

**Democracy, History, and Migrant Labor in South Korea:  
Korean Chinese, North Koreans, and Guest Workers<sup>1</sup>**

**Hyun Ok Park**

**New York University**

This paper concerns the paradox of democratization in South Korea, whose progression has been entwined with neoliberal capitalism beginning in the 1990s. There have been critical moments of democratization since the military rulers gave in to popular pressure for democratization. These moments range from the recommencement of the popular electoral system in the Presidential election in 1987 to the transfer of the state power to civilian leaders, and the participation of former dissidents in the parliament and the administration. A particular form of democratization addressed in this paper is not electoral state politics but the broad-reaching initiatives to transform the relationship between the state and society.<sup>2</sup> Specifically, I examine the initiative to rewrite colonial and cold-war history. This particular initiative is part of an effort to correct a longstanding

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<sup>2</sup> For an insightful critique of the current democratization process, especially its political process, see Choi Jang Jip, *Minjuhwa ihuui minjujuui* (Democracy after democratization) (Seoul: Humanitas, 2003).

tendency of previous military regimes that suppressed the resolution of colonial legacies and framed Korean national history within an ideological confrontation of capitalist South Korea and communist North Korea.

Although current controversies pertaining to the efforts to rewrite history revolve around its accuracy in reinterpreting the past, I problematize two other characteristics of the initiatives: the legal approach and historical consciousness.<sup>3</sup> On the one hand, the initiatives to rewrite national history have been geared primarily to legislating laws that would allow the discovery of the truth of historical events and restoring the honor of those who were wrongly accused. I shall examine the underlining logic of the legislation. On the other hand, the initiatives to rewrite national history prompt debates on the nature of history itself, with neoliberal capitalism fostering disenchantment for history and representing its expansion as continuously new. This significance notwithstanding, the initiatives harbor a distinct historical consciousness that is incapable of adequately addressing the dynamics of global capitalism.

In this paper, I first elaborate on the interface of democratization, history, and neoliberal global capitalism in South Korea. As examples of the initiatives to rewrite history, I take the movement to change the Law on Overseas Koreans, which represents

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<sup>3</sup> For the recent decisions of the Presidential Truth Commission of Suspicious Death (Uimunsa Chinsang kyumyŏng wiwŏnhoe) on long-term prisoners as contributors to democratization, which invited the uproar of conservatives including the conservative Grand National Party, see the Commission's website, [www.truthfinder.go.kr](http://www.truthfinder.go.kr); for similar controversies over the decisions made by the National Commission on the Restoration of the Honors and Compensation of the People Related to the Democracy Movement (Minjuhwa kwaryŏnja myŏnghoe hoebok kwa posang simŭi wiwŏnhoe), see its website, [www.minjoo.go.kr](http://www.minjoo.go.kr).

itself as a project to overcome colonial history by means of embracing the colonial Korean diaspora, especially Korean Chinese working in South Korea. I compare political and cultural representations of Korean Chinese with those of North Korean migrants and foreign workers in South Korea. These three groups share with one another both the history of the post/cold war and the current capitalist regime. The dynamics through which history is mobilized to constitute capitalist expansion fashion the experiences of the three groups. My comparison of the ways that the experiences of these groups are represented in fragmentary mappings - Korean Chinese as "returnees," North Koreans as "defectors," and other guest workers as "migrant workers" - demonstrates the limits to historical consciousness inherent the democratic legal initiatives to rewrite history in post-cold war, neoliberal capitalist conditions.

### ***Neoliberal Capitalism, Democracy, and Migrant Laborers***

Changes beginning in the late 1980s heralded a new phase for the economic and cultural globalization of South Korean capital. Overseas investment and production increased dramatically to circumvent regulation by developed countries of Korean products and to curb the cost of production. By 2004, about 400,000 foreign workers have been hired in response to the shortage in the low-wage employment sectors known as 3-D work (dirty, dangerous, and physically demanding), as well as in the service sectors. At the juncture of this transformation, South Korean officials and capital began to pay new attention to the Korean diaspora who, in their initial assessment, could not only mediate the economic relationship between South Korea and their host countries but also perhaps also directly participate in South Korean economic activities. When they

compared the size and impact of the Korean diaspora in relation to the South Korean economy to that of the Chinese diaspora and the Chinese economy, South Korean state officials thought they saw some basis for reassurance, since the smaller Chinese diaspora had brought an economic boom to China's coastal region.<sup>4</sup> This desire to use the Korean diaspora was symptomatic of South Koreans anxiety' about how to sustain economic growth. The South Korean state had launched a variety of efforts to establish South Korean culture as the legitimate culture of the Korean nation (winning the competition against North Korea), sending cultural troupes and textbooks to Korean diasporic communities.

The new campaign for economic and cultural globalization by South Korea has transformed the Korean nation from a territorial to a de-territorialized form that, in principle, includes the Korean diaspora. South Korea's new relationship with the Korean Chinese community receives greater priority than its relations with other members of the Korean diaspora, including Korean Russians and some Korean Japanese who used to embrace North Korea. South Korean overseas investment in China has invoked the ethnic ties with Korean Chinese, who have in turn provided services such as translation,

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<sup>4</sup> Cho Kwang Dong, "Kyop'o esŏ tongp'oro (From Koreans living abroad to blood kin)," Chicago Edition of *Han'guk Ilbo*, May 7, 1996. A century after the first separation with the homeland, Koreans abroad amount to about 5.23 million, approximately 8 percent of the combined population of North and South Korea, with 37 percent in China, 13 percent in Japan, 9 percent in former Soviet territories. These colonial diasporas with the colonial origins outnumbered those new diasporas who emigrated from South Korea since the 1960s - 34 percent in the United States, 1.2 percent in Central and South America (The Chicago Edition of *Han'guk Ilbo*, March 30, 1996).

networking, buying property, and supplying labor. Fanning the Korean dream among Korean Chinese, this capitalist investment has brought Korean Chinese to South Korea. The intra-ethnic relationship mediates the new economic relations between South Koreans and Korean Chinese. Because they are able to communicate in vernacular Korean and their facial features resemble those of South Koreans, Korean Chinese are favored by employers in South Korea for jobs in construction, restaurants, and domestic service, where they are exposed to the public. Such jobs are better paying than those in small factories, which are given to migrant workers from elsewhere, including the Philippines and Indonesia.

The literature of transnational migration attends to both structural capitalist conditions and individual strategies: 1) the supply and demand thesis that examines the ways that developing countries meet the demand for cheap labor in developed countries<sup>5</sup>; 2) the thesis of the international flow of capital and labor that expounds the ways that overseas capital investment attracts (foreign) migrant workers capable of supplying cheap labor at home<sup>6</sup>; and 3) the studies of diaspora which focus on various individual and familial strategies of migrant workers, such as migrants' network of sharing information on jobs and pooling money to pay brokers for visas.<sup>7</sup> South Korean studies of foreign

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<sup>5</sup> Doug Massey, "Understanding Mexican Migration to the United States," *American Journal of Sociology* 92 (6): 1372-1403, 1987; Massey, Douglas, Joaquin Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino, and Edward Taylor, "Theories of International Migration: A Review and Appraisal," *Population and Development Review* 19 (3): 431-466. 1993.

<sup>6</sup> Saskia Sassen, *The Mobility of Labor and Capital: A Study in International Investment and labor Flow* (New York: Cambridge University Press).

<sup>7</sup> Aihwa Ong, *Flexible Citizenship: The Cultural Logics of Transnationality* (Durham: Duke

workers also concentrates on exploring these factors.<sup>8</sup> A shared weakness of these approaches in South Korea and elsewhere is its neglect of the politics of time—an understanding of the present, the past, and their constitutive relations. The supply and demand thesis and the thesis of the international flow of capital and labor postulate transnational migration as a general structural feature of capitalist economy without its addressing its historical specificity. Studies of diaspora tend to characterize the current global capitalist economy as a transnational economy (e.g., a declining appeal to national boundaries) that renders border crossings easier than before; the temporal divide of the present and the past is taken for granted in this approach that contrasts the current and previous capitalist economies. In this paper I present the politics of time as constitutive of the current capitalist economy in two ways: the distinctive characteristics of the current capitalist economy in relation to both economics and cultural politics; and the understanding of the present and the past that frames both the understanding of the present and the response to the current social conditions of migrant workers.

South Korean studies attribute the inflow of migrant workers to a labor shortage in the domestic economy, especially in the low-paying, labor intensive manufacturing sector, construction, and the service sector. They explore root causes of the labor shortage in the 3-D sectors—in terms of low-wages and declining birthrates. The studies consider

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University Press, 1999); Aihwa Ong, “Chinese Modernities: Narratives of Nation and of Capitalism,” in *Ungrounded Empire*, Aihwa Ong and Donald Nonini, eds. (New York: Routledge Press, 1996), 171-202.

<sup>8</sup> Sol Tong Hoon, *Oekukin nodongja wa Han'guk sahoe* (Foreign Workers and the Korean Society) (Seoul: Seoul National University Press, 1999).

this new trend in the South Korean economy as a universal derivative of economic development that is found in other countries, such as Japan and Germany, at similar economic stages. But instead I attribute the labor shortage in 3-D sectors to a new neoliberal capitalist mode of production and consumption. An overlooked feature of this new capitalist regime in South Korea is the *coexistence* of labor shortages in 3-D sectors with an unprecedented high rate of unemployment.<sup>9</sup> This feature suggests a significant change in the production of exchange value in the capitalist economy.

During the economic miracle period from the early 1970s to the late 1980s, the production of manufacturing goods with the use of manual labor was the basis of capital accumulation for capitalists (and managers) and the basis of personal wealth for the majority of South Koreans. As economic growth depended on exports, domestic consumption was strictly constrained in this period. In the late 1980s, this form of economic development faced its own limits. Increases in the cost of production, developed countries' regulations on imports, and the saturation of world market undermined the competitiveness of South Korean manufacturing production. Economic restructuring began in the late 1980s, taking investment and production overseas and adopting flexible measures to adapt to the world market, such as subcontracting and

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<sup>9</sup> Unemployment rate is estimated between 40 to 60 percent. While the unemployment of the young, especially college graduates, is taken seriously in the media, it spreads widely to all age groups due to early retirement and downsizing. For a systematic study of unemployment that attempts to find its root cause in the logics of capitalist accumulation, see Kim Man Su, *Silŏp sahoe* (The Society of Unemployment) (Seoul: Kalmuri, 2004).

replacing permanent full-time employment with temporary, part-time jobs.<sup>10</sup> Neoliberal reforms abolished the economic security of the working and middle classes, primarily by eliminating stable, long-term employment.

The utilization of subcontracting - which is one of the primary flexible accumulation strategies taken by the conglomerates, has also expanded the small factories and, in combination of the new culture of accumulation, resulted in labor shortages in these sectors. The dichotomy of the conglomerates (Chaebŏl) and small- and medium-sized factories in terms of low wage and representation of labor union is a legacy of the export led development model of the 1970s and 80s, which has been reproduced in the current neoliberal flexible economy.<sup>11</sup> In tandem with the economic panic after the 1997

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<sup>10</sup> On the issue of capital flight in Korea, see Hong Song Tae, "Chiyŏkbyol sanŏp kujoŭi pyŏnhwa (Structural Changes of Industrial Sectors)," *Han'guk kyŏngje ŭi sanŏp kujo chŏjŏng kwa nodongja kaegŭp* (Restructuring of Korean Economic Industrial Structure and the Working Class) (Seoul: Nokdu, 1993), 81-112; Kim June Dong, "Korea's Growing Direct Investments Abroad." *Korea's Economy* 11 (1995): 76-80 (Washington D.C.: Korea Economic Institute of America). For the latest discussion the periodization of Korean capitalist economy, see Yu Ch'ol Kyu, "1987 nyon ihu kyŏngje ch'ejeui hangye wa kyŏngje wigi (The Limits of the economic system and economic crisis after 1987 in Korea), *Dangdae Pipyŏng* 24 (2003 Winter): 28-41.

<sup>11</sup> For more on the increase of subcontracting and small firms, see Paik Nak Ki et al., *Chungso kiŏp kumyung wŏnyulhwa pangan* (Proposals For the Fluid Flow of Capital for Small and Medium sized firms). (Seoul: Korea Institute for Industrial Economics and Trade. Kim, Hyong Ki, 1998); Kim Hyong Ki, "Han'guk chabonjuui chaesaengsan kujo ui t'ukjil kwa chŏnmang (Characteristics and Future of the Reproduction Structure of the Korean Capitalism)" Pp. 124-69 in *Han'guk sahoeui pyŏndong, minjujuŭi, chabonjuui, ideologie* (Social Change in the Korean Society,



financial crisis, this series of adoption of flexible accumulation strategies has yielded a popular new form for the production of value, that is, accumulation of wealth via financial speculation. The fetishistic dream of acquiring instantaneous wealth has replaced the moral values of honest manual labor and saving. A lure to investment in venture capital firms, the rush in stock market trading, and fascination with the lottery are the fantastic techniques of this speculative accumulation.<sup>12</sup> The new desire for consumption, in conjunction with high unemployment, brings about mounting debts among young adults and ordinary households, with default on debt becoming a new vexing social problem. This new regime of production and consumption in conjunction with the shortage of labor for low-paying jobs is the condition that has attracted migrant workers.

The new neoliberal capitalist regime proceeds with democratization that seeks to

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Democracy, Capitalism, Ideology), edited by Han'guk sanŏp sahoe yon'guhoe (The Group for the Study of the Korean Industrial Society). (Kim, Hyong-ki. 1994. "Han'guk chabonjuui chaesaengsan kujo ui t'ukjil kwa chŏnmang (Characteristics and Future of the Reproduction Structure of the Korean Capitalism)." Pp. 124-69 in *Han'guk sahoeui pyŏndong, minjujuŭi, chabonjuui, ideologie* (Social Change in the Korean Society, Democracy, Capitalism, Ideology), edited by Han'guk sanŏp sahoe yon'guhoe (The Group for the Study of the Korean Industrial Society). (Seoul: Hanul, 1994).

<sup>12</sup> Jean Comaroff and John Comaroff, "Millennial Capitalism: First Thoughts on a Second Coming," in *Millennial Capitalism and the Culture of Neoliberalism, Public Culture* 2003, Volume 3 Millennial Quartet. While offering one of the best discussions on the new moral economy in neoliberal capitalism, their discussion lacks the concerns the relationship of capitalism and history, such as the temporal divide of the presumed yet unspoken "first coming."

resolve the deeply repressed social trauma inflicted by Japanese colonization and the cold war. As Korean Chinese migrant workers are framed as "returnees" whose departure from home was forced by colonizers, advocacy for their rights becomes integral to resolving the colonial legacy. Although the current form of neoliberal capitalism represents its expansion as ever new, historical memories are contested via politics to privilege the position of Korean Chinese, securing better rights for them than for other foreign workers. The politics of resolving the historical wounds of Korea, therefore, conditions the responses of South Korean society to the social conditions of Korean Chinese and other migrant workers. History is incorporated into the conjoined capitalist and democratic contentions. Social movements promote the human rights of voiceless and disadvantaged migrant workers. However, in this paper, I assess the idea of historical time that shapes such social movements by situating the movements in the larger social order of post-cold war, capitalist, and democratized Korea.

Law mediates the intertwined formation of capitalist and democratic politics and of the present and historical memory. The rule of law is the new machinery of democratized South Korean politics. Social movements during the economic miracle period challenged the validity of the legal system itself, as the authoritarian regime during the cold war had placed national security above all laws protecting civil liberty and freedom. Demands for democracy and criticism of the regime were seen as threatening national security: social disturbances would encourage North Korea to invade South Korea, if not being instigated by North Korea itself.

Social movements have acquired different goals, repertoires, and historical consciousness since democratization began in the late 1980s. First of all, the dominant

social movements in the present call themselves the civil society movement (simin sahoe undong), distinguishing themselves from the previous Minjung movement during the authoritarian economic miracle period. The civil society movement seeks to reform society gradually, while the more radical Minjung movement aimed to create a new state and a new economy that would protect the rights of the oppressed masses. The civil society movement takes legal reform as its new goal. Activists and movement groups invariably appeal to legal reforms, legislating new laws and abolishing repressive old ones. This contrasts to the Minjung movement that refuted the social order under the authoritarian state and capitalist economy led by conglomerates, and engaged primarily in street protests. The subjects of the two movements also differ. The civil society movement identifies itself as an NGO movement, in which citizens — whose class distinctions are effaced — lead the expansion of civil society, obtaining relative autonomy from state intervention. Whereas the constituency for the Minjung movement was composed of class and popular subjects, for the civil society movement it is the citizen.

This shift in the social movement is a product of democratization; yet it also entails a neoliberal logic. The civil society movement promotes juridical-political rights of individuals and groups as democratic practices. Experts and professionals, who interpret, legislate, and administer laws, occupy the primary place in the social movement which once had been the domain of the alienated masses.<sup>13</sup> Administration of laws by experts institutionalizes the rewriting of history, replacing the masses' historical consciousness of

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<sup>13</sup> For poignant critique of democracy and law, see Jacques Ranciere, *Dis-agreement: Politics and Philosophy* (Minnesota: University of Minnesota, 1999)

capitalism and dictatorship, which was the principal means of rewriting history in the Minjung movement. The promotion of individual rights before the law abstracts social relations into contractual relations between individuals.

### ***National Politics of Law: Korean Chinese***

Korean Chinese have worked and lived in South Korea on the interstices of ethnic recognition as Korean compatriots and foreign nationality as Chinese nationals. Their double identity places them at the margins of Korean society. Activists working for the rights of Korean Chinese are often dismayed at indifference of South Koreans toward Korean Chinese. Even when advocacy for the rights of women and people with disabilities symbolizes progressiveness in contemporary South Korean politics, the rights of Korean Chinese are left outside of the spotlight. Many South Korean employers favor Korean Chinese over other migrant workers for their competency in Korean language and physical appearance. Nevertheless concern for the rights of Korean Chinese has been sidelined at least two reasons: class discrimination and historical forgetfulness. In everyday life South Koreans mainly encounter Korean Chinese as workers in restaurants and on construction sites—the jobs that South Koreans increasingly leave behind.

Moreover, for the last four decades the cold war made Korean Chinese and South Koreans strangers of each other, as both Chinese and South Korean states not only because placed the shared colonial experience of South Koreans and Korean Chinese in different ideological camps but also did not provide historical knowledge on their shared experiences. The Korean Chinese study almost the same school curriculum as any other Chinese, which covers Korean history in passing in the class on international history and

presents the history of Koreans in Manchuria as the history of the anti-Japanese Chinese revolution. Although most Korean Chinese are proud of their self-rule and Korean education, a difference is that the school curriculum is taught in Korean in the Korean schools. South Koreans were also deprived of the opportunity to learn about Korean colonial history in Manchuria (northeast China) because the South Korean authoritarian regimes were fixated on the Korean peninsula and regarded Manchuria as the origin of the North Korean revolution. Unauthorized study of Manchuria was penalized. Thus, both institutional and historical dynamics construct Korean Chinese as others of South Korean citizens.<sup>14</sup>

The controversy over the Law on Overseas Koreans introduces a political opportunity for Korean Chinese and their advocates. The Law on Overseas Koreans passed in 1999 in South Korea is an emblem of globalization and the new de-territorialized Korean nation. It grants overseas Koreans (Chaeoe Tongpo) the right to invest capital, own property, and be employed in the private and public sectors. The definition of overseas Koreans, however is controversial, as the Law categorized them as persons who once lived within South Korea (established in 1948) as citizens as well as the descendants of such persons. This definition excludes Koreans in China and other members of the colonial diaspora in Russia, Sakhalin, and Japan. Written during South Korea's financial crisis, the Law is widely considered an expedient mechanism to attract Korean American capital, while utilizing Korean Chinese as low-wage workers.

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<sup>14</sup> For a study of complex laws and practices of nationality and property rights of Koreans in Manchuria, see Hyun Ok Park, *Two Dreams in One Bed: Capital, Social Life, and the Origins of the North Korean Revolution* (Durham: Duke University Press, 2005 forthcoming).

Since it is the Korean Chinese among the Korean colonial diaspora who have mainly migrated to South Korea, at issue is whether Korean Chinese would be permitted legal visitation and employment in South Korea. Although activists working for pan-Korean solidarity participated in the Campaign to reform this law, Korean Chinese and their advocates have led the Campaign, forming the Committee to Reform the Law on Overseas Koreans. The Committee under the leadership of a pastor - a veteran activist of the previous democratization movement - has mobilized support from the National Council of Churches (NCC) that had been a mainstay of the Minjung democracy movement. This support from the NCC, whose nationwide network still possesses substantial lobbying power, has been crucial in exerting pressure on lawmakers, politicians, and administrators. The intervention of the NCC in the final moment of the Campaign to reform the law brought the Committee's three-year effort to success, with parliament passing the revision in February 2004. The revised Law includes in the category of Korean compatriots those who had left Korea prior to 1945. Such dramatic success notwithstanding, it remains to be seen if the revised Law has substantial effects on making the entry of Korean Chinese easier and intra-ethnic relations more equal, as the South Korean state reserves the right to issue visas to Korean compatriots.

### **Overcoming History**

The politics of decolonization has supplied the main framework for the movement to reform the Law. In its strategic appeal to the public and lawmakers, the Committee characterizes Korean Chinese as "returnees" whose historical past has remained a forgotten national history of Korea. Its representation of Korean Chinese's experience is

dichotomous: as colonial victims and as heroes of the anti-Japanese struggle. It maintains that, if South Korea claims to be the legitimate heir of the Korean nation (in contrast to North Korea), the South Korean state has the responsibility to embrace Korean Chinese who were forced by the colonizer to migrate to Manchuria. This representation counters the way that Manchurian history has been incorporated into Chinese national history. Since 1951 when an autonomous prefecture for Koreans was established in Yanbian (previously Jiandao), the history of the Korean minority has incorporated the anti-imperialist struggles of Koreans in Manchuria into the process of the Chinese revolution, and not the liberation of Korea. Through its emotional appeal to debase the opposition, the Committee accentuates the continued national heritage of Korean Chinese. In the words of Lim Kwang Bin, the head of the Committee, "Korean Chinese are overwhelmed to see persimmon trees still standing in their own houses that they had left behind during the colonial period. Korean Chinese hold rights to live in the houses that they and their parents used to live. Tombs of grandparents who had raised them [still] exist in mountains near their houses. They, therefore, have the right to live and work in this homeland. How could anyone say that they do not have the right to work in South Korea."<sup>15</sup> Lim also likens Korean Chinese to family members who leave home during a family crisis to go abroad to earn money, or to a daughter who is married to a poor family and now wishes to return to her natal family to earn money necessary for survival.

The winter of 2003 sharpened the historical positions of the Committee. The context was the concurrence of the legal reforms on migrant workers and overseas

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<sup>15</sup> Lim Kwang Bin, "A Draft Proposed by the Committee to Reform the Law on Overseas Koreans." 2003.

Koreans. After NGOs working for the rights of migrant workers had demanded for years, in 2003 the Department of Labor finally announced the institutionalization of the Employment Permit System that would complement the existing Trainee Program. As I will elaborate shortly, the Employment Permit System recognizes foreign workers as "workers" entitled to the protection of labor laws and regular wages, while the Industrial Training Program defines foreign workers as "trainees" eligible to only 60-70 percent of the wages of regular (Korean) workers. With its new five-year plan for the employment of migrant workers, the Department of Labor sought to reduce about 100,000 illegal migrant workers before the Employment Permit System would be introduced in August 2004. In cooperation with the Department of Justice and police forces, the Department of Labor declared the perhaps largest crackdown of illegal migrant workers in (October 2003), which drove at least nine migrant workers to commit suicide, jumping in front of subway cars and trains. The vow for a sweeping crackdown of illegal migrant workers—though it never achieved the scale that it promised—led terrified foreign workers to work with NGO activists and begin sit-in demonstrations. Korean Chinese in this condition were mobilized into the Committee's movement to reform the Law on Overseas Koreans, which cooperated with other NGO activists to protest the crackdown. The Committee also intensified efforts to pass a revision of the Law on Overseas Koreans in the Parliamentary Meeting before the December 2003 deadline, which was set by the Constitutional Court three years earlier. The accelerated movement to reform the Law on Overseas Koreans finally achieved a breakthrough on February 9, 2004 when Parliament passed a revision that includes as overseas Koreans those who left Korea prior to 1948.

During this distressing period, the nationality (Kukjök) of Korean Chinese became



the critical issue that reflected historical consciousness. For the Committee, although they hold Chinese nationality, Korean Chinese are legitimate members of the Korean ethnic-nation. The Committee had steadfastly promoted the change in criteria of the Law that would assure free visitation of Korean Chinese to South Korea. South Korean bureaucrats (especially in the Department of Foreign Relations and Commerce) and the Chinese state had confused at least for two years the Committee's proposal with the proposal to change the nationality of Korean Chinese from Chinese into South Korean. When this confusion subsided, the nationality of Korean Chinese once again emerged as a pivotal issue. In November 2003, the Campaign to Restore the (Korean) Nationality of Korean Chinese (Kukjök hoebok undong)—a drive by the Chosonjok Church (the Church for Korean Chinese), one of the two largest churches that accommodated Korean Chinese — contended that Korean Chinese hold dual nationality, both South Korean and Chinese.<sup>16</sup>

The Campaign to Restore the Nationality of Korean Chinese adopted partial historical information supplied by the Department of Justice on the criteria of Korean nationality. In September 2003, the Department of Justice attempted to preempt the revision of the Law. It pronounced an addition to the details on the enforcement of the Law, which would accept as Korean those compatriots who had left Korea prior to the 1948 but limit eligibility for South Korean nationality to those who are enlisted on the Korean family registry. In the critique of the Committee, the Parliament, not the

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<sup>16</sup> Suh Kyong Sok, a pastor of the Chosonjok Church changed the name of the Campaign to Restore the Nationality of Korean Chinese into the Campaign to Achieve the Right to Live in Hometown. See Suh Kyong Sok, "What is the campaign to achieve the right to live in hometown?" April 2004.

Department of Justice, holds the right to reform the Law; this measure succeeds the family registry system that is a colonial legacy institutionalized in 1922; it would still exclude Koreans who left prior to 1922. Facing unexpected condemnation, the Department of Justice sought to garner some validity of its proposal by saying that its measure was based on a resolution on Korean nationality made by the Interim Legislative Meeting in June 1948 and affirmed by the first Legislative Meeting of the South Korean State that defined as Koreans "those whose parents are Korean." Responding to this hitherto unknown historical fact, the pastor of Chosonjok Church declared that under the law of the South Korean state, Korean Chinese have after all held South Korean nationality all along, that Korean Chinese have never given up their Korean nationality and thus held dual nationality so far, and that Korean Chinese must restore their Korean nationality. The Chosonjok Church blamed the South Korean state on the failure to resolve this when the two states signed an agreement on diplomatic relations in 1992.<sup>17</sup> The Campaign to Restore Korean Nationality at first fostered enthusiasm among Korean Chinese in South Korea and recruited about 5,700 applicants. But this wave of hope was crushed by the refusal of the Department of Justice to accept the application, let alone approve it.

Most importantly, the different understanding of the Campaign by the Chosonjok Church and the applicants poignantly reveals the subjectivity of Korean Chinese as migrant laborers rather than as "Koreans" or "returnees." The Chosonjok Church aimed to "restore (hoebok)" the Korean nationality that Korean Chinese had held already according to the

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<sup>17</sup> The Chosonjok Church, "The Petition to the Constitutional Court" to restore Korean nationality of Korean Chinese. November 13, 2003.

1948 law on the definition of Koreans. In contrast, Korean Chinese applicants invariably regard this move as "acquiring (ch'iduk)" the Korean nationality that they never before had held. For most of the Korean Chinese, acquiring Korean nationality is a tactic to work legally.<sup>18</sup> This appeal of Korean Chinese was based on the assurance of the Chosonjok Church that they could at least reside and work—if not successfully obtain nationality—for about the three-year period during which their controversial applications will be processed through an unreceptive legal system. The applicants did not think about the repercussions of this application on their Chinese nationality, until the Chinese state fined about 1,000 yuan and even imprisoned those who applied for Korean nationality when they returned to China. Most of them wrongly assumed that they could regain Chinese nationality once they finished working in South Korea. The main purpose of the Korean Chinese in joining the Campaign to Restore Nationality was economic. This accentuates their primary identity as migrant laborers—a fact that this Campaign fails to register.

For the Committee, the Campaign to Restore the Nationality of Korean Chinese is not a movement but a self-serving scheme. According to Lim Kwang-bin, the head of the Committee, "the movement must aim to disclose distorted social problems and realize social reforms, while the Campaign to Restore Nationality of Korean Chinese is a convenient measure of the Chosonjok Church to maintain its church membership in fear of losing Korean Chinese in the event of effective crackdown of illegal migrant workers."<sup>19</sup> For Lim, the revision of the Law holds importance beyond the welfare of

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<sup>18</sup> "Cases," one-page writing of people (Group 1, December 2003) who joined the sit-in demonstration from November 2003 to February 2004 that was organized by the Committee.

<sup>19</sup> My phone interview with Lim Kwang Bin, July 29, 2004.

Korean Chinese and NGOs working for Korean Chinese; it is imperative to both resolving the colonial and the cold war history and envisioning of a new future for Asians. The 1948 law on Koreans was forgotten in South Korea long ago. During and after the Cold War the South Korean state persistently pursued economic concerns and national security at the expense of historical justice. In the aftermath of liberation, South Korean politicians were engaged in a power struggle, in which full repatriation of overseas Koreans including exiled leftist intellectuals and nationalists in socialist countries would have been regarded as a threat to the struggle. The 1965 diplomatic relationship between South Korea and Japan did not include any resolution on the violence committed by the colonizers, including the forced overseas migration of Koreans. Moreover, the diplomatic relationship forced Koreans in Japan to choose between acquiring South Korean nationality and remaining without nationality.<sup>20</sup>

After the cold war, the 1992 diplomatic relationship between South Korea and China repeated this historical amnesia, leaving unaddressed the existence of Korean Chinese. The 1998 legislation of the Law on Overseas Koreans continued to exclude the Korean colonial diaspora on the basis of economic and security reasons (e.g., the protection of the domestic labor market and the fear of infiltration by North Korean

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<sup>20</sup> The American occupation of Japan annulled Japanese nationality of Koreans living in Japan. Koreans who refused to acquire South Korean nationality are often identified as "north Koreans of Japan" but their relationship with North Korea is not necessarily mechanical. For Koreans in Japan, who remain without declaring nationality, their permanent resident cards record "Choson" as their origin. For details, see Sonia Ryang, *North Koreans in Japan* (Boulder: Westview Press, 1997); Changsoo Lee and George De Vos, *Koreans in Japan* (Berkeley: University of California Press, 1981).

agents disguised as Korean Chinese). Furthermore, the revised Law in 2004 still excludes from Koreans in Japan who retained an undeclared nationality (Chosonjok) from the category of Korean, reflecting the outdated perception that they identify with North Korea. For Lim Kwang-bin, this knotty historical continuity of colonial and cold war legacies can be overcome by a new movement that envisages overseas Koreans as a medium of creating a new order of peaceful co-existence in East Asia. The future of East Asia, he argues, cannot be entrusted to state politics but instead depends on a new popular movement in East Asia to which South Korean social movements can contribute.

### **The Rule of Law**

The Committee's efforts to revise the Law can be considered a part of the fragmented processes of overcoming the past (Kwakō ch'ōngsan).<sup>21</sup> Since the early 1990s, various organizations, which call themselves civil society movement groups, have sprung up to lead the initiatives to legislate the laws that would enable them to investigate unresolved incidents and change the interpretation of history. They have attracted the participation of scholars and professionals, while regarding the media as the main outlet of publicity on their initiatives. Many laws have been passed or are under consideration for the purpose of rectifying the history of colonization, cold war, and military dictatorship. Some

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<sup>21</sup> Many memoirs and critical reflections on the democracy movement under the authoritarian rule and the current democratization processes have been published by former activists. For examples, see Moon Pu Sik, *Irōbōrin kiōkūl chajasō: Kwangki ūi sidaerul saenggak ham* (In search for the lost memory: A reflection on the fanatic period," (Seoul: Samin 2002); Kim Dae Ho, *Han 386ūi sasang hyōkmyōng* (A revolution of thoughts by an 386) (Seoul: Sidae chōngsin, 2004).

examples include the laws on the Cheju rebellion, a massacre before and during the Korean War, the missing during the military rule, the Kwangju uprising of 1980, participants in the democracy movement, and finally Japanese collaborators. The laws have required committees to review petitions from individuals, to clear the names of those wrongly framed as communist sympathizers, or to grant honorary recognition and monetary compensation to those who contributed to the democracy movement.<sup>22</sup>

The civil society movement to overcome the past differs from the previous Minjung democracy movement. A prime objective of the Minjung movement was the historical conscious-raising of its subjects, which would lead them to recognize the structural source of their oppression and their capacity for revolutionary power. Although the civil society movement similarly seeks to maintain close relations with its subjects, there are significant barriers to such efforts. The current movement to overcome the past seeks to educate citizens via the media, but most citizens seem unaware of activities of various organizations and the existence of new legislation.<sup>23</sup> As the current movement is led by NGOs whose finance, in principle, depends on membership fees and regular

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<sup>22</sup> Examples exclude: The National Commission on Jeju 4.3 Incident ([www.jeu43.go.kr](http://www.jeu43.go.kr)); The National Commission on the Restoration of the Honors and Compensation of the People Related to the Democracy Movement ([www.minjoo.go.kr](http://www.minjoo.go.kr)); The Presidential Commission on Suspicious Death ([www.truthfinder.go.kr](http://www.truthfinder.go.kr)).

<sup>23</sup> For self-critique of the civil society movement as "the civil society movement without citizens," as well as the defense against such critique, see Pak Won Soon, *Han'gukui simin undong* (Seoul: Dangdae, 2002). For the discussions on the civil society movement, see Cho Hi Yeon et. al, *NGO guide* (Seoul: Hangyore sinmunsa, 2001); Yu P'al Mu and Kim Chong Hoon (eds.), *Simin sahoewa simin undong 2* (Seoul: Hanwul, 2001).

contributions of the members, dwindling membership and support hamper the movement. Another crucial difference between the two movements lies in the approach to capitalism. While the Minjung movement entailed Marxist critiques of capitalism as a fundamental source of oppression, the civil society movement diffuses this fundamental critique, searching for measures or reforms to attenuate the ill effects of neoliberal capitalism.<sup>24</sup>

This series of differences between the previous and present movements reflects their disparate historical consciousness: the Minjung movement evoked the historical continuity of oppression of the Korean masses since the Korean civil war, the national division, to the authoritarian rule of economic miracle period; and the civil society movement sees a concrete historical break since the late 1980s, in which the present is the moment to resolve previous historical wrongs. For many people, this presupposition of a historical rupture is an important context for the civil society movement to embrace the rule of law. Although groundbreaking, the legal practice of overcoming the past lacks substantive investigation into root causes and processes of traumatic histories, such as anti-communist ideology and the relationship between the Japanese colonial legacy and American imperialism. The politics of overcoming the past becomes a mechanism to bury the past. When the legacy of anti-communism still occupies the subconsciousness of the public and is firmly couched in political and cultural practices in South Korean society, the administrative recognition of victims yields little change. The juridical politics of

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<sup>24</sup> The democracy movement was split into two positions: the one that considered the national division to be the principal source of oppression and the other that took capitalist contradictions as the source. Pak Hyon Chae and Cho Hi Yeon (eds.), *Han'guk Sahoe Kusŏongche nonjaeng I, II* (The Debates on the Social Formation in Korea)(Seoul: Juksan, 1989).

overcoming the past reduces the task of reassessing history to the resolution of individuals' history. Decisions by lawmakers and experts replace debate and dialogue in the public sphere. The legal approach has transformed democratic politics into the exercise of administrative authority over historical memory.

The movement to reform the Laws on Overseas Koreans imparts similar problematic effects. This movement illustrates a general tendency of the politics of overcoming the past, which refers its cases to the court of the supreme constitutional body. This practice of referral to the law inscribes politics in the legal sphere, where disputes among experts and professionals are often stripped of social reality. The head of the Committee recognized this problem as a common error of the civil society movement that resorts to legal reform as the main approach to social reform. In an effort to circumvent this tendency, Lim Kwang Bin has concentrated on educating Korean Chinese during the three-month long sit-in demonstration, drawing on the tradition of the Minjung movement to raise the consciousness of the oppressed.<sup>25</sup> In my interviews in June 2004, Korean Chinese participants in the three month-long demonstration singled out as one of their most life-altering experiences what they learned about history from Lim Kwang-bin and supporters visiting the demonstration site. According to Korean Chinese, learning about Korean history, especially colonial history, has transformed their understanding of their position

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<sup>25</sup> While about four dozen centers working for foreign workers mainly provide various services for migrant workers, such as getting back pay and compensation for work-related injuries, the organization led by the head of the Committee (The Welfare Mission Center for Korean Chinese) prioritizes the participation of foreign workers (including Korean Chinese) and operates an additional organization organized by Korean Chinese (Chosonjok Yonhaphoe Chunbi wionhoe) whose main leadership include Yoo Bong Soon, Chin Bok Ja, and Choe Kil Do.



and enabled them to recognize their rights in South Korea as "returnees." Some of them still participate in the new sit-in demonstration that demands amnesty for all illegal Korean Chinese. Although almost every participant during the eight-month demonstration undergoes economic and emotional hardship by not being able to work, send money home, and/or repay the broker's fee, they embrace their new historical understanding and struggle to attain their rights as Korean returnees.

Despite the monumental success of the Committee's movement in revising the legislation and instilling Korean Chinese with a new historical consciousness, the movement of the Committee remains preoccupied with the resolution of the national contradiction and the establishment of new national relations in East Asia. It does not properly address the conjoined capitalist and national contradictions that produce discrimination against Korean Chinese and other intra-ethnic tensions (e.g., the relationship between Korean Chinese and North Koreans). The juridical argument of the unconstitutionality of the Law on overseas Koreans drew on the principle of equality of all members of the nation, regardless of residence, citizenship, and diasporic culture and history. This notion of equality is based on the fictive character of the nation that promises homogeneous inclusion of its members. One of the barriers to the actualization of the equal inclusion of ethnic members into the nation is the capitalist dynamics that simultaneously invokes and transcends the nation and maintains unevenness. The referral of their case to the court prefigured the politics of Korean Chinese as the issue of equality within the nation. It did not create a space for exploring their social experiences shaped by the complex interaction of capitalist and nationalist politics.

The legal practices deprive the politics of Korean Chinese of debates on their

social conditions and fail to address their social experiences as migrant workers. Representing Korean Chinese as ethnic subjects, the nationalist politics of law does not articulate the complex nature of the synergy of ethnic nationalism and capitalist transformation in China and South Korea. What brought them to interact with South Koreans is the exchange of capital and labor that reinforces ethnic nationalism but also simultaneously transcends it. South Korean overseas investment in China has drawn on the invocation of ethnic ties with Korean Chinese who have then provided various services including translation, networking, purchase of property, and the supply of labor power. Fanning the Korean dream among Korean Chinese, this capitalist investment has brought Korean Chinese to South Korea, yet they are denied any substantial rights as ethnic members.

The disquiet in nationality of Korean Chinese attests to a capitalist dynamics that renders nation formation *incomplete*. As capitalist expansion simultaneously draws on and exceeds national boundaries, it renders the nation indeterminate. The national mediation of capitalism does not denote a functional affinity of nationalism and capitalism, but rather the intrinsic tension between them.<sup>26</sup> For some critics, the Law on Overseas Koreans and its proposed revisions aim to sustain conditions advantageous for South Korea's economy, such as the utilization of Korean Chinese as illegal laborers and the protection of the domestic market from abrupt changes in labor demand. However, the exclusion of Korean Chinese from the new Korean nation exceeds its functional effects for the South Korean economy. Although employers of small factories, construction sites,

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<sup>26</sup> Hyun Ok Park, "Repetition, Comparability, and Indeterminable Nation," in Harry Harootunian and Hyun Ok Park, *Boundary 2, Comparison and Comparability* (2005, forthcoming).

and restaurants have demanded the expansion of the migrant workforce in order to curb labor shortages, policies have not yet met their expectations. Rather, the co-existence of the appeal for a new de-territorialized ethnic nation and the continued discrimination of Korean Chinese points to the elusive practices of South Korean capital that have simultaneously postulated borderless capitalist expansion and recreated the ethnic nation.

The South Korean politics of nationalism entraps Korean Chinese migrants in the opposition between Korean and Chinese nationalisms. Korean Chinese in South Korea welcome movement groups that have advocated for their rights as returnees. Yet, the more they endeavor to represent themselves solely as ethnic Koreans, the more they find it impossible to be equal to South Koreans in all aspects of history, institutional status, and culture. Moreover, their rekindled interactions with South Korea and imbrication with South Korean nationalism have prompted the Chinese state to reprimand Korean Chinese. at the same time it utilizes Korean Chinese as suppliers of foreign currency, the Chinese state penalizes them for developing close relations with South Korea. China has downgraded Korean Chinese from their high status as a model minority with a glorious revolutionary past to one of three recalcitrant minority groups that threaten the unity of the Chinese nation. The Chinese state condemns Korean Chinese as traitors capable of demanding independence from China or rekindling age-old territorial disputes between China and Korea.

In these conditions, Korean Chinese' diasporic experience of being in-between the two states is less about what diaspora literature has coined—that is their enjoyment of dual citizenship and the invention of a new cultural practice irreducible to cultures of either home or host countries. Rather, the in-betweenness of Korean Chinese is more about their

impossibility of being Korean (or claiming rights as Korean) in either place, especially when their ethnic identity is superimposed in both places. Many Korean Chinese identified the discrimination by their South Korean ethnic kin as one of their most humiliating experiences, which trouble them more than the harsh working conditions and unpaid wages. They oscillate between their yearning to be recognized as Koreans by South Koreans and their desire to denounce Korean identity. When the South Korean public see Korean Chinese as people from underdeveloped countries and discriminate against them for being backward, Korean Chinese find little means to protest. They instead resign themselves to their own fantasy about their future modern life in China, while pursuing their economic dream in Korea. Korean Chinese have to negotiate with both Korean and Chinese nationalism, recognizing that their position in history and the global capitalist system has carved out their distinctive places in both Chinese and South Korean economies.

### ***The Spectral Politics of the Cold War: North Koreans***

The cold war perspective hampers the understanding of the historically transformed relationship of North Koreans and Korean Chinese. It classifies North Korean migrants, who had lived in China after leaving North Korea and/or came to South Korea as "refugees" or "defectors" in South Korea. The different mapping of Korean Chinese and North Koreans diffuses any suggestions of their relationship, both in the past and the present. The political mapping is a product of the cold war perspective that continues to govern South Korean politics. During the cold war, the two Koreas competed to create a single, unified nation since their separate foundations in 1948. Many studies credit the roles of the United States and the Soviet Union with the Korean national division,

while others recognize the social antagonism of the colonial period as an important origin of the division. The studies routinely focus on the division of the nation into two Koreas as the defining characteristic of the Korean cold war. But I propose that the failed repatriation of the Korean colonial diaspora is a crucial yet ignored characteristic. Except for half of the Koreans in Manchuria near the Korean border who could easily return to northern Korea by crossing a river if they wished, most Koreans in Japan, Sakhalin, and the former Soviet territories remained in the host countries. Various personal and contextual factors, such as the newly established life in host countries, the instability of Korean politics in the aftermath of liberation, and the regulations of host countries, impeded the return of the Korean diaspora. I address the absence of political negotiations among the involved states, as well as the popular amnesia about the diaspora.

At issue in exploring the Korean colonial diaspora's unsuccessful return is the concept of the nation during and after the cold war. The term "Korean unification (Tongil or One-rule) is a product of the cold war and no longer adequately conveys the shifting forms of Korean nation formation in the post-cold war. The old cold war notion of the nation is predicated on an inter-state system that conflates the state and the nation: the complete Korean nation would have one state within one unified territorial boundary, which only would be possible if one Korea absorbed the other. In the rivalry, each of the two Koreas treated the Korean diaspora as an extension of itself or that of the other party: the South Korean state considered Koreans of former socialist countries and of Japan (especially those who did not acquire the South Korean nationality) as sympathizers of the North; the North Korean state described this group of Koreans in Japan as its overseas citizens.

The cold war perspective on the Korean nation continues to frame the relationship between the two Koreas, as well as between them and their diaspora, even when a series of new exchanges between the two Koreas increasingly interlace them as economic partners. Korean Chinese had remained as the closest kin of North Koreans until the mid 1990s, as both parties exchanged economic support for each other. Bordering with North Korea and sharing family ties, Koreans in the Korean Yanbian Autonomous Prefecture in China, a self-rule region of Korean Chinese, had for years provided substantial relief for North Koreans in economic crisis. Their new relations with North Koreans from the mid 1990s expose a layer of global capitalist integration mediated by ethnic and national relations. Just as Korean Chinese have become illegal migrant laborers in South Korea, North Koreans work illegally for Korean Chinese in China.

A series of economic, cultural and political factors induces North Koreans to migrate to China. Their perilous lives in China, as well as their risky passage to South Korea, have frequently made international news headlines. Conspicuously missing in the reports on North Korean migrants to China is their work experience. North Koreans worked as agricultural and forest laborers in jobs vacated by Korean Chinese who went to South Korea or cities. They are also employed in the booming service industry. According to my interviews with NGO activists and North Korean migrants, the pattern of labor supplied by North Koreans has changed. During the food crisis, the migration of men tended to be seasonal, while women were trafficked to China for marriage. With the tacit permission of the Chinese state, from May to October men often helped in the fields with the harvest and/or in the forests with wood-cutting. It was common for a North

Korean man to work for the same households every year.<sup>27</sup> North Korean women also worked in restaurants run by Korean Chinese. Compared to Korean Chinese migrants in South Korea, a North Korean woman said, "I work here in Tomun, China (a border city), without paying the broker's fee, while Korean Chinese must pay about \$10,000 to work in South Korea. I earn about 1,000 yuan per year in China, paying only 100 yuan to North Korean guards each way from and to North Korea."<sup>28</sup>

Even after the food crisis was significantly alleviated in 1999, migration from North Korea increased. There are still an estimated 100,000 to 300,000 North Koreans in China, South Korean activists and media suspect. There were no substantial declines in the number of North Koreans despite their persistent arrests by Chinese police. Instead, the migration pattern tends to be both short-term and multiple and long-term, as North Koreans go back and forth between China and North Korea trading and bringing money to North Korea or attempting to settle in China.<sup>29</sup> The latest news is that the mayor's office in Tomun city issues labor permit to North Korean migrants.<sup>30</sup> Although South Korea is invoked by the media as the ultimate destination for North Korean migrants—a dream for which North Koreans risk their lives—most North Koreans prefer working in China in order to maintain contact with their families at home.

Lacking legal protections or even publicity, Korean Chinese and North Koreans

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<sup>27</sup> Interview with Lee Yong-sok, July 2, 2002.

<sup>28</sup> Conversation from Lee Kwang-kyu, July 3, 2002.

<sup>29</sup> Suh Jae Jin, "T'albokja chungka hyönsang kwa hyanghu chöri pangan (The Increase of North Korean defectors and a proposal to deal with this trend)," a paper presented at NSIK (Saesidae chönrak yon'guso) - a think tank of the New Millennial Democratic Party, July 22, 2002.

<sup>30</sup> My conversation with Ki Ch'un Oh who interviewed the mayor of Tomun City in July 2004.

develop more rudimentary relations of exploitation than the ones formed by Korean Chinese and South Koreans. In addition to unpaid wages and violence, human trafficking and forms of slavery are far from rare. Korean Chinese are anguished about their rejection by South Koreans; yet pursuing their economic interests, they replicate unequal relations with North Koreans. Korean Chinese in northeast China employ illegal North Korean refugees as low-wage laborers in agriculture, forestry industries, and the service sector. Only a very few among these North Koreans are coming to South Korea. The North Korean population in South Korea increased from 670 in 1989 to 2,000 in 2002 and 4,500 in 2004.

My interviews with North Korean migrants and Korean Chinese affirm that some North Koreans have come to South Korea in disguise of Korean Chinese. Having worked and established contacts in China, North Korean migrants purchase the identities of Korean Chinese through brokers. Though the exact number of such North Koreans is unknown, their existence highlights the significant limits to the current representations of North Koreans as refugees or defectors. Different mapping of North Koreans and Korean Chinese match them with disparate moments of national history – Korean Chinese with the colonial period and North Koreans with the cold war. The experiences of North Koreans as migrant workers, as well as their new relations with Korean Chinese, have been routinely ignored in South Korean politics. Because the South Korean constitution does not recognize North Korea as a sovereign state and thus defines North Koreans as the citizens of South Korea, North Koreans are categorized as refugees or defectors eligible to receive a large subsidy from the state, including housing, employment service, and educational expenses. Some civil society movement groups frame the rights of North



Korean migrants in the politics of overcoming the past – the Korean cold war. The political representation of North Korean migrants in South Korea is interwoven with the Korean unification movement; their defection is heralded as a sign of the immanent collapse of the North Korean regime.<sup>31</sup> Cooperating with NGOs, politically active North Korean defectors in South Korea concentrated on defining the legal status of North Korean defectors as “refugees,” making them eligible for protection by international powers including China.<sup>32</sup> They aimed at creating an international environment that encourages other Koreans to escape North Korea, ultimately leading up to the collapse of North Korean state.

The futuristic desire for economic development produces a tension between the entry of North Korean migrants to South Korea and the economic cooperation between the two Koreas. Although economic liberalization has failed to deliver on its long promised redistribution of wealth, the trauma of the 1997 IMF crisis nonetheless invoked the specter of developmentalism. In the current juncture, where the cultural appeal to the nation and nationalism is significantly reduced, the memory of the IMF transports the radiant dreams of the past into the future. North Korea has emerged not just as a market for South Korean surplus production, but also as a promising new site for investment in outsourcing of industrial production that could replace China. South Koreans are

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<sup>31</sup> Examples of the organizations include: Pinap, talbokja inkwon kwa kumyongul wihan simin yondae (The Citizen Alliance for the Human rights and Rescue of the Kidnapped and North Korean Defectors); Pukhan Minjuhwa Network (The Network for Democratization of North Korea), [www.nknet.org](http://www.nknet.org).

<sup>32</sup> Their organizations include: Talbukja Tongjihoe (The Alliance of North Korean Defectors) and Paekdu Halahoe (Paekdu and Hanra Association).

becoming more and more enchanted with the possibilities for new forms of economic cooperation with North Korea, rather than with the possibilities for political and territorial unification. Although South Korean citizens at first expressed compassion and admiration for North Korean refugees, they have grown increasingly indifferent toward North Korean migrants. The South Korean state feels responsible for the safety of North Korean migrants in foreign countries especially under the South Korean Constitutional Court that defines North Koreans as citizens of South Korea. But the hosting of North Korean migrants in South Korea not only requires hefty expenditures but also aggravates the North Korean state. Some civil society movement organizations in South Korea pressure the South Korean state to speed the acceptance of North Korean migrants in South Korea. However, it remains to be seen how the South Korean state will respond to the increasing numbers of North Korean migrants in foreign countries and at home.

The recognition of the capitalist dynamics is vital to the understanding of the increase of North Korean migrants who cannot be completely totalized as "defectors" or "refugees." In fact, economic, cultural, and political changes in China and North Korea are some of the conditions, under which North Korean migration to China is increasing. Korean Chinese merchants disseminate the information on South Korea and capitalist cultures to North Koreans. Market changes in North Korea also make it possible for North Koreans to pursue economic dreams in China. Various progressive activist groups advocate humanitarian assistance to North Korea as a measure to prevent North Koreans from becoming refugees.<sup>33</sup> This is their counter-position to the North Korean Freedom

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<sup>33</sup> The Korean Civil Society's Statement Regarding "the North Korean Freedom Act of 2003" and "North Korean Human Rights Act of 2004," issued by Minbyun (Lawyers for a Democratic

Act of 2003 and the North Korean Human Rights of 2004 proposed in the U.S. Congress, which would permit the financial assistance to the protection and inducement of North Korean "refugees" and enable North Korean "refugees" to come to the U.S. Neither the American proposals nor the South Korean countermeasure grasps a series of changes, including capitalist ones, which has fueled the North Korean migration and transformed the character of the migrants. The increase of the North Korean migration must be taken less as a sign of the collapse of the North Korean regime than as an effect of the wholesale changes in North Korea to which capitalist culture and economics have contribute.

The new capitalist dynamics in South Korea and other parts of East Asia configures a new de-territorialized form of the Korean nation that is signified by the complex relations among Korean Chinese, North Koreans, and South Koreans. The capitalist dynamics that simultaneously draws on and transcends ethnic and national ties - the dynamics that shapes the unequal relationship between South Koreans and Korean Chinese - also fashions the multifaceted relations among Korean Chinese, North Korean migrants, and South Koreans. The representation of North Korean migrants as defectors or refugees obscures the contradictory relations between capitalist dynamics and nation formation. It does not grasp the thorny relationship between North Korean migrants, the North Korean capitalist reforms, and the neoliberal South Korean economy. Such

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Society), Sarangban Group for Human Rights, Good Friends, Center for Peace and Disarmament of the PSPD (People's Solidarity for Participatory Democracy), Catholic Human Rights Committee in Korea, the Human Rights Committee of the National Council of Churches in Korea, Civil Network for A Peaceful Korea, Solidarity for Peace and Human Rights, Korea Reunification Alliance for 6.15 Join Declaration Attainment and Peace in Korea. 2004.

representation also glosses over the fact that the new relations among Korean Chinese, North Koreans, and South Koreans are symptoms of a capitalist reconfiguration of the Asian economy in the post- Cold war era.

### ***The Transnational Politics of Law: Migrant Workers***

The movement of Korean Chinese has separated Korean Chinese migrant workers from North Koreans and the rest of foreign workers in South Korea. This separation is reinforced by the NGOs working for migrant workers. The NGOs have offered the only safety net to migrant workers who had been defined by law as "trainees" and lacked legal rights as laborers until late 2003. When delay in pay, job accidents, and physical abuse were rampant in workplace, the NGOs took such cases to court and significantly reduced such problems. Their ten-year advocacy establishes foreign workers as the minority whose rights are increasingly recognized in South Korea. However, such important activities have limited their functions. NGOs failed to involve migrant workers in the movement which advances the migrants' rights. The NGOs are run by a couple of activists without popular participation, becoming like many other organizations in the civil society movement, agencies "without subjects." Reflecting this tendency, the Joint Committee *for* Migrant Workers in Korea (JCMK), an umbrella organization of the NGOs working for migrant workers, changed its name from the Joint Committee *of* Migrant workers in 2002. According to the JCMK's internal report, this undesirable characteristic of NGOs is attributable to two main factors: the illegal status of migrant workers that hinders them from sustained participation in NGOs; and the approach of NGOs that provides services for

the workers rather than helping the workers to organize themselves.<sup>34</sup>

As a result, the NGOs have become the disembodied state, although they seek to create a new civil society free from the state's intervention. Their movement has often ended up playing custodial roles for South Korean capital and the state. Although the staff members of NGOs devote their life for social causes, their primary activities provide services necessary to reproduce labor power—the attainment of back pay, treatment and compensation for job related accidents, and employment services—rather than a critique of the social order under national, neoliberal, capitalist order. Often funded by government's projects, the movement's activities wind up managing on behalf of the state migrant workers who otherwise would be dispersed throughout Korea as illegal workers.

The JCMK has concentrated on the movement to replace the Industrial Training Program with the Labor Permit System. The Industrial Training Program had been until 2004 the only legal channel through which foreign workers could come to South Korea. As the training program defines foreign workers as trainees whose wages amount to only 70 percent of wages earned by domestic workers, foreign workers left their assigned workplace to work elsewhere for better wages. This industrial training program has been a breeding ground for illegal workers who are subject to many violations of labor laws. Under pressure from the JCMK in the midst of the increasing number of migrant workers, in 2003 the Department of Labor resorted to a compromise by institutionalizing the Employment Permit System. The System differs from the Labor Permit System demanded by the JCMK, as the former grants employers the exclusive right to annual renewal of contracts, while the latter would assure the rights of labor in contracts.

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<sup>34</sup> "The Prospect and Task of the JCMK" (n.d.)

A thrust of this movement for legal reform is the initiative to rationalize the recruitment and employment of foreign workers. It lacks a substantive critique of the neoliberal economic conditions under which migrant workers were invited. Furthermore, the JCMK movement anchors the issue of migrant workers within the framework of transnational time, which is equated with the current globalization. These movement groups regard nationalism as a relic of the past that South Korea must overcome or transcend, if it is to reinvigorate its culture and economy. Like movement groups working for Korean Chinese and North Koreans, some key movement leaders of the JCMK are veterans of the 1980s democracy movement, which linked the critique of capitalism with the task of eradicating military dictatorship and the national division. Two decades after the Minjung movement, the JCMK seeks to make a substantive departure from the past, positing the Minjung movement as nationalist and unlawful in contrast to cosmopolitanism and legality of its movement.

The prospective legal subjects in the JCMK movement are the cosmopolitan subjects whose national differences are muted. Espousing a multiethnic society or borderless community, the movement for migrant workers confounds national difference and discrimination. Opposing nationalism to transnationalism, the movement advocates equal rights of all migrant workers regardless of their origins and nationality. It is the UN resolution on migrant laborers, not the national concerns of South Korea that orients the movements for migrant workers. Confusing difference and discrimination, they refuse to make any distinction between Korean Chinese and other foreign workers. For the movement, differentiation on the basis of ethnic ties or national history would lead to discrimination against other foreign workers, since it would increase the number of

Korean Chinese at the expense of other foreign workers. According to an activist, the preference of Korean Chinese over other foreign workers must be abandoned as a manifestation of nationalist and racial discrimination against other ethnic groups and nationalities. In his view, the preference for Korean Chinese resembles nationalist practices in Japan that have discriminated against Korean Japanese. The movement groups took their case on Korean Chinese to the National Commission on Human Rights (Kukgak inkwŏnwuiwŏnhoe), which affirmed the preference for Korean Chinese as a form of racial discrimination.

Specifically, the movement's transnational approach hinders them from understanding the practices of capital that simultaneously mobilize ethnic ethos and transnational globalization. The problematic conflation of ahistorical sameness and equality renders the movement's politics oblivious to practices of capital that mobilize both ethnic solidarity and transnational globalization. It also obfuscates nationalism as a necessary condition for the transnational migration of laborers. Nationalism homogenizes wages, other costs of production, and conditions of market exchange within the territory of a nation-state. Thus, nationalism contributes to maintaining the differences between home and host countries in terms of the costs of both the production of commodities and the reproduction of labor; and guest workers live in the interstices of national differences, trying to use the differences to their advantage. If guest workers recoil at acknowledging the national character of Korean Chinese experience, this equates with their refusal to recognize their own national condition as an essential basis for their transnational migration.

The movement's opposition of nationalism and transnationalism mystifies the

similarities and differences of Korean Chinese and other migrant workers. Even when Korean Chinese comprised more than 60 percent of the total foreign workforce, the Joint Committee for Migrant workers, an umbrella organization of the movement working on migrant workers, maintained ambiguous relations with Korean Chinese. The Joint Committee for Migrant Workers neither completely excluded Korean Chinese from its movement, especially as Korean Chinese increasingly show up in the protests, nor offered explicit support for the movement to reform the Law on Overseas Koreans.

### *Conclusion*

In democratized South Korea, law is a new institutional mode of social regulation, which abstracts social relations into contractual relations between individuals. The legal politics of nationalism and transnationalism does not grasp social experiences shared by Korean Chinese, other foreign workers, and North Korean workers. The preoccupation with the legal reform further fragmented the movement of Korean Chinese and foreign workers. Their movements promote juridical-political rights of individuals and groups as democratic practices. Whether taking a national or transnational approach, their movements have turned history into a thing of the past that either needs to be overcome or must be left behind for a cosmopolitan future. Pursuing universal rights of the forgotten or the disadvantaged before the law, the movements turn a blind eye to the uneven ties of these three groups of migrant workers with South Korea in the present neoliberal capitalist order.

A proper understanding of their politics depends on the ways that movement groups and these various migrant groups suture nationalism and capitalism to comprehend their



complex lived experiences and formulate their intricate subjectivities. The recognition of the coeval articulation of nationalism and capitalism reveals the specific conditions under which groups of ethnic Koreans, as well as migrant workers, are pitted against each other. It also demonstrates that resolution of their ethnic and economic predicaments must involve a simultaneous critique of nationalism and capitalism. Embedding nationalism and transnationalism in the process of global capitalist expansion is vital for ensuring that these migrant workers and their representatives articulate migrants' distinctive experiences of nationality and work.