rights as migrants. Recognizing North Korean defectors as refugees implies that they were somehow compelled to leave their home and country. However, North Koreans' defection and subsequent migration shows that North Korean defectors do not react passively to environmental factors, but their final destination and form of migration may vary depending on their understanding and expectations of international assistance and protection (Yi 2013). This means that North Korean defectors may play a role as political agents responding to structural environments such that they can be characterized as migrants.

The possibility of North Koreans making bounded but independent choices in the process of defection and subsequent migration has hardly been discussed because the structural factors behind defection from the North Korean regime have received excessive attention in research and policymaking. North Korean defectors can be broadly conceptualized to encompass the following groups: North Korean defectors staying abroad (i.e., outside South Korea), North Korean defectors settled in South Korea, North Korean defectors who have settled in and then left South Korea, and North Korean defectors who left and then returned to South Korea (Song 2016). In addition, it is necessary to approach their human rights issues through the social adaptation process of ordinary migrants because the motives of North Korean defectors and their choice of destination have changed over time (Yoon 2009).

The process of North Koreans' defection from North Korea and settlement in a new place can be analyzed in terms of the interaction between opportunity and personal choices employing a frame of "opportunity and willingness" or "menu and choice." The use of this analytical frame serves to illustrate the complex migration process of North Korean defectors, in which they affect the migration policies of the countries to which they are travelling as they make their decisions regarding final destination (Song 2012). The current phenomenon of North Korean defection and migration cannot be viewed as equivalent to voluntary

migration in modern society. It can in fact be viewed as a type of forced migration wherein North Korean defectors leave their home country without sufficient information toward a refuge and prepare to settle in that refuge. The international spread of North Korean defectors reflects their willingness to calculate opportunity costs and to change their destination in the process of migration.

Not all North Korean defectors may have a firm final destination in mind from the start of their journey. Some North Korean defectors want to temporarily earn income in China and then return home, while others decide from the beginning to move to South Korea, China, or a third country. In fact, it is known that many North Korean defectors earn economic income while staying in China and then return to North Korea, and further, that they repeat this process.

From this perspective, it would be an excessive generalization to assume that North Korean defectors have South Korea in mind as their final settlement from the beginning. When China strengthens its border control and North Koreans have more opportunities to officially work in China through the China National Tourism Administration, North Koreans are more likely to reside in China as migrants rather than defect from North Korea. This trend appears to be vividly observable following the death of Kim Jong-il. Though the defection of 13 North Korean overseas restaurant employees in April 2016 was interpreted as the beginning of a series of defections from the regime due to sanctions against North Korea, this is not supported by the empirical evidence. It cannot be overlooked that if North Koreans are presented with an opportunity to officially engage in economic activities abroad, many may choose to *escape* North Korea. This is why the human inclination to remain at home should be considered first before assuming that human nature inclines them to migrate to a new place.

Viewing North Korean defectors as migrants in order to protect their human rights has various advantages, both conceptually and politically. First, this approach can cover various types of North Korean defectors. Human rights issues such as those of North Korean workers staying in China with official labor permits, those who have defected from North Korea by illegal means and procedures, North Korean defectors who have

formed families in China, and stateless children, can be addressed in terms of universal human rights at the global level. In order to protect the stateless children of North Korean defectors in China, for example, the human rights regime under international law could be actively utilized (Lee 2012). Since the types of North Korean migrants vary, it would be useful to utilize the system of international law to improve human rights issues surrounding North Korean defectors in most categories.

Second, North Korean human rights can be reduced to the category of universal human rights. First of all, it is known that North Korean workers abroad in repressive working conditions face serious human rights violations, to include forced labor, overwork, and wage exploitation, all under the supervision of North Korean government agencies. If North Korea's economic, political, and labor structure cannot be changed, the international community can at least demand the protection of the universal rights of migrant workers in the country where their labor is taking place. The human rights of North Korean defectors as illegal migrants can also be improved indirectly by demanding improvements in general working environments. The human rights issues of women who have formed families in China can induce international cooperation so that the universal rights of women can be realized. In addition, various issues related to the rights of stateless children are important for realizing universal rights globally, including in China; thus, cooperation between the Chinese government and the international community could gradually become possible.

Third, this approach allows the international community to prevent the politicization of North Korean defectors' human rights. Approaching North Korean defectors as migrants rather than as citizens or refugees provides frees the government of the country of residence and the international community from too much worry concerning political and diplomatic relations with North Korea. As the North Korean human rights issue is reduced to a human rights issue within the country where North Korean defectors reside, it is possible to diversify measures to improve their human rights. For example, women's human rights and the human rights issues of stateless children can be addressed as fundamental tasks facing Chinese government in exercising its responsibilities as a global leader. This approach

can be used to depoliticize North Korean human rights.

Nevertheless, the approach from the perspective of a North Korean defector as a migrant does not necessarily guarantee the improvement of North Korean human rights. North Korean human rights related to North Korean defectors should be understood complementarily because they also have the characteristics of North Korean defectors as citizens or refugees. Therefore, it is necessary to introduce diversified perspectives on North Korean human rights related to North Korean defectors rather than a single perspective. Protecting the human rights of North Korean defectors as migrants also comes with a policy problem, namely that a prerequisite to this is cooperation with the government of the host country, but this approach, along with the justifiable normative approach of citizens or refugees, can be expected to contribute to the diversification of research and to greater policy efficiency.

Conclusion

Although the human rights issue of North Korean defectors must be included as a part of North Korean human rights, little conceptual analysis has been undertaken. North Korean defectors residing abroad can be considered citizens of the Republic of Korea or as refugees by the international community, while they have the general characteristics of migrants. None of these three characteristics as human rights holders encompass all North Korean defectors' human rights issues. Approaching North Korean defectors as citizens of the Republic of Korea may reflect historicity and the political implications of their defection, but with this approach it is difficult to expect positive results insofar as the improvement of their human rights and one can only expect informal effects. In addition, approaching them as refugees has the advantage of affording them direct and practical protection, but there is a negative aspect to this in that North Korean defectors are less likely to be recognized as refugees in China than in other countries. Recognizing North Korean defectors as migrants also takes a universal human rights-based approach, but a positive results can be

expected only when cooperation from the government of the country of residence is premised. The government of China and other countries of residence should be accompanied by the political will and efforts to protect universal human rights for migrants of various foreign nationalities in the country.

These three attributes of North Korean defectors are not mutually exclusive. Rather, they overlap and complement one another. Nevertheless, the reasoning behind such a distinction is that the recognition of North Korean human rights as a single image is not wholly conducive to concept development and policy development. By analyzing the complex and interlayered conceptual structure, various aspects of North Korean human rights can be illuminated, and misunderstanding and expectations driven by wishful thinking can be adjusted.

In order to fundamentally solve the human rights problem of North Korean defectors, appropriate prescriptions should be given for problematic factors in North Korea. However, considering the reality that it is difficult to achieve the goal in a short period of time, a practical approach is required to protect the human rights of North Korean defectors. In addition to protecting North Korean defectors as citizens or refugees, it is necessary to introduce means and procedures to protect and promote the human rights of North Korean defectors as migrants. This will not reduce North Korean human rights issues to either North Korea's problems or the Korean Peninsula's problems, but it will allow the two Koreas to resolve the problem of politicization and securitization to some extent by returning them to the realm of the universal human rights of migrants.

Controversy over the universality and relativity of human rights has always existed in regards to North Korean human rights in particular. It is generally accepted that human rights violations in North Korea have become a serious concern of the international community. However, the timing, place, and aspect of human rights violations can vary considerably. Therefore, in addition to collecting objective data for improving human rights in North Korea, it is necessary to reassess under what conditions the human rights of North Koreans outside of North Korea are likely to be violated. Discussions on who violates human rights and who is responsible

for addressing such violations should be made more carefully in the future, and international efforts to enhance international cooperation towards the realization of the universal human rights of North Korean defectors should continue.

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