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Legislation related to Violence against Women in North Korea

Yejoon Rim

This article examines the legislation of the Democratic People's Republic of Korea (DPRK) related to violence against women to identify the sufficiency of its protection according to international standards, as well as the adequacy of implementation. The DPRK criminalizes violence against women through national laws, including the *Law on the Protection and Promotion of the Rights of Women* adopted in 2010. However, domestic violence remains inadequately regulated, and a comprehensive definition of sexual violence including marital rape has not been introduced. This fundamentally derives from the customs of the DPRK's patriarchal society where the notion of dominance of men over women prevails. Violence against women is a violation of human rights which has generally resulted from the inequality of power between the sexes. Based on recognition of the root causes, the DPRK needs to improve legislation for the protection and support of victims of violence against women.

Keywords: Violence against women, North Korean women, legal protection, patriarchy, CEDAW

I. Introduction

Violence against women is one of the oldest forms of discrimination and the most prolonged manifestations of inequality.¹ Violence against women is not the result of random, individual acts of misconduct, but rather is deeply rooted in structural relationships of inequality between the sexes.² Violence against women is neither the result of a misfortune of an individual woman nor an instance of deviant or pathological misconduct of an individual man, but is rather deeply rooted in, and reinforced through, structural relationships of inequality between women and men embedded in society.³ Thus all forms of violence against women, including sexual violence, domestic violence, and forced prostitution, should be considered as crimes derived from a social problem, and the measures to be taken need to be legally institutionalized.

For decades, the international community has been deeply concerned about the human rights situation of the Democratic People's Republic of Korea (hereinafter, DPRK or North Korea).⁴ Among vulnerable groups in North Korea, the human rights situation of women in the country is also raising concern in the international community in regard to discrimination against women with fixed gender roles, limited

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1. Alice Edwards, *Violence against Women under International Human Rights Law* (Cambridge: Cambridge University Press, 2006), p. 179.
 2. United Nations, *Ending Violence Against Women: From Words to Action, Study of the Secretary-General* (New York: United Nations, 2006), p. 7.
 3. Na Young Lee and Min Sook Heo, "Gendered Violence and Gender Regime in the Neo-Liberal State of South Korea: Reconceptualization and Reconstruction of Violence Against Women," *Family and Culture*, vol. 26 (2014), p. 59.
 4. The Special Rapporteur on the situation of human rights in the DPRK was appointed by the UN Commission on Human Rights in 2004 (resolution 2004/13) and has been renewed on an annual basis by the UN Human Rights Council. In 2013, the Human Rights Council established a Commission of Inquiry to investigate systematic, widespread and grave violations of human rights in the DPRK (A/HRC/RES/22/13). The Commission of Inquiry on Human Rights in the DPRK submitted its report in 2014 with findings that systematic, widespread and grave human rights violations which amount to crimes against humanity have been and are being committed by the DPRK (A/HRC/25/63).

political participation and social entry, prevalent violence against women, treatment of women repatriated after defecting from North Korea, and poor women's health and maternal health conditions.⁵ Among those issues, this article will focus on violence against women, examining the relevant North Korean legislation to identify whether there is a legal vacuum concerning the protection of women and the country's consistency with international standards and norms. This evaluation will be based on criteria embodied in international human rights treaties as well as the standards discussed in the United Nations. North Korea, as a State party to the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter, CEDAW), ratified on February 27, 2001, must comply with the obligations and international standards imposed by the CEDAW. The CEDAW requires a State party to take active measures to suppress all forms of violence against women. This includes not only action taken by or on behalf of the Government, but also measures to prevent violence against women by private persons.⁶ A State party may also be responsible for private acts if it fails to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.⁷ To comply with obligations imposed on the State party, a State party shall take all appropriate measures, including legislation (Article 3 of the CEDAW). In other words, a State party needs to institutionalize a legal framework to eradicate violence against women and to develop an effective policy for practical implementation. Therefore, legislation related to suppressing violence against women is the primary responsibility of the State to implement. Of course, having legislation per se does not ensure the protection of rights, but it still provides the minimum level

5. Kyung-ok Do et. al., *White Paper on Human Rights in North Korea* (Seoul: KINU, 2017), pp. 350-393; Sungho Je, "The Present Situation of North Korean Women's Human Rights and Tasks for their Improvement," *The Korean Journal of Unification Affairs*, vol. 47 (2007), pp. 185-195.

6. CEDAW, General Recommendation No. 28: Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (2010), paras 9-10.

7. CEDAW, General Recommendation No. 19: Violence against women (1992), para 9.

of standards for protection. Meanwhile, such legislation reflects how a country recognizes and perceives violence against women. Thus, this article examines whether North Korean women are adequately protected from the perspective of the law, and if not, what and where the problem is.

In April 2016, the DPRK submitted the combined second to fourth periodic report to the Committee on the Elimination of Discrimination against Women (hereinafter, the Committee) in accordance with Article 18 of the CEDAW, which obliged State parties to submit a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention. The DPRK had postponed its submission of reports since it submitted the first report in September 2002. The Pre-Sessional Working Group of the Committee reviewed the report in March 2017 and drew up a list of questions. Among a number of issues listed in relation to violence against women, the major issues to be dealt with include the definition of rape, the legal measures taken to criminalize violence against women such as marital rape and harassment, the present conditions and measures to prohibit and prevent domestic violence, the remedies available to women who are survivors of domestic violence, and the sanctions against perpetrators according to the law.⁸ The Committee considered the combined second to fourth periodic report of the DPRK at its 1554th and 1555th meetings held on November 8, 2017 and presented the concluding observations on November 17, 2017.⁹

Hereinafter, this article first examines the definition of violence against women and the State's obligation to eliminate violence against women. It will then review the international community's concerns and recommendations over violence against women in the DPRK (II). This article then examines and evaluates the DPRK's legislation on violence against women in accordance with the international community's recommendations and standards to find out where a legal loophole exists and possible measures to improve the protection of North Korean women from violence (III). In the conclusion, based on the Committee's

8. UN Doc. CEDAW/C/PRK/Q/2-4 (15 March 2017), para 10.

9. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017).

discussion for its combined report in November 2017, this article will address the direction of the Committee's discussion for suppressing violence against women in the DPRK.

II. The State's Obligation to Suppress Violence against Women

1. Definition and Cause of Violence against Women

Violence against women gained international attention at the World Conference on Women held in Nairobi, Kenya in July 1985. The Conference provided a blueprint for action until 2000 that linked the promotion and maintenance of peace to the eradication of violence against women throughout the broad spectrum of society. The Nairobi Forward-looking Strategies for the Advancement of Women, adopted by the World Conference, identified violence against women as a major obstacle to the achievement of peace and the other objectives for the decade, and, as such, should be given special attention.¹⁰ They also acknowledged the need for public awareness of violence against women as a societal problem.¹¹ However, this Conference delimited the problem of violence against women as an issue concerning a particular group of young and abused women, and did not go further to set the agenda for fighting against violence as a universal issue for women.

In the 1990s, efforts by the women's movement led to raised awareness that violence against women is a human rights problem.¹² Since the Vienna Declaration and Programme of Action of the World

10. The Nairobi Forward-looking Strategies for the Advancement of Women, adopted by the World Conference to review and appraise the achievements of the UN Decade for Women: Equality, Development and Peace, held in Nairobi, Kenya, 15-26 July 1985, para 258.

11. United Nations, *Ending Violence Against Women*, *supra* note 2, p. 9.

12. Sally Eagle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), p. 2; Jane Roberts Chapman, "Violence against Women as a Violation of Human Rights," *Social Justice*, vol. 17 (1990); Report of the Secretary-General, In-Depth Study on All Forms of Violence Against Women, UN Doc. A/61/122/Add.1 (2006), paras 23-54.

Conference on Human Rights, adopted in Vienna in June 1993, violence against women has been regarded as a severe infringement of human rights, which is also a cause and consequence of discrimination against women. The Declaration on the Elimination of Violence against Women, adopted at the UN General Assembly on December 20, 1993, defined the term “violence against women” to include any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.¹³ This Declaration affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms while recognizing that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and further, that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. As the international document which first defines violence against women as a gender-based act, this Declaration promoted an agenda to fight against violence against women in the 1990s.

Violence against women can be divided into violence within the family, violence in the society, and violence by the State authorities. Violence within the family is one of the most insidious forms of violence against women. This includes battering, marital rape, other forms of sexual assault, and mental and other forms of violence that are related to harms based on traditional customs and perpetuated by traditional attitudes. Violence in society includes physical, sexual, and psychological violence such as rape, sexual abuse, sexual harassment and threats, human trafficking, and forced prostitution that may occur in work places or on the streets. Violence by the State authorities includes physical, sexual, and psychological violence committed or tolerated by the State authorities, wherever it happens. Those are all gender-based forms of violence, which women all over the world may experience just “because

13. Article 1 of the Declaration on the Elimination of Violence against Women, GA Res. 48/104 (1993), UN Doc. A/RES/48/104 (20 December 1993).

they are women.”¹⁴ Indeed, violence against women is rooted in power imbalances and structural inequality between men and women and, because of this, is not a simple individual problem.

2. Measures to Suppress Violence against Women

In its General Recommendation No. 19 (1992), the Committee recognized that “gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”¹⁵ The definition of discrimination of women can be found in Article 1 of the CEDAW. According to Article 1 of the CEDAW, “discrimination against women” means “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, on the basis of equality between men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹⁶ It includes gender-based violence—that is, violence that is directed against women because they are women, or that affects women disproportionately—and considers as violence acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.¹⁷ Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.¹⁸

14. Deuk-Kyoung Yoon et. al., *Study on the Legislative Adjustment for the Integrative Operation of Protection and Support of Female Victims of Violence* (Seoul: Korean Women’s Development Institute, 2015), p. 15.

15. CEDAW, General Recommendation No. 19: Violence against women (1992), para 1.

16. Article 1 of the CEDAW.

17. See Rikki Holtmaat, “The CEDAW: a holistic approach to women’s equality and freedom,” in Anne Hellum & Henriette S. Aasen (eds), *Women’s Human Rights: CEDAW in International, Regional and National Law* (Cambridge: Cambridge University Press, 2013), pp. 99-102.

18. CEDAW, General Recommendation No. 19: Violence against women (1992), para 6.

In order to eradicate all forms of violence against women, the Convention calls on State parties to take all appropriate and active measures. This includes not only to prohibit and prevent violence against women committed by the State authorities, but to prevent, prosecute, and punish violence perpetrated by private actors and take responsibility to remedy victims if the State authorities fail to act with due diligence to prevent violence.

The Committee provides specific recommendations to State parties. Above all, the Committee recommends that State parties take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private acts, through prevention, active response, including prosecution and punishment, as well as preparing remedies for victims and doing research and reporting on the extent, cause and effects of violence.¹⁹ Specifically, the Committee asks State parties to ensure that legislations against family violence, abuse, rape, sexual assault, and other gender-based violence give adequate protection to all women and respect their integrity and dignity through providing victims with appropriate protective and supportive services.²⁰ While encouraging State parties to compile statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and delay violence, the Committee recommends that State parties identify the nature and extent of attitudes, customs, and practices that perpetuate violence against women in their report.²¹ State parties are also recommended to provide effective complaint procedures and remedies, including compensation.²² General Recommendation No. 35 (2017), which updates the General Recommendation No. 19 (1992), adopted by the Committee on July 14, 2017, further recognizes that the prohibition of gender-based violence has become a norm of international customary law.²³

19. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (a).

20. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (b).

21. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (c), (e).

22. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (i).

23. General Recommendation No. 35 (2017), which updates the General

The Declaration on the Elimination of Violence against Women also requires States not only to refrain from engaging in violence against women, but to exercise due diligence to prevent, investigate, and punish acts of violence against women perpetrated by private persons (Article 4 (b) and (c)).²⁴ It also notes that States should develop penal, civil, labor, and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subject to violence (Article 4 (d)) and impose State responsibility to take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate, and punish violence against women receive training to sensitize them to the needs of women (Article 4 (i)). Furthermore, the 1995 Beijing Declaration and Platform for Action, adopted at the fourth World Conference on Women, extends the scope of violence against women²⁵ and designates the strategic objective to study the causes and consequences of violence against women and the effectiveness of preventative measures. These responsibilities of the State to take effective measures to prohibit, prevent, and protect women from violence are specified as State parties' obligations through the CEDAW.

The CEDAW obliges State parties to take effective measures to protect women from all forms of violence that could occur in the family, workplaces, or various fields of social life. Article 2 stipulates that State parties condemn discrimination against women in all its forms and pursue a policy of eliminating such discrimination. And to this end,

Recommendation No. 19 (1992), expands the understanding of violence to include violation of sexual and reproductive health rights, defines different levels of liability of the State for acts and omissions committed by its agents or those acting under its authority and for failing to act with due diligence to prevent violence at the hands of private individuals and companies, protects women and girls from such violence, and ensures access to remedies for survivors.

24. The Declaration on the Elimination of Violence against Women, GA Res. 48/104 (1993), UN Doc. A/RES/48/104 (20 December 1993).
25. For instance, to include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection. Beijing Declaration and Platform for Action, para 115, available at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

section (f) of Article 2, to which the DPRK withdrew its reservation in November 2015, specifies taking all appropriate measures, including legislation, to modify or abolish existing laws and regulations as well as customs and practices which constitute discrimination against women. State parties are also required to repeal all national penal provisions which constitute discrimination against women. Article 2 and Article 3 create comprehensive obligations upon State parties to eliminate all forms of discrimination, together with specific obligations imposed by Article 5 and Article 6 of the CEDAW. Further, Article 5 requires State parties to take all appropriate measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” Meanwhile, for the effective implementation of the Convention, gender-sensitive training of judicial and law enforcement officers and other public officials was seen to be crucial.²⁶ In accordance with Article 6, “States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” To overcome trafficking and sexual exploitation, specific preventive and punitive measures should be taken.²⁷

III. Analysis of North Korean Legislation Related to Violence against Women

1. Laws on Women’s Rights in General

The DPRK adopted the Decree on Gender Equality in July 30, 1946 through the decision of the Provisional People’s Council No. 45 before the establishment of the Government in September of the same year.

26. CEDAW, General Recommendation No. 19: Violence against women (1992) para 24 (b).

27. CEDAW, General Recommendation No. 19: Violence against women (1992) para 24 (g).

This Decree aims to ensure equal political freedom and rights of women and men with respect to the right to vote, the right to be elected, the right to education, and the right to work, while prohibiting forced marriage, polygamy, prostitution and the *gisaeng* system.²⁸ The major contents of the Decree were incorporated in the DPRK's Constitution in 1948. Article 77 of the DPRK's Constitution (amended in 2016) also prescribes ensuring gender equality and protection of maternity by stipulating that: "Women are accorded equal social status and rights with men. The State shall afford special protection to mothers and children by providing maternity leave, reduced working hours for mothers with several children, a wide network of maternity hospitals, nurseries and kindergartens, and other measures. The State shall provide all conditions for women to play their full roles in society."

The Family Law²⁹ and Labor Law³⁰ also stipulate gender equality as

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28. Korean Bar Association, *2016 White Paper on Human Rights in North Korea* (Korean Bar Association, 2016), p. 243. *Gisaeng* refers to a person who works to entertain others, while providing sexual services. It first appears in the 10th century in *Goryeo* as the government's legal entertainers, and spread nationwide in the 14th century, in the *Joseon* dynasty. They were carefully trained and frequently accomplished in the fine arts, poetry, and prose, although their talents were often ignored due to their inferior social status.
29. The DPRK had regulated family relations through individual legislations such as the 1946 Decree on Gender Equality, and the 1986 Civil Code. In 1990, an independent and systematic Family Law was adopted. Relevant provisions related to women include special protection of mothers and children, regulations on marital property, monogamy, gender equality in family life, ranking among legal heirs, etc. See Eui-Jeong Hwang & Dae-Seok Choi, "The Prospects of Change in the Legal Status of Women Seen through the Newly Women-related Legislation in North Korea," *Northeast Asian Law Journal*, vol. 9 (2015), pp. 8-9.
30. The DPRK legislated the Socialist Labor Law in 1978. Provisions related to women's rights include shortened working hours for motherhood, equal pay for equal work, special protections for pregnant women such as not to engage in hazardous and dangerous work, overtime work, maternity leave, and so on. By regulating the special protection of female workers, this law contributes to increasing the status of women in the DPRK. Sunwook Kim et. al., *A Study on the Status of North Korean Women – with Special Reference to the Legal Systems and Policies concerning North Korean Women* (Seoul: Korea Women's Development Institute, 1992), pp. 45-46.

well as protection of women within the family and society. However, such legislation in relation to women's rights did not result from achievements of the women's movement towards establishing gender equality, but from the need of the national ideology.³¹

In its combined second to fourth periodic report, the DPRK contends that gender equality has been guaranteed both by law and in practice since the promulgation of the 1946 Decree on Gender Equality, and the Socialist Constitution as well as other relevant laws explicitly provide that women shall be accorded equal political and social status and rights with men.³² Furthermore, by adopting the Law on the Protection and Promotion of the Rights of Women (hereinafter 'LPPRW') in 2010, the DPRK stressed that the status and role of women have been elevated in all fields of social life.³³ The DPRK emphasized that Article 2 of the LPPRW has incorporated the definition of "all forms of discrimination" set by the CEDAW, which includes both direct and indirect discrimination.³⁴ In accordance with the LPPRW, the DPRK also maintains that the authorities have pursued a consistent policy to ensure gender equality while prohibiting all forms of discrimination.³⁵

Socialist States typically enshrined gender equality in legislation before Capitalist States, although socialist emancipation has often created a double burden upon women as they are called on to enter the workforce while simultaneously bearing the traditional burden of homemaker.³⁶ In fact, in the 1950s, in the early stage of the regime, the DPRK regarded the male chauvinism and authoritative Confucianism embodied in the traditional family system as hindering socialist revolution while suppressing the role of women in economic and political life. Because of this, they emphasized the emancipation of women from colonial and

31. Young-Hee Shim, "Human Rights of Women in North Korea: Present State and Factors," *The Journal of Asian Women*, vol. 45 (2006), p. 173.

32. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), paras 9-11.

33. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), paras 9-11.

34. *Ibid.*

35. *Ibid.*

36. Haggard S. & Noland, M., "Gender in Transition: The Case of North Korea," *World Development*, vol. 41 (2013), p. 51.

feudal pressures through identifying their equal status alongside men in social life as an essential step to be taken during the revolutionary stage of anti-imperialism.³⁷ However, regardless of legislative and institutional measures, people's daily lives maintain a traditional patriarchal order. Since the 1970s, with the consolidation of the monolithic ideology system and the Kim family's transmission by heredity, the premodern tradition of family relationships has been emphasized.³⁸ As such, regardless of legislation ensuring the social participation of women and the rights of women, the male-dominant ideology fundamentally embedded within social and family life has not been eliminated.³⁹ The DPRK authorities themselves recognize that the practice of male superiority has lingered in society and families even after the enactment of the LPPRW, due to the general public's lack of understanding of the State's policy and laws as well as the incomplete elimination of traditional assumptions and attitudes.⁴⁰

2. Laws on the Prohibition of Violence against Women

Violence against women takes multiple forms, including acts or omissions intended or likely to cause or result in physical, sexual, psychological or economic harm or suffering to women. Threats of such acts, harassment, coercion and arbitrary deprivation of liberty may also constitute violence against women.⁴¹ The most representative forms are sexual violence, domestic violence, prostitution, and sexual harassment. Criminal law

37. Do et. al., *supra* note 5, p. 293. Kyounghee Kim et. al., "A Study on Reproduction of the North Korean State Patriarchy under Kim Jung Eun Regime," *The Journal of Asian Women*, vol. 55 (2016), pp. 132-33.

38. *Ibid.* Mi-kyung Lee, "The Issue of North Korean women by examining gender awareness of female defectors," *The Korean Journal of International Relations* 155, vol. 45 (2005), pp. 165-66.

39. Keong-Suk Park, "An Analysis of the Relationship among State, Patriarchy, and Women in North Korea," *Society and Theory*, vol. 21 (2012), p. 329.

40. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para 53.

41. CEDAW, General Recommendation No. 19: Violence against women (1992), para 14.

is the most relevant (and perhaps the most effective) legislation dealing with these crimes. CEDAW stipulated that State parties are “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women (f)” and “to repeal all national penal provisions which constitute discrimination against women (g).” If a State does not criminalize violence against women, or allows legislation constituting discrimination against women, such violence will continue to occur. Thus, enhancing accountability and stopping immunity through imposing adequate penalties are essential to prevent and reduce violence against women. Legislation should encompass punishment, regulation and prevention, as well as protection and support of the victim.⁴² The Committee also emphasizes ensuring that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual, or psychological integrity, be criminalized. Additionally, legal sanctions commensurate with the gravity of the offense as well as civil remedies should be introduced without delay, or strengthened (in case they are already in place).⁴³

The adoption of the LPPRW in 2010 is among the positive aspects of women’s rights in the DPRK.⁴⁴ This Law stipulates that the DPRK shall ensure the full equality of women with men and that the State shall prohibit all forms of discrimination against women. In relation to violence against women, the LPPRW contains several provisions concerning women and crimes relevant to them, including Article 37 (Inviolable Right of Human Body (corpus)), Article 38 (Inviolable Rights of Health and Life), Article 39 (Prohibition of Abduction and Trafficking), Article 40 (Prohibition of Prostitution), and Article 41 (Respecting Women’s Dignity). Article 46 (Prohibition of Domestic Violence) explicitly legislates against domestic violence, which was one of the recommendations of

42. Sang Min Yoon, “Overcoming of Discrimination against Women in the Criminal Law,” *Joong-Ang Law Review*, vol. 13 (2011), p. 87.

43. CEDAW, General Recommendation No. 19: Violence against women (1992), para 29.

44. Hwang and Choi, *supra* note 29, pp. 1-31.

the Committee in 2005.⁴⁵ Article 55 of the LPPRW sets out general provisions regarding criminal or administrative liability derived from violation of the Law. However, it does not specifically articulate the provision of punishment. Accordingly, these crimes may be prosecuted as Assault (Article 275) or as infliction of injury (Articles 271 to 274)⁴⁶ under Criminal Law, depending on the act committed and the consequence of the act and are otherwise punishable as “mistreatment contempt offense” (*hackdae-gwalsi* offense) in Article 260 of the Criminal Law when they fall short of requirements under the aforementioned articles. Gender based/sexual crimes may be charged as Rape (Article 279 of the Criminal Law)⁴⁷ or Forcing Subordinate Women to have Sexual Intercourse (Article 280 of the Criminal Law)⁴⁸ or dissipated conduct (*buhwa-bangtang* conduct) regulated in Article 221 of the Administrative Punishment

45. In 2005, after reviewing the first periodic report of the DPRK in implementing the CEDAW, the Committee expressed concern that the DPRK was not aware of the existence of domestic violence and lacked specific legislation to deal with all forms of violence against women, including domestic violence, as well as lacking prevention and protection measures for victims, and thereupon urged the DPRK to adopt specific legislation on domestic violence and to ensure that violence against women constitutes a criminal offense. UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), paras 37-38.

46. Article 271 (Intentional Infliction of Grave Injury); Article 272 (Infliction of Grave Injury Induced by Fit of Rage); Article 273 (Infliction of Grave Injury by Accident); Article 274 (Intentional Infliction of Light Injury).

47. Article 279 (Rape): A man who rapes a woman by using violence or threats or by taking advantage of her helpless status shall be punished by reform through a labor sentence of less than five years. In cases where the person commits a grave offense, he shall be punished by reform through labor sentence for more than five years and less than ten years. In cases where the foregoing act is committed multiple times or in cases of inflicting a severe injury or resulting in death by the aforementioned conduct, he shall be punished by reform through labor sentence for more than 10 years.

48. Article 280 (Forcing Subordinate Women to have Sexual Intercourse): A man who forces a woman who is his subordinate to have sexual intercourse with him shall be punished by short-term labor for less than one year. In cases where the aforementioned act is committed against multiple women or when the woman concerned becomes depraved or commits suicide as a result of the aforementioned act, the offender shall be punished by reform through labor sentence for less than three years.

Act. However, due to the lack of specific regulation regarding domestic violence, and depending on the type of conduct and its consequences, it may be treated as general assault. In short, the Law leaves much to be desired for the full protection and promotion of women's rights.

Meanwhile, such criminal law provisions may impose aggravated punishment in accordance with Supplementary Provisions to the Criminal Law adopted in 2007. Amendment of Criminal Law may proceed into strengthening the protection of human rights but may also proceed into enforcing repressive control measures. The 2007 Supplementary Provisions to the Criminal Law are generally evaluated as reinforcing control over people in order to smooth the succession of power and to protect the system.⁴⁹ These Supplementary Provisions extend the category of crimes punishable by death and forfeiture of property through imposing aggravated punishment for crimes in general, in cases of grave offense.⁵⁰ Crimes relevant to gender-based violence against women include Acts of Delinquency prescribed in Article 17 and Aggravated Rape prescribed in Article 21. However, these Supplementary Provisions contain abstract prescriptions such as "aggravating circumstances"; in falling short of clarity, they leave scope for arbitral interpretation, as already enhanced through the 2004 Amendment of Criminal Law in the DPRK.⁵¹ Through the 2007 Supplementary Provisions to the Criminal Law, in cases of grave circumstances, rape and acts of delinquency relevant to gender-based violence against women may be punished either by the death penalty or by a life sentence. Meanwhile, the administrative penalty law may also be imposed in relation to violence against women. In the DPRK, there are no specific provisions regulating sexual harassment and assault, apart from rape.

49. Jung Won Park, "A Study on the Normative Control for the Security of Kim Jong-il's Regime: with Emphasis on the Addenda of the North Korean Criminal Law in 2007," *The Korea Journal of Unification Affairs*, vol. 53 (2010), p. 234.

50. Ye Joon Rim et. al., *A Study on the Changing Trend of Human Rights Institutions and Situation in North Korea* (Seoul: Korea Institute for National Unification, 2016), p. 44.

51. *Ibid.*

3. Evaluating the North Korean Legislation Related to Violence against Women

As examined, the DPRK provides legislation in the LPPRW and Criminal Law, which regulate gender-based violence against women. However, the existing legislation needs to be improved in accordance with international standards to enhance the protection of women.

a. Relaxing of Penalties

First of all, the relaxing of penalties should be noted. The DPRK stated in its combined report that “Some immoral persons who arranged for or forced women to commit prostitution, or committed rape were duly punished in accordance with the relevant provisions of the Criminal Law. In such cases the convicted persons were put on public trials, where, in the presence of a large number of people, they were sentenced to heavy penalties, alerting others not to commit such crimes.”⁵² The Committee has consistently emphasized and further recommends State parties to ensure that all forms of violence against women are criminalized and to strengthen legal sanctions commensurate with the gravity of the offense as well as civil remedies.⁵³ By contrast, the provisions in the DPRK relevant to gender-based violence against women have been relaxed.

Most punishments under the Criminal Law were lessened through the 2012 Amendment. In the course of the amendment, provisions regulating gender-based violence against women were also relaxed. For instance, Article 294 of the 2009 Criminal Law, regarding Section 1 on Forcing Subordinate Women to have Sexual Intercourse, imposed less than 2 years of disciplinary labor, or less than 2 years of a labor reform sentence in the case of grave circumstances, while Section 2 imposed a labor reform sentence of 2 to 5 years in cases where such an act is committed against multiple women or when the woman concerned becomes

52. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para 70.

53. CEDAW, General Recommendation No. 35: Gender-Based Violence against women (2017), para 29.

depraved or commits suicide as a result of the act; Article 280 of the 2012 Amendment Criminal Law shortened the period to less than 1 year of disciplinary labor or less than 3 years of labor reform in cases of perpetration against multiple women, or causing “suicide or corruption of women.”⁵⁴ This provision is in direct opposition to the strengthening of punishments for gender-based violence against women. Moreover, it is far from gender-sensitive, in assuming or considering that such crimes would lead to ‘corruption of women.’

After the growth of the informal economy through the spread of *Jangmadang*, which refers to the local black market in North Korea, it is reported that sexual violence against women in the country has become more widespread.⁵⁵ At the same time, punishment regulating these crimes has lightened, decreasing the protection afforded to women against gender-based violence. Although this may be viewed in light of decreasing punishments under Criminal Law in general, it can also be compared to the concurrent strengthening of provisions relating to Anti-State crimes, or other crimes disrupting the socioeconomic system which entail heavy penalties. In this context, gender-based violence against women in the DPRK is not subject to adequate penalties. The UN requires consistency of sentencing with the gravity of the crime committed. Furthermore, the removal of exceptions and reductions in sentencing is required. Thus, enhanced sanctions for repeated or aggravated domestic violence offenses might be needed.⁵⁶ Indeed, during the review of its combined second to fourth report, the Committee was also concerned that the 2012 revision of the Criminal Code lowered the penalties for some forms of rape, including the rape of children, rape by a work supervisor, and repeated rape.⁵⁷

54. These terms of punishment continued until the 2015 Amendment.

55. Young-kyu Kim, “Changing legislations regarding women and children in the context of marketization of North Korea,” in Center for North Korean Human Rights Studies at KINU (ed), *Marketization and Human Rights in the DPRK* (Seoul: KINU, 2014), pp. 204-205.

56. United Nations, *Handbook for Legislation on Violence Against Women* (New York: United Nations, 2010), pp. 50-51.

57. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25 (c).

b. Inadequate Regulation for Domestic Violence

Second, there remains inadequate regulation for domestic violence. Domestic violence violates the inherent dignity and worth of women, of all members of the family, and of society. It represents a breach of human rights including the inalienable right to freedom from fear and want and is interlinked with structured gender inequality.⁵⁸ The Committee enumerates measures that are necessary to eliminate domestic violence. These include criminal penalties and civil remedies, services to ensure the safety and security of victims of family violence, rehabilitation programs for perpetrators, and support services for families where incest or sexual abuse has occurred.⁵⁹

The international community has consistently requested the DPRK to legislate and regulate domestic violence. In 2005, after reviewing the initial National Report for the implementation of the CEDAW, the Committee specifically expressed concern in its concluding observation that the DPRK appeared unaware of the existence of domestic violence and lacked specific legislation to deal with it.⁶⁰ The Committee called on the DPRK to conduct research on the incidence, causes and consequences of domestic violence, while urging it to find ways to make visible the existence of domestic violence.⁶¹ It further recommended the adoption of specific legislation on domestic violence, ensuring that violence against women constitutes a criminal offense and urged the DPRK to ensure that victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished.⁶² In the first cycle of the Universal Periodic Review (UPR) of the UN Human Rights Council held in 2009, several States recommended that the DPRK “pass legislation specifically dealing with violence

58. Dorothy Q. Thomas & Michele E. Beasley, “Domestic Violence as a Human Rights Issue,” *Human Rights Quarterly*, Vol. 15 (1993), p. 37.

59. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (r).

60. UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), para 37.

61. *Ibid.*

62. *Ibid.*, para 38.

against women, including domestic violence, providing for prosecution of individuals committing acts of violence against women (United States)”; and that it “enact specific legislation to punish violence against women and establish structures for the protection of victims (Chile).”⁶³ These recommendations have been accepted by the DPRK, and partially realized through the enactment of LPPRK, Article 46 of which deals with “domestic violence.” However, this Article does not provide a clear definition of “domestic violence” nor does it stipulate any specific provision to prosecute perpetrators and to protect victims.⁶⁴ Although Article 46 of the LPPRW regarding the prohibition of domestic violence prescribes “all forms of violence,” the notion of violence in the understanding of the DPRK authority remains limited to physical violence only, and does not specify emotional, psychological, and patrimonial, and economic violence that could occur through omission. Moreover, as will be discussed, measures to protect victims of domestic violence are still inadequate and recognition of marital rape has not been legislated.

It is recommended that legislation provide a comprehensive definition of domestic violence, including physical, sexual, psychological, and economic violence.⁶⁵ As recommended by the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea in 2014, the DPRK authorities need to “take measures to address all forms of violence against women, including domestic violence, sexual and gender-based violence by State agents and/or within State institutions.”⁶⁶ Furthermore, as recommended by the Committee in reviewing the second to fourth combined report, the provisions concerning reconciliation between spouses in the LPPRW should not be used as a basis for dismissal of prosecution in cases of domestic violence.⁶⁷

63. UN Doc. A/HRC/WG.6/6/L.12 (9 December 2009), para 90.

64. Jina Yang, “Women’s Rights in the DPRK: Discrepancies Between International and Domestic Legal Instruments in Promoting Women’s Rights and the Reality Reflected by North Korean Defectors,” *Cornell International Law Journal*, vol. 51 (2019), p. 233.

65. United Nations, *Handbook for Legislation*, *supra* note 56, p. 24.

66. UN Doc. A/HRC/25/63 (7 February 2014), para 89 (i).

67. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 12 (c)

c. Inadequate Protection of Victims

The third factor is inadequate protection of victims of violence against women. According to the Committee, “State parties should establish or support services for victims of family violence, rape, sexual assault, and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counseling.”⁶⁸ For this purpose, legislation should oblige the State to provide funding for comprehensive and integrated support services to assist survivors of violence.⁶⁹ However, the DPRK still lacks legislation for the protection of victims of gender-based violence, nor does it seem to recognize the importance of such measures.

In 2005, the Committee specifically expressed concern that the DPRK lacks prevention and protective measures for victims.⁷⁰ During the second cycle of the UPR process in 2014, States also urged the DPRK to take effective measures, including adequate support measures for victims of human trafficking. For instance, together with recommending that the DPRK establish measures to combat discrimination and violence against women (France), it was recommended that violence against women be punished under law, and that adequate measures be established to protect victims (Chile).⁷¹ In response to these concerns on the part of the international community, the DPRK stated in its combined report that the identities of victims of sexual exploitation-related crimes be kept in strict confidence, and that these victims were compensated in accordance with the Law on Compensation for Damages, which provides that a person who did harm to another’s health shall be liable to pay him/her the expenses for medical treatment or the amount of money equal to the wages he/she lost while staying away from work.⁷² As stated, according to Articles 7, 9 and Article 40 of the Law on Compensation

68. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (k).

69. United Nations, *Handbook for Legislation*, *supra* note 56, p. 31.

70. UN Doc. CEDAW/C/PRK/CO/1 (22 July 2005), para 37.

71. UN Doc. A/HRC/27/10 (2 July 2014) paras 124.105, 124.107.

72. UN Doc. CEDAW/C/PRK/2-4 (1 June 2016), para 71.

for Damages (last amended in 2005), a person who committed damages to another person is responsible for compensating damages in addition to criminal liability. This includes harms to the personality and honor of the person, citing psychological harms as well as violations against the human body (physical harm). However, it is still hard to assess actual implementation of the provision, and whether this legislation fits the requirement of protection of victims stipulated in the CEDAW. As a result, in its concluding observations, the Committee specifically expressed concern that the LPPRW does not provide for victim protection and support measures or for criminal liability of perpetrators.⁷³ Moreover, the lack of protection measures, including legal services, psycho-social support and shelters available to women victims/survivors of domestic violence was also noted.⁷⁴

d. Absence of a Comprehensive Definition of Sexual Assault

Fourth, legislation should define a broad offense of sexual assault incorporating rape, including marital rape, through specifically criminalizing sexual assault within a relationship, either by providing that relevant provisions apply “irrespective of the nature of the relationship” between the perpetrator and complainant; or stating that “no marriage or other relationship shall constitute a defense to a charge of sexual assault under the legislation.”⁷⁵

In the DPRK, there is a lack of awareness of marital rape. This was specifically noted in the second cycle of the UPR process, and States recommended the enactment of national legislation to combat violence against women, including a definition of rape that applies to domestic rape and rape in detention centers (Canada).⁷⁶ In 2017, in its concluding observations, the Committee was also concerned about the fact that marital rape is not criminalized, and that the penalties for rape are not

73. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25.

74. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25 (d).

75. United Nations, *Handbook for Legislation*, *supra* note 56, p. 26.

76. UN Doc. A/HRC/27/10 (2 July 2014), para 124.106.

commensurate with the severity of the crime.⁷⁷ In the third cycle of the UPR process in 2019, States continued to raise the issue, for instance making a recommendation to “take measures to criminalize marital rape and to prevent and punish domestic violence against women, including awareness campaigns, legal services, support and shelter for survivors (Israel).”⁷⁸

Moreover, legislation should criminalize sexual harassment and recognize sexual harassment as a form of discrimination and a violation of women’s human rights with health and safety consequences.⁷⁹ Sexual harassment has traditionally been associated with labor-related offenses that occur in the context of unequal power relations. In the DPRK, although Article 246 of the Criminal Law regarding Acts of Misdemeanor may be broadly interpreted to be applicable in the circumstance of sexual harassment, the current legislation has no specific provision regulating sexual harassment when it does not constitute a crime of rape. According to the *Reference for Law Enforcement Personnel (Beobilgun Jichinseo)* published in North Korea, this Article regulating acts of misdemeanor applies to situations when “a person removes their clothing in front of other people or commits shameful acts against women,” and when “a person pursues perverted sexual desire without having a sexual relationship or commits any obscene act against women.”⁸⁰ However, the Article also refers to the case of homosexuality and in so doing falls far short of a human rights standard—which shows that such standards are too arbitrary. In its concluding observation regarding the combined national report of the DPRK, the Committee recommends that the State party adopt legislation to specifically define and criminalize sexual harassment in the workplace and develop a confidential, independent, and safe system for the filing of complaints relating to sexual harassment and sex-based discrimination in the workplace and ensure that victims have effective access to means

77. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 25 (c).

78. UN Doc. A/HRC/WG.6/33/L.8 (14 May 2019), paras 6.184.

79. United Nations, *Handbook for Legislation*, *supra* note 56, p. 27.

80. Ministry of People’s Security, *Reference for Law Enforcement Personnel* (Pyongyang: Ministry of People’s Security Publication, 2009).

of redress, including adequate punishment of perpetrators.⁸¹

4. Consideration of Root Causes, and Ways to Reform Legislation

Generally, factors that perpetuate violence against women may involve cultural, economic, legal, and political aspects.⁸² As noted by the Committee, violence against women is rooted in the ideology of men's entitlement and privilege over women and the social norms regarding masculinity, while enforced by the need to assert male control or power, based on the stereotype of gender roles.⁸³ These factors contribute to explicit or implicit social acceptance of gender-based violence against women, often still considered as a private matter, and to reinforcing the widespread impunity for such violence.⁸⁴ As such, in the DPRK the root cause for the prevalence of violence against women may be found in patriarchal authoritarianism and predominance of men over women intertwined with Confucian feudalism in society.⁸⁵ Although the DPRK proclaimed the revolution of feudalistic family relations, gender equality, and the special protection of women as guiding principles in Family Law adopted in 1990, actual family life has not changed under a male-dominated society founded by patriarchal socialism.⁸⁶ Moreover, under the rule of State patriarchy where the supreme ruler is idolized as a father and head of household caring for all of society, North Korean women are suppressed under both State power and the patriarchal order, a position which is inevitably unequal due to the structural

81. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 38.

82. UNODC, *Handbook on Effective Police Response to Violence against Women* (New York: United Nations, 2010), p. 35.

83. CEDAW, General Recommendation No. 35: Gender-Based Violence against women (2017), para 19.

84. *Ibid.*

85. Shim, *supra* note 31, pp. 176-78.

86. Kim, *supra* note 55, p. 202.

imbalance.⁸⁷ Although changes are appearing with the spread of an informal economy through *Jangmadang*, which is strengthening the economic power of women within the family, stereotypes of male dominance and fixed gender roles are generally maintained in North Korean society.⁸⁸

Domestic violence is still regarded as a family matter occurring in the private sector, leading to a lack of protection for victims. Alongside the inadequacy of specific provisions for punishment, society's response to domestic violence in North Korea remains weak, and it appears there have not been significant changes in actual circumstances. In an interview survey carried out on North Korean defectors, domestic violence seems to be common, and its victims are still not able to seek an appropriate response or protection.⁸⁹ Although theoretically they could report such incidents to the police, most of them do not do so as they have no expectation that specific measures will be taken. Even when cases of domestic violence are reported to the authorities, it is common for them to behave as if it is too much trouble to take action, implying that family affairs should be handled within the family. This attitude is part of what prevents victims of domestic violence from reporting the abuse to authorities. There is a low level of awareness of criminal punishment for domestic violence. Moreover, the notion that women provide the cause of domestic violence seems to be deeply rooted in North Korean society.⁹⁰

Overall, awareness and education regarding women's rights fall short of improving the situation, along with the inadequacy of legal, institutional, and social sanctions concerning violence against women. As examined, current legislation in North Korea regarding violence against women, although much improved by the 2010 LPPRW, still illustrates the lack of gender-sensitivity on the part of legislators regarding the human rights of women. The absence of an independent and active

87. Hwang and Choi, *supra* note 29, pp. 2-3.

88. Do et. al., *White Paper*, *supra* note 5, p. 358.

89. *Ibid.*, pp. 371-72.

90. Kyung-ok Do et al., *Human Rights Situation of Women and Children in North Korea* (Seoul: KINU, 2016), pp. 20-21.

civil society in North Korea is a further factor in making it difficult to improve legislation. The DPRK postponed submission of its national report on implementation of CEDAW from 2005 until the recent combined report submitted in 2016. Accordingly, it forfeited the opportunity to review its national legislation in accordance with international standards. The DPRK's extraordinary situation regarding communication and international exchange with other worlds (countries) could be yet another factor preventing advancement, as it does not provide an easy opportunity for comparison with other States in respect to women's rights. Likewise, its lack of capacity to take measures that require financial investment might also be counted among the reasons underlying insufficient protection of women's rights, along with policy makers' lack of awareness on this issue.

Comprehensive legislation regarding gender-based violence against women would be the fundamental step for effective prevention and a coordinated response. As has been examined, States are obliged to legislate and to enforce implementation of such legislation. Even though legislation exists in the DPRK regarding gender-based violence against women, it is limited in scope and coverage, and much improvement is needed in order to comply with international standards. Moreover, such legislation should mandate a specific implementation plan and institutional framework for training and capacity-building for public officials on violence against women, with an allocated budget for implementation. The adoption of specialized laws and procedures on violence against women is promising in that such laws and procedures aim to enhance the effectiveness of the State's response to violence against women.⁹¹ Along with these measures, vigorous arrest and prosecution policies may suggest that the society as a whole regards violence against women as a serious crime that is not condoned by the authorities. Appropriate sentencing can be achieved by the introduction of minimum sentences for certain offenses and monitoring of sentencing practices.⁹² Fundamentally, State parties should take effective measures

91. United Nations, *Ending Violence Against Women*, *supra* note 2, p. 110.

92. *Ibid.*, 108.

to overcome attitudes and practices that perpetuate violence against women. This could be done by introducing education and public information programs to help eliminate prejudices which hinder women's equality.⁹³

IV. Conclusion

Violence against women is a violation of human rights and prevents women from enjoying their human rights and fundamental freedoms. It infringes the rights to life and security of the person and prevents women from enjoying the highest attainable standard of physical and mental health, education, work and housing, and further, participation in public life. Such violence perpetuates the subordination of women and the unequal distribution of power between women and men. It has consequences for women's health and well-being, carries a heavy human and economic cost, hinders development, and can also lead to displacement.⁹⁴ Gender-based violence against women is a critical obstacle to achieving substantive equality between women and men as well as to women's enjoyment of human rights and fundamental freedoms.

States have an obligation regarding the formation of legal norms, as well as the design of public policies, programs, institutional frameworks, and monitoring mechanisms aimed at eliminating all forms of gender-based violence against women.⁹⁵ States are also required to reinforce laws, reform institutions, and promote norms and practices that eliminate the discrimination causing violence. State parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including effective legal measures and penal sanctions, civil remedies, and compensatory provisions to protect women against all kinds of violence. Such measures comprise both preventive measures, including public information and education

93. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (f).

94. United Nations, *Ending Violence Against Women*, *supra* note 2, p. 57.

95. CEDAW, General Recommendation No. 35: Gender-Based Violence against women (2017), para 26.

programs to change attitudes concerning the roles and status of men and women as well as protective measures, including counseling and rehabilitation and support services for women who are the victims of violence.⁹⁶

This article examined the current legislative status of violence against women in the DPRK. As a State party to the CEDAW, the DPRK is failing to implement in full the international standards on violence against women. Although the enactment of the LPPRW in 2010 did incorporate domestic violence, such legislation still falls short of international standards, first in that penalties applicable to gender-based violence against women in criminal law have been relaxed; second, due to inadequate regulation concerning domestic violence; third, due to inadequate protection of the victims; and fourth, in that it lacks a comprehensive definition of sexual harassment. Indeed, similar concerns have also been noted in the third cycle of the UPR process, recently done in May 2019, where States recommended to review the LPPRW to ensure that all forms of gender-based violence against women in all spheres are criminalized (Belgium); and to review laws, including the LPPRW, to include definitions of violence against women (Iceland).⁹⁷

Moreover, notwithstanding the implementation of LPPRW, practices regarding violence against women continue to fall far short of CEDAW requirements due to the entrenched notion of male dominance over women supported by the patriarchal system. The DPRK authorities' recent efforts to engage in dialogue regarding the rights of vulnerable groups by submitting the postponed national reports to the Committee and a review of the current status of women's rights do provide momentum to improve the situation. Such efforts are significant indicators of movement towards improving women's rights in the DPRK and should include amending national legislation. Indeed, amongst many recommendations, in its concluding observation, the Committee also emphasized the crucial role of legislative power in ensuring the full

96. CEDAW, General Recommendation No. 19: Violence against women (1992), para 24 (t).

97. UN Doc. A/HRC/WG.6/33/L.8 (14 May 2019), paras 6.181, 6.183.

implementation of the CEDAW.⁹⁸ In adherence to the recommendations of the Committee, the DPRK needs to modify relevant legislation to prevent and eliminate violence against women vis-à-vis ensuring women's status and human rights in daily life.

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98. UN Doc. CEDAW/C/PRK/CO/2-4 (17 November 2017), para 9.

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The European Union's Policy Toward North Korea: Abandoning Engagement

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This article helps understand the change in the European Union (EU)'s policy toward North Korea. In the first phase of their relationship, the EU actively participated in the security dialogue on the Korean Peninsula and engaged North Korea through economic and humanitarian assistance. Since 2003, Europe abandoned the conciliatory approach and repeatedly condemned Pyongyang's nuclear and missile tests, while disengaging from regional security initiatives. This change was a byproduct of the consolidation of the EU's Common Foreign and Security Policy. Two of its main features restricted the range of diplomatic options available to the EU in dealings with North Korea. The first was the designation of a possible Weapons of Mass Destruction arms race in the Middle East as an issue of highest security concern for Europe. The second was a firm commitment to the relationship with the United States in addressing security threats. In order to maintain the consistency of its foreign strategy, the EU stopped tolerating activities related to the proliferation of nuclear weapons. Moreover, its policies became consistent with Washington's line of action, which required terminating economic support and discontinuing independent diplomatic engagement with the "rogue" state.

Keywords: European Union, North Korea, nuclear nonproliferation, national security, foreign policy

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I. Introduction

The European Union (EU)'s policy toward North Korea went through a significant evolution. From 1994 to 2003, the EU pursued a course of unconditional engagement toward Pyongyang.¹ European organizations started a series of projects aimed at alleviating the humanitarian situation in the Democratic People's Republic of Korea (DPRK). EU Member States provided economic and technological assistance to help develop North Korea's economy and build the necessary infrastructure for future growth. Vibrant political dialogue resulted in the establishment of diplomatic relations and the emergence of a certain level of trust between the two parties.² The European Commission prepared a Country Strategy Paper for the DPRK, focusing on long-term priorities and planning to expand cooperation.³ The Swedish presidency from January to June 2001 was remembered with a proposal for EU mediation in the dialogue between South and North Korea.⁴ The engagement policy was praised for bringing progress on the issue of human rights in the DPRK. After 2003, however, the EU abruptly disengaged from North Korea. Trade ties rapidly dissipated. The rare official diplomatic exchanges that took place barely transcended diplomatic formality. The Country Strategy Paper expired in 2004 and was never renewed. A

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1. Engagement is defined here as unconditional in the sense that the policy is pursued "without the explicit expectation that a reciprocal act will follow." This may involve expanding economic ties, providing humanitarian aid, and increasing contacts. Richard N. Haass and Meghan L. O'Sullivan, "Terms of Engagement: Alternative to Punitive Policies," *Survival*, vol. 42, no. 2 (Summer 2000), p. 2; Sung Chull Kim and David C. Kang, eds., *Engagement with North Korea: A Viable Alternative* (Albany: SUNY Press, 2009), pp. 5-6.
 2. Ruediger Frank, "EU – North Korean Relations: No Effort Without Reason," *International Journal of Korean Unification Studies*, vol. 11, no. 2 (2002), pp. 87-119; Axel Berkofsky, "EU's Policy Towards the DPRK – Engagement or Standstill?," (Briefing Paper, European Institute for Asian Studies Brussels, 2003).
 3. European Commission, *The EC – Democratic People's Republic of Korea (DPRK) Country Strategy Paper 2001-2004* (Brussels: European Commission, 2002).
 4. "Kim Turns on the Charm for EU Team," *The Guardian*, May 3, 2003, <<https://www.theguardian.com/world/2001/may/04/eu.northkorea>> (date accessed June 17, 2019).

few non-governmental humanitarian organizations acted in the country on an ad hoc basis, without a plan for sustainable assistance. Since 2006, intensifying restrictive measures have become Europe's main policy tool in dealing with Pyongyang. The change of course is puzzling, because the EU has significant potential to assist the peace process on the Korean Peninsula and could expect to benefit from being included in regional matters in the long-run. Many experts wonder why one of the global major powers is still "punching below its weight" in the current round of diplomatic engagement with North Korea.⁵

Discussing this question is of practical importance, because the EU is a natural ally for the Republic of Korea (ROK) in engaging the DPRK as they share the same main strategic interest—stability on the Korean Peninsula. Europe has the potential to contribute a lot to the pursuit of security in the region. Some Member States are old Soviet-era friends of North Korea that the leadership in Pyongyang knows and trusts. If maintained and expanded, Europe's first and second track diplomatic channels could become the key to a sustained security dialogue between the two Koreas.⁶ The EU's experience with nuclear negotiations

5. Young-Kwan Yoon and Ramon Pacheco Pardo, "Commentary: Europe's North Korea Moment," Reuters, October 18, 2018, <<https://www.reuters.com/article/us-youngkwan-korea-commentary/commentary-europes-north-korea-moment-idUSKCN1MR32T>> (date accessed April 25, 2019).

6. Nicola Casarini, "How Can Europe Contribute to Northeast Asia's Security," *The Diplomat*, September 21, 2017, <<https://thediplomat.com/2017/09/how-can-europe-contribute-to-northeast-asias-security>> (date accessed June 17, 2019); Ramon Pacheco Pardo, "The EU Is Irrelevant in the Korean Peninsula, Right? Wrong," *Euractiv*, February 1, 2018, <<https://www.euractiv.com/section/european-external-action-service/opinion/thurs-the-eu-is-irrelevant-in-the-korean-peninsula-right-wrong>> (date accessed April 30, 2019); Yoon and Pardo, "Commentary: Europe's North Korea Moment"; Mario Esteban, "The EU's Role in Stabilizing the Korean Peninsula," (Working Paper 01/2019, Real Instituto Elcano, Madrid, 2019), <http://www.realinstitutoelcano.org/wps/portal/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/wp1-2018-esteban-eu-role-stabilising-korean-peninsula> (date accessed June 17, 2019); Ramon Pacheco Pardo, "North Korea's Denuclearization: Is There a Role for Europe?," *38 North*, March 26, 2019, <<https://www.38north.org/2019/03/rpachecopardo032619>> (date accessed April 26, 2019).

(in Libya and Iran), as well as its history of reconciling states from both sides of the Iron curtain, and promoting sustainable growth in former communist economies is an added advantage. On the academic side, this research illuminates the significance of institutional development on EU's foreign policy. It thus refines conventional explanations stating that Pyongyang's nuclear and missile program determines Brussels' position toward North Korea.⁷

This study aims to shed light on Brussels' considerations in formulating a policy toward the DPRK. The argument made here is that the EU changed its course to maintain consistency in the Common Foreign and Security Policy (CFSP) of 2003. The new foreign strategy prescribed disengagement from North Korea for two reasons. The first was the commitment to oppose the proliferation of Weapons of Mass Destruction (WMD) on a global scale. The second was the priority assigned to maintaining a common course with the United States (U.S.) in pursuit of that aim. Contrary to common interpretations, the nuclear issue did not gain primary importance as a defining element of EU's policy because North Korea intensified its nuclear weapons program. Pyongyang had previously declared its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in 1993—a year before Europe first initiated its engagement efforts. North Korea tested the long-range Taepodong-1 missile in 1998 and announced the renewal of its nuclear program in 2002.⁸ On both occasions, the EU continued to provide assistance and hold talks with the DPRK. Many European leaders were firm believers in the benefits of positive engagement and thought that the security crisis can be ended through negotiations and by providing security guarantees to Pyongyang.⁹ The EU changed its

7. Esteban, "The EU's Role in Stabilizing the Korean Peninsula."

8. Joseph Bermudez, "A History of Ballistic Missile Development in the DPRK," (Occasional Paper No.2, Center for Nonproliferation Studies, Monterey, 1999); David Sanger, "North Korea Says It Has a Program on Nuclear Arms," *New York Times*, October 17, 2002, <<https://www.nytimes.com/2002/10/17/world/north-korea-says-it-has-a-program-on-nuclear-arms.html>> (date accessed June 17, 2019).

9. Berkofsky, "EU's Policy Towards the DPRK," p. 4; Soyoung Kwon and Glyn Ford, "The EU Stretches Its Foreign Policy Wings over Korea," PFO

policy to build credibility as a global power by demonstrating that it can act as a unitary actor following a common foreign policy course.

The remainder of the article is organized as follows. First, I describe the phases of the EU's North Korea policy and their outcomes. I then turn to explaining the timing of the change and the considerations behind it. The concluding section offers a brief summary of the argument and some implications of Europe's engagement in the security dialogue on the Korean Peninsula.

II. The EU's Policy Toward North Korea

Since the establishment of official relations, the EU's approach to North Korea has gone through two main phases. During the first period between 1994 and 2003, European states actively engaged in humanitarian and developmental assistance, trade, and political dialogue with the DPRK. The policy helped build trust and contributed to the peace process on the Korean Peninsula. After 2003, the EU terminated its independent engagement policy. Its involvement in the security process of the region also diminished in significance. As North Korea's nuclear program advanced, Brussels became firmly committed to supporting the international sanctions regime, spearheaded by the U.S.

1. Policy of Engagement from 1994 to 2003

The EU's presence in North Korea started to grow after 1994 as part of a New Asia Strategy. With the strengthening of Europe's international position, Brussels began to formulate a coherent approach towards Asia and to prepare to defend its (primarily economic) interests in the region. The Strategy Paper, published in July the same year, defined the Asian region as one of the top priorities for the EU and provided guidelines for intensifying political dialogue and expanding trade relations

05-31A, Nautilus Institute, April 12, 2005, <https://nautilus.org/fora/security/05301Kwon_Ford.html> (date accessed April 1, 2018).

with key partners in the area. Recognizing that the economic significance of Asia would inevitably give the region much more political weight, the document stated that to maintain its international position, “the Union should seek to make a positive contribution to regional security dialogues,” including on the Korean Peninsula.¹⁰

A major part of the EU’s engagement with the DPRK was humanitarian assistance. The European Community Humanitarian Office (ECHO) opened a branch in Pyongyang in 1996 and started providing relief for people affected by food shortages and natural disasters.¹¹ While its missions covered healthcare and nutritional programs, ECHO also aimed at addressing the structural causes of the humanitarian crisis, rather than limiting its involvement to short-term material assistance.¹² The organization continued its activities despite difficulties with the monitoring of aid projects in many restricted areas inside the DPRK.¹³ Official mechanisms for facilitating access to aid recipients became necessary when the amount of EU aid substantially increased after drought and typhoons swept through North Korea in the summer of 2000. This led to high level negotiations, resulting in agreement to sign Letters of Understanding regarding respect for humanitarian principles for projects funded by ECHO.¹⁴ The EU was committed to the idea that humanitarian assistance should be viewed separately from North Korea’s nuclear issue.¹⁵ Its policy contrasted with the stick-based approach of the U.S., which made aid contingent on progress in security talks.¹⁶ The total

10. European Commission, “Towards a New Asian Strategy – Communication from the Commission to the Council,” July 13, 1994. COM (94) 314 final.

11. European Community Humanitarian Office, *Annual Review 1997* (Brussels: European Commission, 1997).

12. European Community Humanitarian Office, *Annual Review 1998* (Brussels: European Commission, 1998).

13. European Community Humanitarian Office, *Annual Review 1999* (Brussels: European Commission, 1999).

14. European Community Humanitarian Office, *Annual Review 2000* (Brussels: European Commission, 2000).

15. Berkofsky, “EU’s Policy Towards the DPRK,” pp. 27, 30.

16. “Washington Urges Caution in Helping N. Korea,” Reuters, April 11, 1997, <<https://reliefweb.int/report/democratic-peoples-republic-korea/>

amount of help provided bilaterally, via the World Food Program and European non-governmental organizations, reached about EUR 244 million by 2001.¹⁷ When in 2002 the DPRK announced that it already had acquired weapons-grade uranium, many states halted aid for the country. The EU raised the budget for the DPRK to EUR 21 million and continued supplying basic health and nutrition products.¹⁸ ECHO turned out to be North Korea's most persistent donor, continuing its activities in North Korea after most of other organizations had officially withdrawn. By 2003, ECHO was the last remaining organization to finance health, water, and sanitation in the DPRK.¹⁹ Until 2003 and even for some time after that, the European Union was the last to provide support unconditionally and with consideration only for the affected population.

The EU was eager to contribute to regional stability through the Korean Peninsula Energy Development Organization (KEDO). In 1997, the European Atomic Energy Community joined Japan, South Korea, and the U.S. as an executive board member of KEDO with a stake in the mission of curtailing North Korea's nuclear program. The EU agreed to donate EUR 15 million per year (not counting bilateral donations made by several Member States).²⁰ In 2001, its share increased to EUR 20 million.²¹ The total financial support provided by the EU from 1995 to 2003 reached more than EUR 120 million.²² Throughout this period, the Union assigned equal priority to both aims of the organization—

washington-urges-caution-helping-nkorea> (date accessed June 17, 2019).

17. Frank, "EU – North Korean Relations."

18. European Community Humanitarian Office, *Annual Review 2002* (Brussels: European Commission, 2002).

19. European Community Humanitarian Office, *Annual Review 2003* (Brussels: European Commission, 2003); European Commission, "Annex to the ECHO Annual Report 2004," July 25, 2005. COM(2005) 580 final, p. 47.

20. European Commission, *The EC - Democratic People's Republic of Korea (DPRK) Country Strategy Paper 2001-2004*.

21. Korean Peninsula Energy Development Organization, *Annual Report 2001* (New York: KEDO, 2001), p. 11.

22. Korean Peninsula Energy Development Organization, *Annual Report 2003* (New York: KEDO, 2003), p.15.

stopping nuclear proliferation and solving the problem of chronic energy deficiency in the country—while the U.S. and Japan focused primarily on the first of these tasks. As a result, the EU defended KEDO with enthusiasm matched only by South Korea. When the U.S. expressed concerns that the DPRK's military could use the new light-water reactors (LWR) provided by the organization to produce weapons-grade uranium, European experts mocked the idea and insisted that North Korea did not have the resources needed to exploit the reactors to produce nuclear weapons.²³ The EU expressed continued belief in KEDO's potential to enhance peace and security on the peninsula throughout the period of increased tensions after North Korea renewed its nuclear program.²⁴ In 2003, the Executive Board of the organization announced its suspension of the LWR project for a one-year period without consulting the EU.²⁵ Delegates of the European Parliament in Seoul criticized the move and stated that the EU will continue to provide aid to North Korea “come what may” (meaning, regardless of how the situation develops) and expressed readiness to send a delegation to Pyongyang to defuse tensions, as well as a wish to continue to fund KEDO.²⁶ In response to U.S. Secretary of State Colin Powell's announcement that using nuclear weapons against North Korea was an option, the EU's foreign policy chief Javier Solana said that increasing tension on the Korean Peninsula was not going to have a positive outcome, and that the continued construction of LWRs would be a better course of action.²⁷

23. Berkofsky, “EU's Policy Towards the DPRK,” p. 6.

24. “European Parliament Resolution on the Korean Peninsula Energy Development Organization (KEDO),” *Official Journal of the European Union*, vol. 47, January 22, 2004, C 16 E, pp. 96-98.

25. Korean Peninsula Energy Development Organization, *Annual Report 2003*, p.1; Ramon Pacheco Pardo, “EU Support for North Korean Denuclearization: Brussels May Help Pay for Implementation If It Can Play,” *38 North*, April 17, 2019, <https://www.38north.org/2019/04/rpachecopardo_041719> (date accessed April 25, 2019).

26. European Parliament, Delegation for Relations with the Korean Peninsula, “7th EP/Korea Interparliamentary Meeting,” April 22-25, 2003. CR\506613EN.

27. Jeong-won Yoon, “Bukan Haengmunje Gwallyeon Gyeonggwailji (1956.3~2003.3)” [Chronology of NK Nuclear Issues (1956.3~2003.3)], *The Journal of Strategic Studies*, vol. 16, no. 1 (March, 2009), pp. 163-198.

Added to its multilateral engagement, Europe actively pursued independent political dialogue with North Korea. High level talks between the EU and North Korea started in December 1998 with a visit of a delegation of the European Parliament to Pyongyang. A total of four rounds of dialogue at the level of senior officials were held by 2002. Bilateral consultations soon resulted in normalization of diplomatic relations between the DPRK and most EU Member States.²⁸ European officials met with Kim Jong Il, and a visit of North Korean delegates to learn about the functioning of a market economy was planned for the following year. For the first time, the DPRK expressed preparedness to participate in a meeting concerning the human rights situation in the country. European diplomats estimated that the most important step for continuing the dialogue was to build up trust as the authorities in Pyongyang felt encircled by hostile states and feared the demise of the regime. The only meaningful efforts with regard to North Korea were considered to be those of engagement.²⁹ At the height of the crisis, sparked by the DPRK's nuclear activities in the beginning of 2003, Javier Solana once again confirmed the EU's readiness to diplomatically intervene to ease tensions on the Korean Peninsula.³⁰ This position was not just rhetoric—a high-level European delegation was sent to Pyongyang in hopes that it could contribute to a peaceful resolution of the issue.³¹

The EU sought access to Pyongyang also through trade. Some European states have had trade relations with North Korea for a long

28. European Parliament, "Resolution on Relations Between the European Union and the Democratic People's Republic of Korea," January 9, 2001. B5-0037/200.

29. Borje Ljunggren, "The Korean Peninsula – Recent Developments from an EU perspective," in *North Korea in the World Economy*, eds. E. Kwan Choi, E. Han Kim and Yesook Merrill (London: RoutledgeCurzon), pp. 9-15.

30. European Parliament, "Report of Proceedings," January 29, 2003. P5_CRE (2003), pp.01-29.

31. European Parliament, "Declaration by the Presidency on Behalf of the European Union, Following the IAEA Resolution of 12 February 2003 on North Korea," January 31, 2003. PE 327.466, p. 58; "The DPRK Briefing Book: EU Troika Visit to Pyongyang and Seoul," *Nautilus Institute*, <<https://nautilus.org/publications/books/dprkbb/europeanunion/dprk-briefing-book-eu-troika-visit-to-pyongyang-seoul>> (date accessed April 26, 2019).

time. The Union exported agricultural and chemical products, machinery, cars, steel, electronic and measuring devices, and medical supplies and imported mostly textiles, but also transportation materials, electronic and plastic products, and salt. Since foreign direct investment in the DPRK remained problematic, the EU sought to expand economic cooperation by offering preferential market access via relaxation of regulations for certain products. Non-textile products were not subject to any restrictions and the quota for textile imports was raised by 60 percent in 2001.³² The DPRK's merchandise trade balance with the EU remained positive in the period between 1993 and 2002, while growing increasingly negative with the rest of the world. Europe created demand for North Korean exports, providing a way to obtain a hard currency alternative to the sales of missile technology. The EU became the DPRK's third largest trading partner with Germany holding the greatest share of mutual trade, and France, Spain, and the United Kingdom as runner-ups.³³ The EU could have expected to benefit from the opening of North Korea's market as it has significant growth potential. Nevertheless, initial efforts were aimed mainly at assisting the revival of the North Korean economy; returns could be expected only in the very long-run.³⁴

The EU and South Korea agreed on their preferred approach toward the North.³⁵ The Sunshine policy, initiated by the ROK in 1998, naturally appealed to Europe as it also concentrated primarily on seeking rapprochement through investment and communication with the DPRK's leadership. Europe embraced South Korea's vision and was committed to expanding trade relations, while contributing to the modernization of industrial facilities in the DPRK. The EU offered much needed diplomatic support and encouragement to the ROK in

32. European Parliament, "Note on the Democratic People's Republic of Korea (DPRK) and Its Relations with the European Union," October 10, 2006. DGExPo/B/PolDep/Note/2006_165.

33. European Commission, "North Korea," October, 2003. DG Trade A2/CG/SG/WB.

34. Frank, "EU – North Korean Relations."

35. European Commission, "EU Republic of Korea Relations," March 30, 2001. MEMO/01/111.

its pursuit of the Sunshine policy.³⁶ At the same time, the Union's approach was at odds with Washington's policy, which created tensions in the transatlantic relationship.³⁷

Overall, during this early period, the EU was set to assist economic development in North Korea and open diplomatic dialogue on issues not directly related to the security of the regime in Pyongyang. The Country Strategy Paper defined developmental assistance as a top priority of relations. This included strengthening key institutions and fostering the human resources necessary for the implementation of reform policies, as well as support in the development of North Korea's natural resources and transport infrastructure. The EU intended to help improve the economic situation by providing training in trade and finance for workers in key ministries in Pyongyang to facilitate integration of the country into the world economy. The European Commission stated that it had the resources and the resolve to help the DPRK through the initial stages of its growth.³⁸

The policy of engagement was possible because of the specific history of the relationship between EU states and the DPRK. The EU never invaded or threatened North Korea or showed ambition to establish a permanent presence on the Korean Peninsula. Despite supporting the eventual unification of the two Koreas, it never mentioned use of force as a possible means to that end. Several Eastern European countries (Eastern Germany, Poland, Czechoslovakia, and Hungary) had assisted the DPRK economically after the Korean War, and some never severed diplomatic relations even after the disintegration of the Soviet bloc.³⁹ North Korean state media published pro-EU articles, praising the Union's independence of U.S. policy and portraying it as the "only

36. European Parliament, "Resolution on Relations Between the European Union and the Democratic People's Republic of Korea."

37. Berkofsky, "EU's Policy Towards the DPRK," p. 19; Frank, "EU – North Korean Relations."

38. European Commission, *The EC - Democratic People's Republic of Korea (DPRK) Country Strategy Paper 2001-2004*.

39. Frank, "EU – North Korean Relations."

superpower that can check and balance U.S. hegemony.”⁴⁰ Thus relations were not obstructed by the perception of threat, animosity, and distrust that plague North Korea’s dialogue with its other interlocutors.

EU’s early policy had positive consequences. It achieved the opening-up of political dialogue, including unprecedented talks on human rights. Enhanced economic exchange led to some improvements in the infrastructure of the DPRK. The danger of North Korea selling arms to obtain foreign currency was reduced. Humanitarian support alleviated the effects of the famine and improved health care and sanitation in the country. The positive perception of the EU in the DPRK increased the prospects for sustained dialogue, that could possibly come to include issues related to regional security.

2. *Disengagement after 2003*

The year 2003 became a turning point in the EU’s approach to North Korea. All dialogue with the DPRK was suspended, economic assistance was cut, and humanitarian aid was significantly reduced. The EU took on a new course of non-involvement in the politics of the Korean Peninsula. There would be no attempts to engage North Korea through diplomacy and no help would be provided for the development of the country’s economy for more than a decade.

The EU reconsidered its humanitarian assistance to North Korea after several critical developments. First, Pyongyang requested that all aid be terminated in response to the EU’s signing of a United Nations resolution condemning the human rights situation in the DPRK. Many projects were suspended and could be resumed only after involved non-governmental organizations were reorganized and agreed not to use any symbols that could identify their sponsors while at work.⁴¹ Second, the security issue resulted in international sanctions, which affected ECHO’s ability to manage ongoing projects.⁴² Third, the scarcity

40. Kwon and Ford, “The EU Stretches Its Foreign Policy Wings over Korea.”

41. European Parliament, “Note on the Democratic People’s Republic of Korea,” p. 13.

42. ECHO was renamed Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) in 2004.

of donors made long-term development projects impossible to manage by the few expert teams remaining inside the country.⁴³ By 2007, the organization was implementing an exit strategy, despite the continuing humanitarian crisis.⁴⁴ Since 2008, the EU has provided assistance only through EuropeAid and the World Food Program.⁴⁵

The EU's participation in the multilateral security dialogue in Northeast Asia ended with the demise of KEDO in 2006. The Union did not completely lose interest in playing a role in the process that could lead to a resolution of the nuclear crisis on the Korean Peninsula. In 2005, the European Parliament issued a resolution advising for the EU to be included in the six-party talks on North Korea's nuclear program.⁴⁶ Member States, however, "agreed that the EU, while ready to join if asked, should not push to be invited to join the security talks."⁴⁷

Bilateral dialogue between the EU and North Korea also stalled. One ad hoc delegation travelled to Pyongyang in 2004 to assess the changes in the country since the last European visit in 2000.⁴⁸ The only noteworthy activity since has been the exchange of delegations between the European Parliament and the DPRK. The EU abstained from political engagement on the Korean Peninsula. It issued a series of resolutions echoing the positions of Seoul and Washington, but

43. European Commission, "Evaluation of ECHO's Actions in the Democratic People's Republic of Korea (2004-2007)," 2008. Contract ECHO/ADM/BUD/2007/01213, p. 27.

44. European Commission, "Annex to the Report from the Commission Directorate-General for Humanitarian Aid – ECHO Annual Report 2007," July 9, 2008. COM(2008) 449.

45. Stephen Castle, "European Union to Send Food Aid to North Korea," *The New York Times*, July 3, 2011, <<https://www.nytimes.com/2011/07/05/world/europe/05union.html>> (date accessed June 17, 2019).

46. "EU Parliament Calls for Entry to North Korea Talks," BBC Monitoring: Asia Pacific, March 10, 2005, p. 1.

47. European Parliament, "Note on the Democratic People's Republic of Korea," p. 6.

48. European Parliament, Delegation for Relations with the Korean Peninsula, "Press Release of Ad Hoc Delegation visit to North Korea 21-24 February 2004," <http://www.europarl.europa.eu/meetdocs/2004_2009/documents/fd/dkor20050426_003/dkor20050426_003en.pdf> (date accessed April 30, 2019).

made no effort to further engage the DPRK.

Engagement through trade became infeasible. Economic exchange between the EU and the DPRK has turned on a downward trend.⁴⁹ In October 2007, after six rounds of six-party talks resulted in North Korea halting its nuclear activities, the political climate allowed for a bilateral economic seminar to be held in Pyongyang. The two sides disagreed on the immediate policy priorities—the DPRK was interested in direct investment, while EU representatives insisted on structural changes in the North Korean economy and a firm commitment to denuclearization as prerequisites for future assistance.⁵⁰ Trade was also increasingly formally restricted by international sanctions.⁵¹

After North Korea's first nuclear test in 2006, the EU routinized the adoption of restrictive measures against the DPRK as its default policy response to developments in North Korea's nuclear and missile program. Brussels transposed all relevant United Nations (UN) sanctions, which included an arms embargo, freezing of assets and a travel ban on persons related to the nuclear program, and a continuously expanding ban on a range of imports and exports. Member States agreed to uphold the Proliferation Security Initiative and inspect cargoes going to and from the DPRK that could contain items prohibited by the UN. The EU demonstrated its commitment to nonproliferation efforts by reinforcing the UN sanctions regime with a number of autonomous measures such as banning the exports of additional items or freezing the assets of persons suspected of contributing to the nuclear-related program.⁵²

49. Korea Institute for International Economic Policy, "2008 Nyeondo Bukan Daeoegyeongje Jeonmang" [North Korea's Foreign Economic Outlook], *World Economy Update*, vol. 8, no. 8 (February, 2008), p. 4.

50. European Parliament, Delegation for Relations with the Korean Peninsula, "Report on Working Group Visit to Pyongyang and Seoul 22 October – 1 November 2007." CR\699297EN.

51. "Council Common Position 2006/795/CFSP of 20 November 2006 Concerning Restrictive Measures Against the Democratic People's Republic of Korea," *Official Journal of the European Union*, vol. 49, November 22, 2006, L 322, p. 32.

52. European Council, "EU Restrictive Measures Against North Korea," <<https://www.consilium.europa.eu/en/policies/sanctions/history-north-korea/>> (date accessed May 28, 2019).

In sum, since 2003, Europe's engagement with North Korea came to what has been aptly described as a "standstill."⁵³ The policy later received an official name—"critical engagement"—but the initial shift from a carrots-based approach to a mixture of sticks and carrots (the effectiveness of which is greatly reduced due to general disengagement and a lack of substantial leverage) occurred more than fifteen years ago.

The new approach prevented the EU from playing a constructive role on the Korean Peninsula. Most diplomatic progress achieved before the shift was gradually lost. Both South and North Korean officials have expressed hope that the EU could assist the peace process.⁵⁴ Some Member States are known to use their unofficial channels of communication with both parties to facilitate negotiations. And yet, the EU appears unwilling (or unable) to use its full potential as an actor with significant stakes in the region.

III. Explaining the Change in Policy

Europe's changed approach toward North Korea was a byproduct of its new foreign policy. Two of its main features restricted the range of diplomatic options available to the EU in dealings with North Korea. The first was the designation of a possible WMD arms race in the Middle East as an issue of highest security concern for Europe. The second was a firm commitment to the relationship with the U.S. in addressing security threats.

In 2003, the EU published a new common security strategy. The document became Europe's first agreed definition on its "role and purpose in the world."⁵⁵ It was built upon the European Political Cooperation—

53. Berkofsky, "EU's Policy Towards the DPRK."

54. European Parliament, Delegation for Relations with the Korean Peninsula, "Minutes of Meeting with Mr. Pak Hyon-Bo, Ambassador of the Democratic People's Republic of Korea," January 18, 2005. PE/DKOR-17/PV/01-05.

55. Klaus Becher, "Has-been, Wannabe, or Leader: Europe's Role in the World After the 2003 European Security Strategy," *European Security*, vol. 13, no. 4

an informal consultative process, which for decades had failed to produce a common European position on foreign policy matters—and the European Security and Defense Policy, which created some cohesion with regard to the Balkans, but failed to reconcile the differences between major states ahead of the Iraq war.⁵⁶ Developing a CFSP had been the greatest challenge of European integration, as Member States with diverse security concerns would rarely agree on a common stance across different issue areas. Once in place, it had special significance as one of the three pillars constituting the EU.

The CFSP identified the proliferation of WMD as “the greatest threat” to European security. The main source of concern was the spread of nuclear and missile technology and “the possibility of a WMD arms race, especially in the Middle East.”⁵⁷ The threat had a concrete form, as Iran had recently officially announced the progress of its nuclear program.⁵⁸ EU officials discussed this development during the drafting phase of the CFSP, concluding that “the nature of some aspects of Iran’s programme raises serious concerns.”⁵⁹ The European Council issued a separate document, dealing specifically with the threat of proliferation, where it stated that “[t]he EU must act with resolve, using all instruments and policies at its disposal... to prevent, deter, halt, and, where possible, eliminate proliferation programmes of concern worldwide.”⁶⁰

The CFSP emphasized the importance of acting together with the

(January, 2004), p. 346.

56. Yasuji Ishigaki, “Iraq War – A First Major Test of the CFSP of the European Union and Japan’s Strategic Choice” (paper presented at the 3rd Conference of European Union Studies Association - Asia Pacific (EUSA-AP), Keio University, Tokyo, December 8-10, 2005).

57. European Council, *A Secure Europe in a Better World: The European Security Strategy* (Brussels: European Council, 2003), p. 3.

58. Lynne Dryburgh, “The EU as a Global Actor? EU Policy Towards Iran,” *European Security*, vol. 17, no. 2 (June-September 2008), pp. 253-271.

59. European Council, “Press Release on 2518th Council Meeting on External Relations,” June 16, 2003. 10369/03 Presse 166, p. 24.

60. European Council, “EU Strategy Against Proliferation of Weapons of Mass Destruction,” December 10, 2003. 15708/03, p. 2.

U.S. to deal with security threats. It pledged Europe's commitment to international cooperation and defined the transatlantic partnership as "irreplaceable."⁶¹ The strategy to counter the threat of proliferation iterated the resolution to act in unison with Washington.⁶² In fact, one of the primary objectives of the CFSP was to keep the U.S. in Europe. Leaders aimed to develop the necessary capability to contribute to joint military operations, thus reducing Washington's concerns about bearing an unfair share of costs for the defense of the Old Continent (and its incentive to retreat).⁶³

The Union needed a functioning foreign policy to be recognized as a unitary actor in the international system. Without it, the EU was an international organization, incapable of external action independent of the interests of separate states.⁶⁴ In addition, for a long time it was unclear who represents Europe with regard to foreign policy issues as the Presidency, the European Commission, the Foreign Ministries of Member States, the Secretary General of the Council, and individuals delegated with specific tasks were all allowed a say in policy-making. This often made it difficult to determine the EU's position on foreign policy matters. A complicated decision-making procedure with multiple veto points gave some states disproportional influence. As a result, Europe developed a reputation for lack of consistency and slow response in foreign relations. The EU came to be perceived as a source of funds, but not as a global player capable of participating in high politics on an international scale.⁶⁵ A case in point is its involvement in KEDO, where reportedly "the U.S., Japan, and South Korea repeatedly asked

61. European Council, *A Secure Europe in a Better World*, pp. 9, 13.

62. European Council, "EU Strategy Against Proliferation of Weapons of Mass Destruction," p. 5.

63. Robert J. Art, "Europe Hedges Its Security Bets," in *Balance of Power*, eds. T.V. Paul, James J. Wirtz, and Michael Frotmann (Stanford: Stanford University Press, 2004), p. 185.

64. Charlotte Bretherton and John Vogler, *The European Union as a Global Actor* (Routledge, 2005), pp. 29-30.

65. Fraser Cameron, "Building a Common Foreign Policy: Do Institutions Matter?," in *A Common Policy for Europe?*, ed. J. Peterson and H. Sjursen (London: Routledge, 1998), pp. 59-76.

for European funding without allowing the EU any real role in the decision-making process.”⁶⁶ For this reason, when a common security strategy was finally formulated, it was essential to ensure that it was functional. If inconsistency and lack of coordination between national and supranational policies continued to be the norm, Europe would not be able to “make an impact on a global scale.”⁶⁷ Under these circumstances, EU’s policies toward individual states (including North Korea) needed to be consistent with the objectives of the CFSP.

Since 2003, the EU has consistently acted according to its common foreign strategy on matters related to the proliferation of WMD. If it was unsuccessful in halting Iran’s nuclear program, it was not for lack of effort—the EU negotiated with Tehran, solicited support from Russia and China, made promises of rewards in exchange for cooperation, and issued threats in case of non-compliance.⁶⁸ Member States also jointly provided support to the International Atomic Energy Agency through funding and by actively promoting stricter monitoring of nuclear material.⁶⁹ In 2005, the European Council issued a common position on the NPT, setting before the EU the objective “to strengthen the international nuclear non-proliferation regime” and “stressing the need to strengthen the role of the UN Security Council, as final arbiter, in order that it can take appropriate action in the event of non-compliance with NPT obligations.”⁷⁰ These are no minor achievements, considering

66. Ramon Pacheco Pardo, “EU Support for North Korean Denuclearization.”

67. European Council, *A Secure Europe in a Better World*, p. 14.

68. “Iran Rejects European Offer to End Its Nuclear Impasse,” *The New York Times*, August 7, 2005, <<https://www.nytimes.com/2005/08/07/world/middleeast/iran-rejects-offer-to-end-its-nuclear-impasse.html>> (date accessed June 17, 2019); Tom Sauer, “Struggling on the World Scene: An Over-ambitious EU versus a Committed Iran,” *European Security*, vol. 17, no. 2-3 (June, 2008), pp. 273-293.

69. Christian Mölling, “The Grand Bargain in the NPT: Challenges for the EU beyond 2010,” in *Nuclear Weapons after the 2010 NPT Review Conference*, ed. J. P. Zanders (Paris: EU Institute for Security Studies, 2010), p. 59; Megan Dee, “The EU’s Multilateralist Combat Against the Proliferation of WMD in the NPT: Mirroring the Great Bargain,” *European Security*, vol. 24, no. 1 (March, 2015), pp. 7-9.

70. “Council Common Position 2005/329/PESC of 25 April 2005 Relating to the

that the Union consists of countries with fundamentally different positions on nuclear weapons and varying levels of trade dependence with potential proliferators, including Iran.

Europe was also committed to maintaining a common course with the U.S. When transatlantic relations came under strain over the war in Iraq, European leaders and experts warned against the dangers of adopting a rival agenda with the U.S. UK Prime Minister Tony Blair warned that “[i]f Europe and America split apart from each other... [i]t will be far harder to make the international order stable and secure,” because “on every single issue that comes out, there will be rival poles of power to which people can gravitate.”⁷¹ Even French president Jacques Chirac, who had threatened to veto a United Nations resolution on use of force in Iraq, had admitted that “[r]elations between Europe and the United States are not only a very old, not only essential to the world equilibrium, but... in reality, becoming more and more important.”⁷² He told U.S. President George W. Bush that he only opposed using force before attempting a diplomatic solution, and “France would not stand in the way of a second resolution authorizing military action.”⁷³ In the following years, France and all other Member States demonstrated support for U.S. policy towards Iran and also sent troops to Afghanistan. Javier Solana insisted that differences between Brussels and Washington were exaggerated and that the two shared both threats and objectives.⁷⁴

The consolidation of Europe’s foreign strategy affected policy

2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,” *Official Journal of the European Union*, vol. 48, April 27, 2005, L 106, p. 32.

71. Christina M. Schweiss, “Sharing Hegemony: The Future of Transatlantic Security,” *Cooperation and Conflict*, vol. 38, no. 3 (September, 2003), pp. 211-234; “US and EU ‘Must Not Be Rivals,’” BBC, March 25, 2003, <http://news.bbc.co.uk/2/hi/uk_news/politics/2885169.stm> (date accessed April 28, 2009).

72. “Bush Holds Talks with Chirac,” CNN, May 26, 2002, <<http://edition.cnn.com/2002/WORLD/europe/05/26/france.bush/index.html>> (date accessed June 7, 2009).

73. Stefano Recchia, “Did Chirac Say ‘Non’? Revisiting UN Diplomacy on Iraq, 2002-03,” *Political Science Quarterly*, vol. 130, no. 4 (December, 2015), p. 635.

74. Javier Solana, “Europe and America: Partners of Choice,” (speech, annual dinner of the Foreign Policy Association, New York, May 7, 2003).

toward North Korea in two main ways. First, the EU could not tolerate activities that could lead to proliferation of nuclear weapons (particularly in the Middle East, or, more specifically, Iran). North Korea's multiple nuclear and missile tests during this period required a "firm and clear" response in the form of economic sanctions and diplomatic isolation.⁷⁵ Second, EU policies had to be consistent with Washington's approach. The EU needed to terminate economic and technological support for the DPRK to avoid strengthening the regime. This was in line with Washington's general aversion to the use of incentives and opposed to South Korea's relatively more conciliatory policies.

North Korea provided an opportunity for Brussels to demonstrate that the CFSP was operational. By maintaining a course true to the common security strategy, Member States could improve the credibility of the EU as a unitary actor. Contrary to what some experts feared, the DPRK was an easy test.⁷⁶ The Korean Peninsula was sufficiently important to Europe to justify the efforts devoted to addressing the security issues in the area. Unlike Iran (or Iraq), however, North Korea provoked few conflicts of interest between separate states with regard to the appropriate response to provocations (for example, regarding the severity of sanctions). No country had to sacrifice its vital interests in the name of the common good.

In sum, before 2003, the EU did not have a common position on nuclear weapons, nor an agreement to unanimously condemn nuclear research. North Korea was not considered a direct threat to Europe's vital interests. Its weapons development program was a matter of general concern, but it did not target Europe. This allowed individual European institutions more freedom in their approach to the DPRK. Member States could implement their own policies without being accused of inconsistency. Economic engagement and diplomatic dialogue with Pyongyang did not contradict Europe's foreign strategy objectives. The

75. European Council, "Javier Solana, EU High Representative for the CFSP Condemns Nuclear Test by North Korea," October 9, 2006. S280/06; European Council, "Javier Solana, EU High Representative for the CFSP Condemns Nuclear Test by North Korea," May 25, 2009. S136/09.

76. Berkofsky, "EU's Policy Towards the DPRK," p. 10.

need to alleviate the humanitarian situation in North Korea faced no competitors for the top position in Brussels' list of priorities. The EU was criticized for its lack of reaction to the proliferation crisis—a failing attributed to “the absence of a pre-agreed agenda.”⁷⁷ Since 2003, however, the policy of unconditional engagement did not correspond to the new defense strategy of the Union. North Korea's nuclear issue gained salience by being directly related to proliferation in the Middle East. Threats aside, the CFSP required unambiguous commitment and thus superseded the varying preferences of Member States and individual organizations and institutions representing the Union. A soft or inconsistent approach to the DPRK could cause a crack in the freshly-cast second pillar of the EU. Therefore, as North Korea's nuclear program advanced, Brussels' resolve became more pronounced. By responding to each provocation with a new set of restrictive measures, the EU consistently demonstrated that it was dedicated to addressing the threat of proliferation and to cooperating with the U.S. in the process.

Many other factors have influenced Europe's policies toward North Korea in varying degrees. The EU's obligations to upholding the UN's sanctions regime have limited its freedom of action to a great extent, particularly with regard to trade and investment with a suspected proliferator. Other states and the diplomatic processes they initiated have often created opportunities and incentives for the EU to engage in the Korean Peninsula.⁷⁸ At the same time, the often diverging courses taken by Seoul and Washington have presented Brussels with a choice—to side with the ROK in its focus on economic engagement, or to support the U.S. approach of intensifying pressure.⁷⁹ Lastly, the interests of Member States have naturally influenced the EU's agendas

77. Clara Portela, “The Role of the EU in the Non-Proliferation of Nuclear Weapons: The Way to Thessaloniki and Beyond,” (Report No. 65, Peace Research Institute in Frankfurt, Frankfurt/Main, 2003), p. 19.

78. Esteban, “The EU's Role in Stabilizing the Korean Peninsula.”

79. On cleavages among major actors concerning the approach to North Korea, see John S. Park and Dong Sun Lee, “North Korea: Existential Deterrence and Diplomatic Leverage,” in *The Long Shadow: Nuclear Weapons and Security in 21st Century Asia*, ed. Muthiah Alagappa (Stanford: Stanford University Press, 2008), pp. 283-285.

and the preferred level of involvement with Pyongyang.⁸⁰ Nevertheless, when consolidating the various influences, EU policymakers relied on the CFSP as a reference point. This allowed them to reconcile pressures often pulling the Union in opposite directions. The consolidation of a common foreign policy stance explains both the timing of the shift in direction and the EU's choice to side with the U.S. and support its punitive efforts, while refraining from autonomous engagement with North Korea or clear support for the more conciliatory South Korea and China.

IV. Conclusion

This article discussed the change of the EU's policy toward the DPRK. During the first phase, from the mid-1990s to 2003, Brussels pursued a course of unconditional engagement. This was a reflection of Europe's preference to resolve conflicts through dialogue, while avoiding issues that could potentially lead to confrontation. The main objective was to help Pyongyang develop a healthy economy, thus ending the humanitarian crisis and establishing a basis for sustainable growth. For this end, Member States opened their markets for North Korean exports and provided knowhow, expert guidance, and technical assistance to the isolated state. Expectations were high—the DPRK would begin to integrate into the world economy, while developing a modern infrastructure and fostering skilled human resources. Improvement of the human rights conditions in the country would naturally follow. Reducing the gap in the levels of economic development between the two Koreas could become the first step to the future unification of the Korean Peninsula. European diplomats intentionally avoided discussions of security matters that could potentially derail cooperative arrangements. The policy achieved an immediate alleviation of the food and health crisis after the economic and environmental shocks in North Korea in

80. Santu Ko, "Vanguard of European Politics: The Role of Member States in the EU's Foreign Policy toward North Korea," *Journal of International and Area Studies*, vol. 15, no. 1 (2008), pp. 47-59.

the end of the 1990s, an establishment of trade and diplomatic relations between most European states and the DPRK, an opening of dialogue on human rights, and a generally enhanced mutual trust and understanding.

From 2003 onward, the EU adopted what can best be described as a policy of non-engagement. The reason the EU had to abandon the conciliatory efforts was the concretization of the CFSP. By developing a common stance with regard to the proliferation of nuclear technology, Brussels pledged to give a firm response to any potential proliferators. Moreover, regardless of the individual preferences of Member States, the Union was committed to support the U.S. in addressing security matters on a global scale. Over time, with the intensification of North Korea's nuclear activities, the EU more actively condemned Pyongyang's provocations, while continuing to abstain from independent efforts to alleviate the security crisis.

The European approach to world politics is to serve as a model for integration and cooperation that could be applied in other regions in the world.⁸¹ Many experts believe that the EU can bring a lot to the security dialogue on the Korean Peninsula. The preceding discussion, however, highlights the reasons why it may not be easy for the EU to play a more constructive role in the near future. There are three possible policy courses that Europe can pursue and none of them are ideal. First, it could accept that North Korea is a nuclear state and proceed to treat it as any other emerging market in need of developmental assistance—a path likely to be chosen by Russia. This could undermine EU's credibility as a global actor, confirm speculations that it cannot yield real power as a unitary actor, and encourage Iran to finish building its own nuclear deterrent. Second, Europe could side with South Korea in its efforts to negotiate denuclearization. The problem with this approach is that neither the ROK, nor the EU can give the DPRK security assurances in exchange for its nuclear weapons. All efforts will be futile, if none of the powers capable of providing credible security guarantees (the U.S., China, and/or Russia) agree to participate. Third, the EU could continue to follow Washington's lead in sanctioning Pyongyang and condemning

81. European Commission, *The EU in the World – The Foreign Policy of the European Union* (Luxembourg: European Commission, 2007).

its nuclear activities. This last option does not give Brussels a voice in regional matters and does not allow it to build any diplomatic or economic leverage vis-à-vis North Korea. Yet it might be the only feasible choice available to Europe at this time.

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Vietnam's Politic of a Divided Nation: From the Reunification to DoiMoi (Renovation) and Its Implication for the Korean Peninsula and North Korea

Jiwon Yun

The reunification of North and South Vietnam meant for the first time that Vietnam existed as an independent country. Vietnam had the experience of unifying the North-South region and was the first country to succeed in building a model of economic development based on the open and reform policy of “top-down,” while maintaining strong central control from a single-party communist state. Even though North Korea has remained mired in Cold War isolation while Vietnam’s post-war path led toward integration with the globalized economy, the two communist countries share a history of anti-imperialist struggle and ambivalent relations with their common neighbor, China. This paper aims to examine the process of Vietnam’s Reunification and DoiMoi (Renovation) process and identify its implication for the possibility of reunification in the Korean Peninsula. Vietnam’s reform model has been widely touted as the economic path for an impoverished and isolated North Korea to follow. In February 2019, the United States President Donald Trump and North Korean Chairman Kim Jong Un tried to make progress on the denuclearization of North Korea and the issue of the Korean Peninsula at the Hanoi Summit. The choice of venue naturally draws attention to the “Vietnam model,” which some analysts have expressed an interest in. Therefore, the paper also discusses what North Korea should learn from Vietnam’s lessons of economic renovation.

Keywords: Reunification, DoiMoi (Renovation), Korean Peninsula, North Korea (DPRK), South Korea (ROK)

I. Introduction: The Process of Vietnam's Reunification

For many years, many thousands of Vietnamese patriots sacrificed themselves for the reunification and independence of Vietnam. Pursuing these aims immediately after the Second World War, first the Viet-Minh, then the anti-Communist nationalists, brought into operation all the means at their disposal, both military and diplomatic. The Geneva Agreements of July 1954 confirmed the independence of Vietnam at the international level. Yet, at the same time, the country's unity, which for several years had no longer constituted a problem, was destroyed.¹

The movement against the United States (U.S.) involvement in the Vietnam War began among peace activists and leftist intellectuals on college campuses after the U.S. began bombing North Vietnam in 1964 and the introduction of combat troops the following year. On April 4, 1967, the Reverend Martin Luther King, Jr. delivered a speech entitled "Beyond Vietnam" in front of 3,000 people at Riverside Church in New York City that shook the U.S. In a powerful address, King proposed that the U.S. stop all bombing of North and South Vietnam, declare a unilateral truce in the hope that it would lead to peace talks, set a date that will remove all foreign troops from Vietnam in accordance with the 1954 Geneva Agreement, and give the National Liberation Front a role in negotiations.² King maintained his antiwar stance and supported peace movements until he was assassinated on April 4, 1968, one year to the day after delivering his speech. As the title suggests, King's speech not only explained why he strongly opposed the war that the U.S. Government conducted in Vietnam, but also moved towards the noble global values of peace and reunification.

1 Philippe Devillers, The Struggle for the Unification of Vietnam, *The China Quarterly*, no. 9 (Jan. - Mar., 1962), pp.2-23.

2 Martin Luther King, "Beyond Vietnam," (speech, New York City, April 4, 1967), <<https://kinginstitute.stanford.edu/king-papers/documents/beyond-vietnam>> (date accessed February 08, 2019).

The Initial Step of Fighting against Colonial Rule for National independence and Reunification

French colonization in Vietnam officially lasted from 1887 to 1954, even though the French and other European groups had already arrived and started to influence events in Vietnam as early as 1516.³ After Japan had lost the war and left the country in 1945, the French wanted to take control of Vietnam again. When China became a Communist country in 1949, Communist influence in Vietnam became stronger. In 1945, a nationalist leader, Ho Chi Minh, declared Vietnam an independent country. Soon afterwards, a war between Ho Chi Minh's followers and the French began. It ended after the French had lost an important battle at Dien Bien Phu in 1954. With this defeat, the country of Vietnam was divided between North and South at the Geneva Conference (1954). The Republic of Vietnam and the Democratic Republic of Vietnam emerged from the conference differing politically and economically.

Vietnam's struggle against colonialism and for independence was also a struggle for reunification and the integrity of its national sovereignty. The nationalist movements required the strength of solidarity of the entire nation. Ho Chi Minh pointed out, "Our history teaches us this lesson: When our people unite, our country will be independent and free. On the contrary, when people do not unite, they will be invaded by foreign countries."⁴ The August Revolution of 1945 marked a momentous event in Vietnamese history. It formally marked the end of French colonialism in Vietnam and the beginning of Vietnamese national independence. It also marked the end of the Confucianist-oriented monarchy and the beginning of a Communist-oriented democratic republic. The main purpose of the August Revolution was to "regain peace, unification, independence and democracy for our country, for our people."⁵ Moreover, the Revolution

3 Julie Shackford, *Vietnam An Historical Perspective* (Honolulu Hawaii: the Henry Luce Foundation, Inc, 2000), p.181.

4 Ho Chi Minh, *Selected Works*, vol. 3 (Hanoi: The National Political Publishing House, 2011), p.256.

5 Ho Chi Minh, *Selected Works*, vol. 9 (Hanoi: The National Political Publishing

created a uniform government for the entire country, making it a stepping stone for the resistance wars against French and American invaders. In order to implement and unify the nation's forces to struggle for independence and freedom, the Viet Minh Front was established with delegations and member associations entitled "National Salvation," contributing to boosting the movement and preparing political forces and armed forces as well as building revolutionary bases.

When World War II ended, fascism was annihilated. Taking this chance, the Communist Party and Viet Minh led a general uprising, combining political forces with armed forces, from both rural and urban areas, to disintegrate Japanese military and the puppet state of Imperial Japan, establishing a unified National Government throughout the country before the Allies entered Indochina. Therefore, national independence and national unification fronts were formed and conducted by the Vietnamese people, not by the liberation of the Allies. The task of the Allies was to disarm the Japanese army, not to occupy and divide Vietnam or to establish governments that went against the will and aspirations of the Vietnamese people.

In response to the unreasonable request of the French Government on Vietnamese territory, in the Declaration of Independence on September 2, 1945, Ho Chi Minh proclaimed that "For these reasons, we, the members of the Provisional Government, representing the whole Vietnamese people, declare that from now on we break off all relations of a colonial character with France; we repeal all the international obligation that France has so far subscribed to on behalf of Viet-Nam, and we abolish all the special rights the French has unlawfully acquired in our Fatherland. The whole Vietnamese people, animated by a common purpose, are determined to fight to the bitter end against any attempt by the French colonialists to conquer the country."⁶ In a letter to the President of the U.S., the President of the Democratic Republic of Vietnam stated that "When the Japanese were defeated in August 1945, the entire territory of Vietnam was reunified under a Provisional

House, 2011), p.35.

6 Walter L. Hixson, *American Foreign Relations: A New Diplomatic History* (London: Routledge, 2015), p.332.

Government and this Government was immediately put into operation in five months, peace and order were re-established, and a Democratic Republic was established on legal bases and supported the Allied countries in implementing their disarming mission.”⁷ The general election elected the National Assembly I (on January 6, 1946) and fully reflected the will and aspirations of the Vietnamese people to build a united and independent country. The government was officially elected by the Constitutional Assembly (March 2, 1946) as “the true Government of the entire people.” This victory was a historic advance by leaps and bounds regarding the national institution of rule by law and democracy, as a testimony to the creativeness and practicality of Ho Chi Minh’s thought on building a law-governed State of the people, by the people and for the people.

Persistence in the Goal of National Independence and Reunification by Struggling against French Reoccupation

Vietnam’s independence did not last long. French troops came back and reoccupied Cochinchina with the ‘divide and rule’ policy. After taking over Cochinchina, France separated Nam Bo (Southern region) into the Autonomous Republic of Cochinchina and the Highlands into the autonomous Western States (February 1946). They then established the Southern Government in March 1946. These are actions that undermined the national reunification norms. Therefore, the Vietnamese people had to continue struggling to “retain and preserve the victories of the August Revolution, i.e. peace, reunification, independence and democracy.”⁸ On March 6, 1946, Jean Sainteny, French Commissioner of the Republic, signed an agreement with Ho Chi Minh that provided for the recognition of Vietnam as a free state within an Indo-Chinese Federation and as part of the French Union.

Before leaving for France (June 1946), in the Letter to the Southern

7 Ho Chi Minh, *Selected Works*, vol. 4 (Hanoi: The National Political Publishing House, 2011), pp.202-203.

8 Ho Chi Minh, *Selected Works*, vol. 9 (Hanoi: The National Political Publishing House, 2011), p.36.

people, President Ho Chi Minh once said, "The southern region is the flesh and blood of Vietnam. Rivers may be shallow, mountains may be eroded, but the truth will never change."⁹ The purpose of Ho Chi Minh's trip to France was to resolve the issue of an independent Vietnam, with the unification of the Central, South and North. After returning from France, Ho Chi Minh declared to the Vietnamese people that due to the current situation in France, both independent and unified issues of Vietnam have not been resolved. However, Ho Chi Minh confirmed that "sooner or later, Vietnam is bound to be independent and will be unified."¹⁰ At the meeting on October 31, 1946 of the second National Assembly Session I, after being assigned by the National Assembly to establish a new Government, Ho Chi Minh stated that the purpose of the Government was to "consolidate and gain independence and unify the home country."¹¹ In the Call to the United Nations (December 1946), Ho Chi Minh pointed out France's action to "create the Republic of Cochinchina with a puppet government" and affirmed that the Vietnamese people "firmly fought to protect the most sacred rights: territorial integrity for the Fatherland and independence for the country."¹² The long and heroic resistance of the Vietnamese people ended up with the victory with the strategic advance of Winter-Spring (1953-1954), culminating in the Dien Bien Phu campaign, an eloquent symbol of national unity and independent will (national unity).

After being forced to surrender at the fortress of Dien Bien Phu on May 7, 1954, France realized that it could not continue fighting this costly war far from its shores on the sole ground of anti-communism. The Geneva Accords of July 21, 1954 put an end to the conflict, and France was forced to leave the country. Vietnam was divided into two parts: whilst northern Vietnam fell under the communist control of Ho Chi Minh, a nationalist dictatorship took power the south of the 17th parallel. Laos and Cambodia were officially recognized after

9 Ho Chi Minh, *Selected Works*, vol. 4 (Hanoi: The National Political Publishing House, 2011), p.280.

10 *Ibid.*, p.468.

11 *Ibid.*, p.478.

12 *Ibid.*, p.522.

proclaiming their independence in 1953. But unlike France, the U.S. refused to accept the outcome of the Geneva Conference and remained firmly behind the cause of independence for South Vietnam.

Resolutely against the U.S. and the Saigon Government, Abolishing the Division of the Country, Liberating the South, and Unifying the Country

In April 1954, amidst growing tensions regarding the situation in the Korean Peninsula and Indochina, the international community convened a conference in Geneva in the hopes of reaching some sort of accord. The U.S., UK, France, Soviet Union, and China were the primary negotiators, each jockeying to achieve their objectives through backroom negotiations, while other countries which had sent troops in the Korean War or the First Indochina War against the Viet Minh had smaller roles. Meanwhile, as the negotiations were going on in Geneva, the Viet Minh achieved their decisive victory over the French at Dien Bien Phu, which led to France's withdrawal. On July 21, 1954, the results of the Geneva Conference on Indochina were announced. While the Korean question went unanswered, the Conference passed the Geneva Accords, which divided French Indochina into Laos, Cambodia, and Vietnam. Vietnam was to be temporarily partitioned along the 17th parallel with elections scheduled for July 1956. These elections, of course, were never materialized, as Ngo Dinh Diem declared himself leader of the new state of South Vietnam and Ho Chi Minh established a Communist state in the North. Also during this time, the U.S. replaced the French in the South, enforced a long-term policy of partitioning Vietnam, turning the South into a separate, pro-U.S. country, within the "free world" in opposition to "communism." The U.S. and the Saigon government were becoming clearer as the forces that divided the nation and divided the country. The absolute purpose of the Vietnamese people was to fight for peace "to achieve unification, complete independence, and democracy throughout the country."¹³

13 Ho Chi Minh, *Selected Works*, vol. 9 (Hanoi: The National Political Publishing House, 2011), p.37.

At first, the U.S., which had been funding the French war, was content to pour money into South Vietnam's army, and to send its own troops only under the guise of "advisers"—16,300 of them. By March 1965, it was sending its own men into combat. At the peak of the fighting, in 1969, the U.S. was using 550,000 of its own military personnel, plus 897,000 from South Vietnam's army and thousands more from South Korea and other allies. By the time the war was over, the number of dead was beyond counting, possibly as high as 3.8 million, according to a study by the Harvard Medical School and the University of Washington.¹⁴ According to the demands of the U.S., the Saigon government evaded negotiation with the Government of the Democratic Republic of Vietnam, in order to divide Vietnam in the long-term. While the Southern people promoted peaceful political struggle, the Northern people tried to restore the economy, building the North as a basis for the struggle for reunification.

On September 1955, the Vietnam Fatherland Front was established and issued a Declaration calling on the people of all social strata, irrespective of gender, age, ethnicity, social composition, political orientation, and religious beliefs, without any discrimination, for peace, unity, independence, and democracy. They called for all Vietnamese people to join hands for the cause of building and defending the North, for the sake of peace and unification of the country. With the will and sentiment of the South and the North as a home country, the Party and the Government paid much attention to taking care of cadres, soldiers, people, and students gathering from the South to the North. In the autumn of 1954, upon hearing that the southern people gathered in Sam Son, Ho Chi Minh wrote a letter of encouragement and encouraged them depending on their strength to participate in the construction of the country. At the same time, he reminded the Minister of Labor, Nguyen The Tao, Head of the Committee, to welcome the gathering forces in Sam Son on behalf of the Party. Likewise, he persuaded the

14 The Guardian 2015a, *Vietnam 40 years on: how a communist victory gave way to capitalist corruption*, <<https://www.theguardian.com/news/2015/apr/22/vietnam-40-years-on-how-communist-victory-gave-way-to-capitalist-corruption>> (date accessed February 15, 2019).

Government to welcome the Southerners with great concern and love. The North was the foundation and origin of the Vietnamese revolution in the new era, so all tasks in the North were aimed at strengthening the forces of both regions. The most important task of the people, the National Assembly and the Government, was to strive to build socialism in the North, to fight for peace and unification of the country and to contribute to the protection of peace in Southeast Asia and the world. The 3rd Congress of the Vietnam Labor Party (September 1960), with a goal to conduct simultaneously two revolutionary strategies in the two regions, had gone down in history as the Congress of Socialist Construction in the North and struggled to reunify the country.

After the defeats, the South, the North, and the U.S. were forced to calm down and enter into negotiations by signing the Paris Agreement (January 27, 1973), acknowledging the basic national rights of Vietnam such as its independence, sovereignty, and territorial integrity. However, after the U.S. and the Saigon government undermined the Agreement, the Vietnamese people had to continue to fight. It was a fierce confrontation between peace and war, between righteousness and violence, and between national independence and national unification with ethnic division and division of the country. By the 1975 Spring Offensive, culminating in the historic Ho Chi Minh campaign, the Vietnamese army and people ended the long battle for more than a century against colonialism, cleansing the humiliation of the loss of their country, and opening the era of national independence, unification, and socialism. North and South Vietnam were reunited under the control of the Communist North Vietnamese government. The North immediately renamed Saigon "Ho Chi Minh City," after its former president. The Communist government implemented collectivization plans to transform Vietnam into a socialist country. Its policies had disastrous effects on the economy, however, and in the 1980s the government decided to move to a more market-based, capitalist economy.

The reunification meant that for the first time Vietnam existed as an independent country and was the first country to succeed in building a model of economic development based on the open and reform policy of "top-down," while maintaining a strong central control from a single-

party communist state. In the meantime, North Korea has remained mired in Cold War isolation while Vietnam's post-war path led toward integration with the globalized economy. The two communist countries share a history of anti-imperialist struggle and ambivalent relations with their common neighbor, China. This paper aims to briefly elaborate on the process of Vietnam's Reunification and examine the period from after Reunification to DoiMoi (Renovation) thereby identifying its implication for the possibility of reunification on the Korean Peninsula. For North Korea, Vietnam's reform model has been widely touted as the economic path for the impoverished and isolated North Korea to follow. In February 2019, North Korea's Chairman and the U.S. President met in Hanoi to try to make progress on denuclearization and move toward the reunification of the Korean Peninsula. The choice of venue naturally draws attention to the "Vietnam model," after which North Korea was "hoped" to model itself.

II. Vietnam from after Reunification to DoiMoi (Renovation) Era

When the last Americans left Saigon on the morning of April 30, 1975, the U.S. lost its first war. The human and economic costs of the Vietnam War were devastating. For the vast numbers of Americans who were deeply affected by the Vietnam debacle (including the military personnel who served there, the families of the nearly 60,000 Americans soldiers who died in Southeast Asia, and the citizens who lost faith in their country because of the events that unfolded), the conflict will remain a defining point in their lives. However, many more Vietnamese died, with estimates ranging from 1.5 million to more than 3.5 million Vietnamese killed in fighting from the mid-1950s until the war's end in 1975. In *The Wrong War: Why We Lost in Vietnam*, Jeffrey Record, a former civilian adviser in the Mekong Delta, wrote that there were many causes for the American defeat such as: a lack of understanding that this was not just a fight against communists but also a struggle against true-believing Vietnamese nationalists who wanted to repel outside invaders;

underestimating the will and fighting ability of the North Vietnamese and their Viet Cong allies in the south; believing falsely that the United States had the will and military might to win; and wrongly concluding that the South Vietnamese would fight and govern effectively over the long-term.¹⁵

Vietnam had been a political, military, and moral battle field for years. Many important factors would influence Vietnam's decision such as which side of Vietnam would prevail in the international contest between communists and non-communists; whether western countries would continue to dominate the ex-colonial world; whether small countries could stand up to big ones; and whether guerrillas could defeat modern armies. These factors, simple in outline, remain almost as hard to answer today as they were on the day Saigon fell. The plain fact that the American war in Vietnam was a mistake and a crime—because it was undertaken so lightly, pursued so brutally, and abandoned so perfidiously—is about the only plain fact there is.¹⁶

The Vietnam War was a brutal war with many casualties. After reunification, Vietnam was in a state of physical ruin. Infrastructures were devastated by bombing. Unexploded shells and landmines littered the countryside, often underwater and in the paddy fields where peasants waded. Millions of hectares of forest had been stripped of life by high explosives and Agent Orange. The new government reckoned that two-thirds of the villages in the south had been destroyed. Nationally, the new government estimated that it was dealing with 10 million refugees, 1 million war widows, 880,000 orphans, 362,000 war invalids, and 3 million unemployed people. The economy was in chaos. Right after unification, the inflation was running at up to 900%, and a

15 Kenneth T. Walsh 2015, *The U.S. and Vietnam: 40 Years After the Fall of Saigon - America's first taste of defeat in war shaped perceptions of the U.S. at home and abroad*, <<https://www.usnews.com/news/articles/2015/04/30/the-us-and-vietnam-40-years-after-the-fall-of-saigon>> (date accessed February 20, 2019).

16 The Guardian 2015b, "Forty years on from the fall of Saigon: witnessing the end of the Vietnam war," <<https://www.theguardian.com/news/2015/apr/21/40-years-on-from-fall-of-saigon-witnessing-end-of-vietnam-war>> (date accessed February 20, 2019).

country full of paddy fields had to import rice. In peace talks in Paris, the U.S. had agreed to pay \$3.5bn in reconstruction aid to mend the shattered infrastructure. However, it never paid a cent. Adding insult to penury, the U.S. went on to demand that the communist government repay millions of dollars borrowed by its enemy, the old Saigon regime. Vietnam desperately needed the world to provide the trade and aid that could turn its economy around. As soon as it had lost the war, the U.S. imposed a trade embargo, cutting off the war-wrecked country not only from U.S. exports and imports, but also from those of other nations that bowed to U.S. pressure. In the same way, the U.S. leaned on multilateral bodies including the IMF, the World Bank, and UNESCO to deny Vietnam aid. The U.S. acknowledged that Agent Orange was likely to cause serious illness and birth defects and paid \$2bn compensation—but only to its own veterans. The Vietnamese victims—more than 2 million of them—got nothing. The day after the North Vietnamese took Saigon, the country was reunified, this time under the policies of North Vietnam. Under the new planned economy, the large manufacturers of South Vietnam were to be joined with the predominantly agricultural-based North in a balanced economy. Embracing the free market, Vietnam's economy had gone from one of the worst to one of the hottest in Southeast Asia in the past 20 years. Vietnam's foreign relations have taken the same 180-degree route. The U.S. is no longer the enemy, and Americana culture appears to be winning the "hearts and minds" of a new generation of young Vietnamese peacefully.¹⁷

It is not clear how any economic model could have survived this hostile encirclement. Inevitably, Vietnam's socialist project began to collapse. It adopted a crude Soviet policy that forced peasant farmers to hand over their crops in exchange for ration cards. With no incentive to produce, output crashed, inflation climbed back towards wartime levels, and the country once again had to import rice. In the early 1980s, the leadership was forced to allow the peasants to start selling surplus

17 Aljazeera 2015, *Vietnam 40 years on: how a communist victory gave way to capitalist corruption*, <<https://www.aljazeera.com/indepth/features/2015/04/vietnam-40-years-fall-saigon-150429100025151.html>> (date accessed February 22, 2019).

produce so capitalism began its return. By the late 1980s, the party was officially adopting the idea of “a market economy with socialist orientation.” During the 6th party congress in December 1986, the Communist Party decided to reform the economic system, called DoiMoi (renovation). The political elite opted for a gradual change of the economy, without changing the political system. The economic development induced by the reforms was remarkable. Since the introduction of DoiMoi, Vietnam endured remarkable economic growth. The Foreign Investment Law, passed in 1987 and implemented the following year, completely liberalized former socialist policies (100 percent foreign ownership of businesses in Vietnam; foreigners permitted to conduct business in-country and send profits home; and tax breaks and investment for technology, consumer goods, and processing of raw materials).¹⁸

In March 1988, Resolution 10 was passed, furthering the development of reform in Vietnam. This resolution abolished the collectivization of agriculture and paved the way for agricultural growth. The government distributed land to households who in turn were given full authority in production and investment. With the abolition of government contracts, goods could be sold at market prices to the public as well the state. These reforms were further broadened in 1992 when land-use rights were extended. Farmers could now hold onto land for up to 75 years. The liberalization of agriculture produced quick, impressive results. Vietnam is now the world's third largest importer of rice, when it previously had been a net importer.¹⁹ It cannot be denied that the market forces freed by DoiMoi have produced strong economic growth in Vietnam during the 1990s. DoiMoi has created a more productive and resilient economy, and a more optimistic atmosphere. Market principles are now accepted as the basis for remunerating labor, for determining land use, and even for determining public sector

18 Gerald Tan, *ASEAN Economic Development and Cooperation*, Second ed. (Singapore: Times Academic Press, 2000), p.139.

19 Garry Rodan, Kevin Hewison, Richard Robison, eds., *The Political Economy of Southeast Asia: Conflicts, Crises and Change* (Melbourne: Oxford University Press, 1997), p.218.

accountability. During this period, foreign investors were allowed to come in and private businesses were encouraged with free trade, free markets, profits for some, and wages for others. Behind the scenes, the government was sending signals of compromise to Washington. It stopped asking for the \$3.5bn reconstruction aid or compensation for Agent Orange and war crimes. It even agreed to repay the old Saigon regime's war debt of \$146m. By 1994, the U.S. was appeased and lifted the trade embargo that had been throttling Vietnam for nearly 20 years. The World Bank, the IMF, and other donors began to help. The economy started growing by up to 8.4% a year, and Vietnam was soon one of the world's biggest exporters of rice.

Crucially, throughout the 1990s, there were still strong factions within the Communist Party that defended socialism against the new tide of capitalism. In spite of the economic chaos, they had succeeded in engineering a dramatic reduction of poverty. When the war ended, 70% of Vietnam's people lived below the official poverty line. By 1992, it was 58%. By 2000, it was 32%. At the same time, the government had constructed a network of primary schools in every community, and secondary schools in most of the community; it had also built a basic structure of free healthcare. For a while, the socialist factions still had enough political muscle to direct the new capitalist vehicle. Three times during the late 1990s, the World Bank offered extra loans worth hundreds of millions of dollars if Vietnam would agree to sell its state-owned companies and cut its trade tariffs. Each deal was rejected. In 1995, Vietnam joined the Association of Southeast Asian Nations (ASEAN), becoming the first communist member. Vietnam also committed itself to contributing to the ASEAN Asian Free Trade Area (AFTA) and signed a bi-lateral trade agreement with the U.S. in 2000.²⁰

During the period 2001-2005, the government has set several socio-economic targets focusing on macroeconomic stability, growth, inflation control, productivity, trade, investment, and increasing the economy's competitiveness. The implementation of DoiMoi policy has brought about important achievements in all aspects of social life in Vietnam.

20 Melanie Beresford & Dang Phong, *Economic Transition in Vietnam* (Northampton, MA: Edward Elgar Publishing Ltd, 2000), p. 124.

Political and social stability has been maintained. A socialist-oriented market economy has basically been built; the commodity economy has been built from the self-supplying economy; a multi-sectoral economy with multiple forms of ownership has been built; and a closed economy has been changed to an open, internationally integrative and cooperative economy.

III. Implication for the Reunification in the Korean Peninsula and North Korea

Implication for the Korean Peninsula

Prior to World War I and Japan's annexation of Korea, all of Korea was unified as a single state for centuries, previously known as the Goryeo and Joseon dynasties, and the last unified state, the Korean Empire. After World War II and beginning in the Cold War, Korea was divided into two countries along the 38th parallel (the Korean Demilitarized Zone). Korean reunification refers to the potential unification of the DPRK and ROK into a single Korean sovereign state. In June 2000, the process towards reunification was started by the June 15th North-South Joint Declaration. This was reaffirmed by the Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula in April 2018 and the joint statement of the United States President Donald Trump and North Korean Chairman Kim Jong Un at the Singapore Summit in June 2018. The second DPRK-U.S. summit in Hanoi, which ended without an agreement, was bound to be a new starting point on the long journey toward "the building of a lasting and robust peace regime on the Korean Peninsula," in the words of the joint statement signed by North Korea and the U.S. at the Singapore summit.²¹

The hypothetical reunification of the Korean Peninsula is often

21 Hankyoreh 2019, *News analysis, The ambiguous results of the 2nd North Korea-US summit*, <http://english.hani.co.kr/arti/english_edition/e_northkorea/884475.html> (date accessed February 25, 2019).

compared to other countries, which had divided governments and reunified, including Germany and Vietnam. The idea that the Korean Peninsula can possibly seek another re-unification, liberalization, and development success story like Vietnam sounds promising because the similarities between Viet. and Korea can be traced clearly. The contacts between Vietnam and Korea (before Korea's partition) can be traced back to the 13th century, when Prince Ly Long Tuong of the Ly Dynasty self-exiled to the Koryo Dynasty in 1226 AD after a coup d'état by General Tran Hung Dao. This relation could also be found in the context of counterparts with China as both were under China's invasion and rule. The other common features of the two cultures are the profound influence of Chinese cultural factors. The history of Vietnamese culture and of Korean culture can be summarized in only two categories, Sinicization and De-Sinicization. In order to struggle against cultural assimilation and at the same time to absorb the positive factors of Chinese culture, Vietnam and Korea carried out De-Sinicization.²² Both Vietnamese and Korean culture originate on the basis of one sustainable source of indigenous culture so all external factors must be adapted and combined with endogenous conditions, enriching the background and national culture and improving national identity.

Both the Korean and Vietnam Wars resulted from tensions created by post-colonial political solutions to the decolonization process. For centuries before the division, the peninsula was a single, unified Korea, ruled by generations of dynastic kingdoms. In 1905, Korea, occupied by Japan after the Russo-Japanese War and formally annexed five years later, chafed under Japanese colonial rule for 35 years until the end of World War II, when its division into two nations began. In 1945, there was a clear division between North and South Korea ever since the surrendering of Japan. It was the Allied victory that ended Japan's thirty five-year occupation of Korea. Like Vietnam, Korea was also a divided nation, with communism entrenched in the northern parts and anti-

22 Vo Van Sen 2016, *Towards the comprehensive flourishing of Vietnam-Korea relations*, <http://cefia.aks.ac.kr:84/index.php?title=TOWARDS_THE_COMPREHENSIVE_FLOURISHMENT_OF_VIETNAM-KOREA_RELATIONS#cite_note-3> (date accessed June 17, 2019).

communism in the southern areas. Unlike another Cold War-era separation, between East and West Germany, there has been extremely little movement across the DMZ between North and South Korea since 1953. Robinson describes the border as “hermetically sealed,” which helps to explain the drastically different paths the two nations have taken and the continuing divide between them.²³

After the Korean War, the ROK’s economy prospered under a series of capitalist dictatorships and the country eventually became a democracy. South Korea launched its Nordpolitik—Northern Policy to normalize diplomatic relations with socialist countries. North Korea remains an economic basket case and a police state which has been ruled by the same family for three generations. The legacy of that dark century has left the ROK’s security guaranteed by an American Defense Treaty while the DPRK is tied to a military pact with China in the event of it being attacked. Meanwhile, the DPRK remained an isolated “hermit kingdom” particularly after the collapse of the Soviet bloc in the early 1990s and economically underdeveloped, as well as a virtual police state ruled by a single family for three generations. The North’s dedicated efforts to develop a nuclear program have also greatly heightened tensions with the ROK and its allies, particularly the U.S. The divisions put in place mid-way through the 20th century still remain stark today.

With its historical and cultural similarities, the experiences of Vietnam’s reunification and renovation can be a good example for both Koreas. At the 2015 Korea-Vietnam Peace Conference, the ROK Ambassador to Hanoi, Jun DaeJoo evaluated Vietnam highly that Vietnam after reunification has boosted strong socio-economic development through its reform policy, while the DPRK is still turning its back on the development of the people and concentrating only on military development such as developing nuclear weapons and missiles. With the experience of post-reunification in Vietnam in mind, Jun also emphasized that the case of the two Koreas’ reunification would also contribute to the peace and prosperity of the Korean Peninsula as well as

23 Sarah Pruitt 2018, *Why Are North and South Korea Divided?*, <<https://www.history.com/news/north-south-korea-divided-reasons-facts>> (date accessed February 25, 2019).

East Asia. He further mentioned that Vietnam should play an active role for the peace and unity of the Korean Peninsula.

Vietnam plays an important role in supporting and orienting the reunification process on the Korean Peninsula. Vietnam advocates the DPRK to renounce its nuclear weapons and improve its people's lives, thus contributing to the peace and stability of the world. Vietnam has long put forward the message of being an active member and a reliable and responsible partner of the international community. Vietnam has consistently supported all efforts to promote dialogue and uphold peace and stability on the Korean Peninsula, urging each party to earnestly observe the United Nations Security Council resolutions, actively strive for peace, and make practical contributions to the maintenance of peace.

Recently, the emerging context of the two Koreas has many outstanding features. During the 2018 Inter-Korean Summit on the South Korean side of the Peace House in the Joint Security Area, the ROK President Moon Jae-in and the DPRK Chairman Kim Jong Un adopted the Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula. This joint statement aims to prosper and unify the Korean Peninsula, including an ambitious plan that will go beyond the Korean Armistice Agreement of 1953 to officially end the Korean War. However, although this Declaration referred to the phrase "Reunification," the prospect of reunifying the two Koreas is still quite obscure. Due to the large difference in economic development between South Korea and North Korea after more than seven decades of partition, the inter-Korean integration process will inevitably face a series of problems regarding politics, economy, society, and culture. This means that the two countries need to join hands, carefully develop, and implement the process of cooperation and unification on the Korean Peninsula, in parallel with the learning experiences of other countries like Vietnam. Vietnam is a nation that is really fond of peace but also had to suffer from wars, and usually the wars ended with peace negotiations. Vietnam is also a country that has experienced the process of reunifying the North and South regions with the establishment of the Socialist Republic of Vietnam in 1976. This historical context has many similarities with the context of the two Koreas today.

In 2019, the Korean Peninsula continues to attract the attention of the international community in which the second DPRK-U.S. summit expected to create a breakthrough. Vietnam's hosting of the high-stakes talks marks its emergence as a trustworthy, responsible member of the international community that has forged peace with old enemies and can now help others to do so. This is also a typical example of Vietnam's active and positive foreign policy, which clearly presents itself as a "middle power" aiming to contribute to the creation of peace and prosperity for the world. Vietnam reveled in its newfound role as an arbiter of peace at the DPRK-U.S. summit. While the leaders of DPRK and the U.S. debated banishing nuclear bombs from the Korean Peninsula, the host of their summit in February 2019, Vietnam, long almost synonymous with war, was relishing its role as a promoter of peace.²⁴

One of the biggest obstacles that was posed by the Hanoi summit was the question of how to overcome the continuing lack of trust between the DPRK and the U.S. in regard to the concept and mode of denuclearization. The outcome of the Hanoi summit between the DPRK leader and the U.S. President reveals the results that could be the driver of future efforts and the obstacles that must be overcome if the next summit is to be held. However, many people who are thinking of North-South Korea reunification in the context of the relationship between the two regions are witnessing many positive changes and turning points. How would the Korean Peninsula be when the two Koreas reunify? In the case of reunification, would the Korean Peninsula most likely become a superpower? The followings analyses are worth examining. As of 2004, the ROK joined the elite club of trillion-dollar economies, and today it ranks as the world's 11th largest economy in terms of GDP.²⁵ It is believed that its reunification with the DPRK would certainly give the

24 Reuters 2019, *Vietnam revels in newfound role as arbiter of peace in N. Korea-US summit*, <<https://www.france24.com/en/20190226-vietnam-revels-newfound-role-arbiter-peace-north-korea-usa-nuclear-summit>> (date accessed February 28, 2019).

25 Investopedia 2019, *North Korean vs. South Korean Economies: What's the Difference?*, <<https://www.investopedia.com/articles/forex/040515/north-korean-vs-south-korean-economies.asp>> (date accessed February 28, 2019).

ROK more opportunities for economic development. It may even be an opportunity to unprecedentedly expand its territorial economy. A country made up of the ROK-DPRK would more easily access China's vast market by both railway and road. That means the opportunity for commercial development would be huge like adding wings to the "Asian dragon." Simultaneously, the economic sectors of the DPRK would be enhanced and provided with new resources; agricultural output would be increased many times thanks to the application of modern technologies from the ROK; and an abundant labor force, mainly from the DPRK's agricultural sector, may be able to work in the ROK's factories. In this case, the ROK would relocate its overseas factories to the DPRK to attract more laborers.

Besides, the reunification of Seoul and Pyongyang will also open up the opportunity to tap into resources that are almost untouched in the DPRK. It is believed that the DPRK has huge reserves of natural resources such as gold, copper, etc. In other words, a country that still has a lot of development potential and resources that have not been utilized like the DPRK would be able to "flare up" its vitality when reunified with the ROK's existing potential. As a result, the economy of the Korean Peninsula may develop. In terms of military strength, according to Global Firepower in 2018, South Korea ranked as the 7th most powerful military in the world.²⁶ The ROK's rise to 7th place is due to its emphasis on national defense construction, as well as owning the world's sixth largest active military manpower and the second largest active reserve forces (2.97 million). Furthermore, the ROK has also proposed the development of a strategic air force with integrated air and space capabilities and a strategic mobile fleet with ocean-going combat capabilities (China Military Online 2018). On the other border, the DPRK ranks 18th and is the only nation in the world having 25.66% of its people in the armed service (active and reserve both included). Recently, the DPRK successfully launched ICBM (Intercontinental Ballistic Missile), a direct threat to the U.S. mainland and announced the launch

26 CEO World Magazine 2018, *The World's Most Powerful Militaries In 2018*, <<https://ceoworld.biz/2018/11/23/the-worlds-most-powerful-militaries-in-2018/>> (dated accessed February 28, 2019).

of a Hydrogen bomb small enough to fit on top of an ICBM—a serious concern for America. In case of the ROK's combination with the DPRK, a reunified Korea would have a much stronger, disciplined army with well-equipped weapons compared to the ROK alone.

In addition, if the reunification promoted by the DPRK leader Kim Jong Un is achieved, this could also empower the nation's self-esteem, which is already highly regarded by the South Korean, thus becoming a driving force that would make the Korean Peninsula a greater reunified country again. At the end of April 2018, many people had very different views of the DPRK leader when he delivered a speech that touched the hearts of his people and the world. He expressed his determination to put the interests of his people first and really wanted to reunify with the ROK. He pledged a "new history" with the South Koreans. Together with his counterpart, President Moon Jae-in, he agreed to work on a permanent peace agreement and work toward a complete denuclearization of the Korean Peninsula. They both pledged to work for the complete denuclearization of the Korean Peninsula and agreed on a common goal of a "nuclear-free" Peninsula.²⁷ Moon called the 2018 Inter-Korean Summit at Panmunjeom "historical" and "a valuable time." To achieve a complete peace, the two nations will collaborate and "change the order of the Korean Peninsula." Kim similarly praised Moon, saying this moment had been a long time coming. "Same people, same blood, so we cannot be separated and should live together in unification," Kim said. "I hope we live together soon as a new path forward."²⁸

It can possibly be noted that the combination of a ROK economic miracle and successful economic growth model with a rich DPRK potential can create a superpower that surpasses Japan as it has to import resources while the Korean Peninsula has all available resources

27 Gulf News 2018, *Look: Korean leaders trade jokes, hugs*, <<https://gulfnews.com/world/asia/look-korean-leaders-trade-jokes-hugs-1.2212490>> (date accessed March 03, 2019).

28 ABC News 2018, *North Korea, South Korea agree to end war, denuclearize peninsula*, <<https://abcnews.go.com/International/north-korea-south-korea-agree-end-war-denuclearize/story?id=54774515>> (date accessed March 03, 2019).

for its development. In other words, a Reunified Korea can strengthen its economy and attract foreign investment, tourism, and infrastructure. However, it can also be admitted that the reunification of the Korean Peninsula will not be easy and faces many difficulties. To have a unified government, a newly Reunified Korea may have to neutralize their political institutions. Moreover, they then have to devote resources to upgrade their infrastructure and improve the quality of education for the North Koreans. It may take decades to achieve positive effects. Of course, in the beginning, it may be very difficult for the North's economy to be on par with the South. In the case of its military, it may also be difficult to merge militarily the two Koreas. The new government system and economic barriers would also be very large and difficult to overcome. It is even argued that compared to the ROK, a Reunified Korea could recess for a decade or two. However, despite these difficulties, the leaders of the two Koreas are expressing their determination to reunify the two regions after decades of separation. It is also the desire of most people on the Korean Peninsula.

What Can the DPRK Learn from the Vietnamese Economic Model?

The two countries, after all, have much in common, at least on the surface: Both suffered through colonial rule, tragic national divisions between a communist north and capitalistic south, devastating conflicts with the U.S., and disastrous post-revolutionary experiments in communism.²⁹ In February 2019, Kim Jong Un and Donald Trump met in Hanoi to try to make progress on the denuclearization of the Korean Peninsula. The choice of venue naturally draws attention to the "Vietnam model," which some analysts have expressed an interest in. In many ways, we can see that the modern DPRK is equivalent to Vietnam in the 1980s. For one, the Communist Party of Vietnam has ruled the state ever since its independence in 1945, just as the Workers' Party of Korea has always governed the DPRK. The two countries "were both under United Nations sanctions, in the case of DPRK, for developing

29 Geoffrey Cain 2019, *North Korea Is Not Vietnam*, <<https://newrepublic.com/article/153174/north-korea-not-vietnam>> (date accessed March 04, 2019).

nuclear weapons, and in the case of Vietnam, for occupying a foreign country. Perhaps the biggest parallel is Pyongyang's desire to reform its economy, just like Hanoi did decades ago."³⁰ Like North Korea now, Vietnam between 1975 and 1995 was crippled by economic sanctions and a U.S. trade embargo. In the late 1980s, Vietnam embraced free-market reforms. That eventually opened the country up and resulted in its present socialist-oriented economy. Vietnam's frontier market is now one of the world's fastest-growing economies, thanks to an expanding middle-class, a strong manufacturing sector, and a young population. After more than three decades, it is starting to see fruitful results, as Vietnam's economy grew 7.1 percent in 2018, above its initial target of 6.7 percent. In 2019, the U.S. and China celebrated their 40th anniversary of diplomatic ties. The U.S. normalized relations with Vietnam in 1995. The similarities between Korean and Vietnamese cultures could make it easier for the DPRK to take after Vietnam's economic model.

Subsequent DPRK economic deficiencies and isolation provide a stark contrast of chosen paths between the divergent former allies. Vietnam has committed to economic liberalization, while the DPRK remains a pariah with non-existent foreign investment and a perpetual reliance on China.³¹ In this context, protecting the power of the party, remaining unaffected by capitalism, and not dependent on populists are the three main objectives set forth by North Korean leaders on the path of reform and an open door. By making a strategic decision on giving up the parallel development of its nuclear potential and focusing on economic growth, Pyongyang has made it clear to the world community that the country has a determined development model. But it seems that this model could not be based on the experience of the DPRK's closest allies (China and Russia) but Vietnam. Vietnam has won the prolonged war with the U.S. and experienced reunifying the North and South.

30 Lowy Institute 2019, *The Vietnamese venue will shape the second Trump-Kim summit*, <<http://www.lowyinterpreter.org/the-interpreter/Vietnamese-venue-shape-second-Trump-Kim-summit>> (date accessed March 04, 2019).

31 Chris Scott 2017, *Vietnam's role in North Korea: a friendship endures?*, <<https://cms.ati.ms/2017/07/vietnams-role-north-korea-friendship-endures/>> (date accessed May 05, 2019).

Vietnam is also the first country to succeed in building a model of economic development based on the opening-up and a top-down system of control, while maintaining a strong and effective centralized control of the Communist Party. All of this seems very close to the DPRK. In the course of the inter-Korean summit in April 2018, the DPRK's Chairman Kim Jong Un mentioned the opportunity to develop in line with the Vietnamese model.

The DPRK has been willing to experiment with reforms under Kim Jong Un. In 2014, Kim also introduced measures to reduce farm sizes and allow some production for household use and sale in markets. Since 2016, these reforms have been expanded and greater emphasis has been placed on more decentralized decision-making. Chairman Kim has also embarked on a peace offensive to improve relations with the international community, reflected by his landmark meetings with the presidents of South Korea and the U.S. Vietnam has also maintained "geopolitical flexibility and relationship-building." President Trump once said that Vietnam's "thriving" economy could serve as an "awesome" model offering many growth opportunities for North Korea, if Pyongyang completely dismantles its nuclear arsenal. These developments "are likely to be admired" by Pyongyang. Hanoi enjoys close ties with Washington despite stark ideological differences and decades of hostility during the Vietnam War. The Asian nation has also managed to cultivate ties with many countries, including both Koreas, Russia, Japan, and India. Given their respective emphasis on political stability, China and Singapore have also been touted as potential role models for Pyongyang, but both have their disadvantages in the eyes of the DPRK leader. Pyongyang wishes to emphasize its independence from, rather than subordination to Beijing while Singapore's path may be unsuitable due to its smaller size. Any DPRK attempt at liberalization will depend on the progress of ongoing nuclear negotiations. If Kim makes good on his promise to denuclearize, sanctions could be lifted, paving the way for Pyongyang to resume foreign trade. The lifting of sanctions, coupled with economic reforms and changes in national security policy and international relations, "could help put the DPRK

economy on a path of stable growth and economic integration.³²

Vietnam could be an appropriate choice for the DPRK. In many ways, modern North Korea is equivalent to Vietnam in the 1980s. The DPRK has long studied China's economic development model and even tried to implement it. But since Kim Jong Un took over as the top leader of the country, China's model has been increasingly evaluated in a more negative way as if the DPRK were to follow China's path, the DPRK would be under Chinese intervention and depend on this country. Implementing its own reform policy within the framework of collective leadership, China relies heavily on the formation and attraction of large capital, boldly opening up its economy in special economic zones such as Shenzhen. However, from the DPRK's point of view, this is seen as a failure to maintain the centralized Chinese government's control system. In Russia, the Communist Party had completely lost its dominance, therefore, Russia's experience may increasingly be considered unworthy for the DPRK to learn and follow. For the case of Vietnam, Vietnam had tried to create a commodity economy while firmly protecting its bold political system. Through the effectiveness of its renovation and by keeping its open-door policy to a minimum, Vietnam succeeded in creating a social market economy from the DPRK's viewpoint.

Vietnam had the right leaders, despite their well-documented flaws, at just the right time as the Cold War was winding down, and the markets were set to open globally. North Korea has no such benefit. Under the leadership of the Communist Party, Vietnam has long been ideologically sympathetic to the DPRK, but this has not become an excuse for the development of economic cooperation. Pyongyang would ask Hanoi to share its historical experience and give advice on the process of changing the political system. But considering that even Russia and the DPRK can only achieve trade turnover of \$ 100 million a year, it is then difficult to predict in what areas it will cooperate with Vietnam. Unless the U.S.-DPRK relations improved and sanctions are lifted, Vietnam's economic cooperation with the DPRK could be

32 CNBC 2019, *North Korea may choose to follow Vietnam's economic model as it looks to open up*, <<https://www.cnbc.com/2019/02/13/north-korea-may-choose-to-follow-vietnams-economic-model.html>> (date accessed May 25, 2019).

enhanced by the implementation of the region's joint projects of South and North. Vietnam has not made isolating DPRK a matter of policy, maintaining an embassy in Pyongyang, and supporting DPRK participation in the ASEAN Regional Forum. Vietnam has presided over DPRK-Japanese reconciliation talks, while also offering advice on economic development and reform. DPRK delegations continue to visit Vietnam. High-level delegations in 2010, 2012, and 2015 underscore that the two sides are committed to the optics of a formal partnership, with meetings steeped in dated communist vernacular, and have signed a number of agreements on police training, science, and technology.

IV. Conclusion

Vietnam has consistently supported any and all efforts to promote dialogue and uphold peace and stability on the Korean Peninsula, urging each party to earnestly observe United Nations Security Council resolutions, actively strive for peace, and make practical contributions to the maintenance of peace. But despite rhetoric to the contrary in bilateral meetings, Hanoi's apprehension towards Pyongyang and institutionalizing a preference for Seoul have decisively brought an end to the spirit of communist fraternity of the previous century. Vietnam embraces international law in this regard and consistently advocates for nuclear non-proliferation on the Korean Peninsula by publicly denouncing North Korean nuclear ambitions. Vietnam pursues a policy of non-isolation with the hermit nation, perpetuating efforts to bring DPRK into the international community and ease regional tensions. But with little substance to an increasingly distant bilateral relationship, it is hardly in a position to play a major role as mediator between the Kim regime (winner nation against the U.S.) and the U.S. itself (which lost every war possible against Vietnam, DPRK, Cambodia, China...).

In the context of a dialogue about denuclearization being stalled, the presence of the DPRK Foreign Minister Lee Yong-ho in Hanoi could be interpreted as a signal that Pyongyang is determined to strengthen the new development model as well as achieve economic growth, regardless

of the direction of establishing relations with the U.S. It seems that the visit of the Chairman of the DPRK Supreme People's Congress Kim Yong-nam to Cuba, as well as the recent research on railways that has just begun with the ROK, also pursued the above goals. However, does DPRK listen to the advice of traditional allies, as well as those of good will, or still decide to choose its own path according to the Juche ideology? For the time being we can or cannot answer this question. Thus, the question is would the DPRK put its past behind it and restart its economy like its ideological allies, China and Vietnam? If so, the DPRK may have the potential to grow at a similar pace as those two countries have.

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