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CITIZENSHIP AND THE POLITICS OF BELONGING IN SOUTH KOREA

BY

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ABSTRACT OF THE DISSERTATION
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This dissertation investigates the complexities of citizenship and belongingness in South Korea, particularly focusing on the case of “unprotected” third country-born North Korean children. The exclusion of third country-born children is the result of many different considerations, and this dissertation analyzes the reasons for treating them differently from other North Korean settlers by investigating various areas. By scrutinizing sources of legal discourse on amendments of the Act on the Protection and Settlement Support of Residents Escaping from North Korea to include third country-born children, the rationales for excluding those children from the legal definition will be uncovered.

Using the western concept of citizenship and citizenship debates as the point of departure, with close attention to exploring citizenship theories of diversity, equality and social justice, I discuss the rise of differentiated citizenship and its limits. By reviewing western citizenship theories and that of South Korea, I contemplate on the defining and redefining of membership and boundaries in relation to democratic principles and how

different groups in a society should be treated. Law and policies for different migrant groups are discussed, and the differentiated definitions and statuses of migrant groups are distinguished, to clarify what is considered South Koreanness.

By scrutinizing complex policies surrounding North Korean settlers and legal disputes, my project extends the understanding of citizenship and the politics of belonging in South Korea. This dissertation contributes to understanding sophisticated rationale and politics regarding the exclusion of third country-born children and shows the arbitrariness of inclusion and exclusion. To explore the policies for North Korean settlers, the procedure that North Korean settlers go through to become South Korean citizens will be explained, and some of the difficulties that North Korean settlers face are described. The exclusion of third country-born children is discussed by scrutinizing the education and integration policies of North Korean adult and children settlers. Also, how these policies demand assimilation and institutionalize discrimination will be made apparent.

I argue that a comprehensive framework for immigration policy is necessary and that North Korean settlers should be regarded as migrants within this framework. I conclude with a discussion of problems within the current immigration system and recommendations of possible institutional changes. These include creating a new authority in charge of immigration and treating all migrant groups without distinguishing by point of entry or based on race and ethnicity.

Acknowledgement and Dedication

This dissertation is dedicated to my family and especially my son, Hoyoon. Without his patience and smile, this work would have never been completed. My husband Seok Kyoon's support and encouragement also helped me to endure and overcome the rigors of academia. Thanks to his assistance on refining tables and figures, this dissertation appears much better than before it reached the expert's touch. I also would like to acknowledge my wonderful parents and parents-in-law who have been extremely supportive of my dream. Moreover, my brother always showed me great warmth and I am very thankful to have a brother like him.

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Chapter One

Citizenship: Challenges of Belonging in South Korea

Although there have been long-standing debates in political theory about the definition of citizenship, the meaning of national membership and belonging, and the challenges and new approaches to citizenship, these topics have not drawn the attention of ordinary people and scholars in the Republic of Korea (hereafter, “South Korea”)¹ until recently. South Korea considered itself to be a homogeneous country with a small proportion of newcomers and adhered to the myth of “a nation of one ethnic group.” However, globalization and migration have raised the necessity to reconsider South Korean citizenship in many ways. The increased number of legal and illegal newcomers, such as North Korean escapees, “marriage migrants,” and migrant workers since the mid-1990s and the inadequacy of existing laws and policies in treating them have caused revisions and enactments of national laws and policies to define these new South Koreans. The need to redefine citizens, who are supposed to have rights and obligations, has been a pressing issue in South Korea. Resolving this issue is a matter of growing importance since children of migrants, as well as different forms of migration (e.g., ethnic return, North Koreans, and marriage migration), have been significantly increasing in number.

Special laws and policies for newcomers have been enacted when the government perceived the need without any full discussion of the rationale for the policies and without establishing social consensus about the membership “benefits” associated with such policies. That is to say, whenever a new group is recognized, new

¹ In this dissertation, I distinguish between North and South Korea and use “Korea” to indicate the unified Korea before the division and “Koreas” to indicate both the North and the South.

policy tends to be devised on an ad hoc basis to deal with that particular group or issue. In the near future, however, current approaches to diverse minority groups will cause fundamental problems such as conflict and overlap between policies and blind spots for some groups. To avoid this situation, the nation needs to consider whether “special” benefits and support for certain groups, introduced on a group-by-group basis, constitute a reasonable approach. In the absence of a careful review of citizenship policies, similarly situated individuals are subject to markedly different treatment. For example, “unprotected North Korean youths” (hereafter “unprotected youths”)² are excluded from citizenship by the current policy, and in some cases, different policies apply to each member of North Korean families, depending on their backgrounds.³

In my dissertation, I investigate the case of unprotected youths, mostly children of women who escaped from North Korea (the Democratic People’s Republic of Korea [DPRK]) and those who were born in countries other than North Korea (China or other third countries). Unprotected youths are typically children who have at least one North Korean parent (most often the mother) but were born during their parent’s extended stay in a third country (usually China⁴) before entering South Korea. This case is emblematic of the problems of citizenship laws and policies in South Korea. Existing policies treat unprotected youths differently from children born in North Korea. It has been argued that these unprotected youths experience an intersection of difficulties in language, traumatic

² Although there is no official term for unprotected youths or North Korean youths born in a third country, I use the term “third country-born North Korean children” (hereafter third country-born children) in this dissertation. More details on this term will be discussed below..

³ This problem will be discussed in Chapter Four.

⁴ In many cases, North Korean women have been “sold off” voluntarily or involuntarily to Chinese men (Korea Institute for National Unification [KINU], 2010, p. 492). People smugglers are also profiting by delivering North Koreans to Thailand—who ultimately come to South Korea.

experience, and domestic trouble, among other things. Their situation raises multiple policy questions, including: 1) why are unprotected youths left out of the category of North Korean youths; 2) should unprotected youths be included under the existing policies for North Korean settlers (including their children); and 3) should a new policy be created for them? These issues require attention to larger questions concerning how policies for minorities should be formulated in South Korea—on a group-by-group or individual basis.

The purpose of my research is twofold: 1) to identify the problem of unprotected youths and the specific challenges to citizenship they pose and 2) to formulate policy recommendations and a theoretical basis for policies toward unprotected youths and other minorities. This study has implications for policies toward minorities and for the potential future unification of the two Koreas. The problem of appropriate treatment of North Koreans will be a crucial issue in a unified Korea since it raises questions concerning citizenship identity within a new Korea. Indeed, if the logic of giving special treatment to North Koreans is not addressed, a unified Korea would face issues concerning discrimination against some children of North Korean ancestry as well as the possibility of reverse discrimination against South Koreans. My dissertation examines the disparate treatment of these various groups, analyzing them in the context of debates about democratic citizenship and social justice.

Methodology and Research Data

This dissertation examines citizenship policies for newcomers in South Korea and seeks to identify citizenship policy reforms that could avoid discrimination based on country-of-origin. I focus on legal discussions and official discourse about state policies

to create, naturalize, and assimilate new citizens, examining citizenship policies changes in reaction to internal and external factors from 1948 to 2013. I am particularly concerned with citizenship policies created for different migrant groups who legally enter and remain in South Korea. I compare citizenship and assimilation policies for marriage migrants and their children and North Korean escapees in relation to the treatment of an excluded group: unprotected youths. On the basis of a detailed comparison of these policies, I recommend better solutions to the issues raised in the debates over citizenship.

A variety of laws, such as constitutions, nationality laws, immigration laws, and policies for immigrants are analyzed in this dissertation to discuss citizenship in South Korea. I mostly rely on the Act on the Protection and Settlement Support of Residents Escaping from North Korea (hereafter “Settlement Support Act”) and various proposals for partial amendment to this act and review reports of the partial amendment to demonstrate the status and treatment of North Korean settlers. My dissertation also refers to materials submitted for the inspection of ministries conducted by the National Assembly and stenographic records of the National Assembly related to North Korean settlers. Other government data, such as statistical data, press releases, and policy statements, are also used as sources in analyzing the current situation and problems and in investigating policy making and a better solution for unprotected youths. Newspapers and documents from national organizations and nongovernment organizations (NGOs) are examined as well. Secondary data, including existing studies on North Korean settlers and citizenship, are also used.

Existing Studies

There has not been much research on unprotected youths in South Korea. Some

news articles, presentations, and papers have addressed this issue, but they have been limited in scope, investigating current situations and possible support plans. Research studies on North Korean youths, which started around the year 2000, are focused on adaptation or maladaptation in South Korean society (Baek, Gil, Yoon, and Lee, 2006) as well as in South Korean school (M. K. Han, 1999; M. S. Kim, 2004) and educational programs to help them better adapt to South Korean society and school (Han, Yoon, Kim, & Lee, 2009). In particular, research of Chung, Choi, & Choi (2012) underscores gender difference between male and female adolescent North Korean migrants. This research with survey data (conducted by North Korean Refugees Foundation [NKRF]), in-depth interviews targeting female adolescent North Korean migrants, Focus Group Interview with on-the-spot experts, explores the specific conditions of adolescent female North Korean escapees. In recent years, research on unprotected youths has begun to attract attention. *A Preliminary Study on the Third Country-Born Children [unprotected youths]* by Shin (2011) conducted survey and interview and focused on building basic data for further research on unprotected youths. Choi (2011) in *School Adaptation of Third Country-Born Children [unprotected youths] and North Korean Youths Without Family*, reports that children born in China fall behind other students in academic skills and have problems in communication with teachers and friends because they cannot speak Korean. It can be said that study on unprotected youths started from those researches and Field Survey on North Korean Youths in 2011 and 2012 conducted by North Korean Refugees Foundation (NKRF) researched education, family relations, identity, and health of unprotected youths.

As for North Korean settlers in general, many studies have been conducted about

current situations, adaptation or maladaptation, and possible support plans for them in South Korea (e.g., Cho & Jeon, 2005; Park, 2006; Y. S. Yoon, 2002, I. J. Yoon, 2007). Research on the issues of North Koreans and citizenship is scarce. Generally, studies on North Korean settlers (adults and youths alike) have dealt mainly with their maladjustment. There has also been some research on social differences and social discrimination (e.g., Dokgo, 2000; B. H. Chung, 2001; Kim & Jang, 2007; Koh & Baek, 2002; Lankov, 2006; I. J. Yoon, 2001). This dissertation contributes to the growing body of literature that explores North Korean settlers in many different aspects.⁵

Rationale and Contribution of the Study

After the 19th Century, ethnic Koreans moved to neighboring countries, such as Japan, China (the People's Republic of China), and Russia in many different forms⁶; however, South Korea has experienced an increasing flow of migration since the 1990s, which is different from previous trends (migration transition) and has led to changes in policies toward immigrants. For example, there has been a dramatic rise in the number of North Korean escapees coming to South Korea. The situation has started to draw the attention of the South Korean people. Nongovernment organizations and many church-related organizations have played an important role in advocating for amendments to citizenship policies.

The number of North Korean settlers will continue to expand, and how to treat them is a crucial issue in South Korea. Moreover, citizenship problems will be salient

⁵ More studies on North Korean settlers by South Korean theorists that are closely related to my research will be discussed in Chapter Two.

⁶ For example, many people moved to these countries in the colonial period for forced labor, for being drafted to fight for Japan, or for the independence movement.

after the potential future unification of Korea. This looming issue brings to mind the case of Germany, where integrating East and West Germans after the removal of the Berlin Wall was problematic, especially among the German youth. According to Rodden:

The unification of Germany left millions of easterners feeling like second-class Germans. In pursuing a positive new identity of the New Germany, Germans had to re-imagine their concept of national identity beyond notions of race and evolve beyond a post-national, ethnically diverse identity, for it constitutes an inclusivist approach to citizenship that fully embraces long-resident non-Germans (2001, pp. 66–74).

North Korean settlers are in a similar situation regarding their identity and citizenship.

Why South Korea?

Citizenship is primarily a western notion, and its theory and practice have changed. Existing theories of citizenship mostly focus on western cases, and recently, only a few studies have examined nonwestern cases. Citizenship theorists have focused on countries with long histories of immigration, such as the United States, Canada, and Australia. However, given the prevalence of migration in the world today, many other countries also encounter questions related to the treatment of citizens and newcomers. A study of South Korean citizenship, which is a relatively understudied issue, will expand the range of scholarship on citizenship, and it will provide an opportunity to test whether the citizenship theory is overgeneralized. Addressing the specific case of unprotected youths in South Korea may help us to evaluate the applicability of the general theory to a particular region or case, and I hope that it can provide specific but generalizable ideas that supplement existing studies. Furthermore, this study will have implications for the debate on individual-based and group-based citizenship and minority policies.

Providing an example of nonwestern citizenship, South Korea has unique

conditions. With the two Koreas still embroiled in Cold War politics, North Korean escapees complicate citizenship in South Korea. In an era of globalization, South Korea attracts massive legal and illegal migrants because of economic discrepancies in the Asian region. According to Castles and Davidson:

It is in Asia that the biggest populations and markets exist, and where the greatest trade, investment, and migrations of the next half century can be expected. . . . with an overall increased gross national product went enormous discrepancies in wealth, as between regions and between countries. . . . The effect of such economic discrepancies has been massive legal and illegal migration from poorer to richer regions, above all to boom cities (2000, pp. 185–186).

Migrants in South Korea range from highly qualified workers to those who perform the “3-D jobs” (dirty, difficult, and dangerous), and a large number of women have migrated to do domestic work or sex work.

South Korean citizenship demarcates between citizens and noncitizens, according to the *jus sanguinis* (“right of blood”) principle. National division, cold war politics, mass emigration due to colonization, and the Korean War have shaped South Korean citizenship. Ethnic Koreans abroad (especially from former socialist countries) returning to South Korea (ethnic returns), North Korean settlers, and other foreign migrants (such as marriage migrants) all contribute to the complexity of citizenship in South Korea. In this context, the case of Germany, which was also a divided country, may give insight into South Korean citizenship theory and policies. In contrast to the German case, however, South Korea has not widely accepted non-Korean refugees.

This previously homogeneous country has experienced a surge of newcomers, and the number of resident aliens has risen every year. As of 2011, resident aliens numbered 1,395,077, an increase of 10.6% from the previous year and comprising

2.75%⁷ of the overall South Korean population. If and when South Korea reaches a level of 10% aliens, it could be classified as an immigrant society in the future, although it currently consists of a small proportion compared to those in Europe. I hope this discussion of the evolution of citizenship in one part of the nonwestern world will contribute to discourses on citizenship worldwide, while providing recommendations about how to deal with specific problems. These are factors that European case studies have ignored. By inquiring how citizenship is practiced in a territorially bounded country, in the case of South Korea, this research aims to contribute to both citizenship theory and practice.

Research Focus on Unprotected Youths

My dissertation analyzes policies toward North Korean settlers in South Korea, especially unprotected youths (previously defined), to examine their different treatment from that of North Korean youths in general. For comparison, I also investigate policies toward children of multicultural families. In this process, I try to answer the question of why unprotected youths are treated differently and why they are left in a “blind spot” regarding the support for North Koreans. What should the policies be for this group? Should they be treated in an existing category or as a new group? Is it appropriate to treat minorities as certain groups? What are the requirements for citizenship in South Korea? To answer these questions, I investigate existing theories about individual-based and group-based citizenship as well as the problems of essentializing a group. North Korean women constitute over 70% of escapees (Korea Institute for National Unification [KINU], 2010, p. 492) and the children of these escapees will continue to increase. Unprotected

⁷ The percentage was only 0.11% of the South Korean population in 1991 (Ministry of Justice, 2008; 2011).

youths experience difficulties in language as well as domestic trouble, in contrast to other North Korean youths. Thus, policy for this group is urgently required.

Terminology

Some of the terms used in my dissertation need to be clarified in that many of them are contentious and some have meanings specific to the South Korean case. For example, South Koreans commonly use the term “nationality” or “nationality law” instead of “citizenship” or “citizenship law.” Whereas in the western context, nationality may refer to either citizenship or nationhood, in South Korea, nationality denotes legal membership in the country. For this reason, I interchangeably use the terms “citizenship” and “nationality” in many places. The distinction between citizenship and nationality or between a citizen and a national is ambiguous. Some scholars distinguish between a citizen as “an individual abstracted from cultural characteristics” and a national as “a member of a community with common cultural values” (Castles & Davidson, 2000, p. 12). In some places, however, these terms are used interchangeably (for example, countries such as Germany link citizenship to nationality).

Nationality, Ethnicity, and Citizenship

Ethnicity is defined as “a sense of common ancestry based on cultural attachments, past linguistic heritage, religious affiliations, claimed kinship, or some physical traits” (Cornell & Hartman, 1998, p. 19). Ethnicity is seen as a “cultural” (in contradiction to a “biological”) notion of race (Castles & Miller, 2009, pp. 35-36). Whereas nationality is typically articulated in the nationality laws of a country, ethnicity often remains far more ambiguous.

In East Asia, nationality usually implies racial, ethnic, and cultural homogeneity

because the countries in this region are composed of mostly the same race (Mongolian) and have a high degree of ethnic homogeneity (for example, South Korea is 99% Korean, Japan is 98.5% Japanese, and China is 93% Han Chinese) (Seol, 2013a; Bradshaw & Wallace, 1996, as cited in Castles and Davidson, 2000, p. 187). Koreans have taken for granted that Korean nationals are ethnic Koreans, and the Korean myth of “a nation of one ethnic group” is precisely reflected in ethnic-centered Korean citizenship. Thus, citizenship has been closed to non-ethnic Koreans but more open to ethnic Koreans.⁸ Although it has been argued that a nation-state and the sense of belonging to it are weakening in an era of globalization, nationality still plays an important role in differentiating people, and nation-states are primary actors in distributing rights and duties.

In this study, I use the term “citizenship” not only to represent legal status, but also as a practice. Citizenship has been a major interest of many scholars of various disciplines in recent decades, but it remains a complicated and contentious concept. For example, T. H. Marshall defined citizenship as “entitlement to be accepted as a full member of a society” (1950, p. 8), and Brubaker described it as “politics of identity,” not as politics of interests (1992, p. 182). Although it is a highly debated term, not much clarification has been provided. Furthermore, the prevalence of globalization and migration has made the concept of citizenship more complicated. Citizenship has generally been understood in conjunction with membership—whether as a legal status with rights or a form of active participation (Bosniak, 2006). In fact, citizenship is both a

⁸ However, citizenship was closed to ethnic Koreans abroad until the 1980s as a policy of the authoritarian government ruling at that time.

legal status and a practice created by the actors—states and citizens. Citizenship is “a set of mutual, contested claims between agents of states and members of socially-constructed categories: genders, races, nationalities and others” (Tilly, 1995, pp. 6–9). In South Korea, citizenship is a newly introduced term, and it is hard to find its equivalent (when it refers to more than a legal relationship with the state).

Citizenship and nationality involve decisions made by a state regarding who should be its members: citizens or nationals. Every country has different criteria for determining citizens and aliens. All laws on citizenship or nationality are based on at least one of three basic principles: *jus sanguinis*, *jus soli*, or *jus domicili*. According to the principle of *jus sanguinis* (“right of blood”), descendants of a national of the country may acquire an entitlement to citizenship, irrespective of birthplace. South Korean citizenship relies on the *jus sanguinis* principle, similar to the citizenship laws in Germany and Japan. For countries adopting *jus soli* (“right of the soil”), regardless of one’s ethnic or national background, citizenship is conferred to people who are born in the territory of the country. *Jus domicili* (“right of residence”) is the principle of granting citizenship to people who reside in a territory of the country for a certain period of time. Some countries bestow citizenship based on long-term residence, with a combination of the other birthright principles of *jus sanguinis* and *jus soli*. It is usually accepted that a country whose citizenship is based on *jus soli* or *jus domicili* is more open to immigrants than a country where citizenship is a matter of *jus sanguinis*. Although it is said that countries with many immigrants usually adopt *jus soli* or *jus domicili* as criteria for citizenship, all three elements can be found in the citizenship system of many countries. The primary question

is which element is considered the most important for determining citizenship (Brubaker, 1992; Castles & Davidson, 2000).

“Democratic citizenship” refers to ideals that aspire to integrate all members of a territory into a political community, ensuring political equality among citizens and encouraging active political participation. Yet even within democratic polities, newcomers are excluded from citizenship, and the scope of their rights is decided by a majority of the existing citizens. It is typical for newcomers to be denied membership in the political community and to be excluded from some social rights provided by the state. To achieve more inclusive modes of democratic citizenship, it is essential for individuals (minorities) to be empowered as political subjects. Voting is not enough to achieve this goal, and devising ways of guaranteeing the participation of minorities is important.

North Korean Escapees and North Korean Settlers

According to the constitution of South Korea (Article 3), Korean territory is defined as including the territories of both South and North Korea, and North Korea is not acknowledged as an independent state. Therefore, North Koreans are considered as having South Korean citizenship, and they acquire it automatically once they enter South Korean territory (if they do not already have the citizenship of another country). In keeping with the definition of citizenship in its constitution, the South Korean government treats all North Koreans as citizens, not as refugees. However, a problem arises from this definition; for example, it is not clear how to define the status of North Koreans in China (along with those who reside in North Korea). Most North Koreans come to South Korea via China. Are they potential South Koreans or are they refugees?

Due to this confusion at least in part, the South Korean government cannot urge China to acknowledge North Koreans as refugees rather than repatriating them to North Korea.

Before the 1990s, North Koreans who came to South Korea were called “defectors” or more often, “defecting warriors.” Later, the term “North Korean escapees” began to be generally used in scholarly or public discourse, and a new term, “*Saetomin*,” was coined, which means people who are to settle down in a new place. “Residents escaping from North Korea” is currently the official term being used. In my dissertation, I use the term “North Korean escapees” in most cases to stress the stage of escaping before the stage of settling. I use this term interchangeably with the legal term “residents escaping from North Korea,” which connotes similar meaning with North Korean escapees. I also use the term “North Korean settlers” to distinguish North Koreans who enter and settle in South Korea from North Koreans who stay in other countries.

Unprotected Youths, Third Country-Born Children, and North Korean Orphans

“Unprotected youths” refers to North Korean youths who do not have support under the Settlement Support Act. The term is used in order to distinguish them from “protected” North Korean children. According to the Settlement Support Act (Article 2), “residents escaping from North Korea” include “persons who have their residence, lineal ascendants and descendants, spouses, work places, etc.” in North Korea. Recipients under the Settlement Support Act are therefore people of North Korean citizenship, including their children born in North Korea. When this act was enacted in 1997, most of the North Korean settlers were adults, and there were almost no children settlers born in any country other than North Korea. For this reason, policy makers did not expect to have to deal with children; adults were the main target beneficiaries of the act.

Using the term “unprotected,” however, may lead to confusion in that persons who are not eligible through Article 9 of the Settlement Support Act are also called “unprotected North Korean escapees.” Article 9 describes those persons as such: “1. International criminal offenders involved in aircraft hijacking, drug trafficking, terrorism or genocide, etc.; 2. Offenders of nonpolitical and serious crimes, such as murder; 3. Suspects of disguised escape; 4. Persons who have earned their living for more than ten years in their respective countries of sojourn; 5. Persons who have applied for protection when one year elapsed since their entry into the Republic of Korea; 6. Other persons prescribed by Presidential Decree as unfit for the designation as persons eligible for protection.”

The recent academic trend is to use the term “third country-born North Korean children” (hereafter, “third country-born children”), and “second-generation North Korean children” or “stateless North Korean children” are also used in newspapers and scholarly articles because the term “unprotected youths” is ambiguous and can include various other North Korean children and adults who fall within blind spots of the related laws and lack official support. Thus, I use the term “third country-born children” in this dissertation because the term second-generation North Korean children is too wide in scope⁹ and stateless North Korean children does not reflect the reality in that many children hold Chinese nationality.

In line with the definition in the Settlement Support Act, Article 2, “North Korean youth” refers to adolescents who reside in and then escape from North Korea. However,

⁹ The term can also be applied to North Korea-born children and South Korea-born children with North Korean parent.

the criteria for adolescence vary depending on related laws. The Child Welfare Act (Article 2) defines a child as one who is under 18 years of age, the Juvenile Protection Act (Article 2) defines a child as any person under age 19, and the Framework Act on Juveniles defines youths as children from age nine to 24. In my dissertation, the term “youths” refers to those who are older than six and younger than 24, which is in compliance with the enforcement ordinance of the Settlement Support Act (Article 38-2; providing the definition of “youths without family”) and with the school entrance age of six. This age range aims to broaden the scope of application since many North Korean youths experience difficulties in education and other areas while settling in South Korea, even if they are older than 18.

North Korean children residing in China before entering South Korea can be separated into two main categories: 1) children who are lost, taken away, or left behind by their parents during the process of crossing the border or once they have reached China (North Korean orphans) and 2) children whose parents are of different ethnicities, for example, a North Korean mother and a Chinese father (third country-born children) (Scarlatoiu, 2012). According to a recent report on orphaned North Korean children, “many North Korean children who cross the border into China often lose their parents once they are safely across the DPRK-China border along the Yalu River. Orphaned, the children are left to survive in a foreign country” (Scarlatoiu, 2012, p. 223). During the escape, children go missing, are abandoned, or become separated. The number of North Korean youths who have escaped from North Korea or from a third country and come to South Korea alone to avoid poverty is increasing. Those children (under age 24) entering South Korea alone are described as North Korean “youths without family” by the

enforcement ordinance of the Settlement Support Act (Article 38-2). Orphaned children with no family ties (youths without family) or children with families (born in North Korea) but who enter South Korea alone fall within the category of “residents escaping from North Korea” and thus receive settlement support and live in group homes after leaving *Hanawon*. Third country-born children are not recipients under the Settlement Support Act because they were not born in North Korea. In my research, I deal with the third country-born North Korean children entering either with their mothers or alone. I also use the term “protected North Korean youths” and “North Korea-born children” for comparison.

Multicultural Families and Multicultural Children

Nowadays in South Korea, “multicultural” is a popular word in everyday language. However, this word has been adopted by people without the discussion of what it really means. It should be noted that the term “multicultural” is loaded with meaning of nonethnic Koreans and foreigners in South Korea.¹⁰ The term “multicultural family” has been adopted in some instances to replace “families of foreigners” or “families of marriage migrants” to denote South Korea’s desire to be an open, multicultural society. According to the Support of Multicultural Families Act (hereafter, “Multicultural Families Act”) (Article 2), a multicultural family comprises: 1) a person who acquired South Korean nationality by birth, by acknowledgement, and by naturalization (a South Korean national) and a marriage immigrant, 2) a South Korean national and a person who attained nationality through naturalization, or 3) a South Korean national and a person born to a South Korean national (who attained nationality by acknowledgement).

¹⁰ This will be discussed in later chapters.

“Multicultural children” are children of multicultural families, and they are also called “children with a migration background.” “*Kosian*” (Korean plus Asian) means usually a specific group within the category of multicultural children: children of a South Korean mother and a migrant worker father from Southeast Asia. The problematic treatment of these children has drawn the attention of the South Korean people since the mid-1990s, culminating in a revision of the South Korean nationality law in 1997. South Korean-born children with a South Korean mother and a foreign father have been able to become citizens of South Korea since that time. However, there are many cases where a South Korean mother registers her child as illegitimate in her family register (without registration of marriage) due to the unstable status of the father.

Dissertation Outline

Citizenship in South Korea is complicated due to its history and ethnic concerns as well as economic and political considerations. Moreover, distinct features of migration, such as ethnic return migration, marriage migration, and North Korean migration, make citizenship more complicated. This dissertation investigates the complexities of citizenship and belongingness in South Korea, particularly focusing on the case of “unprotected” third country-born North Korean children. The exclusion of third country-born North Korean children is the result of many different considerations, and this dissertation analyzes the reasons for treating them differently from other North Korean settlers by investigating various areas. First, the Settlement Support Act that provides the legal definition of North Korean settlers and other related laws will be examined. Second, by scrutinizing sources of legal discourse on amendments to include third country-born children, the rationales for excluding those children from the legal definition will be

uncovered.

In Chapter Two, *Theorizing Citizenship*, the western concept of citizenship and citizenship debates are reviewed in a variety of ways; traditional citizenship theories, feminist critiques, theories of migration, and nation-state and membership disputes. By exploring citizenship theories—keeping in mind diversity, equality and social justice—I discuss the rise of differentiated citizenship and its limits. By reviewing western citizenship theories and theories in South Korea, I contemplate the defining and redefining of membership and boundaries in relation to democratic principles and how different groups in a society should be treated. Diverse theories of citizenship in changing circumstances may cast light on theorizing citizenship and provide a basis for actual policies.

In Chapter Three, *Citizenship in Korea*, the historical and political background of South Korean citizenship (from the period of the formation of South Korea) is presented, and the context of strong and exclusive national identity is explained. As an overview of the conception of citizenship in South Korea, this chapter examines South Korean nationality laws and the changes in them as well as what factors make the changes are specified. Law and policies for different migrant groups are discussed. In doing so, the legal definition of South Korean is clarified and the differentiated definitions and statuses of migrant groups are distinguished.

In Chapter four, “Anomalous Citizens: North Korean Escapees and Unprotected Youth,” the context of the policies for North Korean settlers will be discussed. First, the legal definition of “North Korean escapees” will be examined, and changes in policies and policy terms will be investigated. In explaining the policy changes, domestic political

changes and international politics of the related countries are examined. Then, the procedure for North Korean settlers to become South Korean citizens will be explained and some difficulties that North Korean settlers are facing are noted. As a background discussion on the exclusion of third country-born children, the appearance of these “unprotected youths” as an anomalous group is introduced for analysis in the following chapter.

Chapter five, “Assimilation and Discrimination: Challenges for South Korean Citizenship Policies,” investigates the exclusion of third country-born children and various rationales for distinguishing them from other North Korean settlers. By scrutinizing the education and integration policies of North Korean adult and children settlers, how these policies demand assimilation and institutionalize discrimination will be made apparent. In this chapter, the political context of North Korean citizenship arising from the different ideological standpoints of political parties, organizations, and media, and an attempt to include third country-born children in the legal definition of the Settlement Support Act will be discussed.

In the final chapter, *Toward a Comprehensive South Korean Immigration Policy*, I argue that a comprehensive framework for immigration policy is necessary and that North Korean settlers should be regarded as migrants within this framework. I conclude with a discussion of problems within the current immigration system and recommendations of possible institutional changes. These include creating a new authority in charge of immigration and treating all migrant groups without distinguishing by point of entry or based on race and ethnicity. Instead of separate policies for migrant groups that produce distinct ethnic groups, a framework of incorporating segmented

policies with a broader view of migration background would reduce the number of people who are excluded from a specific policy as well as policy overlaps.

This dissertation expands the research scope of South Korean citizenship by analyzing citizenship as legal status and rights, an institution of promoting “oneness” as making and made by identities, and state intervention in citizen making. By scrutinizing complex policies surrounding North Korean settlers and legal disputes, my project extends the understanding of citizenship and the politics of belonging in South Korea. This dissertation contributes to understanding sophisticated rationale and politics regarding the exclusion of third country-born children and shows the arbitrariness of inclusion and exclusion. Lastly, this study contributes to growing research trends that focus on the citizenship of migrant groups in South Korea. Further, it adds to the ongoing debates about group-based differential treatment and ways for marginalized groups to achieve equality and social justice.

Chapter Two

Theorizing Citizenship

The ideal of citizenship is portrayed “as the most desired of conditions, as the highest fulfillment of democratic and egalitarian aspiration” (Bosniak, 2006, p. 1). For this reason, the concept of citizenship has drawn the attention of many theorists with different interests across disciplines. However, before looking at the highest ideal of democracy and justice, a close examination of citizenship as a double-edged sword is required—namely, the inclusive and exclusive character of citizenship. According to Glenn (2000), citizenship “has been a key nexus for creating both equality and inequality” (p. 1). The history of citizenship is the struggle by those who are excluded (e.g., women, people of color, wage workers) to gain the rights of citizens, but citizenship has also “simultaneously functioned to justify the exclusion of other members of the national community” (Narayan, 1997, p. 49). Therefore, an important question in citizenship theory is how to strike a balance between inclusion and exclusion.

Citizenship theories, however, have tended to focus more on the inclusion of citizens. Many citizenship theorists arguing for the rights of all people have focused on the rights of citizens within a nation-state, giving little attention to the exclusiveness of citizenship. Citizenship, as Brubaker noted, is an instrument of social closure in a nation-state, which is not only a territorial organization but also a membership organization (Brubaker, 1992, pp. 62–63). Despite the implication of inclusion and involvement, citizenship inevitably creates a division between members (citizens) and non-members (non-citizens), contributing to the marginalization and exclusion of non-citizens (Brubaker, 1992; Narayan, 1997). Recent literature examines the exclusive aspect of

citizenship and discusses the theoretical basis for and the treatment of non-citizens (Benhabib, 2004; Bosniak, 2006; Honig, 2003). In dealing with non-citizens, some argue that their rights should be expanded based on universal personhood or “what were previously defined as national rights [should] become entitlements legitimized on the basis of personhood” (Soysal, 1994, p. 3). This approach, however, is not satisfactory. As long as there is a distinction between members and non-members, the way in which citizenship is distributed in a nation-state requires close examination.

Bosniak (2006) points out that the boundary between citizens and non-citizens is not clearly distinguishable in the contemporary world. However, despite the increase of international migration across borders, the distinction between members and non-members in a state has not disappeared. In the post-9/11 years, in particular, the distinction between member and alien has gained a renewed significance (Shachar, 2009, p. 2). In the era of globalization and migration, with the increasing diversities within states and the porous boundaries of states, defining membership and boundaries has become both complicated and increasingly important. Who is granted and who is denied citizenship is decided upon in a bounded community, and every country has unique criteria for determining the qualifications for citizenship. Citizenship itself is a privilege enjoyed by members who have been allowed in¹¹; birthright citizenship in our unequal world creates “the walls of the membership community” (Shachar, 2009, p. 140).

¹¹ Despite formal status and rights, however, some citizens in a circle of members do not feel like full members of society.

Classical Theories: Liberal and Republican-Communitarian

While citizenship is generally understood as membership, theorists define membership differently. Citizenship is considered a legal status with rights, political participation, and identity; however, dispute has arisen with regard to the definition of the concept of citizenship. Citizenship debates are usually divided into the two models of liberal and republican-communitarian¹² and primarily into issues of rights and responsibilities (active participation), the universal and the particular, and the question of universal norms and the territoriality of citizenship.

Typically, liberal and republican-communitarian traditions provide two distinct understandings of membership and inclusion: citizenship as rights and citizenship as active participation. Liberal rights-based concepts of citizenship view membership as an entitlement granted to individuals by the state and assume a set of rights are enjoyed equally by all members of society. Most liberal democratic societies currently allocate citizenship based on this concept. According to this perspective, if everyone has common rights, they are equal regardless of their social, economic, or cultural status; that is, citizens are treated the same regardless of their race, ethnicity, religion, etc. Therefore, extending rights to more people (such as women, the working class, and minorities)

¹² Many studies on citizenship theory distinguish between communitarian and republican citizenship. Although this simplified classification can be arbitrary, my purpose in this chapter is to describe the tradition of western theories of citizenship in a simple way, which will be the basis for the account of South Korean citizenship. The notion of socialist citizenship might be useful in explaining citizenship particularly in relation to socialist regimes, such as China, where priority is given to social rights, and civil or political rights remain a distant goal (Dirlik & Or, 2010). However, citizenship in North Korea does not follow this socialist model because social rights as well as civil and political rights are difficult to achieve under its economic hardship and unique political system (where the instructions of the supreme leader are regarded the most important). The system puts more emphasis on state sovereignty than on citizens' rights (KINU, 2013). Even in China, the emphasis on social citizenship has been retreated under the conditions of global neoliberalism (Liu, 2007; Solinger, 1999; Yan, 2008, as cited in Dirlik & Or, p. 205). Since I do not trace citizenship in a North Korean context but rather only in a South Korean context in this dissertation, I will focus on the two models of citizenship.

guarantee democratic legitimacy and social justice. Treating all people in the same way (by granting all people the same rights) may seem to ensure the equality of all, but this is not usually the case. Despite having equal rights, not all citizens are treated equally. Certain groups remain second-class citizens and experience social discrimination due to their “difference” from the majority. North Korean settlers, who have the same rights as South Korean citizens,¹³ such as voting, running for public office,¹⁴ and the receipt of social benefits, remain second-class citizens in South Korea. Formal equality usually disguises inequality in South Korean society. Liberal citizenship that suggests the extension of rights does not effectively deal with the realities of unequal access to rights and of social economic inequality.

According to Conover, Searing, and Crewe (2004), social liberals such as Marshall, who are against “hyperindividualistic” liberalism, viewed “the political community as an aggregation of interacting, interdependent individuals” (Freedman, 1996, p. 249; Vincent, 2001, as cited in Conover et al., 2004, p. 1038). This strand of liberalism has given emphasis not only to solidarity but also to the resources to practice citizenship. According to Marshall, “Citizenship is a status bestowed on those who are full members of society. All who possess the status are equal with respect to the rights and duties with which the status is endowed” (Marshall, 1950, pp. 28–29). He also categorized citizenship rights into three distinct groups—civil, political, and social rights—which have been developed over time. Guaranteeing civil, political, and social rights to all would ensure that every member of society has full membership. In particular, the

¹³ In South Korea, North Koreans are the exception among newcomers. They acquire South Korean citizenship automatically but are treated differently from other migrant groups. I will show in a later chapter how citizenship is distributed differently for North Koreans than for other minority groups.

¹⁴ Recently, the first North Korean was elected to South Korea’s National Assembly.

welfare state promotes the social rights of citizens (by guaranteeing the rights to enjoy social welfare) that engender substantive social and economic equality. He expected that common social rights would help integrate previously excluded people, such as the working class. Marshall's views broadened the liberal concept of citizenship in that citizenship requires not only formal access but also material conditions by guaranteeing social rights to enable substantive participation. Although the tradition of citizenship as rights has extended to previously marginalized groups by including the important dimension of social rights, Marshall's rights-based notion is still limited to the universal framework of citizenship and ignores diversity among citizens. Marshall's focus was criticized for being focused exclusively on class and not on gender or race (Lister, 1997; Yuval-Davis, 1997) and for including only the white English and failing to recognize social and cultural diversity. Indeed, many people or groups experience social injustice that cannot be corrected by economic redistribution alone.

While citizens of the concept of liberal citizenship are individual rights holders, Civic republican-communitarian citizenship stresses the responsibility (as a member of a community) to promote the common good of the political community through active participation (Dagger, 1997; Sandel, 1996; Walzer, 1983). The republican-communitarian vision of citizenship prioritizes community (social solidarity) and criticizes the liberal concept of abstract and passive individuals as a misrepresentation of reality and a misunderstanding of citizenship (merely as status). In this vein, Sandel states that, "we cannot justify political arrangements without reference to common purposes and ends, and that we cannot conceive our personhood without reference to our role as citizens and as participants in a common life" (Sandel, 1984, p. 5). Citizens are those who actively

participate in the decision-making process, so citizenship is an institution of self-rule in this perspective. Critics of the liberal concept of citizenship argue that despite the extension of citizenship rights, civic and political engagement is passive and emphasizes the necessity of “the active exercise of citizenship responsibilities and virtues, including economic self-reliance, political participation, and even civility” (Kymlicka, 2002, p. 288). Thus, the goal of the republican-communitarian perspective is to produce good citizens who take responsibility; that is, “citizens and community members need self-control so that they will not demand ever more services and handouts while being unwilling to pay taxes and make contributions to the commons” (Etzioni, 1994, p. 91). Civic virtue and civic education, thus, are emphasized to train citizens to become responsible and to actively participate. Current South Korean policies for North Korean settlers tend to incorporate this republican-communitarian view, stressing the notion of citizenship not just in granting them rights and privileges, but also in educating them to be good citizens who can contribute to South Korean society. However, this approach of citizens and community tends focus on assimilation to South Korean culture, rather than on supporting a multicultural society. It tends to impose a single ethnic culture.

From the republican-communitarian perspective, citizenship is not viewed simply as a status but as an engagement in a practice in the political community. There is a concern, however, that this notion of citizenship is particularizing and can become an excessively moralized discourse used to discipline a recalcitrant population into cultural conformity (Phillips, 1991, p. 77). The emphasis is on active participation in political life but only for those who conform to the ideal. In other words, this concept of citizenship overly stresses assimilation while demanding too high a degree of conformity from its

citizens by repressing differences and assuming a common loyalty to the republic. Jean Cohen, in a similar vein, notes that the republican ideal presents a particular and delimited demos and a single model of the active citizen (Cohen, 1999, p. 254), which is, in fact, partial and exclusionary.¹⁵ Glenn also points out that “the notion of common good often assumes a socially homogenous community” (2000, p. 6). However, the citizen is differentially situated in terms of gender, class, ethnicity, sexuality, ability, stage in the life cycle, etc.

Citizenship as a right and citizenship as active participation, however, are not mutually exclusive in reality.¹⁶ Enjoying certain rights may lead to active participation, as we have seen from history, and active participation in the political arena may lead to the guarantee of certain rights for some groups. The relationship between the two perspectives is sometimes complicated and overlapping. Nevertheless, current discourse on citizenship still centers around the liberal and republican-communitarian perspectives and is still an open question.

Feminist Critiques on Citizenship Theories

Although feminist theories on citizenship are substantial and diverse, much of the gender literature on citizenship has questioned the limits of the individual, rights-based, and universalistic concept of citizenship generating gender inequality. Citizenship in the contemporary world is understood as the granting of uniform and equal rights to all members; however, feminist critiques have shown how citizenship is gendered. Citizenship is characterized as universal (gender neutral), but it encompasses only the

¹⁵ Cohen also noted that the demos of the civic republican is a nation (Cohen, 1999, p. 255).

¹⁶ Kymlicka (2002) distinguishes instrumental virtue and intrinsic value of participation and notes that liberals are concerned with an instrumental account of civic virtue rather than being indifferent to political participation (pp. 299–302).

particular norms (masculinity) of more powerful groups (Lister, 1997; Okin, 1979; Pateman, 1989; Phillips, 1991; Young, 1989). Feminist critiques have shown how the rigid division between public and private spheres, which has been central to traditional liberal and republican models, is premised on public activities dominated by men and has limited women's access to the male-dominated public (Dietz 1998; Okin 1991; Pateman 1988). Feminist critiques have provided fodder for establishing new models of citizenship by refusing the hierarchical and oppositional dichotomy of public and private and by conceiving ideas to go beyond it.¹⁷

Universal characteristics of the liberal concept, in particular, have been the target of many theorists (Kymlicka, 1995; Taylor, 1994; Young, 1989). Feminists have pointed out that despite its universalistic and inclusive implication, access to citizenship rights differs from group to group (Yuval-Davis, 1997; Lister, 1997). Although citizenship rights have been extended to more people, the content of citizenship people enjoy varies. In practice, women were excluded from the allegedly universal rights until the 20th Century without suffrage, and they have remained second-class citizens even after suffrage (Okin, 1979). The liberal view cannot explain the gendered realities of citizenship, that is, why women remain second-class citizens even when they have gained rights. Young asserts that “equality of citizenship makes some people more powerful citizens” (Young, 1989, p. 259) and makes majority norms appear to be neutral and universal.

¹⁷ For example, maternalist citizenship theorists put emphasis on the values of private sphere, particularly on the ethics of caring, to conceive alternative citizenship.

“Universality,” by definition, refers to certain characteristics that belong to everyone. In practice, however, the universal model of citizenship has only reflected the particularity (e.g., masculinity, Korean descent and culture) of the dominant group. In this sense, citizenship has never served as a neutral description. The universalist model of citizenship requires policies to be difference-blind, but difference-blind policies are not neutral and reflect only the majority’s language, culture, norms, and way of life. “Difference” has been regarded as something to be gotten past for the unity of a society; however, the rising migration across borders, the increased diversity within a society, and the claims of minorities and immigrants have challenged this thinking and forced policy makers to rethink how different groups in a society should be treated. Transcending differences ultimately entails the reinforcement of homogeneity and assimilation, which means that groups that do not accept the norms of majority are excluded. For example, divergence from the able-bodied, heterosexual, white male in western societies is considered “deviant,” and these deviant citizens are marked as “others” who are different from “normal” citizens and marginalized while enjoying citizenship (Kymlicka, 2002, p. 327). They become second-class citizens. In the case of South Korea, non-ethnic Koreans and North Koreans (not because of their ethnicity but because of their origin) are usually defined as deviant citizens and become outsiders. What it means to be a member of a nation is defined by hegemonic majority. Thus, feminist theorists such as Young pay attention to empowering and representing the difference of groups instead of leaving it behind:

In a society where some groups are privileged while others are oppressed, insisting that as citizens persons should leave behind their particular affiliations and experiences to adopt a general point of view serves only to reinforce that

privilege; for the perspectives and interests of the privileged will tend to dominate this unified public, marginalizing or silencing those of other groups. (Young, 1989, p. 257)

Both liberal and republican-communitarian traditions have been criticized as falsely universalistic and for failing to recognize the cultural particularity of social groups while imposing a false homogeneity (Parekh, 2000; Taylor, 1994; Young, 1989; 1990).

Lister states that

these exclusionary tendencies [of citizenship] are inherently gendered, reflecting the fact that women's long-standing expulsion from the theory and practice of citizenship, in both its liberal and republican clothes, is far from accidental and only partially rectified by their formal incorporation in virtually all societies in the twentieth century. (Lister, 1997, p. 38)

Recent feminist writings on citizenship, in particular, reject a false dichotomy and false universality and stress the need to move beyond binaries. Phillips, for example, notes that feminists challenging the "false universalism" are at "their most persuasive, not in counterposing the particular to the general, the sexually specific to the universal, but in emphasizing the interplay between the two" (Phillips 1993, p. 70). Lister, similarly, maintains that rejecting the universalism "does not mean abandoning citizenship as a universalist goal. Instead we can aspire to a universalism that stands in creative tension to diversity and difference" (Lister 1997, p. 66). Many theorists today tend to see the tension as a creative one and draw attention to working it out politically.

Feminists question concepts critical to both views and stress the need to be more attentive to group differences (whether in gender, class, ethnicity, or race). Many feminist theorists advocate participatory democracy although their views are different in many ways (Brown 1995; Dietz 1998; Mouffe 1992; Young 2000). Some theorists paying attention to the political aspects of citizenship propose different mechanisms of political

representation (Young, 1996, 2000; Mouffe 2000). Indeed, some suggest treating those differences as a means to achieve equality and social justice. In this regard, differential treatment in relation to democratic principles and social justice has been debated by many theorists, and “multicultural citizenship” and “group-differentiated rights” as ways of recognition of difference (group identities) without marginalization (Young, 1989; Kymlicka, 1995) have come to the fore.

Gendered Migration and Citizenship

Feminist scholars have discussed citizenship and migration not only as an abstract theory but also as a practice in women’s lives that investigates identities and institutions, for example, by discussing gendered migration and how citizenship causes injustice in women’s lives through their special experiences. The literature on gender and migration raises the point that migration is gendered (e.g., Grasmuck & Pessar, 1991; Hondagneu-Sotelo, 1994; Pessar, 1994). Hondagneu-Sotelo (2000) further indicates the gendered patterns and gendering effect of migration by asserting that migration affects gender relations. There are many different ways to deal with gender and migration: for example, analyzing a migration-inducing process of export-led production that affects women and men differently (Sassen, 1984) and analyzing women’s experience in host countries from a gendered perspective (H. Y. Choo, 2006). Hondagneu-Sotelo (2000), on the other hand, points out that gendered labor recruitment efforts and job demands affect migration.

Under the influence of a global economy and its gender implication, considerable feminist literature on gender, migration, and citizenship focuses on the increased vulnerability of women, women’s care work (G. Chang 2000; Hondagneu-Sotelo 2001;

Parrenas 2008), and marriage migration in a global context.¹⁸ G. Chang (2000) and Parrenas (2008) discuss women's care work and their conditions, for example, low wages or violence in a global context, because a great deal of women migrants' work is limited to care work. According to migration theories focusing on economic factors, the economic discrepancies of countries and the demands for cheap labor make people migrate. Parrenas (2008) explains that more women than men pursue labor migration in Asia and the demand for care workers, in particular, directs the flow of women's labor migration (pp. 3–4). In the section on international migration flow, migrant women's work in South Korea (e.g., *Joseonjok* and North Korean women) is also limited to care work, cleaning positions, and other low-wage and undesirable occupations.

Moreover, North Korean women have been in relative demand for the expanding service sector in China as cheap laborers, as marriage partners in rural Chinese villages, and even for sex trafficking (Kim & Roh, 2003, as cited in H. Y. Choo, 2006, p. 582). It is known that 70–80 percent of North Korean women escapees are in China, and about 70 percent of North Koreans who have settled in South Korea are women.¹⁹ Economic hardship in North Korea forced North Korean women to sell goods for big money (usually in China or border areas) while men do their usual job. The task of ensuring family survival has fallen onto women's shoulders after the economic deterioration in North Korea. This is what Sassen calls the “feminization of survival” (2000, p. 506), and it may be a reason for the gendered migration of North Koreans (i.e., more women

¹⁸ Regarding this issue, see Constable (2005), Charsley and Shaw (2006), Charsley (2008), and Piper (1997, 1999). Feminist scholars also investigate the experience and conditions of migrant nannies, maids, and nurses working in global contexts (see Ball, 2004; Ehrenreich and Hochschild, 2003; Hondagneu-Sotelo, 2001; Rodriguez, 2008; Yeates, 2004).

¹⁹ The percentage of female migrants worldwide is 49%.

escapees from North Korea than men). Women engaging in trade might have a better chance to escape, and more job demands for women might induce them to escape.

Another noticeable feature of migration in South Korea is that many South Asian women travel to marry South Korean men. There are numerous feminist studies on marriage migrants in various regions, and much research has been done on Asian women migrants. In the Korean context, research on marriage migration across various disciplines has emerged in the 21st Century. Among others, Kim (2008) argues that Filipinas' status as mothers is critical in their citizenship formation in South Korea. Women migrants are regarded as biological reproducers and "cultural carriers" who pass on language and cultural symbols to their children (Yuval-Davis & Anthias, 1989, p. 9). Because women migrants in South Korean society are considered reproducers passing on Korean "blood" and culture by bearing and rearing children of Korean descent, the assimilation of marriage migrants is considered especially important. This implication is reflected in South Korean immigration policy. Marriage migrants and their children have tended to be the first and foremost target to be integrated into Korean society, and policies to that end were quickly drawn up to prevent discrimination. Unlike migrant workers and other minority groups, marriage migrants have been forced to assimilate into Korean society, to a large degree, in order to "become Koreans" and more importantly, to become "mothers of Korean children." However, those policies take assimilation into Korean culture for granted and fail to recognize identities and differences.

Migration and Citizenship

Increased migration of people has caused diversity in society and has made citizenship more complicated. Migration is not limited to a few states with long histories

of immigration where diverse groups live together in a community (Glenn, 2000, p. 9). As Kymlicka (1995) presents empirically, no society can be considered a homogeneous society today despite nation-building processes of constructing common social institutions, a common language, and shared identities.

Most countries today are culturally diverse . . . the world's 184 independent states²⁰ contain over 600 living language groups, and 5,000 ethnic groups. In very few countries can the citizens be said to share the same language, or belong to the same ethnonational group. (p. 1)

The two Koreas, Portugal, and Iceland are examples of countries that are more or less culturally homogeneous (Kymlicka, 2003, p. 149). Even South Korea, which is often portrayed as homogeneous and ethnically unitary, is no exception in the broader trend of increasing migration and diversity. Thus, in this era of migration, citizenship remains a complex issue not only in countries of immigration but also in relatively “homogeneous” countries that are grappling with the effects of globalization and migration. It was regarded in the past that international migrants move from one society to another and transfer loyalty to a new home (a country of settlement). As transnational theorists remind us, “every immigrant is also an emigrant” (Bauböck, 2012, p. 21), and they form transnational communities with multiple connections.²¹ Migration, thus, should be viewed as a dynamic process.

As of 2010, 3.1% of the world's population consisted of international migrants.²²

There are an estimated 214 million people living outside their country of birth, and

²⁰ The UN now recognizes just over 200 nations.

²¹ Some scholars point out that transnational activities are mostly limited to people with high social status (Guarnizo et al., 2003, p. 1212, as cited in Castles & Miller, 2009, p. 32).

²² The United Nations Department of Economic and Social Affairs (UNDESA), Trends in International Migrant Stock: The 2008 Revision, <http://esa.un.org/migration/index.asp?panel=1>. On the other hand, it can

international migration is increasing at a fast rate. The political economic perspectives of migration examine migration in the context of unequal distribution of economic and political power in the world.²³ The demands for cheap labor lead to migration; thus, people move from poor countries to rich countries, and the uneven development of those countries exacerbates the situation (Sassen, 1988). Some international migration theorists also take into account human agency by, for example, identifying the motivation of individuals or groups to migrate in a new place and settle down permanently (Castles & Miller, 2009, pp. 26–27). While a variety of migration theories have been put forth to explain why people leave their country of origin,²⁴ the reasons behind migration can be intricate.

Migration can be divided into economically motivated migration and forced migration,²⁵ such as that of refugees and asylum seekers; mixed motivations for both categories can also exist. This sometimes makes it difficult to discern between the two types of migration. “Underdevelopment, impoverishment, poor governance, endemic conflict and human rights abuse are closely linked,” and these conditions lead to both of the two types of migration (Castles & Miller, 2009, pp. 33–34). In the case of North Korean settlers, they cross the border searching for economic opportunities and political

be interpreted that 97% of people are still bound by nation-states.

²³ Unlike economic theories of migration, historical-institutional theories pay attention to mass recruitment of labor because of the legacy of colonialism, war, and regional inequalities instead of the voluntary migrations of individuals.

²⁴ There is little research on why migrants settle down in a host state. Researchers point out that immigration scholarship tends to take settlement for granted and look at how migrants fit into the host society (Seol & Skrentny, 2009, p. 579).

²⁵ The motivation of forced migration can be the flight from violence and the hope of building a better life elsewhere. The International Organization for Migration defines forced migration as when an “element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes” (<http://www.iom.int/cms/en/sites/iom/home/about-migration/key-migration-terms-1.html#Forced-migration>).

protection. Although it is said that many North Koreans today come to South Korea for economic reasons, political motivation is also involved.²⁶

Migration is a complicated social process, and the powerful dynamic of the migratory process along with its self-sustaining features renders policy making in both the sending and receiving countries more difficult. Often, the migratory process starts with temporary workers, but as time passes, temporary migration becomes about family reunion. Particularly with the birth of children, settlement becomes permanent (Castles & Miller, 2009). The South Korean government's policy for temporary workers at the early stage of migration was very restrictive; their stay was permitted for a short period, and they were then sent back to their country of origin and replaced with new workers (rotation principle). However, temporary migrant workers who stayed longer increased more than government expectations and desires, and the government had to change this policy. Moreover, as the second-generation of migrants increases, family reunification or settlement issues have begun to rise in South Korea.²⁷

Migration is caused by social change and by political and economic institutions, and it affects the practice of citizenship in the whole society. Joppke (2007) points out that the liberalization of access to citizenship, which itself might be a response to increased migration, causes internal diversification along ethnic, racial, and religious lines (p. 38). Often, labor policies and eased access to citizenship lead to ethnic diversity, and they can affect other policies, national identity, and international relations (Castles & Miller, 2009, p. 20). Recent mass migration in South Korea, which has challenged the

²⁶ Of course, there are people who defect to South Korea mainly for political asylum, such as Jang-Yup Hwang, the former North Korean secretary.

²⁷ Family unification and the settlement of migrant workers have not been as important to activists as other issues, such as allowing them rights in the workplace.

myth of national homogeneity, has forced a rethinking and redefinition of what a citizen is and the process of becoming a citizen. Castles and Miller (2009) point out that the incorporation of the culturally diverse newcomers as citizens may undermine myths of cultural homogeneity; however, failure to incorporate them may lead to divided societies marked by severe inequality and conflict (pp. 41–42).

As Narayan (1997) puts it, “many countries have substantial numbers of immigrants who are legally part of its ongoing workforce but who are not eligible for citizenship and lack political, social and civil rights as non-citizens” (p. 61). Existing boundaries of insider (us) and outsider (them) exclude many people from the membership circle. Given the increasing number of people who migrate and constitute an essential part of contemporary states, the question of “us” and “them” has given rise to critical issues of the extension of citizenship rights to immigrants and other aliens (Benhabib, 2004; Bosniak, 2006; Soysal, 1994). For example, temporary workers participating in the labor force in a country have demanded rights, and, in some countries, they enjoy certain rights similar to those of citizens. Thus, the traditional meanings of citizenship and of citizen have been challenged and a reexamination of these concepts has been called for. Countries that both send and receive migrants face the need to modify their policies in response to the challenge. The response to the challenge is reflected in citizenship theories and practices in various ways by different countries. In this regard, the actual policy of a state should be carefully examined in light of citizenship theory.

South Korean society had shown an exclusive attitude toward newcomers by clearly distinguishing South Koreans and “foreigners.” For example, *Hanhwa* (*huaqiao* in Chinese; Taiwanese nationals in South Korea), were the largest migrant group in South

Korea until recently. The *Hanhwa* have been living in South Korea for almost 100 years, and now three or more generations live there. However, they are not considered “true” Koreans.²⁸ Only recently (after the issue of migration and newcomers received attention) have they been allowed to receive permanent resident status and has naturalization for them has eased.

Nation-State, Borders, and Citizenship

By and large, a citizen has been understood as a member of a nation-state; citizenship exists within a territorially bounded political community and construes inclusion within those national boundaries. Each nation-state identifies and accepts individuals based on certain criteria and has elaborate rules governing the naturalization of those not born in the state. However, the debates over globalization and migration have raised the issue of the changing status of the citizen as a member of the nation-state as well as the role of the nation-state (Falk, 1994; Held, McGrew, Goldblatt, & Perraton, 1999; Sassen, 1999). Brubaker (1992) defines citizenship as membership of a nation-state, while post-national scholars such as Soysal (1994) view national citizenship as having waned. It is argued that nation-states are challenged not only by transnational institutions but also by subgroups within a nation, such as ethnic groups that claim separation. Extensive literature has suggested that migration across borders has caused new levels of political membership: supranational, postnational, transnational, denational, subnational, etc. (e.g., Bauböck, 1994; Benhabib, 2004; Bosniak, 2000; Sassen, 2006; Soysal, 1994).

²⁸ The South Korean government had not accepted *Hanhwa* as members of Korean society because it fears they would take economic gains back to their home country since many of them want to maintain Taiwanese nationality and South Korea did not allow dual citizenship. The ethnic-centered perception of membership also refused to accept them as members of Korean society, even though their appearance is very similar to that of ethnic Koreans (see Chapter Three for details).

These theorists argue that the relationship between the state and its subjects is changing and citizenship is transforming.

Theorists of new forms of membership assert that the distinction between insider and outsider is blurred and that, due to the cross-national migration and multiple identities transcending national boundaries, membership is not just bounded within a national territory. Theorists such as Soysal (1994) assert that the rights conferred exclusively to citizens are now extended to non-citizens. For this reason, some scholars view the role of states today as weakened, which suggests that policy making concerning migration has also become increasingly transnationalized (Sassen, 1999, p. 133).

Benhabib (2005), for example, claims that the unitary model of citizenship is receding and citizenship, which has a protected bundle of rights, is becoming disaggregated. Civil rights are becoming universalized and are protected by human rights, while social and political rights are practiced differently from country to country. For Benhabib, disaggregated citizenship solves the “us and them” question (Benhabib, 1999, 2005), allowing people to develop and sustain multiple and overlapping allegiances and networks in transnational contexts and to transcend differences. However, arguing that the protection of individuals is based on universal personhood or human rights regime is not satisfactory, especially for vulnerable minorities and non-citizens. Shachar (2009) insists that for those people, redistribution by the state is required:

[B]y encouraging the dissolution of the bundle of benefits and protections that currently attach to citizenship, proponents of the unbundling vision will also begin to fuel an alternative discourse as well—one that urges the privatization and fragmentation of citizenship, and that implies less collective responsibility for the well-being of members. (pp. 66–67)

This “unbundling” thesis “as an alternative to citizenship-based protections” (Shachar, 2009, p. 62) accompanied by international human rights and universal personhood discourses (regardless of a membership status in a certain state) exaggerate reality.

Isin and Turner (2007) assert that “the prospect of global governance and global citizenship remain merely political fantasies” (p. 16). Usually, the optimistic view of the disappearance of membership in a nation-state is based on the experience of the European Union (EU) rather than the reality in other parts of the world. Even EU citizenship remains grounded in its constituent national states, and the national law of a member state determines EU citizenship (Bosniack, 2006, p. 25). Thus, unbundling theory or disaggregated citizenship has not adequately explained that the distinction between members (us) and non-members (them) still exists and the protection of individuals (especially vulnerable minorities) depends on states.

Individuals’ basic rights are protected by specific laws and regulations of the nation-state within its territory. No higher power exists to force a state to adopt universal human rights. For example, the United Nations Human Rights Committee in 1992 advised Korea to abolish its National Security Law because it limits the freedom of thought. The recommendation does not have compelling power; it is only a “recommendation.” The Korean government has the power to decide whether to abolish the law or not.²⁹ Another example from Korea also shows that civil rights depend on national laws and cannot be protected by international conventions. Korea signed the Convention on the Elimination of All Forms of Discrimination Against Women in 1984,

²⁹ The National Security Law was crafted to fight communism and to repress leftist forces and this law still exerts power to control those who are opposed to the government.

which deferred the revision of Korean citizenship based on the paternal line; it was not until 1997 that the Korean government revised citizenship so that it was based on both parents' citizenships.

Even though the role of the nation-state is debated, states still exert power pertaining to their borders and membership; nation-states are the primary actors that regulate their borders and determine citizenship policies and distribute rights. Even though the power of a state's controlling capital might be undermined, the power of controlling its borders for national security and making political decisions is becoming more significant in the contemporary world. Some scholars even argue that immigration agencies have expanded their power to prevent unwanted entry and to give preference to highly skilled migration (Shachar, 2009, p. 64). Membership in a state still plays an important role in an individual's life, and the nation-state is still the predominant membership organization, though it's not an exclusive power. In this regard, citizenship in a nation-state is still a very important form of membership and power. Furthermore, since a state's power is practiced uniquely, it is necessary to be attentive to its particulars.

A global perspective offers insight into how to aspire to a more just world order and treatment of people. However, citizenship exists within the boundaries of political space and inevitably distinguishes between members and non-members. Nation-states exercise their power within the borders controlling their citizens. Civil, social, and political citizenship have been granted to different social groups within a given territory at differential rates, and state protection is especially important for marginalized groups in this light. Thus, citizenship theories should be refocused on the states, and the role of the states distributing those rights should be investigated. Unlike Miller (2000), who

argues that citizenship requires confinement to a bounded political community, I am not arguing for a strong version of nationalism. Citizenship policies should be aimed at reflecting transnational flow and the emergence of a transnational community.

To investigate citizenship in a country, however, the way citizenship is actually practiced in that particular country should be noted from diverse dimensions. In addition to the relevant legal definitions, related policies and the citizen-making processes of actors (the state, citizens, civil society, and prospective citizens) should be investigated. In the construction of South Korean citizenship, laws and actors in the state and the civil society play an important role. Newcomers (including North Koreans) actively participate in the citizen-making process, and the state, civil society, and existing members all interact in that process.

Democratic Legitimacy and Jus Nexi

The legitimate exercise of political authority requires justification to those who are bound by it. It can be said that political legitimacy in democracy comes from popular sovereignty. Definitions of membership boundaries are usually stated in the laws of each country to indicate “the people” who rule the country.³⁰ However, existing liberal democracies have been criticized for being dominated by certain groups while others are excluded or marginalized. For example, minority cultural groups (including women) occupy a small proportion of elected offices and thus lack an effective political voice. As long as the interests of certain groups of people are excluded while the interests of only a few of the powerful (dominant culture) are reflected, democracy cannot be claimed to be

³⁰ In this sense, some scholars point out the ambiguity in the definition of “the people” in the South Korean constitution.

rule by “the people” and thus fails to achieve legitimacy and results in inequality. In this light, the deficiency of legitimacy may damage the basis of democracy in that democracy, unlike other institutions, aims for rule by the majority, not by a few.

Legitimacy is especially crucial in representative democracy in that citizens participate in the political process through their representatives. Thus, voting is a very “thin form of influence” (Young, 2000, p. 177). To put it bluntly, popular sovereignty emerges only during elections and then disappears. Critics of the passive individual argue that democratic legitimacy can be acquired by giving citizens the power to participate in the decision-making process. Shachar (2009) notes that:

Although there have been many significant efforts to problematize citizenship and to counteract problems of global inequality and deficits of democratic legitimacy, the typical strategy has been to focus almost exclusively on the situation of nonmembers, pressing hard to expand their rights and to open up the regimes that make it possible for newcomers to join the circle of members (p. 6).

It is not enough to include non-members (adding more people) to the circle of members. Institutions that can actually reflect the voices of the people in a polity should be considered,³¹ and the basis for allocation of membership and benefits in a certain state requires scrutiny. As for states, they have to define demos (insiders) within their boundaries. As Shachar (2009) points out, the situation of not only those who do not belong but also those who “naturally” belong must also be examined.

Shachar (2009) explains the persistence of bounded and regulated membership and particularly the mechanism of citizenship conferred by virtue of birthright. This mechanism operates similarly to that of inherited property and moves down generations.

³¹ Voices of minorities living in a country of settlement through political rights should be included at least at the local level.

Citizenship laws assign political membership according to the “accident of birth,” whether by *jus soli* or *jus sanguinis*. Birthright citizenship and its transfer mechanism in a world of inequality are problematic in terms of sustaining the privilege of inherited entitlement. Citizens born with a “silver spoon” (arbitrary privileges of fortunate citizens born in a wealthy country) preserve their wealth, power, security, and opportunity for generations by controlling access to citizenship and the benefits attached to it. Thus, according to Shachar, birthright citizenship preserves and perpetuates global injustice across generations. In the case of South Korean citizenship, being born with “Korean blood” preserves certain privileges and opportunity and, for that reason, proving Korean ancestry becomes an important administrative process in deciding the status of migrants.³²

In this criticism of birthright citizenship, Shachar argues a shift toward a *jus nexi* (“genuine-connection”) principle as an alternative membership allocation principle (Shachar, 2009, p. 164) that is similar to what Bauböck calls “stakeholder citizenship” (Bauböck, 2007; 2009). Her principle is to give citizenship only to genuine members of a political community (people who actually live there). This idea of a “real and effective link” (Shachar, 2009, p. 165) to the political community is helpful for conceiving a more flexible citizenship in a world with increasing mobility across borders. However, in many countries, states allocate citizenship according to wealth or skill that exist to serve their national interests rather than to forge a real and effective link. For example, the South Korean government welcomes Korean Americans but treats Korean Chinese (e.g., *Joseonjok*), who are considered to have less skill and wealth, differently. As the example

³² This issue will be discussed in Chapter Three.

of *Hanhwa* mentioned above shows, people can be denied political and economic opportunities in South Korean society, despite their long-term residency. The *jus nexi* principle, on the other hand, welcomes people who have already settled and have actually participated in everyday life and the economy, especially children who already have primary ties to one country but were born in another country. She implies that denying long-term residents membership would be against the ideal of democratic legitimacy because those who are subjected to the state's coercive powers should have the opportunity to participate in the law-making process.

The *jus nexi* principle, thus, attempts to “reduce the weight of birthright in allocating citizenship titles” (Shachar, 2009, p. 112). However, even with the *jus nexi* principle, abolishing birthright citizenship that is providing an intergenerational continuity seems impossible. Nevertheless, policy makers should keep the actual connection principle in mind, and long-term residency should be reflected in policies because bounded citizenship in a state can provide “a secure legal status, an enforceable bundle of rights, and a meaningful source of collective identity” (Shachar, 2009, p. 44).

According to Bauböck, transnationalism aspires to incorporate foreign nationals and expatriates into domestic citizenship regimes through the multiplicity of ties that immigrants have (Bauböck, 2011, p. 5). Citizenship theory and practice should open to these trends while striving to balance new currents and old habits that need to be maintained. With the proliferation of migration, many people hold multiple identities and allegiances. Immigrants, especially second- and third-generation immigrants, do not have a homogeneous ethnic identity but rather have multiple identities influenced by a variety of cultural, social, and other factors (Castles & Miller, 2009, pp. 41, 44). Almost all

societies today face a multiplicity of allegiances, so debates on dual (multiple) citizenship and on conferring citizenship based on residency have come to the fore.³³ If we have to set limitations on belonging, we should strive to draw the line fairly and should not hesitate to redefine the unjust line.

Identity, Difference, and Differentiated Citizenship

Citizenship not only serves as a legal status conferring a set of rights and duties but also shapes identities and is shaped by identities. The development of personal and group identities involves a complicated process: Identity is formed by the interaction between the state and its members, whether they are groups or individuals. According to Castles and Miller (2009), the formation of ethnic minorities is related both to “self-definition” and to “other-definition” (p. 35). The self-definition and other-definition of an ethnic group can be different. For example, the term “Latino/a” is based largely on self-identification, but the U.S. uses the term “Hispanic” to indicate the Spanish-speaking population. Therefore, membership is closely related to self-identification as well as understanding by others and by the state: that is, the citizen-making process involves the interplay of both self-identification³⁴ and the identification of others.

Citizenship, shaped by national and cultural identities, can be an instrument of social differentiation. With the increase of diversity in a society, the tendency is to differentiate groups according to social and cultural differences, such as race and ethnicity, and exclusionary practices against certain minorities tend to focus on issues of cultural difference. At the same time, the resistance of minorities has formed around

³³ For example, South Korea is restricted to dual citizenship mostly due to the military service issue, but it should be more open to the reality of multiple identities and allegiances of people.

³⁴ Expanding on this topic would be beyond the scope of my dissertation, but J. W. Kang (2011) explores the self-identification of North Korean settlers.

issues of cultural difference (Castles & Miller, 2009, p. 41). However, culture is not a fixed term, and cultural difference can be defined in many ways. The meaning of “cultural difference” can vary and fluctuate in a society. For instance, the “state-based ethnicity” (H. Y. Choo, 2006) of North Koreans can be seen as a cultural difference. Although there is no ethnic difference among ethnic Koreans, North Koreans (with South Korean citizenship) and *Joseonjok* (with Chinese citizenship) are considered as “others” in South Korea.

The meaning of citizenship is complex in nature and also fluctuates. Citing research conducted on migrants from Argentina to Spain,³⁵ Joppke (2007) notes the difference between state policy and the views of ordinary people. Local Spaniards have more affinity for Romanian migrants than they do for the official co-ethnics from Argentina. Joppke argues that civic views of citizenship (behavioral traits such as “honesty” and “hard work”) rather than ethnic identity prevail in ordinary people’s perceptions. There is also research³⁶ that reveals that the ordinary perceptions of South Koreans have changed to have more affinity for Americans than they do for ethnic North Korean escapees or *Joseonjok*. Thus, even in a country with a strong ethnic-centered identity such as South Korea, an understanding of citizenship is not confined to cultural and ethnic identity.

Theorists such as Brubaker argue that the politics of citizenship is a politics of identity rather than of interest (Brubaker, 1992, p. 182). For him, the political contentions of collective membership continue to involve the nation-state, and citizenship depends on

³⁵ Cook and Viladrich (2009), as cited in Joppke (2007), p. 44.

³⁶ Hwang, Kim, Lee, Choi, and Lee (2007), p. 64.

nationhood and national belonging. Brubaker distinguishes cultural and ethnic understanding of the nation between civic and political understanding. Comparing citizenship in France and Germany, he asserts that exclusive German *jus sanguinis* rules (restrictive citizenship laws in Germany) have resulted from an ethnic-centered national identity. However, the politics of citizenship in Germany, which generally depend mostly on the politics of identity, has shifted toward recognizing certain rights of immigrants while revising its *jus sanguinis* rules. In a similar vein, both the politics of identity and the politics of interest are considered with regard to South Korean citizenship.³⁷ The South Korean government has granted citizenship to North Koreans according to the *jus sanguinis* rule. However, the government modified specific policy benefits toward them due to changed North-South relations and increasing economic costs. Economic and political considerations other than ethnicity play roles in South Korean citizenship politics. North Korean settlers have not been granted full membership despite having obtained legal citizenship in South Korea. This means that the politics of citizenship cannot be understood solely from a legal point of view but should be understood in relation to both identity and interest.

Citizenship has the function of integrating people in a bounded political community (mostly the nation-state) despite the differences (e.g., concerning identity and allegiances) among them. A vital issue in feminist citizenship theories relates to recognizes differences, equality, and diverse social exclusion (Squires, 2007). Chantal Mouffe notes that

³⁷ Choe (2003) is more focused on the politics of interest in recent Korean citizenship changes.

citizenship is not just one identity among others, as it is in liberalism, nor is it the dominant identity that overrides all others, as it is in civic republicanism. Instead, it is an articulating principle that affects the different subject positions of the social agent while allowing for a plurality of specific allegiances and for the respect of individual liberty. (1992, p. 378)

The traditional approach to incorporating newcomers and to “difference,” however, has been assimilation to the majority culture, norms, etc. The traditional notion of citizenship entails the exclusion of groups that are perceived to threaten the unity of the polity due to their differences. Many scholars maintain that the ideal of assimilation or the “benign neglect” approach has been challenged in that it ends up excluding minorities and argues for the need for inclusion of difference to rectify inequality and injustice within the polity (see, for example, Barry, 2001; Kymlicka, 1995; 2003; Parekh, 2000; Tully, 1995; Young, 1990, 2000). The truly important project for a diverse society is to build unity without denying social difference by providing institutional means. Feminist critiques, advocates of politics of recognition (e.g., Taylor, 1994), and the influence of social changes have challenged the traditional concepts of citizenship and have contributed to the rise of differentiated citizenship with an attempt to incorporate diversity and the demands of equality and justice within a society.

Thus, differentiated citizenship entails the recognition that (culturally distinct) groups and identities are incorporated on the basis of both individuals and groups. Young asserts that people have stronger allegiances to particular social and cultural groups than to the nation and that a national identity is based on the suppression of social and cultural differences (Young, 1990, 2000).³⁸ Theorists such as Young and Kymlicka argue for

³⁸ David Miller, on the other hand, asserts that a common sense of national identity is “the precondition of achieving political aims such as social justice” (1995, p. 162).

group-differentiated citizenship or multicultural citizenship that requires special group representation rights and other group-based rights to marginalized groups (Young, 1989, 1990; Kymlicka, 1995). This alternative concept of citizenship suggests that differences in gender, culture, race, etc. should be recognized and represented and argues for the recognition of group identity and group difference. To accommodate their distinctive demands and to rectify disadvantages from the majority requires the differential treatment of groups as opposed to the equal treatment of individuals, which only ended up favoring the values and norms of the dominant group in practice. In other words, “different groups may need different rights from others in order to achieve the same kind of equalities” and this approach “as opposed to false neutrality, will entail recognition of the specific existing disparities amongst groups and particular remedies to address these” (Squires, 2007, p. 541). This will, then, “ensure the same opportunity to live and work” (Kymlicka, 1995, p. 110) and encourage the participation of minorities in society. Furthermore, a differentiated citizenship is to accept different ways of belonging to a state. That is, it is to accept and respect different kinds of citizens and their identities.

However, under this group-based perspective, there remains the question of how to adjudicate groups in terms of which groups are eligible to receive rights when every group claiming membership and rights cannot be accommodated. As newcomers with various backgrounds and experiences come to South Korea, they claim rights and seek policies specifically for the group to which they belong. In this case, the standards for judging groups requiring differential treatment should be clear. Otherwise, conflicts

between groups and disputes about reverse discrimination against the majority would arise.³⁹

Another problem of group-based rights is that a group is not a unitary entity. Multicultural citizenship has been criticized for essentializing culture and cultural differences. Phillips notes that multiculturalism “exaggerates the internal unity of cultures, solidifies differences that are currently more fluid, and makes people from other cultures seem more exotic and distinct than they really are” (2007, p. 14; see also Benhabib, 2002). Kymlicka, for example, in his multicultural citizenship theory tends to essentialize identities and cultural groups within clear geographic boundaries. He states that cultures tend to be territorially concentrated and based on a shared language (Kymlicka, 1995, pp. 18, 76). In this case, culture seems to be defined by a clear boundary that represses an internal diversity of cultures and as a stable and fixed entity without interaction between cultures. Thus, the consequence of recognizing distinct cultures would be to impose a rigid identity of culture and ignore the differences within culture resulting in the reification of group or cultural identities.

Feminists’ problematizing that the category “woman” is not unitary provides insight in this sense. The intersectionality theory (see Crenshaw, 1989; Collins, 2000) suggested by feminists notes the possibility of essentialism within a group and the need to be attentive to multiple causes of oppression (e.g., the intersectionality of race and gender for women of color) a person can have. In this regard, Young defines groups in a broad

³⁹ Recently, objections to giving the support fund for North Korean settlers and to reverse discrimination against South Korean citizens have been raised by the public.

way,⁴⁰ and her definition of groups can be understood in relational rather than essentialist terms but “without fixing or reifying groups” (Young, 2000, p. 89; see also Brubaker, 2004). Groups in her context do not have to share the same attributes and are intersecting, but as Kymlicka points out, demands between those groups can be obscured. Barry (2001) also points out that this notion of a group may erode the solidarity necessary for the struggle for justice (pp. 325–326).

The Problem of Categorization in the South Korean Context

Group-differentiated policies divide people into certain groups or categories. For example, policies for newcomers in South Korea categorize North Korean settlers, multicultural families (marriage migrants), and migrant workers as distinct groups. This categorization, however, is sometimes misleading. The categorization of a migrant worker married to a Korean spouse is not clear whether he or she belongs to the category of migrant worker or marriage migrant. Migrant married couples⁴¹ are excluded from the category of multicultural family. As migration continues, marriage between these and other distinct groups is possible, so the new grouping problem might occur again. For younger generations of migrants, identification becomes more complicated. People have overlapping identities, and new identities surface. Grouping and labeling can leave out or misname certain people. People in a group are not identical, so a new group can be formed. Third country-born North Korean youths are a newly emerged group as the

⁴⁰ Group differences for Young are understood not only in terms of different needs or interests but also in terms of different values and modes of expression (Young, 1989, p. 264; Young, 1990, pp. 48–64).

⁴¹ A “multicultural family” is comprised of a Korean spouse (including a naturalized person) and a foreigner. The exclusion of foreign married couples from the Multicultural Families Act is contrary to the purpose of the act aspiring to a “multicultural” society.

migration of North Koreans continues and do not belong to the existing category of North Korean settlers. If policy makers divide groups this way, blind spots are unavoidable.

In my dissertation, I argue that the group-based approach of policies for newcomers cannot solve the current problem. Differentiated citizenship should be applied to individuals with specific issues. For example, to solve the problem of leaving out third country-born North Korean youths, policy makers should approach individuals in the context of migration. Recent studies on North Korean youths pay attention to diversity within the category of North Korean youth.” Instead of multicultural children or North Korean youth, the term “children with immigration background” is introduced to denote differences in a group and to approach groups comprehensively in the context of migration (Lee & Lee, 2011). People with a migration background can be a group (for a policy-making purpose) whether they migrated from Southeast Asia or from North Korea. In this way, the problem of blind spots would decrease.

Multicultural discourse in South Korea now tends to focus mostly on marriage migrants and migrant workers, and North Korean settlers (who are not treated as migrants) are exempted in the discourse. North Korean settlers are also migrants, and a sense of difference exists between North and South Koreans due to 60 years of division. Their differences, however, are not fully appreciated or recognized, and much focus is put on their shared ethnicity and nationality. Ordinary South Koreans differentiate and discriminate against North Koreans, and some even have animosity toward North Koreans because they are from “the enemy state” but accept benefits from the South Korean government.

Citizenship Theories in South Korea

Citizenship theories and debates have recently attracted the attention of South Korean scholars. South Korea, a relatively homogeneous country, has been experiencing abrupt changes with the increase of newcomers, including North Koreans. In this situation, many questions have emerged, including the definition of citizenship, what being a South Korean means, what “Koreanness” is, and how laws and policies should be modified to reflect changes and achieve social integration. Policies for newcomers, however, tend to be made without much consideration of these questions. Citizenship concepts and theories that are applicable to the South Korean situation should be discussed first, and then policies should be revised and remade in light of those theories.

According to Marshall (1950), citizenship has gradually been enlarged by marginalized groups during struggles to secure greater participation within the nation-state (by enlarging certain rights) in western societies. Civil, political, and social citizenship developed differently in South Korea than it did in the West. In Korea, civil and political citizenship were given automatically when modern Korea was established in 1948, without struggles for citizenship. Political citizenship was granted to all citizens (including women) in 1948, but the social aspects of citizenship embodied in the welfare policies were ignored in South Korea due to its growth-centered policies. K. S. Chang (2007, 2012) called this phenomenon the pursuit of “developmental citizenship” (developmentally framed citizenship). Social rights have not been fully developed and South Koreans have been denied these rights. Instead, South Korean developmentalist governments have induced its citizens to participate in the process of economic development and pursue economic compensation and benefits from increased jobs and

improved incomes in the process. Particularly in the 1997 financial crisis, neoliberalism and developmentalism sacrificed the social rights of citizens with the slogan of “saving the economy” (K. S. Chang, 2012, p. 44). The sustained economic growth in South Korea “has not been accompanied by meaningful improvements in grassroots employment and livelihood” (K. S. Chang, 2007, p. 67). However, Chang argues that “developmental citizenship” could not replace social citizenship forever given the immense number of the unemployed and irregular workers. Moreover, the end of the Cold War outside the Korean peninsula, globalization, and the development of democratization affected the conditions for demanding rights and the struggle to give substance to formal rights (Moon, 2005, p. 3). The role of the state, in this sense, is required to ensure social citizenship for marginalized groups in Korea, and arguing that citizenship transcends boundaries is too hasty in the South Korean context.

Many studies regarding citizenship in South Korea have focused on historical change and the specific economic and political contexts of South Korea. S. Moon (2005) describes “the peculiar combination of historical circumstances” of South Korea as national division, the Korean War and military confrontation aftermath, colonial experience, and “the extreme sense of urgency about catching up with advanced countries” (pp. 7–8). She specifically shows how militarized modernization projects (the process of mass mobilization) constructed gendered citizenship in the context of the Cold War. In the process of modernity, South Korea constructed an anticommunist national identity and the “useful citizenry” of men as useful workers and soldiers by compulsory military service) and women as biological reproducers and homemakers. In the pursuit of “militarized modernity” and citizen-making, the “anticommunist self” that used North

Korea as an enemy and a mirror image (as in the case of East and West Germany), was forged. Moon states that “the anticommunist national identity was crucial to disciplinary control over members of the nation in that it provided ruling regimes with ideological justification for the surveillance, normalization, and repressive violence exercised over the people” (Moon, 2005, p. 18). For this purpose, “what it means to be a South Korean has been defined as anything that is not North Korean” (H. Y. Choo, 2006, p. 582).

D. C. Kim (2006) and H. S. Kim (2006) also investigate the relationship between the formation of South Korean citizenship and the national division, Korean War, and national security state as well as the clear distinction between “citizen” and “who is not a citizen.” D.C. Kim explains that these conditions in South Korea distorted the liberal citizenship principles guaranteeing rights of citizens, and citizenship became “an exclusive political category rather than an inclusive, positive, and emancipatory category” (p. 259). In other words, the citizen-making process in South Korea was pushed along by a negative way of excluding “a un-citizen” (or un-Korean), which is contingent upon the loyalty to the anticommunist state rather than by a positive way of recognizing subjectivity. H. S. Kim also focuses attention on the exclusive and discriminatory characteristics of citizenship and specifically focuses on the male-centric values and emphasis on blood and nationalism that operated in the citizen-making process. She argues that South Korea treated citizens based on whether they were full citizens, half-citizens (e.g., overseas Koreans), or anti-citizens (e.g., a “Red”⁴² and “mixed blood” Koreans) upon these principles.

⁴² It should be noted that she indicates those who are branded as “commies” (usually called “Red” in South Korea), especially those who oppose the government, whether they actually support communism or not.

In the face of national and global changes, theorists have reconsidered the meaning South Korean identity or “South Koreanness.” Lim (2009, 2010), for example, points out that rigidly and narrowly defined Korean national identity is based on Korean blood conflating race and ethnicity. With increasing heterogeneity in South Korea (with Amerasians and *Joseonjok* along with the increasing number of *Kosian* children), Lim maintains that “the two decades of sustained migration/immigration could not but help to erode the once-solid myth of South Korea’s homogeneity, and with it, the taken for granted assumption that South Korea is only for Koreans” (Lim, 2010, p. 52). Lim, therefore, argues the need for a redefining of Korean identity toward a more inclusive definition of belongingness that will accept and embrace cultural differences.

The studies of M. K. Jang (2001), in this regard, asserts the need to enlarge the concept of citizenship to include minority groups, pointing out the limits of western liberal citizenship. Her 2005 article focuses on the exclusion of minorities and citizenship politics in South Korea based on western debates on politics of identity. Jang mentions many different kinds of minority groups in South Korea (the disabled, the low-paid workers, irregular workers, poor people, homosexuals, prisoners of conscience, conscientious objectors to military service, single moms, prisoners, people with mental illness, sex workers, transsexuals, homeless people, and migrant workers) and classifies them according to the current recognized status of their identities and their rights in the politics of citizenship perspective.

H. Choe (2003) analyzes Korean citizenship from a sociological perspective. Choe investigates national identities and the changes (after the 1980s) of the legal definition of citizenship in South Korea and China. Comparing the two countries (with

different national identities, i.e., the state-centered, inclusionist national identity of China and the ethnic-centered, exclusionist national identity of Korea), he demonstrated how political and economic factors (state interests) rather than cultural (ethnic identity) factors affect legal citizenship in South Korea and China. This is contrary to Brubaker's argument that citizenship is a politics of identity and not a politics of interest (Choe, 2003, p. 145).

Scholars have paid attention to specific economic and political considerations in relation to South Korean nationhood and citizenship. In particular, the phenomenon of ethnic return migration (massive ethnic Korean migration) has posed challenges for legal membership and nationhood (C. Lee, 2012; Seol & Skrentny, 2009). C. Lee scrutinizes legal changes on membership and extended "ethnizenship" (non-citizen ethnonational membership in Bauböck's terminology) to the political and economic considerations and administrative practices (of identifying and proving Korean blood ties). He mentions difficulties in proving one's membership in South Korea (i.e., common ancestry) for coethnics in former communist countries as well as for North Korean escapees. C. Lee also, in a similar vein to Choe, points out that the "legal criteria of membership are not just an expression or product of the politics of identity" (2012, p. 98). He further asserts that ethnicized identity and membership in South Korea requires an inquiry into multiple dimensions of politics, including the politics of governmentality.

What should not be neglected is the mediating role of the politics of governmentality. In the Korean case, the governmentalised gaze of the colonial state reconstituted the historic Korean nation as a knowable population with its individual members identified and recorded, which mediated the equation of the citizenry of the independent republic and the precolonial protonation. Through this project of governmentality, the population was institutionalized as a community of descent. (C. Lee, 2012, p. 98)

Many countries give preference to ethnic return migrants (Simon, 2013);⁴³ however, Seol and Skrentny (2009) assume that states with ethnic models of nationhood (or *kulturation*) would be more likely to create a hierarchy of coethnics “because these states typically do more to recognize and prefer foreign co-nationals” (p. 164). They demonstrate particular Korean hierarchical nationhood regarding *Joseonjok* in the legal and social dimensions. In South Korea’s case, economic interests (economic growth and the domestic labor market) and geopolitical dynamics shaped this hierarchical nationhood.

Though it is true that horizontal nationhood is typically a model or aspiration and not reality, we wish to distinguish and highlight the sociological significance of the hierarchical nationhood phenomenon from the discriminations and rights denials that are common in many if not all states. These rights denials usually come about based on beliefs in some ethnicity-, race- or gender-based inferiority, inadequacy or stigma. (Seol & Skrentny, 2009, p. 151)

H. Y. Choo (2006) explores how ethnicities and gendered modernity affects South Korean citizenship through the North Korean settlers’ experiences. According to her research study, North Korean settlers are ascribed certain “pseudo-ethnic characteristics” representing the North Korean nation-state (H. Y. Choo, 2006, p. 581). Although there are no ethnic differences between North and South Koreans, South Koreans differentiate themselves from North Koreans. In addition to having the same ethnicity, North and South Koreans also share language, history, and culture; however, Cold War opposition since the division of the two Koreas has led to a specific type of nationhood and nation building. State-based pseudo-ethnicities are attributed to North

⁴³ Simon gives examples of Armenia, Bulgaria, Belgium, China, Croatia, Finland, Germany, Greece, Hungary, India, Ireland, Israel, Italy, Japan, Lebanon, Poland, Romania, Russia, Rwanda, Serbia, Slovakia, Spain, and South Korea (p. 511).

Korean settlers, and they have become a distinct, ethnic-like group (H. Y. Choo, 2006, pp. 577–581). This research, which cites the case of East Germans, argues that ethnic markers, such as accent, clothing, and behavioral characteristics, are used to differentiate North Koreans from South Koreans.⁴⁴ This othering process of using state-based ethnicity consequently marginalizes North Koreans in Korean society.

J. W. Kang's research (2011) examines the (self-) identity formation of North Koreans in the citizen-making process. Kang investigates how North Korean settlers' identity formation has been divided into four categories of assimilative, integrated, disordered, and resistant types in the post-Cold War context.

Currently, the word “multicultural” has become popular in South Korea and is used everywhere—in TV commercials, government speeches, etc. This is a sudden change since living with those of other nationalities, races, or ethnicities itself has not been discussed much. The South Korean government claims to support a multicultural society, but the actual policies for newcomers seem to repress differences and require assimilation to South Korean culture. Debates on citizenship and cultural diversity are starting to require more serious attention. However, the ideal and unitary image of a multicultural society imposed by the media tends to pose a superficial argument for a multicultural society (Eom, 2006, p. 73). The term “multicultural” is used in many cases in South Korea; however, this indiscriminate use may facilitate the othering process by accentuating difference. Citizens have certain rights and benefits; however, access to citizenship has been restrictive even for those who have lived in the society for many

⁴⁴ The accent of North Koreans and *Joseonjok* is similar and easily distinguishable from South Koreans. Some word usage is also different between North and South Korean, and it is sometimes difficult to communicate.

years. Even after newcomers become citizens, the otherness with which they are branded is difficult to remove. In this context, reviewing theories on citizenship and migration provides insight for new concepts of democratic citizenship in South Korea.

Chapter Three

Citizenship in South Korea

In this chapter, the political historical background behind the definition of “South Korean” and the recent efforts to demarcate South Korea’s national boundaries and membership is examined. The legal definition of a South Korean national in the past and present is investigated, and different policies for different migrant groups are discussed. By examining different policies’ treatment of various groups of South Korean nationals and foreigners in South Korea, the way “Koreanness” has been defined and the (re)demarcating of South Korean membership is shown.

***Jus Sanguinis*, Strong Ethnic Identity, and Exclusiveness**

Every state has a legal system defining its membership, such as citizenship (nationality) law and other immigration policies. These laws and policies differ with states according to their nationhood, national interest, and political considerations. Brubaker (1992) demonstrated how citizenship is affected by national identity, as I mentioned in Chapter Two; however, citizenship is intertwined with those other aspects and sometimes leads to a direction opposite from national identity. Scholars studying citizenship in South Korea have pointed out the complicated character of South Korean citizenship (Choe, 2003; C. Lee, 2012).

The South Korean Nationality Act, enacted on December 20, 1948, prescribes the conditions necessary for being considered a South Korean. The legal definition of a South Korean national is “a person whose father or mother is a national of the Republic of Korea at the time of the person’s birth,” according to the Nationality Act (Article 2). Basically, the rule of *jus sanguinis* is applied in the law except in cases of children whose

parents are of uncertain nationality or are stateless. Countries such as Japan and Germany (before an amendment in 2000 for Germany) are frequently cited as granting nationality primarily according to the *jus sanguinis* principle. Children of foreigners born in those countries are not conferred citizenship automatically; rather, it depends on the status of their parents. Some scholars note that most Asian countries practice *jus sanguinis*, whereas in European countries this citizenship tradition has been weakened and moved toward a more inclusive trend adopting components of *jus soli* and *jus domicili*⁴⁵ (Kessler, 2009; Shipper, 2010; Joppke, 2007).

The principle of *jus sanguinis* is based on blood kinship in East Asian countries. In countries in the region, the word “compatriot” means kinship in a “genetic sense” (Castles & Davidson, 2000, p. 193). This concept is more like a “family,” as seen in terms such as “motherland,” and national identity is understood in a narrow sense. In (both North and South) Korea, it has been taken for granted that Korean nationals are ethnic Koreans. Furthermore, Korea had been a unified country since the 7th Century up until the division between North and South Korea. The border of Korea and China was set much earlier than the borders in Europe, and there has not been much change in its territory or people. For this reason, it is strongly believed that Korea is a nation of one ethnic and racial group (ethnically homogeneous), and that the myth of “one ethnic nation”⁴⁶ and “blood purity”⁴⁷ was reproduced and reinforced throughout South Korean

⁴⁵ Germany, for example, revised its nationality law and adopted *jus domicili* and *jus soli* with exceptive clauses. In addition, a permissible range of dual citizenship was extended. Countries such as the U.S. and Canada, with a long history of immigration, grant citizenship based on *jus soli* and children automatically acquire the citizenship of the country where they are born regardless of their parents’ status.

⁴⁶ Scholars dispute whether this concept was coined in the modern era or was rooted in ancient Korea. Whatever it is, it is used for political means and still prevails today.

⁴⁷ The Committee on the Elimination of Racial Discrimination (CERD) expressed concerns on concepts

history (colonialism, anticommunism, military regime). South Koreans have developed strong ethnic and national identities with a strong belief in the “oneness” of all ethnic Koreans (Park & Chang, 2005, p. 8).⁴⁸

The notion of nationality based on a strong *jus sanguinis* rule and exclusive national identity, however, has posed problems in South Korea in dealing with the increasing number of migrants and “foreigners.” Foreigners not only have difficulties in acquiring South Korean nationality, but also in being accepted in South Korean society and often remain as outsiders. It was extremely rare for non-ethnic Koreans to become South Korean nationals⁴⁹ until recently. Moreover, it is widely believed that foreigners cannot be completely assimilated and thus can never become “perfect South Koreans,” regardless of their length of residence or citizenship status. Naturalized South Koreans, or people of mixed heritage,⁵⁰ have not been recognized as “true South Koreans” emotionally for long due to their explicitly different appearance from ethnic Koreans, and due to their national origin. For example, people of mixed heritage with a “clearly different” appearance (i.e., white or black people) were exempted from South Korean military service until 2010, which is mandatory for other Koreans, but other mixed-

such as “pure blood” and “mixed-blood,” which is provided in the reports submitted by the Republic of Korea to the Committee (CERD/C/KOR/14, August 18, 2006, paragraph 44-46). In paragraph 12 of the Reports of the CERD, 71th session, (UN Doc. CERD/C/KORCO/14, August 17, 2007), the committee recommended “to recognize the multi-ethnic character of contemporary Korean society and overcome the image of Korea as an ethnically homogeneous country, which no longer corresponds to the actual situation” existing in South Korea.

⁴⁸ Ethnic Koreans are North and South Koreans as well as Koreans living abroad. It is usually assumed that people regard all of these ethnic Koreans as belonging emotionally to the cultural Korean society.

⁴⁹ In spite of the fact that the qualification for naturalization has been five years ever since the 1948 Nationality Act, the number of naturalized Koreans was only 93 in 1995, while the number of naturalizations for Japan was 14,104; Germany was 31,888 and the U.S. was 445,853 in the same year (Castles & Davidson, 2000; Ministry of Justice, 2008).

⁵⁰ In the past, most of them were those who were born of Korean women and American soldiers (“Amerasians”). Children between Koreans (mostly women) and Southeast Asians, who are called “Kosians,” are increasing.

heritage people (e.g., Southeast Asians) had to serve in the military (C. Lee, 2003; Enforcement Decree of the Military Service Act, Article, 136).

Lim (2009) explains that this tendency comes from the extremely rigid and narrow conceptualization of “Koreanness.” Despite the similar appearance of *Hanhwa*⁵¹ and their long-term residence in South Korea, they have tended to experience social discrimination, for example, in finding jobs in fields such as public office, law, and accounting (C. Lee, 2003) and in social welfare benefits and economic activities (e.g., the imposition of unfavorable taxes on them). The South Korean government maintained an exclusive policy toward *Hanhwa* due to their ethnic-centered identity and with the purpose of limiting their economic gains, which might flow into their homeland.⁵² Thus, South Koreans’ strong ethnic and national identity has produced a great divide between South Koreans and aliens. Castles and Davidson (2000) argue that “the combination of exclusionary rules with the absence of citizen rights in Asia and the Pacific that really renders the notion of the citizen problematic in the region” (p. 194). That is, their assertion is that exclusionary nationality laws along with lack of human rights or democratic rule in the region may cause disempowerment of newcomers.

South Korean Nationality Act and the Political Historical Background

To scrutinize the formation of South Korean citizenship, national identity, and South Koreanness, first I will look into the legal definition of “South Korean” from the foundation period. How it was formed in the state-building period and how it was

⁵¹ *Hanhwa* have the nationality of the Republic of China and not of the People’s Republic of China, and they are called *Hanhwa*, *Hwagyo*, or *Huaqiao* in Chinese. They were the largest minority in Korea until the early 1990s, and most of them now are those who were born in Korea.

⁵² Since many of them wanted to retain their Taiwanese nationality and South Korea did not allow dual nationality and permanent residency, the permanent residency system was created mostly to guarantee the legal status of these people in 2002.

developed will be analyzed by exploring the nationality law up until the present. The nationality system was introduced by the Japanese Empire as it gave Japanese nationality⁵³ to people of the *Joseon* Dynasty⁵⁴ in the colonial period (1910–1945). The Temporary Regulation of Korean Nationality (hereafter, “Temporary Regulation”) was enacted on May 11, 1948, during the U.S. Army military government period (1945–1948), and the first South Korean nationality law was enacted in the same year. Right after liberation, the U.S. military government needed to distinguish between Koreans and Japanese in the process of confiscating enemy property and resolving property ownership disputes. In this period, the need to consolidate South Korean citizenship and define the boundary of South Koreans, while clearing away the remnants of Japanese colonialism, was a pressing concern. For this purpose, the clarification of South Korean nationality began during the process of making the Temporary Regulation prior to the establishment of the new government, and it continued in the legislation process of the first South Korean nationality law (S. J. Kim, 2009).

The 1948 South Korean Nationality Act put the emphasis on patrilineal descent, the disallowance of dual citizenship, and the absence of permanent residency. These characteristics came from the distinct political historical background of South Korea and showed a central focus (the emphasis on ethnicity and nationality) on demarcating national boundaries and membership at the time of building a post-independence South Korea. At the time of the enactment of the Nationality Act, a longing to preserve ethnic homogeneity, or “blood purity,” was reflected in the Act (C. Lee, 2003), and nationality

⁵³ Koreans were incorporated into different family registers from those of the Japanese and had different status than people of the Japanese interior (C. Lee, 2003).

⁵⁴ The *Joseon* Dynasty ruled Korea before the Japanese colonial period.

was identified with ethnicity. In stressing Korean descent and blood purity, passing “blood” only through the paternal line was overemphasized like in other East Asian countries,⁵⁵ and thus, one could only be a national if one’s father was a national until the 1997 revision of the nationality law.⁵⁶

In developing a strong Korean ethnic identity, the experience of Japanese colonization was an important part. Ethnic identity appealed to Koreans who resisted Japanese colonialism as they had no state in this period, and it gained importance when they were required to build a state and define the boundary of their people after independence. To elaborate, an ethnic community of Koreans sharing a common descent and history was highlighted as a resistance that could fight against Japanese colonialism, and there was a desire to build a strong Korean ethnic identity (distinguished from Japanese) when it was necessary to define the identity of the Korean people.

In an analysis of the discussion process of the legislation of the South Korean Nationality Act, S. J. Kim (2009) explains that the experience of being ruled by a foreign force made South Koreans fear foreign people, which was related to the fear of being invaded again by a foreign force. The drafters of the Nationality Act showed wariness of foreigners (especially Japanese) acquiring South Korean nationality and focused on distinguishing between Koreans and Japanese, and further, between Koreans and foreigners. Being a Korean national meant being completely assimilated as an ethnic

⁵⁵ German nationality was also based on the patrilineal principle until 1975 (Seol, 2013a).

⁵⁶ This will be discussed below.

Korean in order to prevent anyone from being against Korea,⁵⁷ and nationality and ethnicity were closely related to each other.

Dual citizenship⁵⁸ was unthinkable, especially in a community stressing ethnic solidarity and loyalty to the Korean nation-state. In particular, the disallowance of dual citizenship was related to the animosity against Koreans who acquired Japanese citizenship voluntarily (by marriage, adoption, or recognition), and having dual citizenship in Korea and Japan was regarded as a treacherous act (S. J. Kim, 2009). In other words, dual citizenship was recognized as a threat to national security and an immoral activity. This negative perception of dual citizenship has lasted until the present with security concerns such as the fear of spies from North Korea and other communist countries, and conscription issues, and developed with other issues related to the antipathy toward American citizenship holders (in terms of conscription and allegiance). Not only distinguishing outsiders from foreign countries, but also distinguishing outsiders (traitors or threats) within South Korea (for example, those who acquired Japanese citizenship and were involved in pro-Japan activities), were important issues at the time and continued later on.

The Korean peninsula was divided into two politically different regimes—North and South Korea—following independence from the Japanese occupation and World War II; Korea remains the only divided nation in the world. The colonial experience, the national division, and the Korean War (1950–1953) played important roles in the period

⁵⁷ In this chapter, I use “Korea” and “Korean” to indicate the ethnic Korean nation or Korea in its entirety since the period of national division is not fixed absolutely.

⁵⁸ This legal term changed to “multiple nationalities” in South Korea with the revision of the Nationality Act in 2010. The reason for the change was that many South Koreans have hostility toward the term “dual nationality,” and the term does not reflect the fact that a person may have more than two nationalities (Ministry of Government Legislation, 2010).

of modern South Korean nation-building and the formation of citizenship (Moon, 2005; D. C. Kim, 2006; H. S. Kim, 2006). The military tension between the two Koreas has made the theory and practice of citizenship complicated. For example, the issue of conscription plays a critical role in nationality policies; dual citizenship issues are closely related to conscription and are highly controversial. Anticommunism is promoted, defining an “us” and a “them” (enemy), and South Koreans are divided into anticommunist citizens and others. This distinction is not only applied to South Koreans and foreigners, but also among South Koreans (D. C. Kim, 2006).

On the other hand, ethnic identity based on the belief of ethnic homogeneity was used to justify political legitimacy after independence⁵⁹ and during the nation-building period and in later authoritarian governments. The formerly homogeneous nation of Korea was divided into two politically different regimes, and each government relied on the strong belief in ethnic homogeneity to establish the legitimacy of their regime. It was indoctrinated that South Korea should rescue the North Korean people of the same “blood” from the North’s communist government.⁶⁰ Both North and South Korea have a strong ethnic identity, and many people believe (though this has changed, especially for young people today) that the two states should be reunified in the future for they are one (ethnic) Korea. The First Republic in South Korea emphatically supported the notion of “one ethnic nation”⁶¹ and anticommunist views to consolidate the autocratic rule of

⁵⁹ Rightwing nationalists appealed to the notion of “one ethnic nation” in their argument against the national division, for example.

⁶⁰ In the North Korean case, it is propagated that they should rescue South Koreans from the American imperialists.

⁶¹ Similarly, North Korea enforced ethnocentrism to tighten the government’s control over its people around the death of Kim Il-Sung. In 1993, North Korea highly advertised the excavation of the ancient tomb of Dangun, the progenitor of the Korean nation.

President Seungman Lee. Anticommunism justified excluding people against him and a family-like nation arose that was obedient to the “father of the nation” and his pursuit of power, and kept silent about his dictatorship. In later republics, this ideology was used politically by the elites of South Korea to justify and consolidate their authoritarian rule.

Changes in the Legal Definition of “South Korean”

The exclusive South Korean identity and immigration policies have been challenged by the “migration transition” from a migrant-exporting country to migrant-importing country, which occurred in the late 1980s (Lim, 2003). The composition of the population has altered compared to the past. Citizenship law and policies based on *jus sanguinis* have been challenged, and revisions of nationality laws and policies have proliferated. The 1948 nationality law, which had remained intact apart from minor changes,⁶² was revised in 1997 with the major change of eliminating the patriarchal definition of citizens. The definition of South Korean based on patrilineal lineage was changed to reflect both parental lineages. According to the previous law based on patrilineal descent, children of South Korean men and foreign women could attain South Korean nationality from birth, whereas children of South Korean women and foreign men could not. Besides, foreign men married to South Korean women went through the naturalization process, while foreign women married to South Korean men acquired South Korean nationality without the naturalization process.

Aside from the changes in the definition of natural-born citizens, policies for naturalization have undergone changes, and policies for different migrant groups have

⁶² This entailed changes in provisions preventing dual citizenship, nationality restoration, and abolishing some limitations on nationality acquisition in 1962, 1963, and 1976.

been devised in recent years. Naturalization in South Korea was not usual. Despite the fact that the required period for naturalization is five years, which is not particularly long compared to other countries,⁶³ it is said that the naturalization process is complicated and not easily completed due to the ethnic-centered approach of immigration officials (Choe, 2010). It is exceptional for individuals to assimilate “perfectly” (e.g., in language and lifestyle) into South Korean society. Since the appearance of the first naturalized South Korean in 1957 under the 1948 nationality law, and until 1985, less than 10 people per year naturalized (Choe, 2010), and by the end of 2011, only 128,276 foreigners had become South Korean nationals through naturalization.

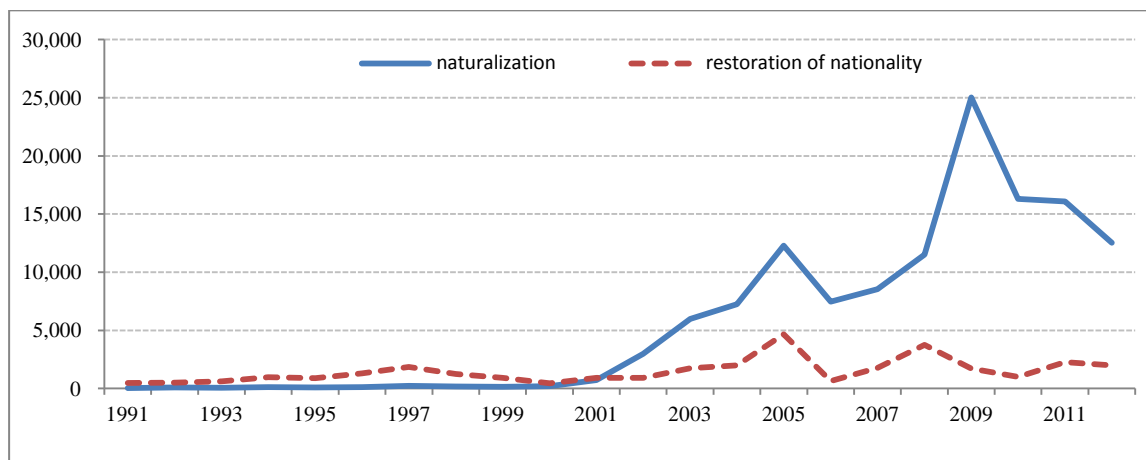
Given the fact that naturalization is the only way for foreigners to acquire South Korean citizenship and that the “permanent resident system” was introduced with the revision of the Immigration Control Act in 2002, they had to live in South Korea without legal protection. The purpose of introducing permanent residency was to improve the legal status for *Hanhwa*, and thus the primary beneficiaries of this adoption were ethnic Chinese in Korea, who numbered over 20,000. Before the introduction of permanent residency, *Hanhwa* with F-2 visas were required to renew their registration as foreigners every three years (later five years). As the number of naturalized people increased rapidly⁶⁴ (see Figure 1) due to the influx of Korean–Chinese, marriage migrants, and long-term residents (Choe, 2010), the naturalization process was somewhat relaxed in the 21st Century, mostly for marriage migrants and investors.

⁶³ For example, Germany requires eight years and Japan five years.

⁶⁴ The number of South Korean nationals who naturalized or had their nationality restored was 18,355 in 2011. The number of naturalized citizens was 16,090. Of these, 66.7% were marriage migrants.

Figure 1.

The Number of South Korean nationals from Naturalization and Reinstatement of Nationality



(Source: Ministry of Justice, 2008, 2012a)

In the current nationality law, naturalization for foreigners is divided according to their past South Korean nationality. Those who once had South Korean nationality fall under the “reinstatement of nationality” (Nationality Act, Article 9). The South Korean nationality law gives preferential treatment to ethnic Koreans in attaining South Korean nationality since the nationality restoration process is relatively simple and refusals are rare. On the contrary, naturalization of foreigners who are without past South Korean nationality is determined by whether they have Korean lineage (blood kinship) or a legal relationship. According to the Nationality Act, the subjects of “general naturalization” (Article 5) are foreigners who have no relationship with South Koreans, and the subjects of “simple naturalization” (Article 6) and “special naturalization” are those who have a relationship with South Koreans (Seok, 2011).⁶⁵

Different migrant groups are required different qualifications in applying for naturalization. Immigrants have to live in South Korea for more than five years in general,

⁶⁵ Article 6, Section (1)-1, Article 7, Section (1)-1 prescribes that “A person whose father or mother was a national of the Republic of Korea.”

and for spouses of South Korean nationals two years are required. Foreigners, “those who have exceptional talents in the field of science, economy, culture and sports and are likely to contribute to South Korea’s national interest” are eligible for citizenship with the application of “special naturalization” (Nationality Act, Article 7, revised on May 2010). As stated in the Nationality Act, Naturalization requires certain conditions: applicants 1) must have good conduct;⁶⁶ 2) must have the ability to live on his or her own assets or skills or on those of family members; and 3) must have basic knowledge of the South Korean language, customs, and culture (Article 5). These conditions are to promote social integration and assimilation of minority ethnic groups into the South Korean culture.

Permanent residency is far from the rights of quasi-citizens like in other countries, and it is not easy to acquire permanent residency compared to naturalization for foreigners. Professionals and investors, ethnic Korean less-skilled workers (e.g., *Joseonjok*), and marriage migrants can access permanent residency, but in general less-skilled foreign workers cannot. Permanent residency in South Korea was introduced as long-term residents increased; however, it has no relation with nationality and the naturalization system. At the early stage of introducing permanent residency, it was nothing but the newly added status (F-5) of permitting long-term stays without renewal, which can be changed from the status of entry visas allowing a sojourn of 90 days or more (Seol, 2013a). Prior to 2002, a five-year renewable visa (F-2) was issued to long-term residents, mostly *Hanhwa*. There was no specification of the rights and duties of permanent residents other than the definition of it in the law at that time.

⁶⁶ Japan also stresses this aspect in their nationality law (Seol, 2013a).

Under the current law, there is almost no difference between the requirements for permanent residency and for naturalization. Moreover, there are not many benefits for permanent residents of South Korea, and thus there is no merit to apply for permanent residency instead of naturalization (Choe, 2010). For this reason, scholars suggest that more rights should be provided to permanent residents to protect them before naturalization, and the requirements and process of acquiring permanent residency should be eased. After the revision of the permanent resident system in 2010, permanent residency holders were diversified—there are more than just *Hanhwa*—and the number of them has increased. Compared to other countries that have similar ethno-cultural models of citizenship such as Japan and Germany, the permanent resident system in South Korea particularly lacks social rights. Usually, permanent residents have many rights equivalent to those of citizens except political rights. In South Korea, political rights for permanent residents are allowed at the local level, but social rights are not provided to them.

Dual citizenship issues are particularly related to men's mandatory military service. Dual citizenship is not permitted in South Korea as a rule, and those who have dual nationality must choose one nationality. According to the Nationality Act, a person who has attained multiple nationalities (according to another country's law—e.g., American-born children) before the age of 20 must choose one nationality before 22, and those who have attained multiple nationalities after 20 must choose one within two years from attainment (Article 12). Foreigners who retain the nationality of their country must

renounce it within a year⁶⁷ of acquiring South Korean nationality (Article 10); otherwise, they automatically lose their South Korean citizenship. Under the current law, a person enlisted in the first militia service under the Military Service Act (Article 8) must choose one nationality within three months of enlistment. Men can abandon their South Korean citizenship after completing military service or being exempted from it. This measure is to prevent people from avoiding their military duty by abandoning their South Korean citizenship. The revised nationality law of 2011 allows dual citizenship on a restricted basis by stating that dual citizens only have to pledge their intention not to exercise their foreign nationalities in South Korea. Dual citizenship is still restricted and is still a contentious issue in South Korea.

Policies for Migrant Groups in South Korea

Usually countries classify immigrant groups and apply different policies to them. Immigration policies in South Korea similarly categorize different groups and subgroups of migrants, which can be categorized largely as migrant workers and marriage migrants.⁶⁸ As for the purpose of stay, there are: 1) those who are assumed to settle and naturalize as South Koreans (e.g., marriage migrants), 2) those who will settle down as foreigners (permanent residents), 3) those who temporarily stay and go back to their countries of origin (less-skilled migrant workers), and 4) illegal immigrants who need to be deported (undocumented workers). The different migrant groups fall under different laws and policies; migrant workers are the subjects of labor policies and marriage migrants are the subjects of social integration/social welfare programs. In South Korean

⁶⁷ It was within six months before the 2011 revised law.

⁶⁸ Among foreigners staying in South Korea, migrant workers and marriage migrants form an absolute majority and professional workers, international students, and refugees make up a low percentage. Thus, it is one reason that policies for migrants in South Korea are concentrated on the former two groups.

society, North Korean settlers are not considered as migrants, and different policies are applied to them. Immigration policy in South Korea is focused on settled migrants (or those who seem likely to settle down, e.g., marriage migrants) and in this light, North Korean settlers are regarded as those who will obviously settle down in South Korea. Although there are other reasons for the preferential treatment of North Koreans, such as Korean ethnicity and political considerations, one reason is that their settlement is clear. However, in this dissertation, I argue for treating them as migrants and categorizing them as so. In this section, I examine policies for different migrant groups, such as migrant workers, marriage migrants, and overseas Koreans. North Korean settlers are discussed in later chapters.

As stated above, South Korea was a major migrant-exporting country in the past due to colonization, economic problems, and political instability (Park & Chang, 2005). During the Japanese occupation period, many Koreans were moved to China, Japan, and the former soviet countries for forced labor or for the independence movement. Many people returned after liberation, but a considerable number of them remained there. Starting in the 1960s, many South Koreans migrated to other countries such as Germany and Vietnam to earn money as nurses, miners, and army employees. In the 1970s, there were lots of construction workers in the Middle East. Later, many South Koreans moved to western countries, such as the U.S., Canada, and Australia for a better life. The number of South Koreans overseas numbers about seven million,⁶⁹ which comprises about 14% of the entire South Korean population. South Korea, however, changed to a labor

⁶⁹ Among them, 36.7% are in China, 32.7% are in North America, 12.7% are in Japan, and 7% are in the former Soviet countries as of 2012 (Ministry of Foreign Affairs, 2013).

importing country from the mid-1980s. There was a shortage of low-paid labor, caused by the low birthrate⁷⁰ and aging phenomenon. The South Korean government started to allow the influx of foreign labor, and the number of immigrants has outnumbered emigrants since 2006 (Seol, 2013a).

Citizenship is not only affected by immigration but also by emigration. Countries have been interested in the integration of immigrants, but less interested in their emigrants' rights. South Korea has one of the largest overseas populations in the world, and mass ethnic Korean return migration has challenged the legal definition of "South Korean" (C. Lee, 2012). How the South Korean government treats ethnic repatriates and dual citizenship holders is closely related to the definition of South Korean citizenship and the South Korean community. Thus, both the immigration and emigration policies⁷¹ of South Korea should be investigated when dealing with citizenship.

The South Korean government manages immigration and emigration with the Immigration Control Act and the Emigration Act, respectively. However, immigration is administered by several laws, as can be seen in Table 1, rather than one comprehensive immigration law.⁷² Recently, various immigration policies for different groups have been made in South Korea; however, they sometimes contradict and overlap with each other, and the need to enact an integrative immigration law has been raised by scholars (for example, see Seol, 2013b).

⁷⁰ According to The Statistics Korea press release on August 23, 2012, the birthrate in South Korea was 1.24 in 2011, and it has been below the population replacement level since the early 1980s.

⁷¹ In this dissertation, policies for returning overseas Koreans are mainly discussed.

⁷² For example, countries such as Germany and Japan have a comprehensive immigration law, the Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (2004) and the Immigration Control and Refugee Recognition Law, respectively (Seol, 2013a).

Table 1

Immigration-Related Laws in South Korea

Year	Subject	Laws
1962	Emigrants	Emigration Act
1963	Immigrants	Immigration Control Act
1999	Overseas Koreans	Act on the Immigration and Legal Status of Overseas Koreans
2004	Migrant Workers	Act on the Employment, Etc. of Foreign Workers
2007	Foreigners in Korea	Framework Act on Treatment of Foreigners Residing in the ROK
2008	Marriage Migrants	Multicultural Families Support Act
2010	<i>Goryeoin</i> ⁷³	Special Act on Support for Acquisition of Legitimate Sojourn Qualifications And Settlement of Koreans in the Former Soviet Union
1997	North Korean settlers	Act on the Protection and Settlement Support of Residents Escaping from North Korea
2012	Refugees	Refugee Act

(Source: Ministry of Justice, <http://www.moj.go.kr>)

The South Korean government's policies for migrants are supposed to give preference to "Korean ethnicity related" people. For example, among the newcomers who want to acquire South Korean citizenship, access to citizenship is more open to people marrying South Koreans or those with a Korean pedigree. Unlike in Germany, where ethnic Germans are welcomed and offered citizenship, South Korea has different policies for overseas Koreans hailing from a different resident country.⁷⁴ For example, overseas Koreans from developed countries such as the U.S. receive preferential treatment compared to overseas Koreans from China. South Korea has a "visit and employment" system (H-2 visa) for ethnic Koreans from China and the former Soviet Union, which is devised to prevent excessive inflow of less-skilled workers, while more preferential status

⁷³ Ethnic Koreans in the former Soviet Union.

⁷⁴ A study on ethnic return policy in East Asia and Europe (Skrentny, Chan, Fox, and Kim, 2007) demonstrates that both East Asia and Europe have preferential policy for foreign coethnics, though with different goals.

(F-4 visa)⁷⁵ is given to other ethnic Koreans abroad. In conferring South Korean citizenship, not only ethnic but also economic and political considerations play a role.

The number of foreigners in South Korea has been steadily increasing, and the majority of them are migrant workers (41.8%), with marriage migrants comprising 10.2% of all foreigners.⁷⁶ In spite of the fact that the majority of the foreign population is migrant workers, government policy has been concentrated on marriage migrants and has actually inhibited the settlement of less-skilled migrant workers, as stated above. In 2007, the Act on the Treatment of Foreigners in Korea was enacted to support foreigners, with the aim of contributing to their social integration (Article 1); however, this act was aimed at settled migrants, indicating “foreigners” as “people who do not have Korean citizenship and legally stay in South Korea for the purpose of residence in South Korea” (Article 2). Seol (2013a) points out that public assistance programs for foreigners barely exist,⁷⁷ even though the limited government budget is mostly allocated to marriage migrants. It can be said that the South Korean government considers migrant workers as short-term visitors, just the same as Germany. On the other hand, the number of foreigners with F-5 visas of permanent residency or F-3 dependent family visas is relatively small (Seol, 2013a), and the number of naturalized South Koreans⁷⁸ is also

⁷⁵ An F-4 visa gives a stable right of abode, which can be renewable every three years while an H-2 visa allows working for a maximum of five years.

⁷⁶ As of December 2011 (The Ministry of Security and Public Administration press release on Aug. 9, 2012).

⁷⁷ He gives an example of permanent residents with disabilities who are not eligible for public assistance programs.

⁷⁸ The number of naturalized Koreans was 34 people per year until 2000. From 2001 to 2010, the number increased to 9,816 per year. The number of naturalized Koreans during these 10 years makes up 98% of the entire number of naturalized people, and the number from 2006 to 2010 makes up 70%. However, this number is still small compared to EU countries.

small. This means that South Korean policies regarding foreigners have not encouraged foreigner settlement at all.

As the history of migration proceeds, however, migrants bring their families, whether legally or illegally, or make families. Family reunification rights are closely related to the settlement of migrants. Joppke (1999) notes that Germany's Basic Law was interpreted as allowing family reunification rights for migrants and this led to the settlement of migrants despite the government's desire to restrain migrants from settling.⁷⁹ The South Korean government faced the need to adopt policies for the increased immigrant settlement, and policies for marriage migrants were devised in this regard. On the other hand, scholars point out that there are almost no policies for migrant workers, and policies for the children of migrants have not been prepared, either.

Policies for Migrant Workers

Migrant workers were the first group of foreigners to emerge in South Korea and still comprise the majority of the foreign population. For foreigners, the right to work is limited in most countries since all states consider it as affecting the job opportunities for their citizens. Policies for migrant workers in South Korea are different according to their subgroup (professional workers and investors, less-skilled workers, ethnic Korean less-skilled workers, and undocumented workers). In deciding their legal status, whether migrant workers can contribute economically and their ethnicity both play a role. South Korean policies for migrant workers limit less-skilled workers' permanent settlement and promote the inflow (and actively recruit) of professional migrant workers and foreign

⁷⁹ Further, Germany now has a more liberal citizenship policy to children born in Germany.

investors.⁸⁰ Professional workers and foreign investors are eligible for permanent residency⁸¹ or nationality, while less-skilled workers are not. “Outstanding foreign talents,” as mentioned above, can become naturalized citizens with no permanent residency requirement. This conception of “useful specialty” by the South Korean government is exposed in policies for migrant workers.

As for less-skilled workers, ethnic Koreans are preferred though the South Korean government has not given special rights for them to be nationals of South Korea. Less-skilled workers are categorized as those with “nonprofessional employment” (E-9) visas and those with “visit and employment” (H-2) visas. General foreign workers receive “nonprofessional employment” visas and ethnic Koreans with foreign citizenship can acquire a special work permit with an H-2 visa that allows them to choose work freely in a more variety of industries. Ethnic Korean less-skilled workers are treated differently than other less-skilled workers with the creation of H-2 visa status⁸² (e.g., with the right to choose an occupation) since the 2007 revision of the Enforcement Decree of the Immigration Control Act. Ethnic Koreans holding H-2 visas are mostly from China and the former Soviet Union. According to Seol (2012), among ethnic Koreans entering with H-2 visas, 98% are from China and 2% are from former Soviet Union countries.

Since the mid-1980s migrant workers have come to South Korea for economic opportunity, and South Korean society demanded labor forces for the so-called 3-D jobs.

⁸⁰ Germany and Japan also have preferential programs for professional workers and their nationals abroad and have a “rotation policy” for unskilled workers (Seol, 2013a).

⁸¹ Foreign investors (in accordance with the Foreign Investment Promotion Act) with more than \$500,000 and employing more than five Korean nationals can acquire permanent residency (Enforcement Decree of the Immigration Control Act, Article 12).

⁸² Those who qualify as a “Korean with a foreign nationality” under the Overseas Koreans Act, Article 2 can apply for this H-2 visa, and the majority of H-2 visa holders is Korean–Chinese.

At the early stage of opening the labor market, Korean–Chinese were preferred to other foreign workers as they could speak Korean, and South Korean employers felt an affinity for people of the same ethnicity. Korean–Chinese also had a desire to seek economic opportunities in South Korea, and the number of them increased rapidly. The South Korean government wanted to control their number and protect its labor market. Thus, this was one of the reasons for enacting the laws for overseas Koreans as stated below.

The South Korean government has maintained strict policies for less-skilled workers, adopting the “rotation principle” like in Germany (Seol, 2013a, p. 23), which limits the number of them and only for certain industries. Migrant workers are not the targets of “social integration” policies, and policies for them are intended to prevent settlement and force them back to their homes. The South Korean government limits the length of stay for less-skilled workers to a maximum of four years and 10 months,⁸³ which is to prevent the five-year residency requirement for permanent residency and naturalization.⁸⁴

Policy for less-skilled foreign workers has largely undergone a change from the Industrial Technical Training Program (ITTP), which was introduced in 1991, to the Employment Permit System (EPS) of 2004.⁸⁵ The Act on the Employment, Etc. of Foreign Workers (hereafter, Foreign Workers Act), which introduced EPS, recognizes migrant workers as workers, while they were recognized as trainees with limited rights under the ITTP. The notorious ITTP, which was intended to import a workforce as

⁸³ Korea Immigration Service (Ministry of Justice), 2013. Retrieved from http://www.hikorea.go.kr/pt/InfoDetailR_kr.pt?categoryId=1&parentId=140&catSeq=183&showMenuId=18&visaId=C4

⁸⁴ Less-skilled workers with H-2 visas (ethnic Koreans) are eligible for permanent residency, but it is very limited in reality (Seol, 2012).

⁸⁵ The EPS completely replaced the ITTP in 2007.

trainees not as laborers, was accused of being exploitive and not providing protection, and thus being discriminatory against migrant workers (Seol, 2012). Further, it was criticized for producing masses of undocumented workers. According to the Ministry of Employment and Labor, the purpose of the EPS is to expedite legal employment for corporations that experience difficulties in finding domestic labor and to improve rights for migrant workers. The South Korean government expected to solve the problem of recruiting undocumented workers and to control them.

Migrant workers in South Korea do not have family reunification rights and have to live apart from their families for nearly five years, unless they are professional workers. Only professional workers can enter with their families, whereas other less-skilled workers (including ethnic Koreans) and undocumented workers cannot. For the government, separation from family members would guarantee migrant workers only stay temporarily. However, some migrants either found a way to bring their families in or started families in the new country. According to the *jus sanguinis* principle, children of migrant workers in South Korea do not have citizenship, whereas EU countries distribute automatic or optional citizenship to children of migrants (Joppke, 2007). South Korea has not been interested in family reunification rights for migrant workers. Labor unions and other NGOs have been focused on issues such as compensation for workplace injuries and pensions for undocumented workers and not on family reunification rights (C. Lee, 2003). In the case of Germany, NGOs worked for family reunification rights against the state restriction (Joppke, 1999).

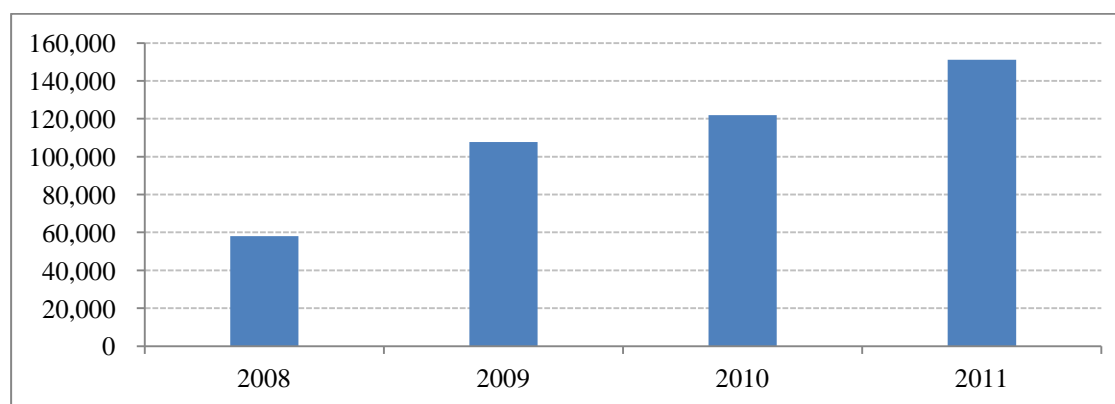
Children of migrant workers have the right to education in that all children in South Korea can receive education. According to the Enforcement Decree of the

Elementary and Secondary Education Act (Article 19), even children of undocumented workers should attend school since the admission procedure requires no specific documents that indicate their nationality or visa status. However, children of undocumented workers are denied admission at times (Seol, 2012).

Policies for Marriage Migrants (Multicultural Families)

Marriage migrants have first priority in receiving benefits among foreigners. For them, permanent residency and naturalization are eased and there is no restriction on employment. This preference is the result of the consideration given to children of Korean descent as mentioned in an earlier chapter. The number of marriage migrants has been increasing over 28% every year since 2002, but the rate has been slowly declining since 2007.⁸⁶ As marriage migrants increase, the number of their children (multicultural children) has been rising and, according to the Ministry of Gender Equality and Family, they numbered 58,007 in 2008, and the number increased to 151,154 in 2011 (Figure 2).

Figure 2
The Number of Multicultural Children



(Source: Ministry of Gender Equality and Family)

⁸⁶ It only increased by 2.1% in 2009 compared to the previous year. This was primarily due to the strengthened policy on international marriage within marriage migrants' own countries. The rate of increase was 13.2% in 2010 owing to the increased number of Korean men seeking international marriage and the policy changes in those countries. In 2011, however, the rate dropped again to a 2.1% increase.

This number is expected to increase steadily. Thus, the South Korean government has paid particular attention to these children, and policies for the settlement of marriage migrants have been formulated. Unlike migrant workers and other migrant groups, marriage migrants have been forced to assimilate into Korean society to a greater degree.⁸⁷

Before the early 1990s, the majority of international marriages⁸⁸ in South Korea was between South Korean women and foreign men (mostly American soldiers in South Korea); however, since then, marriages between South Korean men in rural areas and foreign women have rapidly increased.⁸⁹ These mostly consist of ethnic Korean brides from China as a way to overcome the lack of marriageable women, especially in rural areas. The gender imbalance in the marriageable-age population because of the preference for sons and an increase in the number of women with high-level education who marry late or remain single, and their reluctance to marry men in rural areas, are claimed as the reasons for the lack of marriageable women. As South Korea goes through industrialization, the rural population (especially young people and women) has been decreasing.

⁸⁷ Notwithstanding the efforts of the South Korean government, only 33% of marriage migrants in 2011 acquired citizenship through the naturalization process, even though marriage migrants are exempt from the written test.

⁸⁸ International marriages were not worth notice statistically until the early 1990s, and it was starting in this period that the government began to give out statistics on international marriages (Han & Seol, 2007).

⁸⁹ In 1991, marriages between South Korean women and foreign men made up 87% of all international marriages, while marriages between South Korean men and foreign women made up 13%. The number of marriages between South Korean men and foreign women has increased rapidly, outnumbering the number of marriages of South Korean women and foreign men, and now makes up about 75% (72.9% in 2012) of all international marriages.

(http://kostat.go.kr/portal/korea/kor_nw/2/1/index.board?bmode=read&aSeq=286676, Statistics Korea, accessed Sept. 23, 2013.)

The rapid growth in international marriage brokerage agencies⁹⁰ also accelerated the increase in international marriages in the 2000s. In the mid-2000s, more than 40% of men in farming areas were married to foreign brides, and the number of international marriages has made up above 10% of the entire number of marriages since 2004 (Statistics Korea, 2009). As the number of South Korean men seeking international marriages began to rise and marriage brokers emerged, the countries of marriage migrants became diversified and women were recruited from multiple Southeast Asian countries. The number of marriage migrants has increased steadily and is now at 220,687, and among them, women make up 89.2%⁹¹ as of January 2012.

Among international marriages, men and women show a difference in the nationalities of their marriage partners (migrated men and women married to South Korean nationals). Chinese of Korean descent make up the highest percentage of all marriage migrants for both women (31.5%) and men (42.6%), and next is non-Korean Chinese. Other than Chinese, a considerable number of marriage migrant women are from Vietnam (22.1%), The Philippines (6.3%), Japan (4.9%), and Cambodia (2.3%), while relatively more marriage migrant men are from western countries such as America, Canada, and England.⁹² The majority of female marriage migrants (83.7%) enters the country for the purpose of marriage, while male marriage migrants' purposes of entry vary.

⁹⁰ Marriage brokerage businesses introduced foreign women to South Korean men, and in many cases they were illegal and did not provide sufficient information to prospective grooms. To prevent harm from those marriage brokerage agencies, the Marriage Brokerage Business Management Act was enacted in 2007.

⁹¹ The Ministry of Gender Equality and Family, 2013.

⁹² As for marriage migrant men, the majority was from Japan and it was followed by America, Taiwan and Hong Kong, Western Europe, and Canada (The Ministry of Gender Equality and Family press release on Feb. 26, 2013).

As issues relating to the families of Koreans and foreigners (multicultural families) became salient, the Multicultural Families Support Act (hereafter, “Multicultural Families Act”) was enacted in March 2008. According to the Act (Article 2), a “multicultural family” means a family comprised of an immigrant by marriage⁹³ or a naturalized Korean and a Korean national (by birth, acknowledgement, and naturalization). The term “multicultural family” might cause confusion, but here the legal term means the family of Korean nationals married to marriage migrants or foreigners who acquired South Korean nationality. Article 2 was revised in April 2011 to expand the targets of the Act, which previously targeted marriage migrants and naturalized Koreans who were married to Korean nationals by birth only but now includes all kinds of Korean nationals (Table 2). As naturalized Koreans came to include families as applied by the revised law, Korean descent-focused policy (in that the Act applied only to those married to ethnic Korean nationals by birth) changed a bit. The Multicultural Families Act, however, is not targeted at families comprised of only foreigners (both legal and illegal) and permanent residents and their children.⁹⁴ Naturalized Koreans who are married to foreign nationals are not covered by this law. As seen in Article 1 of the Act, the purpose of the Act is to help their integration into South Korean society. The focus is to help the assimilation of spouses of South Korean nationals, and thus this Act is basically for the families of South Korean nationals comprised of multiethnic and multiracial members.

⁹³ “The term ‘immigrant by marriage’ means any foreigner in South Korea who had or has a marital relationship with a Korean national.” (Framework Act on Treatment of Foreigners Residing in the Republic of Korea, Article 2, Section 3)

⁹⁴ It is argued that there are no policies for permanent residency holders (F-5) and spouses and children of permanent residents (F-2-2).

Table 2

The Change of Targets of the Multicultural Families Act

Before the 2011 revision				
		Korean nationals		
		by Birth	by Acknowledgement	by Naturalization
Spouses Of Koreans	Marriage migrants (foreigners)	○	×	×
	Naturalized Koreans	○	×	×
	Acknowledged Koreans	×	×	×
After the 2011 revision				
		Korean nationals		
		by Birth	by Acknowledgement	by Naturalization
Spouses Of Koreans	Marriage migrants (foreigners)	○	○	○
	Naturalized Koreans	○	○	○
	Acknowledged Koreans	○	○	○

(Source: Ministry of Gender Equality and Family; the Os indicate inclusion and the Xs indicate exclusion in the Multicultural Families Act)

Current policies for multicultural families are particularly focused on the families of South Korean men and women from Southeast Asian countries, such as Vietnam, The Philippines, and Cambodia, although a considerable number of marriage migrants are from China (Seol, 2010), and thus programs provided for them are mostly related to acquiring Korean language skills. Given the various backgrounds of multicultural families, programs for them should be diversified and meet their needs, such as helping with their employment issues. Moreover, it is argued that multicultural education should not just be for multicultural families, but also for their neighborhoods, since Korean neighbors are not accustomed to living with foreigners.

Policies for Overseas Koreans

In South Korea, ethnic return makes up a large part of migration, and policies for ethnic Koreans abroad are intertwined with the ethnic, economic, and political concerns

of the South Korean government. In the process of making the citizenry in South Korea, scholars point out that the ethnic return migration has created a hierarchical nationhood (Seol and Skrentny, 2009; C. Lee, 2012). Until the 1990s, the South Korean government's policies for overseas Koreans encouraged them to have citizenship of their countries of residence and assimilate into the culture of those countries, excluding them from South Korean citizenship. The exclusive policy for overseas Koreans was due to the authoritarian government's desire to limit their influence on the democratization of South Korea by prohibiting their political and economic activities (Choe, 2003). As democratization progressed, rights for overseas Koreans began to be discussed. However, the changes were inclusive for Koreans in western countries but exclusive for Koreans in China and the former Soviet countries. The proportion of Korean–Chinese (*Joseonjok*) (33.7% in 2011) among the number of foreign residents in South Korea is the greatest (Ministry of Justice, 2011). Korean–Chinese comprise the majority of those who acquired Korean nationality by naturalization or by reinstatement, and also the majority of migrant workers is Korean–Chinese (C. Lee, 2012).

The Overseas Koreans Foundation Act, enacted in 1997 and the Act on the Immigration and Legal Status of Overseas Koreans (hereafter Overseas Koreans Act) of 1999 legally define the status of “overseas Koreans,” which was a highly controversial term but which had no officially agreed upon definition previously. The Overseas Koreans Act (Article 2) defines “overseas Koreans” as: 1) “A national of the Republic of Korea who has acquired the right of permanent residence in a foreign country or is residing in a foreign country with a view to living there permanently [‘Korean national residing abroad’]” and 2) “A person, prescribed by Presidential Decree, of those who,

having held the nationality of the Republic of Korea (including those who had emigrated abroad before the Government of the Republic of Korea was established) or as their lineal descendants, have acquired the nationality of a foreign country [‘foreign nationality Korean’].” In the case of Section 1 of Article 2, the scope of people who belong to the category of “Korean national residing abroad” is clear, but in the case of Section 2, it is vague and has caused a dispute about the range.

The definition of “foreign nationality South Koreans” was debated prior to the enactment of the Act and was suggested as “all ethnic Koreans who attained foreign nationality.” However, the Act included only those who had Korean nationality in the past (after 1948). The reason is that the definition of “all ethnic Koreans,” which put emphasis on “Korean descent,” was criticized as imposing strong nationalism and met opposition from countries that are sensitive on the subject of their minorities, such as China and the former Soviet countries, which have a large number of ethnic Koreans and share borders with (North) Korea. They were concerned that this definition would unsettle their minority policies. Moreover, the South Korean government also did not want to cause diplomatic conflicts, especially with China, and there was also concern of a mass influx of *Joseonjok* and its effect on the South Korean labor market as stated above as well as on national security with inflows of people from former communist countries.

The Chinese government made an issue of the category of overseas Koreans that included *Joseonjok*. Park and Chang (2005) explain that Korean–Chinese (*Joseonjok*) reside in border areas and have a strong attachment to Korea, while ethnic Koreans in the former Soviet countries (*Goryeoin*) reside far from the border of Korea and have a relatively weaker relationship with South Korea. For this reason, China had a strong

stance on the law including *Joseonjok* in the “overseas Koreans” category. In effect, Koreans who had moved to China or to the former Soviet countries were virtually excluded from the “foreign nationality Koreans” category. Although there was no clear statement excluding the *Joseonjok* and *Goryeoin*, the criterion of having nationality after the 1948 establishment of the government “effectively excluded Koreans in China and Russia” (Park & Chang, 2005, p. 5). Because most of them left Korea around the colonial period (before the establishment of the Korean government), it was interpreted that they had not attained South Korean nationality.

With the enactment of the Overseas Koreans Act, qualified overseas Koreans could engage in real estate and financial transactions and have national health insurance coverage (Article 11-14). By creating the status of “overseas Koreans” (with the F-4 visa), the South Korean government responded to the demands of ethnic Koreans in Northern America (requesting their rights in South Korea) to some degree instead of recognizing their dual citizenship (C. Lee, 2012) while taking (economic) advantage from them. As stated in the purpose of the enactment of the Act, the South Korean government’s immediate intention was to promote investment from overseas Koreans during the economic crisis.⁹⁵ Although dual citizenship is not permitted, overseas Koreans were given economic and social rights through this Act.

The Act, however, was criticized for benefiting only Korean–Americans while discriminating against almost half of overseas Koreans (i.e., ethnic Koreans in China and in the former Soviet countries and some Korean–Japanese without Korean nationality).

⁹⁵ After the national economic crisis of 1997–1998 and bailout from the IMF, South Korea experienced serious economic hardship.

Considering most ethnic Koreans moved to the region (excluded by the Overseas Korean Act) at that time was a forced migration or for the independence movement against the Japanese occupation, their exclusion generated strong criticism and the Act was accused of official and unequal stratification of ethnic Koreans. It was said that the “rich cousins” (Korean–Americans and some Korean–Japanese) were included and the “poor cousins” (*Joseonjok* and *Goryeoin*) were excluded according to the status of their resident countries (Park & Chang, 2005, p. 7).

Some Korean–Chinese filed a constitutional appeal, and in 2001 the Constitutional Court decided that the Act was incompatible with the Constitution (Article 11 of the equality principle).⁹⁶ As a result, the Overseas Korean Act was revised in 2004 to include “those who had emigrated abroad before the Government of the Republic of Korea was established” in Section 2 of Article 2. In spite of the revision, different treatment of overseas Koreans has not completely disappeared. The disadvantage for *Joseonjok* and *Goryeoin* continued in applying the reinstatement of nationality by limiting their application only when they are in South Korea (unlike ethnic Koreans in other countries) and in limiting the issuance of F-4 visa to them with prohibitive conditions (C. Lee, 2012). F-4 visa holders are prohibited from engaging in a “simple labor activity” according to the Enforcement Decree of the Immigration Control Act (Article 23, Section 3), and with this condition most of *Joseonjok* and *Goryeoin* do not qualify for the F-4 status. Since 2010, changing from H-2 status to F-4 status, which allows work in long-term is more expanded for those who employed in a long-term in a certain industry (with a serious domestic labor shortage) and those who with a

⁹⁶ The Constitutional Court Decision, 29 November 2001, 99heonma494.

technician's license and a college graduate. The number of Korean–Chinese holding F-4 status has been on the rise in recent years.

According to C. Lee (2012), “blood ties are the most fundamental condition for claiming a place in the nation,” becoming a South Korean citizen, and acquiring “ethnizenship” (p. 95). Regarding the issuing of H-2 visas, for instance, those who have a past Korean nationality record or an invitation from their Korean national relatives are accepted.⁹⁷ In the process of (re)demarcating national membership and nationhood, various dimensions such as ethnicity and economic and political considerations are intermingled. Newly emerged groups including North Korean settlers have challenged “Koreanness,” and ethnic and national identities have affected practices of citizenship; however, those practices also affect identities in the community. In the next two chapters, by examining another group of North Korean settlers who have asserted membership in South Korea, the full picture of the complicated politics of citizenship in South Korea will be revealed.

⁹⁷ For those who have no nationality record and no relatives in South Korea, various means of proof are accepted to prove their Koreanness, including genealogical records, a photograph taken with a Korean national relative at the grave of an ancestor, and the result of DNA testing (C. Lee, 2012; See Restore Nationality section from www.hikorea.go.kr).

Chapter Four

Anomalous Citizens: North Korean Escapees and Unprotected Youth

North Koreans are generally recognized as South Koreans in the applications of related laws and in court decisions. Once they actually enter into South Korean territory, North Koreans obtain South Korean citizenship unless they already have the citizenship of another country. However, not all North Korean settlers are covered by the current law, and “unprotected youths” are even excluded from the law. In this chapter, I examine how South Korean citizenship is given to North Korean settlers and how “unprotected youths” are excluded in that process.

The Legal Status of North Koreans in South Korea

There are no special provisions in the Constitution or in the South Korean Nationality Law for the definition of the nationality of North Koreans regarding whether North Koreans are nationals of South Korea or foreigners. According to the Nationality Law (Article 2), the legal definition of a South Korean national follows the *jus sanguinis* rule and the status of North Koreans is not specified in the law. Whether North Koreans are nationals of South Korea depends on the interpretation of the related laws, such as the Constitution, and by precedents set by the Supreme and Constitutional Courts. Most importantly, the parameters of “North Korean” are derived from the interpretation of Article 3 of the Constitution: “The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.” According to the Constitution, North Korea—the northern division of the peninsula—is not acknowledged as an independent state but as the territory of the Republic of Korea (ROK); thus, people residing in North Korea are

the people of the ROK in principle.⁹⁸

The legal citizenship of North Koreans in South Korea is related to the interpretation of the status of North Korea. Due to the complicated relationship between the two Koreas, there is controversy about deciding on the status of North Korea in the Constitution.⁹⁹ The most prevalent assertion is the aforementioned interpretation of Article 3 of the Constitution. That is, North Korea is not a state, but only an anti-governmental organization. Following this view, the Development of Inter-Korean Relations Act (Article 3) describes the relations of the two Koreas as such: (1) “Inter-Korean relations are not relations between nations, but special relations established temporarily in the course of pursuing unification,” and (2) “Inter-Korean trade shall not be regarded as international trade, but as intranational trade.” The Law on Family Relations and Inheritance between Residents of South and North Korea (enacted in 2012) (Article 2) also describes the relationship between North and South Korea as one not between nations, but as a special relationship in the process of pursuing peaceful unification.

On the other hand, some legal scholars argue that Articles 3 and 4, which were added when the Constitution was amended in 1987, contradict each other in deciding on the status of North Korea. Article 4 states that the ROK “shall seek unification and shall formulate and carry out a policy of peaceful unification based on the basic and free democratic order.” The assertion is that Article 3 denies the sovereignty of North Korea,

⁹⁸ North Korea is in the same position. The 1948 Constitution of North Korea (Article 103) declared that the capital of North Korea was Seoul (the capital of South Korea) (B. H. Lee, 2004, p. 161; retrieved from <http://world.moleg.go.kr/KP/law/23273?astSeq=582>). North Korea insists that its territory includes the entire Korean peninsula and that both North and South Koreans are its citizens.

⁹⁹ For more on this controversy, see Seok (2011).

but Article 4 seems to acknowledge the reality of the relationship between the two Koreas as two distinct countries in the Korean peninsula. North Korea, which is a member of the UN¹⁰⁰ and other international organizations, has been recognized as a sovereign state by international society. Furthermore, the South Korean government does not exert sovereignty over the North Korean territory and its people. Thus, it is argued that it is impracticable to assert that North Koreans are also citizens of South Korea. According to the first interpretation, however, there is no conflict between the two articles of the Constitution if North Korea is not acknowledged as a sovereign state as will be seen from court decisions below. This interpretation is generally accepted, and North Korean settlers are treated as South Koreans in law.

The South Korean Supreme Court does not treat Articles 3 and 4 as contradictory. According to the Supreme Court Decision 96Nu1221 Decided November 12, 1996,¹⁰¹ the fact that a person had North Korean nationality and a certificate as a citizen abroad that had been issued by the North Korean Embassy in China had no effect on the person being a South Korean national. Even if the person had North Korean nationality, it is considered that South Korean nationality had been given to that person (who had a nationality of *Joseon* before the division of the two Koreas) at the time of the proclamation of the Founding Constitution of South Korea. This decision also clearly states that the area of North Korea is part of the Korean peninsula and is thus a part of South Korean territory; therefore, the sovereign authority has jurisdiction over the area.

¹⁰⁰ North and South Korea joined the UN on the same day: September 17, 1991.

¹⁰¹ There are many other cases that have deemed the area of North Korea to be the territory of South Korea or that have denied North Korea as a state. For example, Supreme Court Decision 4286Hyung-sang Decided Sep. 28, 1954; 4292Hang-sang Decided Sep. 28, 1961; 86Do1784 Decided Oct. 28, 1986; 87Do1081 Decided Jul. 21, 1987; 90Do1451 Decided Sep. 25, 1990; 91Do212 Decided Apr. 23, 1991; 93Do1951 Decided Oct. 8, 1993; and so on.

Thus, it is denying the fact that, the South Korean government does not exert sovereignty over the North Korean territory and people practically. The South Korean Constitutional Court decisions also do not regard North Korea as a state. The Constitutional Court Decision 92hun-ba6·26 and 93hun-ba34·35·36 Decided January 16, 1997¹⁰² stated that although North Korea joined the UN, according to customary international law, this was not a recognition of the state as sovereign. The case also highlights how North Korea is a partner in need of dialogue and cooperation for peaceful unification, but at the same time, that it is an anti-governmental organization attempting to impose communism on the whole of Korea.

In the case of North Korean citizenship, the Nationality Law of North Korea (Article 2) provides that “people of the *Joseon* Dynasty and their lineal descendants with *Joseon* nationality and without renunciation of the nationality before the establishment of the DPRK” are nationals of North Korea.¹⁰³ Therefore, South Koreans are also citizens of North Korea. North Koreans do not insist on a singular nationality; therefore, even those who have South Korean citizenship or Japanese citizenship can hold North Korean citizenship. In the case of Germany before the unification, West Germany did not recognize separate citizenship, but only one German citizenship—West German citizenship. The difference from South Korea is that the status of East Germans was described in the West German Basic Law (Article 116) by stating that:

Unless otherwise provided by statute, a German within the meaning of this Basic Law is a person who possesses German citizenship or who has been admitted to the territory of the German Reich within the frontiers of 31 December 1937 as a

¹⁰² Other cases are the Constitutional Court Decision 92hun-ba48 Decided Jul. 29, 1993 and 2000hun-ba66 Decided May 15, 2003.

¹⁰³ Retrieved from <http://world.moleg.go.kr/KP/law/15363?astSeq=583>

refugee or expellee of German ethnic origin or as the spouse or descendant of such a person.¹⁰⁴

Overall, on the grounds of Article 3 of the South Korean Constitution as stated above, the area of North Korea, which is viewed as being occupied by a temporary anti-governmental organization (by the South Korean government and legal interpretations), is the territory of South Korea, and the sovereignty of South Korea influences the area. In addition, it is assumed that North Koreans acquired South Korean nationality with the foundation of the South Korean Constitution in 1948. Thus, North Koreans are legally nationals of South Korea and there is no issue regarding the law in terms of North Koreans becoming citizens of South Korea both at present and following unification.

Therefore, North Koreans, unlike foreigners, can acquire South Korean nationality without naturalization. Even those who are not eligible for protection according to The Act on the Protection and Settlement Support of Residents Escaping from North Korea (hereafter, the Settlement Support Act) (Article 9),¹⁰⁵ such as criminals and those who have stayed for more than ten years in other countries, do not need to go through the naturalization process, but can acquire citizenship through the process of the adjudication of their nationality, as prescribed by the Nationality Act (Article 20).¹⁰⁶ This special treatment is based on the assumption that North Koreans are not foreigners, but nationals of South Korea who are thus entitled to all of the rights and privileges under the Constitution.

¹⁰⁴ Retrieved from <http://world.moleg.go.kr/World/WesternEurope/DE/law/29496?astSeq=384>.

¹⁰⁵ Details of Article 9 of the Settlement Support Act are provided in Chapter 1.

¹⁰⁶ “Where it is unclear whether a person has attained or is holding the nationality of the Republic of Korea, the Minister of Justice may determine such fact upon review.”

Political and Historical Context of Accepting North Korean Settlers

Beside the laws, examining the details and changes of the South Korean government's policies toward North Korean settlers will show how North Koreans are treated as South Korean citizens. The South Korean government has given preference to North Korean settlers to help them to become South Koreans. In the past, the meaning of giving preference to North Korean escapees was more akin to a reward for selecting the South and defecting from North Korea. Since the passing of the 1962 Act on the Honorable Treatment and Support of Persons of National Merit and of North Korean Defectors (Ministry of Patriots and Veterans Affairs), North Koreans who defected to South Korea began receiving parity of treatment with people of national merit. They were given the same honor as people who participated in the independence movement and in the Korean War, for example. The South Korean government regarded North Korean escapees as “defecting warriors” who crossed the death line, seeking the “superior” liberal democracy of the South. As such, they established a law for the special treatment of North Korean defectors in 1979, the Act on the Special Compensation to Defecting North Korean Soldiers, to support them systematically.¹⁰⁷ The main reasons behind these policies were that a relatively small number of North Koreans came to the South¹⁰⁸ and that there was an antagonistic relationship between North and South Korea.

The division of Korea became permanent due to the aggravation of the ideological conflict between the United States and the Soviet Union and the political strife between the left and the right within North and South Korea. After the two separate governments

¹⁰⁷ For policy changes toward North Korean settlers, see www.unikorea.go.kr.

¹⁰⁸ Until the 1990s, only a few North Koreans came across the border. Most of them were soldiers who defected for political reasons.

were established in 1948, each of the two governments insisted that they were the only legitimate government in the Korean peninsula, and conflicts between the North and the South were exacerbated. North Korea, which is founded on communism, and South Korea, based on anticommunism since its inception, have been hostile toward each other since the establishment of modern nations; their military tension has continued. Beginning in early 1949, large and small wars on the borders between the two Koreas did not stop until the outbreak of the Korean War.¹⁰⁹

The Korean War (1950–1953) devastated the Koreas—millions of families were separated by the War, and animosity toward each other was further entrenched. The two Koreas have not communicated with each other since the end of the Korean War in 1953. This was especially true during the Cold War period. During the Cold War, the communist government of the North was the “gravest enemy,”¹¹⁰ and anticommunism was the priority of the South Korean government. The Korean War provided the excuse for targeting the “dangerous forces” that followed North Korea’s line, forces that were viewed as traitors, and as unpatriotic persons and the formation of citizenship was subordinate to the War and to the necessity of building an anticommunist nation (D. C. Kim, 2006; H. S. Kim, 2006). In South Korea, “we and others,” citizens and non-citizens, were defined in terms of excluding the enemy communists. Still embroiled in Cold War politics, North and South Korea continue in their ideological conflict, which severely affects South Koreans in various aspects.

¹⁰⁹ Retrieved from <http://www.archives.go.kr/next/viewMain.do>

¹¹⁰ This expression was added to the Defense White Paper in 1995 and erased in 2004 by Roh Moo-Hyun’s government (2003–2008). In 2008, it described North Korea as posing a “direct and serious threat to our [South Korea’s] national security” (Ministry of National Defense, 2008, p. 36).

In this circumstance, the South Korean government welcomed North Korean defectors and used them politically as a means of ideological propaganda, especially during the Cold War. They were a clear example showing the “superiority” of the South Korean government over the communist government of the North, and proving the illegitimacy of the communist North. Defecting warriors always made the headlines, and they were treated to a press conference and a large welcoming ceremony, being regarded as heroes who had chosen to be South Korean citizens despite all of the oppression from the communist North. Thus, giving citizenship to North Koreans was more of a political consideration than an ethnic consideration. Rather than South Korea’s strong, ethnic-centered nationalism, it was the confrontation of the two Koreas that played an important role in terms of the treatment given to North Korean escapees. In other words, North Koreans were not only welcomed because they were ethnically the same as South Koreans; they were accepted for political purposes, as the two governments operated in a mode of ideological opposition. However, the South Korean government has maintained an ambivalent policy toward North Koreans. While welcoming North Koreans, North Korean settlers have been under constant surveillance and control for security reasons. That is, there is a concern regarding whether they are spies sent by the North¹¹¹ because they have previously been citizens of the enemy state.

It is argued that people living in the North¹¹² are (*de jure* and potential) nationals

¹¹¹ This fear of spies has continued to the present day. North Korean escapees undergo a thorough inspection after they enter South Korea and they are on a type of probation for at least five years. Spy cases are reported occasionally, and the most recent one was on 10 December 2013, involving a North Korean public official from Seoul on a charge of giving information on North Korean settlers to North Korea. This case is still under investigation regarding the authenticity of the charge, as there is a suspicion that the evidence has been manipulated by the NIS (D. Y. Kim, 2014).

¹¹² Since North Korea is not acknowledged as a state, the “nationality” of a North Korean or a “national” of

of South Korea (B. H. Lee, 2004, p. 164). The South Korean government, however, has not consistently adhered to this position. For example, when North Korean woodcutters in Siberia escaped in 1994, at first, the government announced that they would accept them into South Korea after dealing with them as refugees through the UNHCR; however, soon after this, the government did not approve their claim for asylum, but they were eventually accepted into South Korea (B. H. Lee, 2004).¹¹³ This incident caused the South Korean government to reshape its policy toward North Korean escapees, and the UNHCR recognized the woodcutters in Siberia as refugees for the first time.

As the Cold War ended outside of Korea, South Korea also experienced changes. The South Korean government normalized diplomatic relations with Russia (the Soviet Union at that time) in 1990 and with China in 1992. The military tension between the two Koreas was eased and inter-Korean exchanges became more active. Meanwhile, North Korean escapees came to South Korea in large numbers, unlike in the past, and changes in supportive policies for North Koreans have been called for in light of these circumstances.

Mass Defections, North and South Relations, and the Legal Changes

Starting with the escape of the North Korean woodcutters in Siberia, North Korean escapees have steadily come to South Korea in large numbers since the mid-1990s when economic deterioration and natural disasters in North Korea caused a serious famine. The number of North Koreans crossing the border into China increased and many of them came to South Korea through China or via other third countries. An average of

North Korea is not an appropriate term in a legal sense in South Korea. Various terms such as “North Korean escapee,” “North Korean defector,” “North Korean people,” and so on are used instead.

¹¹³ “President Kim Young Sam plans to disapprove asylum of North Korean woodcutters,” (6 April 1994); G. O. Park, 16 April 1994, “President Kim allows North Korean woodcutters’ defection to South Korea.”

ten North Koreans entered the South every year until 1993. In contrast, an average of 1,890 North Koreans has entered the South every year since 1998. As of December 2012, over 24,614 North Koreans have settled in South Korea.¹¹⁴ This is a great surge compared to only 641 by 1993 and 947 by 1998 (see Table 3). As seen in Table 3, the majority of North Korean migrants shifted from men to women after 2002 and the composition of the North Korean settler population has been diversified.¹¹⁵

Table 3

The Number of North Koreans Entering South Korea

Year	Past~ 89	90~ 93	94~ 98	99~ 01	02	03	04	05	06	07	08	09	10	11	Total
Male	564	32	235	564	513	468	625	422	509	570	612	666	578	765	7,116
Female	43	2	71	479	625	813	1,269	961	1,509	1,974	2,197	2,261	1,798	1,767	15,776
Total	607	34	306	1,043	1,138	1,281	1,894	1,383	2,018	2,544	2,809	2,927	2,376	2,532	22,892
Proportion: Percentage of Females (%)	7	6	23	46	55	63	67	69	75	78	78	77	76	70	69

(Source: <http://eng.unikorea.go.kr/CmsWeb/viewPage.req?idx=PG0000000536>, accessed on 2/14/2013.)

Beside the increase in the number of migrants, there has been progress in the relationship between North and South Korea. Exchange and cooperation expanded officially in the 1990s. North and South Korea signed the Inter-Korean Basic Agreement in 1992 by which the two governments agreed on reconciliation, exchanges, and cooperation. It is considered that the foundation of peaceful coexistence between the two Koreas was solidified with this Agreement. In 1998, South Koreans were able to visit North Korea officially for the first time through a tour to the North's Gungang

¹¹⁴ Ministry of Unification, www.unikorea.go.kr

¹¹⁵ The reason for the change is demonstrated in Chapter 1 and Chapter 5.

Mountains.¹¹⁶

Furthermore, the first South–North Korean Summit was held in 2000, where the top leaders of North and South Korea met for the first time since the division of the two Koreas. This summit and the North–South Joint Declaration from the meeting was a new milestone in the pursuit of cooperation and unification, eschewing the antagonistic relationship. Inter-Korean ministerial-level military talks followed, discussing the provision of military support to relink a railway across the border. The Gaeseong Industrial Complex in North Korea was established through a collaborative effort from North and South Korea following the Inter-Korean Economic Cooperation Agreement in 2002, which is seen both as an institutional guarantee of economic exchange, and as a form of mutual cooperation.¹¹⁷

Such changes called for an adaptation of the policies toward North Korean escapees and a significant adjustment was made in 1993 by passing the Act on the Protection of North Korean Repatriates (Ministry of Health and Welfare).¹¹⁸ The government changed the status of North Korean defectors from people of national merit

¹¹⁶ This tour, however, was temporarily suspended in 2008.

¹¹⁷ However, economic exchange and cooperation are very much dictated by the relationship between the two Koreas. The Gaeseong Industrial Complex operated from 2004, but it was in danger of shutting down in 2013. The relations between the North and South deteriorated under the Lee Myung Bak government (2008–2013) and North Korea once closed off the Gaeseong Complex temporarily in March 2009 during the Key Resolve, the annual military exercise between the United States Forces Korea and the ROK Army, as a protest over the exercise. In 2010, after the sinking of the Cheonan incident, the South Korean government enacted a tough measure (called the “5.24 Measure”) on North Korea, stopping all trade (except for the Gaeseong Complex trade) with them. However, it is reported that South Korean businesses were damaged by this measure. The economic damage caused by the 5.24 Measure is near \$ 8.9 billion. (J. H. Lee, 2013). Firing on Yeonpyeong Island, an incident that took place in Nov. 2010, and the death of Kim Jong Il in Dec. 2011, have kept relations strained. After the nuclear test by North Korea in Feb. 2013 and the worsening of the relationship between the North and South and the USA, the Gaeseong Complex shut down on 8 April 2013 and began operating again on 16 Sept. 2013. The damage to South Korean business in Gaeseong has been estimated at 786 billion won (material submitted by the Ministry of Unification to Joo-Seon Park, a member of the National Assembly following the inspection of the Ministry of Unification conducted by the National Assembly).

¹¹⁸ The name of the ministry was the Ministry of Health and Social Affairs at that time.

to “recipients of livelihood programs,”¹¹⁹ and made drastic cuts in financial support, including resettlement funds. Policy toward North Koreans took a new turn and “defecting warriors,” who were once welcomed politically, treated as heroes, and who were the recipients of considerable financial privileges,¹²⁰ merely became economic migrants. As the hostile relations between the two Koreas improved, the usefulness of defectors was reduced, and the sudden rush of North Korean escapees became a burden for the South Korean government.

The current law for North Koreans, the Settlement Support Act (Ministry of Unification), is the replacement for the Act on the Protection of North Korean Repatriates and was enacted on January 13, 1997. It became the legal mechanism through which North Koreans who escaped from their country were able to gain lawful recognition as South Korean citizens. The purpose of this Act was to provide legal protection and support to North Korean settlers in South Korea (Article 1) and to clarify who is viewed as North Korean (to distinguish them from Korean-Chinese). The Act prescribes procedures for granting the legal status of North Koreans, and the substance and procedures regarding financial aid for resettlement, education, housing, and so on. Article 2 defines the term “residents escaping from North Korea” as “persons who have their residence, lineal ascendants and descendants, spouses, workplaces, etc. in the area north of the Military Demarcation Line, and who have not acquired any foreign nationality

¹¹⁹ H. S. Ryu, 16 March 2013, “Defecting warriors, from heroes to welfare recipients.”

¹²⁰ For example, in 1983, a North Korean pilot named Woong-Pyung Lee defected by flying his MiG-19 into South Korea. He received monetary compensation of 1.2 billion won, 480 times the amount of the average annual salary of a South Korean, as well as other preferential treatments (Park, Kim, & Lee, 1996). This is an extreme example, because the large amount of money he received was due to his defection in a combat plane. North Korean settlers received more money in the 1970s and 80s compared with what they receive now.

after escaping from North Korea.” Once they actually enter into South Korean territory, North Koreans obtain South Korean citizenship if they do not already have the citizenship of another country following their escape; however, only people who belong to this category are protected by the law.

Legal terms indicating North Korean escapees have reflected the change in the situation along with policy shifts. The 1962 law used the term “North Korean defectors,” and to translate this more accurately, “defectors to the South.” The 1979 law changed the term to “defecting North Korean soldiers.” By adding the word “soldiers,”¹²¹ a political implication was placed in the term, emphasizing the image of war heroes. In the 1993 law reflecting the abovementioned changes, the term was replaced with “repatriates,” thus removing “soldiers,” and only referring to defecting North Korean compatriots. Finally, “residents escaping from North Korea,” eliminating the word “defecting,” was used in the 1997 law. The South Korean government replaced the term “defection” with “leaving” or “escaping” (J. W. Kang, 2011, pp. 202–203). In simple terms, the South Korean government removed political color from the category of North Korean escapees.

Beside legal terms, “North Korean escapees” was generally used from the 1990s in academic circles or in the public domain. In the early 2000s, the term *Saetomin*, as explained in Chapter 1, was adopted as the official term in order to improve the negative image of North Koreans. However, for North Koreans, both “North Korean escapees” and *Saetomin* denote poor and pitiful people that care only for making money while

¹²¹ The actual meaning in Korean is closer to “warrior,” meaning not just ordinary soldiers, but war heroes or those with distinguished service records. At that time, most North Korean border-crossers were officers, diplomats, or soldiers who usually came with valuable information. The money offered in exchange for military secrets, weapons, or information (*Borogeum*) still exists, but the number of recipients is small compared to the past.

removing their political image of “opposing” the North Korean government.¹²²

Interests of Related Countries in North Korean Escapees

On the other hand, the South Korean government has been passive about North Koreans staying in China or other third countries. Domestic laws, international laws, and the complicated relationship between the two Koreas restrain the South Korean government from exerting protection for North Koreans outside of South Korea. The Constitution (Article 2) of South Korea stipulates the duty of the state “to protect citizens residing abroad.” The Settlement Support Act (Article 4, Section 2) also specifies that the South Korean government “shall make all of its diplomatic efforts to protect and support residents escaping from North Korea, who are staying in foreign countries.” The official position of the Ministry of Unification is that North Korean escapees should be treated as citizens of South Korea and on the way to settling in South Korea (whether via China or other third countries), and that the South Korean government should do everything possible to help them. The treatment of North Korean escapees in other countries depends on the diplomatic relations between these nations and South Korea. Nevertheless, actively providing support to escapees in foreign countries extends beyond the scope of South Korean administrative power (S. H. Cho, 17 July 2013).

It is, therefore, difficult for the South Korean government to assert the right to protect North Koreans abroad. Moreover, the Act on the Immigration and Legal Status of Overseas Koreans (Article 2) defines “overseas Koreans” as seen in Chapter 3. People residing in North Korea do not belong to the description of overseas Koreans, since North

¹²² North Korean escapees requested that the Ministry of Unification stop using the term *Saetomin* and the Ministry of Unification no longer officially uses this term (Ahn, Y. G. 17 April 2007). These terms are discussed Chapter 5 in more detail.

Korea is not a “foreign country,” and they are not “foreign nationality Korean.” As long as the North Korean government plays a role in international society as an independent state, the South Korean government cannot easily exert its authority to protect North Koreans staying in other states. The South Korean government cannot exert diplomatic protection over North Koreans staying in a third country or those residing in North Korea. For North Koreans in other countries, North Korea has the right to protect them.

The relationship between China, South Korea, and North Korea has also made the definition status of “North Korean” more complicated. North Koreans flee to China (which borders North Korea) to escape political persecution and economic hardship, but they are not recognized as “refugees” in China due to China’s relations with North Korea. China views the North Korean escapee issue as “not a humanitarian or multilateral issue area,” but a matter between the two countries: North Korea and China (Han, 2011). China claims that it remains neutral about the problem of North Korean escapees. However, due to the amity between North Korea and China and in particular, the 1986 Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas and the more strengthened 1998 Bilateral Agreement on Mutual Cooperation for the Maintenance of State Safety and Social Order, which enforce strict controls over the movement of their citizens across the border, China forces North Korean escapees to go back to North Korea (KINU, 2011).¹²³ The Agreement exposed fears of a large-scale increase in North Korean escapees, and China maintains that all of the people escaping from North Korea are economic migrants and not refugees, even

¹²³ When Kim, Jung-II visited China in 2000, at least 6,000 North Korean escapees were forcibly repatriated by the Chinese government (U.S. Committee for Refugees and Immigrants. 2001. World Refugee Survey Country Reports: China 2001. <http://www.refugees.org>). From 1998 to 2006, China repatriated 4,800–8,900 North Koreans annually (S. H. Choo, 18 May 2012).

though they receive severe punishments if they are repatriated.¹²⁴

North Korea defines “treason against their own country” in Article 62 of North Korean Criminal Law as involving people escaping to other countries betraying their own country, or handing over secrets, and that they will be sentenced to five or more years of prison labor, to life in prison labor, and even to the death penalty. Moreover, North Koreans who did not try entering South Korea are put in a jail without trial, but those who attempted to come to South Korea or who contacted South Koreans and NGOs are sent to the North Korea’s infamous political prisoner camps for treason (Y. Y. Kim, 2008).

According to the international context, however, North Korean escapees can be considered as refugees. It is argued that North Koreans in China can be regarded as refugees in that their economic hardship is due to North Korea’s political instability, and that they are subjected to severe sentences or to the death penalty on repatriation (B. H. Chang, 2003). It is also asserted that the principle of *sur place* in international refugee law can be applied to the North Koreans: “if North Koreans are repatriated by the host state and persecuted by the target government, they could be considered refugees, because of their potential suffering when they are forced to return to their home country” (Han, 2011, p. 446).

According to Article 1 of the 1951 Convention Relating to the Status of Refugees,¹²⁵ a refugee is a person who,

... owing to *well-founded fear of being persecuted* [my emphasis] for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.

¹²⁴ Retrieved from <http://world.moleg.go.kr/KP/law/21240?astSeq=585>

¹²⁵ Retrieved from <http://www.unhcr.org/3b66c2aa10.html>

Furthermore, Article 33 regulates that

No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion.

The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Article 3)¹²⁶ also prescribes *the non-refoulement* principle. The principle is a *jus cogens* rule of international law,¹²⁷ and China is a participant in these two conventions; however, it is not implementing them. The US North Korean Human Rights Act (reauthorized to extend its running until 2017. H.R. 4240) includes that the USA should urge China to stop the forcible repatriation of North Koreans and to implement its obligations pursuant to the 1951 Convention and other conventions. However, if China denies this request and does not stop repatriation, it will not face any consequences.

For North Korea, which claims to advocate for democracy and human rights, and to realize its goal of an earthly paradise, the escape of its people to another country is unacceptable and disgraceful. However, in the early stages of such escapes, North Korea stayed silent about the escapes and denied the existence of defectors. As the number of escapees increased greatly in the mid-1990s, the North Korean government defined them as “illegal border crossers” and criticized their actions harshly. In order to prevent massive defections, the North Korean government closely cooperated with countries with which it had amicable relations, such as Russia and China, to control their borders (K. H. Lee, 2008). In 2010, the Ministry of Public Security of North Korea adopted a decree

¹²⁶ “No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture” (retrieved from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>).

¹²⁷ It is generally argued that observing this principle cannot be violated by any state through international treaties. Thus, it is prior to the 1998 agreement between China and North Korea.

making defection a crime of “treachery against the nation.” It is said that North Koreans are shot dead on the spot if they are caught.¹²⁸

As mentioned above, the South Korean government is inactive in protecting North Koreans outside of South Korea. The South Korean government has also been wary of indiscriminately accepting North Koreans, and has not wanted to cause problems with North Korea and China regarding the North Korean escapee problem. The South Korean government accepts North Korean escapees entering its consulate, but is not active in protecting North Korean escapees staying in China, fearing an impairment of its relationship with China. The South Korean government prefers supporting North Korean escapees indirectly by conniving in brokerage¹²⁹ for escaping North Koreans and by helping civil organizations (J. W. Kang, 2011). The number of North Korean escapees, however, has been increasing steadily regardless of the governments’ positions. As the number of North Korean escapees grows dramatically, the enormous economic costs of supporting North Koreans are becoming a burden for the South Korean government. Since the mid-1990s, therefore, the South Korean government has transformed its policy toward North Koreans. It places an emphasis on self-supporting and standing on one’s own, and substantial support has been curtailed.¹³⁰

By enacting the 1997 Settlement Support Act, policies for supporting North Korean settlers became more specific. The South Korean government did not just provide

¹²⁸ *MaeilGyeongjae*, 8 February 2012, “North Korea, Escapees shall be shut down on the spot.”

¹²⁹ North Korean escapees reach the country that they wish to get to through both official and unofficial channels. Depending on the situation, illegal methods such as forging passports or smuggling are used by civil organizations as well as brokers. Many North Koreans pay brokers millions of won (about US\$9,000) for arranging unofficial methods. The South Korean government has not been active on this issue, instead remaining motionless by ignoring any businesses that arrange unofficial escapes.

¹³⁰ This issue is discussed in Chapter 5 in more detail.

monetary incentives; it also offered various programs for social adaptation to aid settlers in becoming new citizens of South Korea. Under this Act, a special governmental organization called the Settlement Support Center for North Korean Refugees (*Hanawon*)¹³¹ was established on July 8, 1999 to accommodate North Korean settlers and to educate them on adapting to South Korean society. The North Korean Refugees Foundation (hereafter the NKRF), which is supported by private foundations and government funding, and which plays a central role among the 67 NGOs working with North Korean escapees, supports the stabilization of living and social adaptation through various support programs.¹³² In this new support system, improving new citizens' ability to stand on their own and re-socialization have been focused on, beyond just monetary support. The sudden increase in North Korean settlers has not only influenced policies toward North Korean settlers, but it has influenced social welfare policies and minority policies in South Korea, raising the controversy around humanitarian needs and economic costs.

The Process and Difficulties of Becoming South Korean

Once a North Korean escapee requests protection, the case is reported to the Ministry of Foreign Affairs and Trade and to other related ministries. The person is accommodated in foreign diplomatic offices or temporary shelters in the host country. After verifying the person's identity, the Ministry of Unification negotiates with the host country and supports their entry into South Korea. After their entrance into South Korea, the person is thoroughly interrogated for security reasons by related ministries including

¹³¹ The Second *Hanawon* (the second to be established in Hwachon, Gangwond-do) was recently established in 2012.

¹³² NKRF website, <http://www.dongposarang.com>

the National Intelligence Service (NIS) and the National Police Agency. North Koreans must undergo an investigation concerning their identity and allegiance, the purpose of their entry, and the possibility of disguised entry.¹³³ It usually takes a month or two of investigation for most people (Ministry of Unification, 15 November 2010).¹³⁴ Following this, the person's custody is transferred to *Hanawon*. The Ministry of Unification decides whether to grant protection (to give South Korean citizenship) or not and then assigns them to their residence on leaving the *Hanawon*.

In the *Hanawon*, North Koreans prepare for South Korean life.¹³⁵ After their settlement-preparation activities, the North Koreans undergo family registrations as South Koreans, are provided with housing placements, and are transferred to residences in the real world outside of the *Hanawon*. After moving out of the *Hanawon*, they receive vocational support and educational support (Table 4).

¹³³ In cases when investigators are confronted with difficult identity verification, a lie detector is used and the review period is extended.

¹³⁴ The enforcement ordinance of the Settlement Support Act (Article 12), which was amended on 27 September 2010, set the investigation period to within 180 days (previously it was 90 days). This investigation period has been criticized as an infringement on human rights.

¹³⁵ The content of the *Hanawon* courses will be analyzed in Chapter 5.

Table 4
Support System for North Korean Settlers

Category	Item	Description
Settlement Support	Initial Financial Support	6M won per household (single-person household) (it increases by about 3.3M won per head of family)
	Encouragement Support	Max. of 21.4M won for vocational training, certificate achievement, and employment
	Additional Financial Support	Max. of 15.4M won for senior citizens, disabled, and long-term medical treatment
Residence	Housing Placement	Placed in rental apartments
	Residential Supply Support	13M won per household (2-4 person household: 17M, 5+ household: 20M)
Employment	Job Training	Min. of 150,000 won per month during vocational training (by Ministry of Labor)
	Employment Support (Provided to employers)	Half of the wages (less than 700,000 won) are provided for up to 36 months.
	Job Security Officers	Nationwide, 55 designated centers provide job placement and counseling
Welfare	Living allowance	For the recipients of the Minimum Living Standard (380,000 won per month for each household)
	Health care	The first-class recipients ¹³⁶ for healthcare do not pay healthcare costs
	Special Pension	National pension is paid for those over 50 and less than 60 upon entering the South
	Special Admission to College	College applicants are admitted as special admission cases
	Financial Aid for Education	Registration fees are exempted for secondary education and national university, 50% coverage for private universities
Settlement Helper		Provide one or two helper(s) for each household, support initial settlement (2,700 helpers nationwide)
		211 residential security officers, 55 job security officers, and approximately 700 personal safety officers

(Source: <http://eng.unikorea.go.kr/CmsWeb/viewPage.req?idx=PG0000000536>, [Feb. 15, 2013])

Protection officers are arranged to protect their residence for five years, and employment, safety, and settlement is coordinated with the support of NGOs. The North Korean newcomers receive an initial cash payment of around \$6,500 USD, incentives related to employment and education, favorable terms for leasing apartments, a \$12,000 USD support fund for housing, medical support, and support for educational expenses.

However, many North Korean settlers still experience difficulties in South Korea despite the programs the government has offered. There are many statistics indicating the

¹³⁶ The first-class health care recipients are provided almost full medical coverage.

difficulties that North Koreans face when settling down in South Korea. According to a survey conducted by the NKRF, around 33% of North Koreans are on a low income (less than one million won), and their unemployment rate remains at 12.1%, which is 3.3 times higher than the average unemployment rate of a South Korean (NKRF, 2011b). Among employed North Koreans, 48% are temporary or day workers and the proportion of economically inactive (i.e., dependent) North Korean settlers aged between 20 and 50 has reached 40–50% or more due to mental and physical illness, childcare, and some other reasons (NKRF, 2011b).

Statistics show that current policies stressing self-support have not been effective. Without providing proper programs to aid in finding employment, cutbacks in resettlement funds have forced them into the low-income category. It is argued that economic hardship often drives North Koreans to commit crimes.¹³⁷ According to a report in 2008, the North Koreans' crime rate was around 10.1%, which was more than twice as high as the average crime rate in South Korea from 1998 to the end of January 2007 (Y. Y. Kim, 2008). Economic hardship also forces North Koreans to leave South Korea. Since the mid 21st century, the number of North Koreans who have sought asylum (disguising their South Korean nationality), or who have immigrated to a third country (ex. America or Canada)¹³⁸ has increased, and even those who go back to North Korea have been reported on frequently since 2012.¹³⁹

¹³⁷ However, as Castles, Korac, Vasta, and Vertovec (2002) point out, there is great peril in “explaining crime in terms of ethnicity [as this] may mean falling into socio-biological and racist explanations” and it may be more related to the levels of unemployment, discrimination, and service provision (p. 130).

¹³⁸ The Ministry of Unification views those who immigrate to other countries as cases of failure in adapting to South Korean society (Ministry of Unification, 2010a).

¹³⁹ As for people who go back to North Korea, the South Korean government reports that they are forced to return to North Korea because the North Korean government has threatened to harm their family members

In 2007, the dropout rate for North Korean students was 10.8%, about ten times the rate of the average for South Korean students. The university-student dropout rate was even higher (around 50%).¹⁴⁰ These numbers show that North Korean students are having difficulty at school. Educational systems and the school curriculum are different in the two Koreas,¹⁴¹ and the educational vacuum¹⁴² and the psychological trauma from the escape process sometimes causes hardship when studying in South Korean schools.

There are many reasons as to why North Koreans have difficulties in South Korean society. One reason is social discrimination. North Korean escapees are not “full members” of South Korea, even though they have equal citizenship to South Koreans. North Korean escapees receive social benefits and have the same rights as South Koreans, but still remain second-class citizens in South Korea. Some even say that “once a North Korean, always a North Korean.”¹⁴³

According to H. Y. Choo (2006), North Koreans are “a distinct ethnic-like group that represents the North Korean nation-state, and thus ‘other’ to South Koreanness” and to become a full South Korean, “North Korean settlers are expected to get rid of ethnic markers as North Koreans” (Choo, 2006, p. 577). North and South Koreans are the same

still living in North Korea. There is another assertion in that they return because they cannot pay the brokers back the costs associated with coming to South Korea and that they have difficulties in adjusting to South Korean society. Another notable point is that there is a way to return to North Korea via China, and that the North Korean government is less harsh in punishing returnees, and uses them politically. However, nobody knows what happens to North Korean returnees after they fulfill their political purposes (J. H. Noh, 27 November 2012; G. W. Lee, 8 October 2012; 25 January 2013).

¹⁴⁰ Retrieved from www.unikorea.go.kr; Korean Educational Development Institute [KEDI], <http://www.hub4u.or.kr/hub/edu/status01.do>

¹⁴¹ Under the South Korean school system, there are six years of elementary school and three years each for middle and high school, while North Koreans undertake four years of elementary school and six years of middle and high school combined.

¹⁴² As they cannot attend school while escaping, they often miss the chance to enter school even in South Korea. According to a study, the school attendance rate for school-age North Korean children is 62%, and for those who missed the initial school entry age, it is only 10.4%. (Y. G. Yoon, 7 April 2008).

¹⁴³ S. H. Park, 7 Oct. 2012.

ethnic group, and ethnocentrism has been overemphasized in South Korea. Thus, foreigners, “foreign-looking” people (e.g., mixed-heritage people), and even people who look similar to South Koreans (e.g., *Hanhwa*) have been discriminated against. Ethnic Koreans, such as North Koreans and ethnic Koreans from China (*Joseonjok*),¹⁴⁴ are also treated as foreigners,¹⁴⁵ and experience inhospitality and discrimination. They have become distinct ethnic-like groups in South Korea. More than six decades of separation has made North Koreans virtual aliens, rather than being viewed as the same as South Koreans.¹⁴⁶

The South Korean government’s policies toward North Korean settlers have instigated this. Current policies stress self-support and re-socialization to reform the citizens of North Korea so that they can survive on their own. Through this “reform” mechanism, and in societies aiming at homogeneity and assimilation, North Koreans should aim to be “normal” citizens of South Korea, and try to eliminate their “deviant” factors, that is, their “ethnic markers” as North Koreans, as was pointed out by Kymlicka (2002) in Chapter 2.

For instance, some view the North Korean dialect and tones as being in need of correction to become “real” South Korean, and that the concepts of capitalism and competition should be taught in order to make them diligent workers. To be fully accepted and to be assimilated and normal, it is believed that any deviant factors present

¹⁴⁴ Both groups usually recognized by their distinct accent.

¹⁴⁵ According to the “Unification Attitude Survey 2010” by the Institute for Peace and Unification Studies at Seoul National University, South Koreans consider North Korean settlers and *Joseonjok* the same as foreigners. Magnanimity toward North Korean escapees and *Joseonjok* scored 3.79 out of 10 (Institute for Peace and Unification Studies, 2010).

In another survey, South Koreans had a more positive attitude toward Americans than toward North Koreans (Hwang et al., 2007, p. 64).

¹⁴⁶ Issues in this paragraph and the following ones will be discussed in Chapter 5.

in North Koreans should be eliminated or reformed. Furthermore, the reality of the division of the two Koreas has produced prejudice against North Koreans and marked them permanently. For the simple reason that they come from North Korea, the enemy state, there is a negative stereotype of North Korean settlers. They are sometimes criticized and suspected when the actions in the North raise problems (such as with nuclear tests) or they are suspected when captured spies make the headlines. The South Korean government recognizes North Koreans as objects to be controlled, including after their protection period in the *Hanawon*.¹⁴⁷ Even after the inter-Korean rapprochement, policies of surveillance and control have continued.

Emergence of an Anomalous group: “Unprotected Youths”

The 1997 Settlement Support Act is not comprehensively applied to all North Korean escapees.¹⁴⁸ The Act is intended for people who have escaped from North Korea recently and who have expressed their intention regarding protection from the ROK (Article 3); from among these, those who are deemed as a “person subject to protection” after going through a prescribed consideration process are accepted as being subject to protection. For instance, those who left North Korea a long time ago and stayed in China or other third countries for an extended period (of more than ten years),¹⁴⁹ or those who came to South Korea with travel certificates or with Chinese passports issued illegally in the late 1980s and the early 1990s, are not eligible under this Act. There is no legal basis

¹⁴⁷ The Ministry of Unification has collected detailed private information such as change of residence and childbirth (S. H. Park, 7 Oct. 2012).

¹⁴⁸ As for West Germany, as stated above, the West German Basic Law (Article 116) says clearly that East Germans are also members of West Germany, and this is applied widely to East Germans and to other ethnic Germans in Europe.

¹⁴⁹ As mentioned in Chapter 1, Article 9 of the Settlement Support Act states that a “person subject to protection” should be those who have stayed in transit countries for less than 10 years.

for these people to establish a family relation registration in South Korea. Third country-born North Korean children (children with at least one North Korean parent) are also excluded from the category of “residents escaping from North Korea.”

To be protected by the Settlement Support Act, candidates must satisfy the category of being “residents escaping from North Korea.” As mentioned above, to be included in this category, North Koreans should have their address in North Korea. Further, in Article 2 of the Settlement Support Act, they should not have gained citizenship in another country following their escape. In other words, only people of North Korean citizenship and their children born in North Korea satisfy this category.

According to the law, “North Korean youths” refers to adolescents who have resided in, and have escaped from North Korea, and who are without another country’s citizenship. In short, North Korean youths are those who were born in North Korea and are aged from six to 24.¹⁵⁰ Third country-born North Korean children are those who have at least one North Korean parent (usually the mother) and are born in a third country (usually China)¹⁵¹ during their parents’ extended stay in the other country after escaping from North Korea and before entering into South Korea. Third country-born children do not belong to the legal category of “residents escaping from North Korea,” since they were not born in North Korea.

The term “unprotected youths” is thus used to indicate that these children are not protected by the current law. According to the Settlement Support Act, North Koreans

¹⁵⁰ According to the enforcement ordinance of the Settlement Support Act (Article 38-2) (under 24), and in compliance with the school entrance age of six (see Chapter 1).

¹⁵¹ The NKRF conducted a survey on North Korean youths (aged 6–16) including third country-born children. The subjects of the survey include 1,044 North Korean youths and 629 third country-born children. Among third country-born children, 98.6% of the children were born in China (NKRF, 2012a).

receive financial aid for settlement, housing, education, and employment, and medical support, as seen above; however, third country-born children are treated differently and there is little benefit for unprotected youths simply because they were not born in North Korea. Except for the fact that they were not born in North Korea, their background is similar to that of North Korean youths: (at least one of) their parents are North Korean escapees.

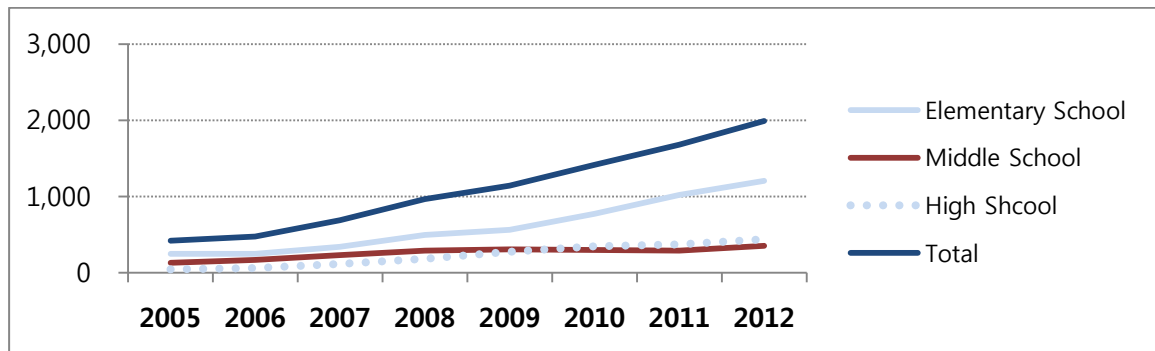
Third country-born excluded from the Settlement Support Act because it was intended for adults in that most of North Korean escapees were adults and only a few children came with their parents when it was enacted in 1997. There were no children born in any country other than North Korea at that time; however, as the migration of North Korean escapees continues, the migratory routes of North Korean escapees has changed, and the background of North Korean settlers and their children is diversifying. At the early stage of migration, “North Korean youths” meant a distinct group, but now, different kinds of groups are conflated: children born in North Korea, born in third countries, and born in South Korea.

Since the mid-2000s, the number of North Korean women and children entering South Korea has increased greatly (see Figure 3). In 2002, the number of women surpassed that of men for the first time (see Table 3). As of 2011, women made up 70% and children about 15% of the North Koreans residing within South Korea. As the number of North Korean women escapees increases, as North Koreans increasingly enter the country through various routes, not only through China, but also through other Southeast Asian countries, and as they stay in those countries for an extended time, the number of third country-born children is increasing. According to a survey conducted in

2011 by the Ministry of Education (MOE), North Korean students from mixed marriages (third country-born children) comprised 36.2% of the entire population of North Korean students. Unprotected youths in elementary school constituted 57.4%,¹⁵² outnumbering protected, North Korean youths. Those who are considered as “North Korean” are becoming more diverse as the history of North Korean migration lengthens and as the number of North Korean escapees continues to rise.

Figure 3

The Number of North Korean Students (Includes Third Country-Born Children)



(Source: MOE)

Before the 1990s, there were only two ways to enter South Korea. One route was to come through the Military Demarcation Line either on foot or by plane; mostly soldiers came via this route. The other was to enter from foreign countries while living there as diplomats or students. In the mid-1990s, many North Korean woodcutters came from Russia. In other cases, some came on ships destined for South Korea via Hong Kong. Southeast Asian routes from 1998 and the Mongolian route from 2000 required passing through jungle or desert. North Korean escapees briefly tried entry through foreign embassies in China, but the attempts decreased after China stopped allowing

¹⁵² 4.5% for middle school and 2.7% for high school. If third country-born children come to South Korea following their parents' entry after an invitation to do so, and not by going through the *Hanawon* system, it is impossible to figure out the actual number of children. It is assumed that the number is considerable (Shin, 2011).

passage to South Korea. Currently, most North Koreans travel to China via Laos, Myanmar, Cambodia, or Mongolia, entering Thailand, and eventually ending up in South Korea.¹⁵³ In 2011, 95% of North Koreans came via Thailand.¹⁵⁴ According to one study (Shin, 2011), the average age of North Korean children coming from China to South Korea was 7.58 years old. These are tough routes for such young children to undertake, as they involve crossing jungle or desert regions.

Passage to South Korea is not easy: after escaping to China by crossing its border with North Korea, it usually takes a long time to enter South Korea, if escapees are not caught beforehand. Many North Koreans conceal their identities and hide in China.¹⁵⁵ If public security officers in China catch them, they are sent back to North Korea. Feeling a threat to their safety, North Korean women often “elect” to get married for security reasons, or are trafficked to Chinese men in rural areas who are usually poor or have a disability, or they are coerced into marrying them for security reasons while hiding in China (i.e., to avoid forced repatriation to North Korea). There are many cases of North Korean women going to inland China to escape from intensively patrolled border areas and choosing marriage in order to avoid being caught (Shin, 2011). Otherwise, North Korean women go to China through marriage to have an opportunity to do business or for a way to escape to South Korea (NHRCK, 2012; Shin, 2011). Many children born to these parents are illegal aliens due to a lack of registration documentation: this cannot be granted without the risk of having the mother repatriated to North Korea.¹⁵⁶

¹⁵³ L. I. Jung, 7 March 2012.

¹⁵⁴ S. H. Choo, 18 May 2012.

¹⁵⁵ It is estimated that 10,000 to 35,000 North Koreans are adrift in China and most of them are stateless (*Choson Ilbo*, 17 Nov. 2011).

¹⁵⁶ Recently, however, it is reported that many of those children are registered by their Chinese father (see

For children born to a North Korean mother and a Chinese father, a description that comprises most third country-born children, there are two ways to get into South Korea. The first is to enter South Korea by accompanying their mother. In this case, children can stay at the *Hanawon* and are provided with food. The second involves an invitation to do so by a mother who has entered South Korea and settled down previously.¹⁵⁷ After arriving in South Korea, a mother registers an (international) marriage and can then bring her child in under the Nationality Act (Article 3) (Shin, 2011, p. 23).

North Korean youth receive support based on the Settlement Support Act, but third country-born children fall within blind spots of the law and lack official support. Under current policies, for example, a mother may be classified as a recipient of benefits under the Settlement Support Act while her child's treatment falls under other policies such as those governed by the Multicultural Families Act. In other cases, different policies are applied to siblings. For children born to a North Korean mother and a non-North Korean father (mostly Chinese), which comprise most of the unprotected youths, it is possible to acquire South Korean nationality. However, they are not considered as "North Korean escapees" (residents escaping from North Korea) by the Settlement Support Act, and as such, are not eligible for support.

Chapter 5).

¹⁵⁷ There are cases in which Chinese fathers come along; otherwise, children in China are sometimes abandoned by their fathers.

Table 5

Policy Comparison for North Korea-Born and Third Country-Born Children

	North Korea-Born Children	Third Country-Born Children
Early adaptaion education at Hanawon	<ul style="list-style-type: none"> • Taking courses at Hanawon (420 hours for 12 weeks) 	<ul style="list-style-type: none"> • No courses (but stay at Hanawon with their mother and provided food) • Do not enter Hanawon without accompanying their mother
Settlement funds	<ul style="list-style-type: none"> • Settlement funds of 6M won per household (increase by head) 	<ul style="list-style-type: none"> • None
Housing support	<ul style="list-style-type: none"> • Housing support fund of 1.3M won per household (increase by head) 	<ul style="list-style-type: none"> • None
Welfare	<ul style="list-style-type: none"> • Monthly wage for living • Medical care 1st class – no medical costs on their own 	<ul style="list-style-type: none"> • None • None
Educational support	<ul style="list-style-type: none"> • Compulsory education (elementary and middle school) 	<ul style="list-style-type: none"> • Compulsory education (elementary and middle school)
	<ul style="list-style-type: none"> • Hangyeore middle and high school (specialized school for North Korean youths to help their adjustment in regular schools) 	<ul style="list-style-type: none"> • None
	<ul style="list-style-type: none"> • Provide a special admission to college • Financial aid for education (exemption of tuition for middle, high school, and national universities) • (aid 50% of tuition for private universities) 	<ul style="list-style-type: none"> • None • None
Supporting organizations	<ul style="list-style-type: none"> • Protective facilities for North Korean youths by private organizations and alternative schools are supported by government 	<ul style="list-style-type: none"> • None for organizations supporting third country-born children
Programs after Hanawon	<ul style="list-style-type: none"> • Regional Hana centers provide several programs for North Korean youths 	<ul style="list-style-type: none"> • Some after-school mentoring
Other supporting policy	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Multicultural Family Act • Single-Parent Act (if applicable)

(Source: My reconstruction from Table 4 and retrieved from www.unikorea.or.kr.)

In general, support policies for North Korean youths according to the Settlement Support Act are largely related to settlement, housing, education, employment, and welfare. In general, support policies for North Korean youths according to the Settlement

Support Act are largely related to settlement, housing, education, employment, and welfare.¹⁵⁸ North Korean youths are counted as family members in terms of the initial settlement fund and residential support fund. The initial settlement fund is provided per household and increases by about 3,300,000 won per person. That is, a family of four initially receives about 15,900,000 won. The residential support fund also increases according to the number of family members. Third country-born children are not counted as “North Korean” family members; thus, they are not considered during the allocation of these funds. Third country-born children also do not receive job training or other employment support. While North Korea-born children do not pay healthcare costs, third country-born children do not receive healthcare support. Further, facilities for third country-born children do not have support from the government, unlike other facilities caring for North Korean children.

Third country-born children are eligible for the National Basic Living Security Act, which is for South Korean citizens and ensures a minimum standard of living. They are considered as naturalized foreigners and their treatment falls under the Multicultural Families Act. Otherwise, they can apply for support under the Single-Parent Family Support Act (hereafter the Single-Parent Act; the Ministry of Gender Equality and Family), but benefits are inadmissible because it overlaps with their mothers’ single-parent benefit from the Ministry of Unification. The Multicultural Families Act provides afterschool educational programs, language education, and childcare expenditure support. North Korean newcomers are not familiar with these laws; moreover, they are hesitant to apply for benefits, especially those provided under the Multicultural Families Act, since

¹⁵⁸ Refer to Table 5.

“multicultural” means alien to them (and to South Koreans), and they do not want to be differentiated from “the South Koreans” and regarded as “foreigners.”

Educational support is directly related to North Korean children. The greatest difference between the educational policies for North Korea-born and third country-born children is that North Korea-born children receive financial aid for secondary school and college, and they can apply for a special admission to college. On the other hand, third country-born children receive compulsory education but no financial aid for further schooling.

Once in South Korea, elementary school children go to *Samjuk* Elementary Schools (a regular school near to the *Hanawon*), taking afterschool programs at the *Hanadul* School¹⁵⁹ in the *Hanawon*. Younger children are educated in a preschool class in the *Hanadul* School or *Samjuk* School for early adaptation. Middle and high school children are offered basic education classes at the *Hanadul* School.¹⁶⁰ There is no special education for third country-born children, however. For third country-born children who enter the *Hanawon* with their parents, room, board, and basic education are provided, but no further support is given. There is no legal basis for offering the initial financial support that North Koreans receive. After leaving the *Hanawon*, North Korean settlers settle down in their own residence—a rental house offered by the government—and the

¹⁵⁹ As this number of North Korean children increased, the *Hanawon* officials realized the necessity of educating them and established the *Hanadul* School in the *Hanawon* in 2001. A North Korean child support policy started at that point, with early adjustment education at the *Hanadul* School. The school consists of a preschool class, an afterschool class for elementary children, and a youth class (aged from 15–20). It ceased operation in 2005 and reopened in 2009.

¹⁶⁰ North Korean youths are educated here to achieve early adaptation for three months before going to regular schools.

children attend school in their region. Regional *Hana* Centers¹⁶¹ support early settlement, and provide afterschool programs and mentoring programs.

It is argued that third country-born children experience an intersection of difficulties in language,¹⁶² domestic issues, and identity confusion, unlike other North Korean youths. Most third country-born children are not proficient in Korean, and a lack of language skill affects communication with teachers and friends, and their ability to learn. Third country-born children experience unstable family structures during the escape process, undergoing family disorganization and reconstitution. Many North Korean women have suffered through hard labor to make a living, and sometimes they have experienced domestic violence in China (Shin, 2011, p. 19). Since North Korean escapees frequently move to safer places in China, children often receive inconsistent care from different family members, and the periods of separation from their mothers can be long. The children and their mothers suffer stress from their unstable statuses, along with fear of the repatriation of the mothers who are in a third country, and they also experience problems adjusting to their new surroundings; this might have a negative impact on the children.¹⁶³ Some third country-born children are exposed to domestic violence or sent to nursery institutions. Parents of third country-born children usually have the “3-D (Dirty, Difficult, and Dangerous) jobs” in South Korea, and there is no one to take care of their children. Thus, children are often left alone at home.

¹⁶¹ The *Hana* Center started in 2009 with six units, and 31 more centers opened in 2010. The South Korean government entrusts the operations of *Hana* Centers to various organizations, including social welfare organizations, corporations, and NGOs. NGOs for North Korean settlers began to work vigorously, starting in the early 21st century (Chung, Choi, & Choi, 2012).

¹⁶² These children cannot speak Korean since they did not have opportunities to learn the language because they were raised within Chinese-speaking communities and attended Chinese schools.

¹⁶³ Researches argue that many of these children have post-traumatic stress disorder (PTSD); however, Sung (2009) argues that researches have overly victimized North Korean children.

Another difficulty that third country-born children are experiencing is identity confusion. Most of them face an identity crisis because they were born in China, but are living in South Korea, and are called North Korean. Their parents have different backgrounds (North Korean and Chinese) and the family is living in a completely new environment (South Korea). At the *Hanawon*, children are sometimes classified as being born in North Korea or being born in a third country (Shin, 2011). The reason for this might come from the different appellations: “protected” (North Korea-born) and “unprotected” (third country-born). As they attend regular schools after living in the *Hanawon*, however, the situation is reversed. Due to the negative image of North Koreans, children prefer to be called Chinese (third country-born children) rather than North Korean settlers (J. W. Kang, 2011).

The term “unprotected,” however, should be reconsidered in that it marginalizes children who fall under the term. The term produces a negative image for third country-born children. Unprotected youths are not identical. For example, third country-born children (mostly from China), and North Korea-born children who are excluded from protection by Article 9 of the Settlement Support Act, all belong to this group. Therefore, the terms used in the policy should be clarified and support policies should be devised according to these different situations.

The current policy for third country-born children is not appropriate in that children in similar situations are treated differently. North Korea-born children and third country-born children have the similar background and experience, but have different benefits only because of the difference in their place of birth and mixed ethnicity. As mentioned above, sometimes different policies are applied to different family members.

For example, let us consider a mother of two children who had her first-born child in North Korea and another one in China. She has to feed them by herself, but there are few benefits for the second child. She resided at the *Hanawon* with her two children and received an allowance of 40,000 won a month for her and the first child separately, but only 20,000 won for the second child and this is the maximum benefit level that the second child can receive.¹⁶⁴ As for the initial financial support and residential support, she receives this for her and for the first child, but nothing for the second one. The biggest worry is that the second child does not receive educational support, but the mother has to pay everything by herself for the second child. Paying the tuition fees for the second child is burdensome, since college tuition is very expensive in South Korea. The second child cannot go to a specialized middle or high school that is only for North Koreans and cannot apply for special admission as a North Korean for a college place. As can be seen in this case, the children receive economically different benefits; however, this also affects other areas of their lives.¹⁶⁵

Third country-born children feel that they are treated differently and excluded from “protected” youth status. In this dissertation, I not only point out the inadequacy of different benefits between the two groups of children—between North Korea-born and third country-born children. By applying different policies, for instance the policy under the Settlement Support Act and the policy under the Multicultural Family Act, it has produced a situation that does not meet the needs of third country-born children and their families, and instead generates different identities and different ethnic-like groups. From

¹⁶⁴ Now the *Hanawon* provides the same amount of money to those children.

¹⁶⁵ These issues are explained more specifically in Chapter 5.

the *Hanawon* stage, third country-born children are recognized as a different group with a negative image of “those who cannot be protected.” Some children wish that they had been born in North Korea. They are confused about their identity since they are categorized differently, even from their own siblings. Giving benefits according to a certain group identity inevitably distinguishes groups as having certain characteristics, and this might fix them permanently within a grouping. Sometimes those characteristics or appellations do not fit the group in question; in other scenarios, all of the members in a group can be regarded as being the same.

On the other hand, it is argued that third country-born children have overlapping difficulties and that they should thus be treated as a distinct group. This, however, might produce another “otherness” to South Koreanness. Others assert that third country-born children should be treated under the policy for North Korean youths but with more detailed policies in place. Policies were developed whenever a new group appeared in South Korean society, such as North Koreans or multicultural families. As a new group (third country-born children) different from the previous group (North Korean youths), the previous category does not fit for the new group and revisions or a new policy is requested. This will happen repeatedly whenever a new group makes an appearance in South Korean society. To prevent overlapping policies and blind spots in this situation, a comprehensive approach is needed rather than a group-by-group approach. For example, if a policy for “youths with migrant backgrounds” is adopted, North Korean youths, multicultural youths, and other youths with migrant backgrounds are covered, and this might help to reduce blind spots. Then, within the category of “youths with migrant backgrounds,” more detailed policies for certain groups could be applied. Differentiated

policies for North Korea-born youths, third country-born North Korean youths, or multicultural youths, for example, could then be applied within the category. I will demonstrate this comprehensive policy approach in the final chapter.

Chapter 5: Assimilation and Discrimination: Challenges of Korean Citizenship Policies

There is no consistent standard in decisions concerning the exclusion of third country-born children from the Settlement Support Act. Different standards are applied and different justifications provided depending on the third country involved and whether the child in question has a Korean mother or a Korean father. This chapter explores the various rationales offered by the government to justify this differential treatment. I will suggest that just citizenship norms require an overarching approach for migrants, rather than different treatments for particular groups based on ethnicity, race, or nationality. Furthermore, migration policies should be expanded to include not only individual migrants, but also their children and families, and that North Korean escapees—in the long term—should be considered as “migrants.”

Politics of North Korean Citizenship

The South Korean government places high expectations on North Korean settlers in South Korea. They are expected to assimilate quickly into South Korean society “in return for the granting of South Korean nationality” (Jang, 2008, p. iii, cited in Chung, Choi, & Choi, 2012, p. 25) and to work toward the reunification of Korea in the future. Today, North Korean settlers represent a “litmus test” (B. H. Chung, 2008, p. 4) for the possibility of integrating the two Koreas. The successful settlement of North Koreans in South Korea is regarded within the country as preparation for a future reunification.¹⁶⁶ According to the Ministry of Unification, the policy directions for North Korean settlers includes providing the necessary support for settlers to adapt to South

¹⁶⁶ For this view stressing integration after unification, see Lankov (2006) and Yoon (2001).

Korean society, as well as preparing for the effective integration of the people of North and South Korea into the reunified future (Ministry of Unification, 2013, p. 7). Once treated as “warriors” and “heroes,”¹⁶⁷ North Korean settlers are now considered as “the future came beforehand [the future of reunification]”¹⁶⁸ by the South Korean government. In the midst of this changing situation, however, the image of North Korean settlers as suspicious outsiders from an enemy state¹⁶⁹ still lingers in South Korea.

North Korean settlers’ citizenship has had political and ideological undertones from the Cold War years to the present. The special treatment of North Korean settlers (among migrant groups in South Korea) has been justified by the political implications they have as warriors against communism, along with the rhetoric of highlighting the fact that North Koreans and South Koreans have the same ethnicity. After the collapse of the communist bloc and the inter-Korean rapprochement, and in the face of the increasing economic burden of large numbers of North Korean settlers, it became impossible to treat them all as “heroes,” and the South Korean government started to see North Korean settlers as economic refugees, changing policies to reduce the advantages that they had been receiving. In 1993, under the Kim Young-Sam government (1993–1998), North Korean resettlement support was reduced drastically until a new law (the Settlement Support Act) was enacted in 1997,¹⁷⁰ and South Korea’s perception of North Korean settlers and North Koreans’ self-identification began to change from that of “heroes” to

¹⁶⁷ In Chapter 4, I briefly mentioned how North Korean defectors were treated as “defecting warriors” during the Cold War.

¹⁶⁸ *Kyunggi News*, 9 January 2013, “The future came beforehand: Shaking with fear.”

¹⁶⁹ The thorough investigation by the NIS is intended not only to determine whether the settlers are spies, but also to verify their nationality as North Koreans.

¹⁷⁰ B. H. Chung (2008) demonstrates that North Korean escapees who came to South Korea from 1993 to 1997 received less resettlement support than those who came before 1993 and after 1997.

that of welfare recipients. Although North Korean settlers' legal status remains the same, their social status has changed. Setting aside legal disputes on whether the South Korean government has sovereign power over North Korean territory, the South Korean government accepts North Korean escapees as South Korean nationals as a matter of course once they reach South Korean territory or Korean embassies in foreign countries. Although the South Korean government has no capacity to protect North Korean escapees in other countries, the laws and policies for North Korean settlers have focused on those who have entered South Korean territory and on "helping them (as South Korean citizens) to stand on the same starting line with others citizens."¹⁷¹

The beginning of mass defections in the mid-1990s, and the new, post-Cold War context led to the rise of a slightly different sort of anticommunist sentiment in South Korea, and the political significance of North Korean settlers has undergone a subtle change in political meaning. The South Korean government now regards North Korean settlers as bearers of reunification and human rights whistle-blowers.¹⁷² Instead of heroes who were against "the enemy state" (North Korea), North Korean settlers are now understood as refugees who have fled dire social and economic situations and human rights abuses in their oppressive home country. The focus on human rights issues in the politics of the division is caused by the changed logic of South Korean conservatives with anticommunist tendencies. To advance anti-North Korean propaganda, conservatives now emphasize the miserable living conditions in North Korea. Conservatives emphasize North Korean settlers as a human rights problem in an effort to place economic pressure

¹⁷¹ Institute for Korean Integration of Society, North Korean Escapees. Retrieved from <http://www.ikistongil.org/column/defector.php?ptype=view&idx=5478&page=1&code=defector>

¹⁷² North Korean settlers were asked to give a speech about "how terrible life had been in North Korea, how hungry [they were], and how helpless [they] had been in China" (B. H. Chung, 2008, p. 2).

on North Korea and ultimately end the country's totalitarian regime.¹⁷³ However, this effort has been disguised as merely “good faith humanitarianism to improve North Korea's human rights situation” (S. Y. Kim, 2004). Alternatively, progressives advocate giving humanitarian assistance to North Koreans as a preventative measure to reduce their becoming refugees on a large scale. The progressives have held a relatively passive stance on North Korean settlers as a human rights issue, focusing largely on peace in the Korean peninsula, and on distancing themselves from immoderate ideological use of the settlers.

The different positions of conservatives and progressives are exposed in the debate over the legal term that should be used to refer to North Korean escapees. Members of the relatively progressive Minju Party proposed a partial amendment of the Settlement Support Act in October 2001.¹⁷⁴ They suggested the term “North Korean migrants” instead of “North Korean escapees” or “residents escaping from North Korea,” citing their belief that each of these terms is negative and stigmatizing, and thus adversely affects the resettlement of North Korean migrants. The proposed amendment states that “migration” is more appropriate than “escaping,” which implies an act of desertion. That is, the focus should be on the act of “entering” and not on the “leaving,” according to the members, because the Settlement Support Act regulates those who reside in South Korea. The purpose of this amendment was to create positive associations with migrants from

¹⁷³ Conservative factions criticize the Sunshine Policy of the relatively progressive Kim Dae-Jung (1998–2003) and Roh Moo-Hyun (2003–2008) governments for helping North Korea to survive by wastefully giving assistance to them. *The Chosun Ilbo*, which is one of the most conservative newspapers in South Korea, had a headline, “Sunshine policy brings Kim Jung-Il regime back to life,” citing Hwang Jang-Yup (a former secretary of North Korea's Labor Party and the highest North Korean official ever fleeing to the South) (G. S. Kim, 12 May 2007).

¹⁷⁴ Partial Amendment of the Settlement Support Act (proposed by Sung-Ho Kim and 25 other members of the National Assembly on 10 Dec. 2001 and discarded on 29 May 2004).

North Korea in an effort to break away from Cold War politics. North Korean settlers have also attempted to ameliorate negative images of them regarding the legal term “residents escaping from North Korea.” The North Korean Escapees Alliance submitted a petition to the National Assembly on December 2001 that proposed they be referred to by the term “free migrants” and called for the removal of associations with both the “North” and “escaping.”¹⁷⁵ The Alliance asserted that employing the term “North” for North Korean migrants distinguished them from South Koreans. The term “free migrants,” thus, reflects their aspiration to become full citizens of South Korea without being differentiated by their name.

However, one North Korean organization, Sungui Dongji Hoe, filed a petition in November 1999 suggesting that the terms “defectors” or “defecting warriors,” terms which were used before the 1997 Act, be brought back into use.¹⁷⁶ This organization prefers to attach strong political connotations to North Korean migration,¹⁷⁷ in line with South Korean conservatives. The conservative argument favors terms with strong political meaning to emphasize that the influx of North Korean escapees proves the superiority of South Korean capitalism over North Korean communism. When discussing the Partial Amendment of the Settlement Support Act on November 1999,¹⁷⁸ some

¹⁷⁵ Petition Urging Partial Amendment of the Settlement Support Act Submitted to the National Assembly (by the North Korean Escapees Alliance including In-Sook Jang, the representative, on 13 Dec. 2001 and discarded).

¹⁷⁶ Petition Urging Partial Amendment of the Settlement Support Act Submitted to the National Assembly (by Sungui Dongji Hoe, including Yong-Chul Kim, the representative, on 18 Nov. 1999 and discarded).

¹⁷⁷ North Korean settlers are divided into two positions regarding how they would like to be known. Some people lean more toward emphasizing their particular identity as linked to the abandonment of North Korea, while others favor a term without any differentiation related to North Korea.

¹⁷⁸ Partial Amendment of the Settlement Support Act (proposed by Byung-Tae Kim and 32 other members on 21 Jul. 1999).

members of the Grand National Party (GNP, Hannara Party¹⁷⁹) proposed replacing the legal term “residents escaping from North Korea” in the Act with “North Korean defectors.” According to one of the members’ remarks, “escaping is a very passive expression, while defection is active, meaning that they [North Koreans] desired freedom and left [North Korea].”¹⁸⁰ This argument opposes using a legal term that does not embody the symbolic, ideological importance of North Korean escapees, thus forsaking an antagonistic posture toward North Korea. The changed situation in South Korean society and the debate over the ideological use of North Korean settlers have forced them to form their identities in different ways. Some of them resist South Korean identity, while others want to be actively assimilated into South Korean society.¹⁸¹

Media coverage on the North Korean famine also speaks to the conflicting perspectives of conservatives and progressives in this regard. For example, *The Hankyoreh*, which is regarded as one of the most progressive newspapers in South Korea, tends to focus on the need to provide humanitarian aid (17 March 1997). On the other hand, *The Dong-A Ilbo*, a conservative newspaper, has warned North Korea not to abandon the “good will” (economic aid) of South Korea and to make sure to repay the country for this aid (i.e., security guarantees) (14 April 1997). In the meantime, on both

¹⁷⁹ The GNP is traditionally a conservative party in South Korea and changed its name to the Saenuri Party. There is not much difference between the parties regarding their perception of North Korean settlers, while there is a stark difference on whether to give economic assistance to North Korea or not. However, the conservative party (the Saenuri Party) has a tendency to oppose “excessive” assistance to North Korean settlers and the Sunshine Policy toward North Korea.

¹⁸⁰ He further states, “We should provoke North Korea. South Korea exists for this reason and ‘escaping’ is passive.” Statements of Rep. Soo-Han Kim (GNP), the Ninth Unification Foreign Affairs and Trade Committee, the 208th regular session of the Korean National Assembly recorded on 26 Nov. 1999 (<http://uci.or.kr/G900+REC-15000000001000355324>).

¹⁸¹ According to research on North Korean settlers’ identity formation in the post-Cold War context (J. W. Kang, 2011), their types of identity have emerged as refusing North Korean identity and being fully assimilated into South Korea (assimilative), integrating both North and South Korean identity (integrated), confused between the two identities (disordered), and resisting South Korean identity (resistant type).

sides of the political spectrum, a focus on the abject poverty and serious human rights issues within North Korea has helped to facilitate negative stereotypes of North Korean settlers as a vulnerable social group often referred to as “the miserable.” North Korean settlers are “otherized” by South Koreans based on their socio-political background (C. Lee, 2003). As H. Y. Choo (2006) asserts, “ethnicized citizenship” in South Korea differentiates North Korean settlers through the creation of an ethnic label based on the North Korean nation-state (“state-based ethnicity”). Thus, it can be said that the citizen-making process of North Korean settlers in South Korea proceeds in both a positive (welcoming) and negative (refusing to accept them into mainstream society) direction at the same time.

Although North Korean settlers are legal citizens and co-ethnics of South Korea, they are not considered as full members of South Korea but as second-class citizens. While, on the one hand, North Korean settlers are expected to assimilate into South Korean society, they are, at the same time, subjected to a kind of “othering,” as it is made clear that they are different from South Koreans. North Korean settlers are expected to settle down in South Korea since they are conferred nationality and given settlement support,¹⁸² and they are expected to be easily assimilated because of their similarities (e.g., Korean language, ethnicity, and nationality) to South Koreans. South Koreans believe that there are few cultural differences between the two Koreas, and North Korean settlers are encouraged to discard all the habits of their former country immediately in favor of South Korean norms and values. The failure or resistance to assimilate South

¹⁸² North Korean settlers that immigrate to other countries are criticized in South Korea as merely looking for money and running away.

Korean norms is understood culturally as a significant failure. However, this overemphasis on the two countries' shared ethnic roots and nationality has failed to recognize significant differences between North and South Koreans. The economic systems of North and South Korea are different. In the South, there is a market economy, whereas in the North, there is a planned economy. Since the division of the two countries, the economic, social, and cultural gap between the two countries has progressively gotten wider. B. H Chung (2008) describes the distinguishing characteristics of South Korean society as a "heavily commercialized, highly industrial, urbanized and international society," as well as "competitive, individualistic, diverse, materialistic, and a capitalist country" (p. 13).

South Koreans have a tendency to stereotype and stigmatize North Koreans as being pessimistic, disobedient, and lacking sociability, which impedes their adjustment to South Korean society (Goh, 2011).¹⁸³ The maladaptation of many North Korean settlers is attributed to negative characteristics that are considered inherent to all North Koreans (due to their experience of the closed, North Korean system and the life-threatening experience of escape). For this reason, programs at the *Hanawon* encourage North Korean settlers to shed their North Korean characteristics and habits to become "true" citizens of South Korea. The South Korean government has devised a number of integration and job-related training programs for North Korean settlers, other than offering financial aid, in order to achieve better social and cultural integration. The South Korean government is actively engaged in making North Koreans ideal citizens from the

¹⁸³ Lankov (2006) describes the common, negative stereotypes of North Korean settlers in South Korea as selfish, rude, and dishonest (as cited in Seol & Skrentney, 2009, p. 164).

government's point of view. From staying at the *Hanawon*, North Korean settlers are eventually expected to become "perfect" South Koreans: They are required to become completely South Korean as soon as possible and to become "good citizens." In other words, North Koreans are forced to assimilate into South Korean society in the name of "integration."

Citizen Making of Adult North Korean Settlers

The education programs at the *Hanawon* (Table 6) are divided into four major schemes: (1) improving health and emotional stability (for 46 hours); (2) providing education that facilitates understanding of South Korean society (for 121 hours); (3) extending career guidance and basic vocational training (for 174 hours); and (4) providing initial settlement support (for 51 hours).¹⁸⁴ Each scheme is divided into several subprograms, which include stress-management programs and enhancement of basic physical fitness under scheme 1. Education about South Korean society (scheme 2) accounts for 30% and vocational training (scheme 3) accounts for about 44% of the total regular programs at the *Hanawon*.¹⁸⁵ Schemes 1 and 4 are of little importance in terms of time and composition of the total programs.

¹⁸⁴ These figures on hours of education are based on the First *Hanawon* (the first to be established in Ansung out of the two *Hanawon* facilities).

¹⁸⁵ In 2012, education about South Korean society accounted for 29.5% and vocational training 46.6% of total education. Although some programs have changed slightly, the overall importance of the two schemes has not changed. In 2013, courses for consolidating national identity, obtaining professional certificates, visiting workplaces, *Hana* Center use guidance, and preventing crime, insurance, and banking fraud were added to the curriculum.

Table 6.

Regular Programs at Hanawon

Main Theme	Hours	Course Name
1. Improving health and emotional stability		
Total Hours	46	
Emotional Stability	3	Psychological exams
	2	Understanding myself and others
	7	Improving communication skills
	4	Stress management
	6	Personality education and promoting sociability
	2	Changing negative attitudes and inspiring positive thinking
	2	Creating a sense of community to enable living well with others
	3	Purification of emotions through music, painting, recreation, etc.
	3	Education regarding gender equality in marriage and family
Improving health	4	Introducing the clinic at Hanawon
	4	Education on health maintenance
	2	Stretching
	4	Physical activities
2. Understanding of South Korean society		
Total Hours	121	
Programs for democratic citizens	2	Right and duty of democratic citizens
	2	South Korean politics and democracy
	2	Understanding the election system
	2	Present situation of North and South, and understanding the unification policy
Programs for adopting capitalism	2	Understanding market economy
	2	Introducing banking services
	2	Practicing economic life
Understanding South Korean society	6	Korean history
	1	Understanding the support system and inspiring the adoption of self-support
	2	Understanding South Korean culture - differences in values and sentiments
	2	Understanding South Korean culture - family life
	2	Understanding South Korean culture - etiquette in daily life
	2	Understanding South Korean culture - mass media
	2	Understanding human rights
	2	Laws – inspiring law-abiding spirit
	2	Laws - legal advice on rights
	2	Laws - prevention of crime
	2	Understanding the insurance system
	2	Prevention of insurance and financial fraud
	4	Comparing the politics, economy, society, and laws of the North and South
	2	Searching for information on everyday life
Programs for language adaptation	8	Comparing the language differences between the North and South
	6	Language expressions
	4	Pronunciation - correcting pronunciation and accent
	14	Usage of foreign words (loan words)
	2	Basic English
Field studies	7	Field study (historical and cultural heritage)
	5	Field study (shopping, visiting administrative agencies)

	14	Experiencing South Korean family life
	7	Experiencing city life - public transportation, cultural facilities
	7	Voluntary activities for social welfare facilities
3. Career guidance and vocational training		
Total Hours	174	
Understanding the employment system	2	Occupation preference test
	2	Interpretation of and consultation regarding test results
	2	Understanding the vocational training system
	2	Understanding employment-related laws
	2	Understanding the social welfare system
	2	Information on professional certificates
Information on jobs	2	Different kinds of jobs
	2	Identifying vocational aptitude
	2	Job information on different regions
	2	Living environment in different regions
	2	Employment strategies - resume writing, mock interview
	7	Workplace culture of South Korea
	8	Learning about settlement experiences from early entrants
	7	Attending job fairs (small businesses)
Basic work adjustment training	14	Encouraging job seeking
	1	Orientation for vocational training
	32	Computer education
	76	Work training for different kinds of jobs - males: 3 jobs - heavy equipment operation, car maintenance, and welding - females: 12 different kinds of jobs, such as baking, sewing, and etc.
	7	Visiting employment support businesses
		Written test education for driving license provided for 9 hours only for males in the regular program at the Second Hanawon at Hwachon, and provided as a voluntary participation program before and after the regular program or during weekends
4. Initial settlement support		
Total Hours	51	
Understanding settlement support policies	8	Information on post-placement, security, medical aid, etc.
		Introducing Hana Center
Life in Hanawon	19	Rules in Hanawon
		Introducing the purpose and contents of Hanawon education
		Meeting with managers
		Introducing Hanawon and its facilities
		Inspiring will to settle
Support administrative processes	24	Support on housing placement, family registration, and other necessary processes for initial settlement
		Conducting surveys at Hanawon

(Source: The material submitted by the Ministry of Unification to Jae-Kwon Sim, a member of the National Assembly following the inspection of the Ministry of Unification conducted by the National Assembly.)

The various programs at the *Hanawon*¹⁸⁶ aim to instill in North Korean settlers the

¹⁸⁶ Many North Korean escapees complain about being confined to the *Hanawon* for three months (Y. Y. Kim, 2010). Critics question why education aiming for social adjustment starts with “12 months of prison,” thus being isolated from society (J. H. Lee, 14 November 2010). It is said that the period of stay at the

following abilities and qualities that are believed to make up an ideal South Korean citizen: a) being equipped to assimilate into South Korean society, including looking and speaking like a South Korean, and being able to care for oneself; b) being an economically independent, diligent, and responsible person; and c) accepting the norms and values of South Korea. Several ideas, such as the neoliberal idea of reducing public expenditures on welfare, the Confucian idea of placing one's highest priority on family and the community, anticommunism, and developmental statism undergird this notion of the ideal South Korean citizen.

North Koreans' distinctive accent and pronunciation (which act as an ethnic marker) are also considered to require correction so that they can become truly South Korean. Even though they speak the same language,¹⁸⁷ North Korean settlers are expected to speak fluent, standard Korean.¹⁸⁸ All North Korean settlers take compulsory Korean language courses (32 hours), and there are separate programs for people who are illiterate or cannot speak Korean, such as third country-born children. Taking other programs into consideration, such as the supplementary weekend curriculum at the *Hanawon* or the programs at the *Hana* Center, Korean language education represents a significant share of the entire education curriculum for North Korean settlers. Standard

Hanawon is necessary for security reasons and this remains in effect until after escapees are granted new identities as South Koreans. This period of stay is also needed for processing administrative tasks, such as family registration, placement in rental houses, assignment of managers (a security manager, employment manager, and a manager helping with the administrative work of residences), and other essential requirements after the stay at the *Hanawon* (Goh, 2011). The *Hanawon* programs, however, are criticized as serving only to keep escapees occupied as they stay at the facility. That is, they are designed for convenience in managing numerous people rather than for educational purposes.

¹⁸⁷ There are some differences between the North and South Korean language though. After almost 60 years of division, the languages of the two Koreas have developed in different directions. North and South Koreans now use different words for the same object in some cases, and many foreign words used in South Korea are hard for North Koreans to understand.

¹⁸⁸ This expectation to speak fluent Korean also applies to other migrants who wish to become South Korean nationals.

pronunciation courses were added in 2004 with the aim of improving the ability of North Korean settlers to adapt easily into South Korean society (Ministry of Unification, 2004). The South Korean government considers the accents and pronunciation of North Korean settlers to impede their adjustment into South Korean society. Thus, it believes that teaching North Korean settlers standard South Korean pronunciation will increase their possibility of employment and prevent discrimination against them. The real reason for North Koreans' low employment rate and maladjustment into South Korean society, however, is not due to their accent or appearance, but to discrimination and prejudice against North Korean settlers in South Korean society. A 2012 survey of human rights violations against North Korean settlers found that 61.5% of them had experienced discrimination and 43.5% reported unfair treatment at work, school, and in other organizations due to their North Korean background.¹⁸⁹ Unless this structural discrimination disappears, it will be hard for North Korean settlers to utilize their own abilities.

There are also physical and mental health prerequisites for being a good citizen of South Korea. The *Hanawon* understands North Korean settlers to be in a physically and mentally unstable state due to exhaustion from poor living conditions in North Korea, and the traumatic experience of their escape from the North, and from hiding in China. Therefore, through physical and mental training, the South Korean government seeks to ensure that North Korean settlers recover their health, thus laying the foundation for them to become economically independent. This is an outgrowth of the neoliberal concept of

¹⁸⁹ A survey conducted by the Gyunggido Family and Women Research Institute (GFWRI) in 2012 on 400 North Korean escapees in Seoul, Gyeonggi, in the Incheon area (as cited in NHRCK, 2013, p. 4).

maximizing individual abilities in a market-driven society. That is, to be able to stand on their own and not depend upon the government's aid, North Korean settlers in a South Korean capitalist society must be in excellent physical and mental shape as a prerequisite for being competitive. Together with the effort to correct their accent, this health requirement represents the government's idea of reforming North Koreans thoroughly so that they are able to compete with South Koreans. The problem with this endeavor is that the *Hanawon* and the South Korean government assume that North Koreans need to become more refined, which serves merely to objectify them as a people who require correction and purification. Twelve-and-a-half percent of the entire curriculum of the *Hanawon* is dedicated to "improving health and emotional stability" (scheme 1).¹⁹⁰ According to the South Korean government, a good citizen should have a good personality to be able to live well with others. It is assumed that North Koreans in South Korea have an "other-directed mindset" that is fixed on the planned and controlled nature of North Korean society, and that they have "personality problems" (Ministry of Unification, 2001).¹⁹¹ Thus, the government focuses on inculcating good character, positive mindsets, sociability, and a sense of community through education at the *Hanawon*. North Korean settlers are often accused of being passive in social and economic life, and this mentality needs to be reformed to have the self-autonomy that is presumed necessary in a capitalist society (Sung, 2009). Thus, the South Korean government tries to inculcate a firm intention in North Koreans to be employed and to

¹⁹⁰ For example, courses are offered under scheme 1 entitled "Understanding myself and others," "Improving communication skills," "Personality education and promoting sociability," "Changing negative attitudes and inspiring positive thinking," "Purification of emotions," and "Creating a sense of community to enable living well with others."

¹⁹¹ The Ministry of Unification press release on 12 April 2001 indicated that there were many North Korean escapees who had personality problems.

work hard, and to develop socializing skills so that they can adapt well to the South Korean labor market.

Programs at the *Hanawon* on the duties of a citizen, increasing one's sense of community, and encouraging a law-abiding nature speak to the South Korean government's definition of a good citizen. The South Korean government's emphasis on the obligations of a citizen to his or her community resonates with Confucianism and developmentalism. The Confucian values, which stress the family, community, and state over the individual, are often translated into the workplace in South Korea. Employees are expected to work hard in the family-like workplace, and harmonious relations are required between employers and employees as well as among employees. This familial metaphor (filial piety) extends to the relationship between the state and the individual, in which loyalty is owed to the state.¹⁹² This view of citizenship underscores the role that citizens play in the economic development of the entire nation along with a developmentalist logic. The importance of working hard for the good (economic development) of the whole of society¹⁹³ and being responsible for oneself are stressed as the duties of a Korean citizen. This utilitarian view, along with Confucianism, has helped shape South Korean citizenship. South Korea's tendency to seek the economic utility of its citizens also applies to North Korean settlers. In an effort to make an economically useful citizen in the South Korean labor market, the government puts an emphasis not only on job training, but also on becoming a law-abiding citizen¹⁹⁴ in an effort to make

¹⁹² It could be one of the reasons for Koreans' antagonism toward dual-citizenship holders, regarding them as betrayers of the state.

¹⁹³ In particular, this aspect was stressed during Park Chung-Hee's military regime (1961–1979).

¹⁹⁴ In another sense, North Korean settlers are generally thought of as disobedient. For this reason, courses on following the rules and regulations of the *Hanawon* are provided. (For example, a course titled "Rules in

North Korean settlers follow the rules of capitalism. Furthermore, North Korean settlers are viewed as having been indoctrinated with “distorted” views on capitalism, democracy, and the history of Korea¹⁹⁵ in their country (Goh, 2011, p. 136). Thus, the second goal of the programs (scheme 2, “Understanding of South Korean Society”)¹⁹⁶ at the *Hanawon* is to dispel the brainwashing that North Korean settlers have been subjected to and to inculcate a more “correct” South Korean mentality. Assuming their ignorance of market systems, North Korean settlers are also taught how to budget their money and are even taught how to buy things with money.¹⁹⁷

The overall education of North Korean settlers in this regard seeks to effectively integrate them into the South Korean capitalist system, in which individuals are “viewed as instrumental components of the nation” who are to be mobilized (Moon, 2013, p. 12) for economic development. North Korean settlers are forced to obtain the necessary qualifications by the South Korean government in order to be useful to the country and not to be a burden on South Korean taxpayers (Goh, 2011). Compared to other migrants, various schemes are provided for North Korean settlers to help them in finding work and thus in standing on their own. Since the late 1990s, with the increased number of escapees, government policy toward North Koreans settlers has moved gradually from a focus on “protection” to a focus on “self-help,”¹⁹⁸ and the plan to mold citizens who

the *Hanawon*.”)

¹⁹⁵ For example, the cause of the Korean War and South Korea’s reunification policy are taught from a South Korean perspective.

¹⁹⁶ Courses with this purpose in mind include those on the merits of an electoral system, democracy, and capitalism.

¹⁹⁷ They practice shopping with a certain amount of money provided by the *Hanawon*. It is known that North Korea allowed official markets from 2003 and had roughly 300 general markets nationwide at that time. Unofficial markets (called *Jangmadang*) are known to have emerged since the late 1990s and are now prevalent in many regions in North Korea.

¹⁹⁸ In addition, after the economic crisis of 1997, the Kim Dae-Jung government under the slogan of

would be able to contribute to South Korean society began to take definite shape from the enactment of the 1997 Settlement Support Act. In addition, expanded welfare policies in the Roh Moo-Hyun government (2003–2008) were constantly confronted through opposition from conservative factions. Many conservatives assert that the provision of numerous benefits poured in when North Koreans came on a large scale, and that such policies for North Koreans are excessive and overlap. They argue that “excessive” benefits only encourage strong dependence on these benefits, discouraging the settlers from striking out on their own, and thus they emphasize self-reliance programs. However, many North Korean settlers in South Korea are in near poverty (Y. S. Yoon, 2004) with low employment rates, and 80% of them are recipients of public assistance. Policies for North Korean settlers, in these circumstances, were downscaled, and moved toward focusing on self-support around 2005,¹⁹⁹ when the initial financial aid was reduced, and the distribution of one-time cash rewards was implemented on a quarterly basis. Instead of reducing cash rewards, the government introduced various incentive programs, such as the provision of 1.2 million won for completing vocational training of 500 hours, the provision of 22.1 million won for three years of continuous service as an employment incentive, and the awarding of half of the salary (no more than 500,000 to 700,000 won) to employers who employ North Korean settlers for a maximum of three years (Ministry of Unification, 2013).

Responding to the demand to expand programs directly related to employment,

“productive welfare” started to shape social policies in the face of rising unemployment (Chang, 2007; Hahn & McCabe, 2006). The Korean welfare system stressed self-help “within the overriding context of economic competitiveness” (Hahn & McCabe, 2006, p. 317).

¹⁹⁹ The policies that emphasize self-support were implemented in a phased manner over several years; these regulations also take into account the prevention of bulk expenditures and increases in broker-related expenses.

the greatest number of hours within the four themes of the *Hanawon* programs have been assigned to vocational training since 2007. Programs related to securing employment are accorded much weight in terms of time distribution (174 hours; Table 6). The *Hanawon* programs tend to exert pressure on North Korean escapees to secure work as soon as possible. *Hanawon* staff members also repeatedly emphasize this requirement. Moreover, many classes in the *Hanawon*'s voluntary participation programs (before and after the regular programs or on weekends) are related to jobs, such as learning computer skills and basic accounting, as well as obtaining care worker certificates. The South Korean government provides computer education (32 hours, 8% of the entire program), and actual work training (76 hours, 19% of the entire program), both of which make up the majority of courses not only in scheme 3, but across the entire program, and the training is geared toward the hope that North Korean settlers will be able to support themselves economically. Vocational education is often adapted on a continual basis to provide effective programs for helping North Korean escapees to secure employment. Work training for different kinds of jobs, for example, is modified from individual training for one job, to individual training for 12 jobs in the case of women, and three jobs for men.²⁰⁰

Since the main goal of the program at the *Hanawon* and of early settlement support within South Korea is to help North Korean settlers find jobs as quickly as possible, training and incentives are linked to the types of work that are in greatest demand within the country and that do not require much skill. In this light, men and women are trained in different fields, such as heavy equipment operation and cooking or

²⁰⁰ Regarding the types of job training—comprehensively introducing one job to each individual versus introducing various jobs to enable a person to find the right employment—which measure is better in assisting settlers in securing a job is a controversial issue.

sewing work, respectively (among the 12 jobs mentioned above), while a course on achieving a driver's license is only provided for men in the *Hwachon Hanawon* (the Second *Hanawon*).²⁰¹ This not only reflects employment demands within South Korea, but also projects the traditional gendered viewpoint of South Korean society. In other words, *Hanawon* education emphasizes a gendered division of labor and stereotypes of men and women in South Korea. In the South Korean labor market, job discrimination by gender is established in such a way that low-paid menial jobs, such as dishwashing and cleaning, are targeted at women, and jobs that require skills are targeted at men (e.g., heavy equipment operation, auto repair) (H. Y. Choo, 2006; Y. Y. Kim, 2010). In this way, stereotyped gender images are reinforced and North Korean women are placed in a lower class.

After their stay at the *Hanawon*, North Korean settlers are placed in residences²⁰² and educated at regional *Hana* Centers. Unlike the *Hanawon* programs that feature large-scale lecture courses, the education at *Hana* Centers aims at participatory courses with small numbers (five to ten people per month).²⁰³ Although the education programs at *Hana* Centers are based on voluntary participation, almost 90% of North Korean settlers participate in 80 hours of education for four weeks.²⁰⁴ Programs are allotted on a fifty–

²⁰¹ Women and men are educated in different places (the First *Hanawon* in Ansong and the Second *Hanawon* in Hwachon). It is said that this separate education is for security reasons.

²⁰² Settlers apply for the region that they wish to work in, but not all of them can be placed in their preferred region. As numerous people apply to live in Seoul (23.9% of North Korean settlers) and Gyunggi province (26.8%), an incentive is provided to those who go to other regions. A total of 1.3 million won is provided for those who live in other provincial cities for 2 years, and 2.6 million won is awarded to those living in other regions (NKRF, 2012b).

²⁰³ In the Northern *Hana* Center, which is located in Nowon-gu, Seoul, and is the most densely populated area in terms of North Korean settlers, five to ten people a month come to the region (200 North Koreans in 2011, retrieved from <http://www.gnnkcenter.or.kr/Introduce/Region.aspx>).

²⁰⁴ Retrieved from http://blog.naver.com/PostView.nhn?blogId=nkrf_blog&logNo=40188131453; Gyunggi Family & Women's Research Institute, 2012. The number of education hours is counted as the hours

fifty basis—that is, they are distributed in accordance with the requirements for “understanding of the region” and “vocational training.” The purpose of the *Hana* Center education is to help the settlers quickly adapt to a given region and develop the foundation necessary for self-support. Many North Korean settlers assert that work training at the *Hanawons* and *Hana* Centers concentrates on jobs that South Koreans are reluctant to do. Moreover, an incentive is offered to those who are trained for national basic and strategic industries (e.g., heavy equipment operation),²⁰⁵ the so-called 3-D jobs (e.g., construction and manufacturing jobs). Thus, policies for North Korean settlers tend to institutionalize discrimination.

According to a recent nationwide survey of 1,000 adult males and females, conducted by the Ministry of Unification in March 2010,²⁰⁶ 42% of South Koreans recognize North Korean settlers as vulnerable members of society who need help, 24.4% see them as foreign migrants who should be integrated into South Korean society, 21.6% regard them as important in preparing for the reunification of the two Koreas, and 7.2% perceive them as a heavy burden on South Koreans. The survey indicates that South Koreans regard North Korean settlers as a singular, monolithic ethnic group rather than as foreigners, in that fewer people (24.4%) deem them foreign migrants, and more (42%) take them for granted as members of South Korean society. South Koreans tend to think

needed (500 hours) for the incentive (1.2 million won) of vocational training. After completing the education at the *Hana* Centers, managers are assigned to help settlers for one year up to a maximum of five years. This responsibility includes the administrative work that is necessary to facilitate settlement in a region (retrieved from <http://www.gnnkcenter.or.kr/Business/RegionAdaptation.aspx>).

²⁰⁵ These industries include occupational categories from among the key industries of the national economy. Most jobs in these categories are construction, machinery, electric, and electronic work, and a few jobs require highly skilled workers, such as information and communication technology (The Regulations on Conduct of Workplace Skill Development Training of National Basic and Strategic Industry, Ministry of Employment and Labor).

²⁰⁶ Material submitted by the Ministry of Unification to Jae-Kwon Sim, a member of the National Assembly following the inspection of the Ministry of Unification conducted by the National Assembly.

that North Korean settlers have escaped from miserable economic situations and require assistance. They therefore portray them as “the miserable” and stratify them as members of the lower class.

Policies for North Korean Children and the Exclusion of Third country-born Children

Today, North Korean settlers are coming to South Korea as families that include women, children, and the elderly, and the category of “North Korean escapees” is different in terms of class, educational, and regional background (although many people are still from the border areas) from the small number of male adults with relatively similar backgrounds who came in the past. South Korean society, however, tends to regard North Korean settlers as a unitary group, disregarding the aforementioned differences and treating them as all the same. Since the early stages of accepting North Korean settlers into South Korea, policies for them have mainly targeted male adults. Male adults were indeed the majority of settlers until the early 21st century, but programs at the *Hana* Centers are still provided for “healthy adults” over the age of 18 (Ministry of Unification, 2010a, p. 21), and programs at the *Hanawon* are also mainly targeted at adults. Policies specific to children (e.g., educational support) have been almost absent until recently because the number of child migrants was small and such migrants were expected to be “naturally assimilated” (Chung, Choi, & Choi, 2012, p. 4).

The success of the South Korean policy for North Korean settlers is primarily estimated by the employment rate (of adults), while education and social policies are not the main focus of the government. As the number of North Korean children increases and their educational maladjustment is becoming an issue in South Korean society (Kim,

2004; Park, 2006), different authorities, such as the MOE and the Ministry of Gender Equality and Family, have enacted support policies for those children, along with the Ministry of Unification, which is in charge of the policy for settlers. The same enactments are applied to other migrant groups. As the children of marriage migrants grow up (second-generation migrant children), policies geared toward them have started to spring up according to their life cycle.²⁰⁷ In general, policies for the group that the migrant children's parents belong to have been applied to the children of each group.

The South Korean government's migrant incorporation policies (usually represented by "multicultural policy") are targeted toward two specific groups of migrants: North Korean settlers and multicultural families. Other groups, such as migrant workers, are not the target of social integration policies. The integration policy for North Korean settlers is performed under the framework of the unification policy (by the Ministry of Unification), while integration programs for multicultural families fall under policies for vulnerable social groups under the framework of family policy (Ministry of Gender Equality and Family). Thus, children of North Korean escapees are influenced by policies for North Korean escapees, while multicultural children are dealt with through multicultural family policies.

In the case of third country-born North Korean children, there is no official policy for them, and they are sometimes thought to fall under the category of North Korean children in schools or in community welfare centers. Further complicating the status of third country-born children is the fact that different ministries apply different criteria for determining who can be considered as a North Korean child settler. The

²⁰⁷ Policies started with young children and now they extend to cover older children.

Ministry of Unification, which is accountable for overall policies toward North Korean settlers, indicates that third country-born children—“those who never resided in North Korea and never escaped from North Korea”—do not belong to the category of “North Korean escapees,” along with Chinese nationals residing in North Korea, and North Koreans residing in China (Ministry of Unification, 2013, p. 6). The MOE, however, defines a child as North Korean if “one of their parents is North Korean, including those who were born in China or other countries.”²⁰⁸ The Ministry of Gender Equality and Family uses the category “migrant-background youths” to include North Korean children, third country-born children, and multicultural children (including children of migrant workers).

The Juvenile Welfare Support Act (Article 18) defines juveniles with immigrant backgrounds as juveniles from multicultural families and other immigrant juveniles having difficulties in social adaptation and academic performance. Following this Act, the Migrant Youth Foundation (Rainbow Youth Center)²⁰⁹ under the Ministry of Gender Equality and Family integrates current categories of children such as children of multicultural families, children of foreign workers, “immigrated youths of multicultural families,”²¹⁰ children of North Korean settlers, and third country-born North Korean children under the category “youth with migrant backgrounds.”²¹¹ Children of

²⁰⁸ MOE, <http://www.hub4u.or.kr/hub/edu/understand.do>

²⁰⁹ This Center was established in 2006 and focused on programs helping youths with migrant backgrounds, including third country-born children and multicultural children, to adapt to South Korean society both culturally and educationally.

²¹⁰ Usually, immigrant youths are those who were not born in South Korea, but were born in the country of a foreign parent and brought to South Korea by marriage, in most cases, by remarriage with Korean spouses. The number of these children increased after the early 21st century as remarriage between South Koreans and foreigners increased. A more precise translation of this term would be “children [of multicultural families] who came after birth.”

²¹¹ Rainbow Youth Center. Who are youths with migrant backgrounds? Retrieved Nov. 1, 2013, from

multicultural families are those born to families with mixed ethnicities, as defined by the Multicultural Families Act (Article 2). Simply put, these are offspring of international marriages (between a parent of Korean nationality and a parent of foreign nationality). They have not experienced “migration” themselves, because they were born in South Korea, but they are considered to have migrant backgrounds because their parents’ status as migrants affects them. Even though the definition of the “multicultural family” was expanded by the revision of the Multicultural Families Act in 2011 to include the families of naturalized nationals,²¹² this description is still criticized as narrow by NGOs working with migrant workers, because it excludes children born to two foreign parents, and thus does not fit the actual meaning of “multicultural.” The children of foreign workers are defined as the offspring of families who provide labor for wages within the South Korean labor market and do not possess Korean nationality based on the Foreign Workers Act (Article 2). Given that foreign workers are prohibited from bringing their families to South Korea, and that Korean nationality is not granted automatically to children born in its territory, most of these children have no legal status in South Korea. Children of North Korean settlers are considered as “juveniles escaping from North Korea” under the legal terms spelled out in the Settlement Support Act (Article 24-2), and third country-born North Korean children, as described in Chapter 4 in detail, are those who have a North Korean parent but were born in countries other than North Korea. Since the major support provided for children is education-related support, educational policies for North Korean children will be described below.

<http://www.rainbowyouth.or.kr>

²¹² See Chapter 3 for details.

Policies for North Korean youths, which improved in the late 2000s, can be divided into early adaptation support at the *Hanawon*²¹³ and regional adaptation support after they move to their regions. Different ministries (such as the MOE²¹⁴ and Ministry of Gender Equality and Family), according to their specialty, participate in different parts of the adjustment period for North Korean children. After settling down in their regions, different educational support is provided to North Korean children depending on whether those children are in regular school or not. North Korean children attend regular schools in the same classes as other South Korean children after leaving the *Hanawon*, and the MOE takes charge of educational support from this point onward. Some North Korean children do not attend school because of the educational gap between North and South Korean students. Educational support for those who are out of regular school is managed by many different organizations, such as the Ministry of Gender Equality and Family and NGOs working with North Koreans or multicultural children, as well as the NKRF and regional *Hana* Centers.²¹⁵ According to Han, Yoon, Lee, Kim, and Lee (2009), about 30% of North Korean high school-aged children go to regular school, another 30% go to *Hankyeoreh* School,²¹⁶ and yet another 30% go to other, alternative schools to prepare for the school qualification exam.²¹⁷

²¹³ In Chapter 4, I have briefly mentioned North Korean children's education at the *Hanawon*.

²¹⁴ The MOE has been involved in policies for North Korean children since 2006 when the *Hankyeoreh* School was established through supporting its operation.

²¹⁵ Support for children out of regular school, however, is limited to those who ask for support.

²¹⁶ The *Hankyeoreh* School, established in 2006, is a government-supported, alternative specialized school for North Korean children of middle school and high school ages to bolster their emotional stability and help them to improve their basic academic skills.

²¹⁷ Graduating from *Hankyeoreh* and *Yeomyeong* Schools is a recognized degree from among the nine alternative schools for children with a North Korean background.

Table 7.

Number of North Korean Attendants in Regular and Alternative Schools

	Regular School						Alternative School	Total
	Elementary School		Middle School		High School			
	Male	Female	Male	Female	Male	Female		
Total	1,992 (90.5%)						210 (9.5%)	2,202 (100%)
Number of North Korean Attendants in School	1,204 (60.4%)		351 (17.6%)		437 (21.9%)			
	602	602	162	189	212	225		
Number of Dropout	27		11		18			

(Source: MOE, as of April 2012.)

The rate of school enrollment for North Korean youths (from the age of six to 20) was 58.1% (and only 10% for high school) in 2005 and was under 60% until 2007. The rate increased to 77.3% in 2009,²¹⁸ but it is still low compared to the South Korean enrollment rate, which is 98.2% for elementary school, 97.8% for middle school, and 92.8% for high school (Chung, Choi, & Choi, 2012). The dropout rate for multicultural children is also known to be high; however, relatively less attention has been paid to those multicultural children out of school with regard to media coverage. Many articles deal with the dropout rate of North Korean students (for example, 2 Jun. 2013, *Yeonhap News*; 11 Jun. 2013, *Joonang Ilbo*; 24 Sep. 2013, *Chosun Ilbo*; 27 Nov. 2013, *Seoul Economy*), while the dropout rate or school enrollment rate for multicultural children makes fewer headlines (13 Feb. 2013, *EDaily*). This discrepancy in terms of media attention represents South Koreans' expectations for more rapid adaptation by North Korean adult and children settlers alike than for other migrant groups. According to recent research (M. K. Lee, 2010), 24.5% of children from marriage migrants are out of

²¹⁸ Since 2010, the number of school-aged North Korean children (aged 6–20) has not been available. It can be assumed that the enrollment rate is higher than that in 2009, since the number of North Korean students attending school has increased constantly, and the figure was 1,992 in 2012.

the regular education system. The rates for multicultural children who did not enter school at all and who dropped out are 15.4% for elementary school children, 39.7% for middle schoolers, and 69.6% for high schoolers. As for the children of migrant workers, 80% of them do not attend school.²¹⁹

The MOE, which bears the main responsibility for the educational support of North Korean children in school, states that the aim of policies for North Korean children is to support them to enhance their adaptability in school, and in Korean society, and to enable them to grow up as competent, democratic citizens (MOE, 2011). In line with the policy for adult North Korean settlers, the focus is on building a citizen who can contribute to South Korean society. The main policies of the MOE for North Korean children extend into four areas: (1) supporting early adjustment education by sending teachers²²⁰ to the *Samjuk* Elementary School (to special classes for North Korean children including third country-born children), and *Hanadul* School in the *Hanawon*, and developing academic-level assessments (for class placement); (2) supporting education in regular schools; (3) supporting children who are out of regular school²²¹; and (4) strengthening the overall support system for North Korean students (MOE, 2011).

Most of all, supporting regular school education is largely the responsibility of the MOE, which is charged with such tasks as developing teaching material specific to

²¹⁹ Children of undocumented migrant workers are admitted to school only with a residency address, but few of these children go to school due to crackdowns on illegal migrant workers through tracing them through their children. In 2006, the MOE requested related government bodies such as the Ministry of Justice not to trace children of undocumented migrants (MOE, 2006). However, many of these children have been refused admission to school (Chung, Choi, & Choi, 2012).

²²⁰ Social workers, North Korean teachers, and retired teachers are in charge of North Korean children in those schools.

²²¹ Those who do not enter regular school and go to alternative schools or who do not attend any school.

North Korean students, providing customized support (e.g., a one-on-one mentoring program), and supporting schools with large numbers of North Korean students by dispatching coordinators who are exclusively responsible for helping North Korean students. With the 2009 establishment of the North Korean Youth Education Support Center of the Korean Educational Development Institute (KEDI),²²² which is in charge of overall educational support for North Korean children in school and children out of the regular school system by helping NGOs supporting those children, educational support for North Korean children began to be organized. Afterschool tutoring programs are also provided to reduce the disparities in academic performance between South and North Korean students.

For North Korean children, the school dropout rate is regarded as an indicator of their maladjustment and this number has attracted significant public attention.²²³ The cause of the high dropout rate (see Table 8) is attributed to difficulties in study, especially because of the educational vacuum caused by North Korean children's extended stay in third countries,²²⁴ and thus, the age difference between North Korean and South Korean students. Moreover, different school systems and a different curriculum between North and South Korea hinder North Korean students from keeping pace with South Korean students of the same age. Especially, third country-born children (28.6%) have more trouble in adjusting to the different language and culture than North Korea-born children do (19.1%), and reports show that there is more demand (about 13% more than for North

²²² KEDI is a government-supported institute under the authority of the MOE that conducts educational policy research and planning.

²²³ Han, 3 Oct. 2004, *The Kukmin Daily*; Yang, 13 Nov. 2008, *Daily NK*.

²²⁴ According to Chung, Choi, and Choi (2012), 66.9% of children had stayed in third countries such as China, Thailand, and Cambodia before they entered South Korea.

Korea-born children) in terms of educational support (Chung, Choi, & Choi, 2012).

Table 8.

Dropout Rate of North Korean Students

	(%)	Elementary	Middle	High School	Total
North Korean Students	2007	3.5	12.9	28.1	10.8
	2008	1.4	9.0	14.2	6.1
	2009	0.9	8.5	9.1	4.9
	2010	2.5	4.4	10.1	4.7
	2011	2.6	3.8	4.8	3.3
South Korean Students	2011	0.3	0.8	1.2	

(Source: MOE, as of April 2012.)

To help North Korean students adapt to the South Korean school system, and in particular, to help them overcome underachievement in their studies, a one-on-one mentoring program has been provided in regular schools since 2010. The mentoring program includes counseling, supplementary lessons after school, and field trips, and this program is considered by the media and the government as one of the main reasons for the decreased dropout rate. As seen in Table 8, the dropout rate for North Korean students has decreased continuously and was 3.3% in 2011; however, it is still higher than the average for South Koreans. It is mainly getting worse at the middle and high school level, and the number of children turning to alternative schools is increasing. In 2011, 42% of students in *Yeomyeong* alternative school (accredited) had enrolled after quitting regular school, and there are more alternative schools (usually not accredited) for middle and high school ages than for elementary school children.

Other than monitoring and assisting North Korean children's studies in regular school, different organizations are involved in afterschool activities and other support for them outside school. The Ministry of Gender Equality and Family provides afterschool

activities, tutoring, and career counseling for migrant youth, including children of North Korean background (including third country-born children), through the Rainbow Youth Center in order to support early adaptation once the children are settled in regions. This Center sends two teachers to the *Hanadul* School in the *Hanawon* and supports the *Hanawon's* education programs for North Korean youths. Various programs to support adjustment to residential areas are also provided for children without distinguishing between North Korean-background and multicultural-background children. Moreover, this Center promotes programs that South Korean children and migrant-background children participate in together to encourage their cultural exchange (“multicultural sensitivity”) and provide them with an opportunity to understand each other. However, these programs are limited to children who ask for help and focus on educational support outside the scope of the MOE’s authority (i.e., they are mostly for children who have difficulties in school, who do not attend school, or who are without parents). There are not many third country-born children who use these centers, and it seems that they often attend alternative schools, which provide board and afterschool care, because their mothers need somewhere that will take care of their children while they are working. Another reason is to learn Korean before entering regular school since there are many third country-born children who cannot speak Korean at all.²²⁵ Many North Korean children—not only those who are too old to attend regular school or who have difficulties in adjusting to South Korean schools, but also those who need consistent care after school hours—go to alternative schools (9.5%; Table 7). The problem is that graduation from

²²⁵ KSL (Korean as a Second Language) in preparatory schools for multicultural children was introduced in 2012, but there are only three schools in the Seoul area since it is in the early stages of introduction. Third country-born children may attend a KSL program, although they are not specified as recipients of it (MOE, 2012).

most alternative schools cannot be accredited and so a school qualification exam is required for those children.

Regional *Hana* Centers, which are responsible for early adaptation education in residential areas, focus on education for adults, as stated above, because the number of North Korean children in each region is very small (an average of two children per month). Moreover, it is also believed that there would not be enough demand for these centers from children who attend school and who are taken care of by the school system. Some centers (34.5%), however, provide programs such as educational and career guidance, regional adaptation education, and counseling for children during the term after leaving the *Hanawon*, and before entering school to help them adjust better to school (Chung, Choi, & Choi, 2012, p. 273). For example, Korean language courses, which might be necessary for third country-born children, are provided occasionally (not on a regular basis). A few children take courses at a *Hana* Center, postponing school entry for a week or two. Other than the early-stage education, some *Hana* Centers have programs for North Korean youths (those who have settled in their regions for some period); however, each Center has only one or two programs in mentoring, support for study, and experiencing Korean culture, and there are not many choices (Chung, Choi, & Choi, 2012). Although the *Hana* Centers are under the authority of the Ministry of Unification, they provide support programs for third country-born children within the North Korean family unit.

The NKRF projects that are applicable to North Korean youths include helping them afford home-study materials, taking online English education, supporting alternative schools, and offering afterschool activities. Third country-born children are included in

the services offered by the NKRF. The NKRF also carries out scholarship projects and assists in the operation of group homes for North Korean youths without parents. Many NGOs also provide various kinds of support for North Korean youths, such as vocational education, afterschool programs, and alternative schools with dormitories. Preparing for a school qualification exam and for the college entrance exam, from among the educational programs offered by NGOs, take precedence. The activities of NGOs are on the rise, in particular, offering group homes for children without parents has been increased, and the South Korean government has entrusted the operation of regional *Hana* Centers to regional NGOs.

As the number of children of marriage migrants and North Korean settlers in the process of migration has grown, there is growing recognition that policies for adult migrants are not always suitable for their children, and that current policy focused on adult individuals should focus more on the needs of the diverse young children of North Korean families. In general, the MOE and the Ministry of Gender Equality and Family primarily share the responsibility for policies related to migrant-background children. The MOE is not primarily responsible for policies pertaining to North Korean settlers and multicultural families, but produces separate educational policies for children of the two groups. It is in charge of the academic-ability recognition procedure (recognition of North Korean school grades) and supports alternative schools for North Korean children. The MOE gives multicultural children educational support for Korean language proficiency and for dual language study (since 2011), as well as support for maladjusted children. The Ministry's main policy direction for North Korean children and other migrant children is to discover and strengthen the children's own abilities and talents (M. K. Lee, 2012). This

view is rooted in a neoliberal idea of focusing on strengthening the competitiveness of students so that they will be useful in South Korea. In this light, children out of school are encouraged to take vocational classes so that they can support themselves, and those who have low educational attainment are motivated to go to schools for vocational and technical training (MOE, 2011). Instead of recognizing those children as “one of us,” the government’s educational policies view them as useful human resources for South Korean society.

Professionals who work in North Korean youth education and welfare facilities at the regional level make no distinction between children from North Korea and China or other countries: they treat third country-born children as North Korean escapees.²²⁶ As they view third country-born children as North Korean escapees, they provide the same services, except that they offer Korean language education for children from China, who have a difficult time speaking Korean.²²⁷ Third country-born children are usually regarded as children with a North Korean background in the educational setting, especially in terms of educational support, but the entry into regular school itself seems to be difficult²²⁸ because mothers of third country-born children suffer from economic hardship and lack government funding. Most North Korean settlers perceive third country-born children as the same as North Korean escapees and argue that these children also need government support.

²²⁶ Alternative schools accept them as North Korean escapees. Rainbow Youth Centers, for example, provide programs for “migration background children” including third country-born children.

²²⁷ Most of these children speak Chinese and have difficulty securing opportunities to learn Korean because many of them have recently attended Chinese schools given registration under the Chinese system.

²²⁸ Chung, Choi, and Choi (2012) raise the possibility that many third country-born children do not enter regular school.

Attempts to Include Third Country-Born Children in the Settlement Support Act

The problem is that policies for North Koreans and other migrants are often focused on the short term, without long-term prospects and systematic planning being considered. The advantage of this kind of approach is that it is easy for the ministry in charge to produce tangible results in the short term (I. S. Kim, 2010). For example, policies for multicultural families emerged when the number of marriage migrants noticeably increased and the issue of human rights violations against foreign brides emerged. The inclusion of third country-born children, in a similar manner, has been discussed more as they increase in number. Table 7 shows that elementary school children (60.4%) make up the largest part of the North Korean student body, while third country-born children take up 54% among them in 2013 (as seen in Table 9). It is often assumed that the number of North Korean escapees is no longer increasing and has stabilized,²²⁹ but there are many families of North Korean escapees still to come to South Korea, including young children, who are in China.

²²⁹ It is said that “those who are determined to escape from North Korea have already come.” Various reasons for the decrease in the number of North Korean escapees have been proposed. The Kim Jung-Eun regime has kept a close eye on North Koreans, the border crossing between North Korea and China has become more difficult, and third countries are strengthening crackdowns on illegal stays, and those difficulties have increased the cost of brokers. In addition, the expanding markets in North Korea (*Jangmadang*) and North Korean propaganda against South Korea (exploiting North Korean escapees who went back to North Korea) discourages them from moving to South Korea to earn money (Kim & Cho, 8 April 2013). Current policies are capable of covering up to 5,000 North Korean escapees per year. The largest number was around 3,000, and the two *Hanawon* facilities can accommodate up to 4,400 people per year..

Table 9.

*The Number of North Korea-born and Third Country-born Children in School*²³⁰

	2011			2012			2013		
	ELEM*	Middle School	High School	ELEM*	Middle School	High School	ELEM*	Middle School	High School
Born in North Korea	435	275	363	580	268	436	532	270	380
Born in Third Countries	585	13	10	624	83	1	627	208	5
Total	1,020	288	373	1,204	351	437	1,159	478	385
Percentage of Third Country-Born	57.3	4.5	2.6	51.8	23.6	0.2	54	43.5	1.2

(Source: MOE, *Elementary School.)

As a remarkable number of third country-born children have begun to appear, the amendment of the Settlement Support Act to protect third country-born North Korean youths has been proposed several times²³¹ by members of the National Assembly who are interested in these children, and advocate for the humanitarian needs of third country-born children regardless of their political affiliation. As the problem of excluding “unprotected youths” from the Act has recently been a debated topic, the definition of “residents escaping from North Korea” in Article 2 has been criticized for its narrow scope. Proposed bills suggest revisions to include “the children (direct descendants) of North Korean escapees”²³² to broaden the scope of eligible protection, and in particular,

²³⁰ The number of third country-born children is hard to figure out and it used to be counted as “North Korean children” altogether (e.g. MOE, <http://www.hub4u.or.kr/hub/edu/status01.do>). Schools have counted the numbers of third country born children separately from children born in North Korea since 2011; however, sometimes they miscount them as “North Korean” or “multicultural” children. Further, when the third country-born children come with their mothers, the number is counted at the *Hanawon*; however, it is hard to trace the number when they come alone (after the entry of their mothers) and do not attend school (Shin, 2011).

²³¹ Since May 2010, as proposed by 19 members of the National Assembly including Woo-Yea Hwang, proposals on the revision of Article 2 of the Settlement Support Act have been submitted four times, including the recent amendment proposed by 13 members of the National Assembly, including Yoon-Joe Shim, on 13 Nov. 2013.

²³² Partial Amendment of the Settlement Support Act (proposed by Woo-Yea Hwang and 19 other members)

to prevent the exclusion of third country-born children from financial aid.

Given that North Korean escapees are considered as South Korean nationals, the controversy over whether to include third country-born children in the legal category of North Korean settlers raises the question of who should and should not be regarded as South Korean. In answering this question, ethnic, political, and economic considerations are entangled with androcentric concerns, but no consistent standard has been applied. The issue is also sometimes argued from the perspective of human rights, but at other times, from the point of view of administrative expediency. The inclusion of third country-born children in the Settlement Support Act is mostly regarded as a matter of accepting them (officially) as South Koreans, although many third country-born children can currently acquire South Korean nationality. This tendency has been displayed in recent disputes over the amendment of Article 2 of the Settlement Support Act, and the issue of South Korean citizenship has emerged in this process.

The government's position on this amendment is that third country-born children have not experienced "escaping" from North Korea and that the amendment is unfair to children of South Korean parents who are born in other countries²³³ or to children of North Korean parents who are born in South Korea.²³⁴ A study that focused on preschool children from North Korean families showed that 89.7% of these children were born in South Korea (Lee, Lee, & Kim, 2010). The South Korean government recognizes that the

on 12 May 2010.

²³³ Partial Amendment of the Settlement Support Act (proposed by Woo-Yea Hwang) Review Report of November 2010, p. 7.

²³⁴ Partial Amendment of the Settlement Support Act (proposed by Myung-Chul Cho) Review Report of November 2012, p. 5; Partial Amendment of the Settlement Support Act (proposed by Jae-Kwon Sim) Review Report of November 2012, p. 4; Partial Amendment of the Settlement Support Act (proposed by Youn-Joe Sim) Review Report of November 2013, p. 4.

number of third country-born children is not significant enough to warrant a special policy or special status for them. Although third country-born children have accounted for more than half of the entire population of elementary school children with North Korean backgrounds in recent years, as seen in Table 9, the government's position is that this is still a small proportion compared with the entire North Korean escapee population, and it has been more concerned about North Korean-born children in China.²³⁵

The purpose of the Settlement Support Act is to facilitate the speedy settlement of North Korean escapees by according them the special status of “persons eligible for protection in the light of the special relations between the two Koreas”; therefore, assigning such status to third country-born children with no experience of “escaping” is at odds with the purpose of the Act, according to the government's explanation.²³⁶ However, even though the children of North Korean women born in China have not directly experienced crossing the border between North Korea and China (or North Korea and South Korea), they have gone through all the other ordeals experienced by North Korean children (e.g., hiding in China and undertaking a difficult journey to South Korea). Many researchers report that some North Korean mothers experience repatriation twice or more (S. G. Lee, 2012),²³⁷ and their children show emotional instability given the sudden absence of their mothers; this instability remains as they arrive in South Korea.

²³⁵ *NK Vision*, 5 July 2013.

²³⁶ Partial Amendment of the Settlement Support Act (proposed by Woo-Yea Hwang) Review Report of November 2010, p. 7.

²³⁷ “North Korean women who have repatriated three times,” *KBS News*. North Korean woman who was repatriated forcibly three times. Although it is hard to determine the exact number, it is known that thousands to tens of thousands of North Koreans in China are forcibly repatriated to North Korea each year. According to 2012 research by the NHRCK, 36% of North Korean children born in China experienced their mothers' forced repatriation, and there are some cases of mothers who have been repatriated to North Korea twice or more (NHRCK, 2012).

This justification stems from the fact that such children are family members who are equally affected by the experiences of each relative. Children of North Korean women in China (including third country-born children) live in constant fear of their mother's forced repatriation to North Korea, and they often come to South Korea through third countries by crossing borders, such as Laos and Thailand, which can take up to a year (Shin, 2011).

On July 25, 2013, the National Human Rights Commission of Korea (hereafter, the NHRCK)²³⁸ issued a statement on the human rights of the China-born children of North Korean women escapees, stating that the issue is an extension of the human rights problem of North Korean escapees. The NHRCK also indicated that no difference exists between children born in North Korea and children born in China (as members of North Korean families) in terms of the necessity of providing them with support once they have settled in South Korea. In light of this position, the NHRCK recommended extending diplomatic efforts to the Chinese government to stop the forced repatriation of North Korean women; just like children born in North Korea, the China-born children of North Korean women require protection and support.

While some South Koreans support the inclusion of third country-born children in the Settlement Support Act for humanitarian reasons, others oppose including third country-born children in the same category as other North Koreans. Reasons for opposing such support include that such children already receive benefits equivalent to other North Korean escapees and that their inclusion may arouse controversy about reverse

²³⁸ "The commission may, if deemed necessary to protect and improve human rights, recommend related entities to improve or rectify specific policies and practices or present opinions thereon" (National Human Rights Commission Act, Article 25).

discrimination or that they should be regarded as Chinese.

The government, however, argues that little difference exists between children born in North Korea and third country-born children in terms of protection and support because they enjoy the benefits provided to North Korean parents (mostly mothers); that is, settlement funds, housing, and education. There seems to be little economic variance between the families of third country-born North Korean children and other North Korean settlers given that educational expenses are low until high school. However, there are differences in settlement funds and housing support, both of which are increased by the number of North Korean family members.²³⁹ The largest distinction between third country-born children and North Korean children is educational support in the form of full tuition-fee exemption in public universities (exemption from half of the tuition fees in private universities) and a special university admission process.²⁴⁰ Given that university tuition is exorbitant, competition for admission is fierce, and enthusiasm for study is very high, the North Korean parents of third country-born children feel that there is a huge difference (Jeon, 2011).

For this reason, mothers of third country-born children often complain about the different treatment of siblings. Some mothers regard third country-born children to be a burden after they have brought them to South Korea. Unlike other North Korean children, they do not have financial support, and mothers encounter difficulties earning a living

²³⁹ Refer to Table 4 in Chapter 4.

²⁴⁰ North Korean youths apply for “special admission for foreigners” on a supernumerary basis, and separate quotas are imposed on North Koreans. Recently, however, some universities have set a minimum level of academic ability (a minimum score on the university entrance exam) (S. S. Min, 7 June 2013). This approach was implemented in the interest of fairness and to avoid criticism around the reverse discrimination against South Korean students. Since university entrance is a very sensitive issue in South Korea, some South Korean parents have complained about the special admission to the most prestigious universities for North Korean children (J. G. Ryu, 1 Dec. 2005).

and supporting their children's education. Many mothers of third country-born children are at a loss about whether they should bring their children to South Korea because of the economic hardships they will face. Although the MOE provides them with the same educational support as North Korean-born children, as mentioned above, many third country-born children do not even enter school and have no opportunity to receive such support.

The government is, however, reluctant to expand the target of the Settlement Support Act to include those who can acquire South Korean nationality by recognition (Nationality Act, Article 3), and those who are beneficiaries of other welfare policies for low-income children, and multicultural policies, which are targeted at children of Korean nationals and foreign spouses. Third country-born children can receive afterschool educational programs, language education for preschoolers, and childcare expenditure (no cost until the age of three) support under the Multicultural Families Policy (Shin, 2011). However, the inclusion of third country-born children under such policies and under the policies for North Korean settlers makes a huge difference not only in terms of benefits, but also in terms of their identity.

The government's concern about expanding the scope of the category of "North Korean escapees" is that other groups in a similar situation, such as South Korea-born North Korean children and North Koreans currently in China,²⁴¹ may also assert their right to receive special treatment. Within one family, for example, there could be a North Korean mother, her North Korea-born child, a China-born child, and a South Korea-born

²⁴¹ Other groups, such as Chinese nationals who were born in North Korea and resided there, can also fall under this category.

child. North Korean parents may insist on the need to support children who are born after entry into South Korea. Therefore, to prevent the indeterminate expansion of the scope of the Act, the South Korean government argues that certain criteria must be satisfied for a person to be considered a North Korean escapee: the existence of a North Korean address and relatives, and the experience of escape, for example (Settlement Support Act, Article 2).

Including third country-born children in the Settlement Support Act means additional costs that would be a burden to the South Korean government, considering that an enormous budget is already allocated to North Korean settlers.²⁴² According to the Partial Amendment of the Settlement Support Act (proposed by Myung-Chul Cho and nine other members) on November 22, 2012, the additional costs (for the increase in the initial settlement cash aid and the increase in housing rental aid for added family members) of including third country-born children under the Settlement Support Act are estimated at 5.6 billion won. Thus, those who oppose the inclusion of third country-born children under the same law as other North Koreans insist that pouring more money into North Korean settlers by expanding the beneficiaries will provoke disputes on reverse discrimination. The argument is that giving North Korean settlers more benefits than vulnerable South Korean social groups is a form of reverse discrimination against South Koreans, and that it will cause conflict between North and South Koreans (S. G. Park, 28 Mar. 2013). Among the opponents, some suggest that other measures should be devised

²⁴² Out of the Ministry of Unification budget of 512 billion won in 2012, the budget for all types of settlement support for North Korean escapees was 123 billion won; 70% of the money (87 billion won) was allotted only for education and training, as well as for the provision of settlement funds (material submitted by the Ministry of Unification to Youn-Joe Sim, Member of the National Assembly following the inspection of the Ministry of Unification conducted by the National Assembly).

instead of supporting them through the Settlement Support Act to avoid the accusation of reverse discrimination. These measures could include giving North Korean mothers with third country-born children additional money or supporting those children from different funds.

Nevertheless, third country-born children whose parents are both North Koreans are exempted from exclusion from the Settlement Support Act. If both parents are proven North Korean escapees, children who are born in a country other than North Korea are recognized as “persons eligible for protection”²⁴³ and receive all the benefits allotted to them, while third country-born children with one foreign parent (Chinese fathers in most cases) are not recognized. This exclusion contradicts the Nationality Act, as its Article 2 defines a Korean national as someone whose “father or mother” is a Korean national at the time of birth. If China-born children have acquired Chinese nationality, then they are South Korean nationals pursuant to the necessary process indicated in Article 3 (attainment of the nationality by acknowledgement) of the Nationality Act, in which such children are acknowledged by a Korean mother or father. That is, third country-born children are South Korean nationals according to the Nationality Act, just as North Korea-born children are; however, they are not treated equally in the Settlement Support Act.

This perspective reflects androcentric views on determining a person’s status as South Korean (aside from their legal status). Even though the androcentric definition of a Korean national was revised in 1997, the aforementioned standpoint prevails in Korean

²⁴³ Partial Amendment of the Settlement Support Act (proposed by Woo-Yea Hwang) Review Report of November 2010, p. 5.

society. Thus, children born to two North Korean parents are definitely regarded as Korean, while China-born children with Chinese fathers are not. In contrast to the definition of a South Korean national in the Nationality Act, the application of the Settlement Support Act tends to regard the children of foreign fathers as foreigners. Third country-born children who have North Korean mothers and Chinese fathers, thus, are not treated as South Koreans, even if they are legally nationals of South Korea.

The same androcentric tendency is evident in China. Legally, children with a North Korean mother and a Chinese father can have Chinese nationality (Chinese Nationality Law, Article 4).²⁴⁴ To acquire this status, the children should be enlisted under a Chinese household registration. In the past, North Korean mothers had trouble under such a registration system, because they were compelled to hide their identities to avoid forced repatriation to North Korea. Recently, however, the circumstances for such children have improved, and the Chinese government endows Chinese nationality on children with Chinese fathers without requiring the mothers to provide identity documentation. Although not technically legal, registration solely based on the father's documentation can be accomplished either by paying a penalty, or by offering bribes in exchange for being registered in the household registration, and thus assigned Chinese nationality. Although cases differ by province, the Chinese government is not averse to issuing Chinese nationality given the high acquisition rate of household registration (95%) in recent research.²⁴⁵ Thus, there is state complicity in unofficial registration processes.

²⁴⁴ “Any person born in China whose parents both are Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.” (Retrieved from <http://world.moleg.go.kr/World/EastAsia/CN/law/7761?y=0&searchCondition=ALL&x=0&searchKeyword=%EA%B5%AD%EC%A0%81>, accessed on 3 Dec. 2013).

²⁴⁵ The remaining 5% of children in China are stateless, however. The NHRCK conducted a survey of 100

As China is a male-centric society, the Chinese government recognizes children with Chinese fathers and North Korean mothers as Chinese nationals. Moreover, Chinese fathers have a strong attachment to their offspring under the one-child policy (which has been in effect since 1980, until the recent announcement of the lifting of this policy) since most Chinese men (usually poor or disabled) who married North Korean women encounter difficulties in marriage, as stated in the previous Chapter 4. Once conferred with Chinese nationality, children in China can attend school and are afforded health care. For this reason, many children who have come from China recently are educated (NHRCK, 2012).

In this light, the most important issue for the South Korean government is the possibility of diplomatic disputes over nationality with China. Given that around 95% of third country-born children hold Chinese nationality, issues such as possible custody disputes with Chinese fathers (especially when the children obtain financial aid) prevent amendment.²⁴⁶ Many North Korean mothers want to bring their children, but not their husbands, to South Korea because of numerous unwanted marriages.²⁴⁷ However, the mothers usually do not have rights to their children if Chinese fathers register the children through the household registration system. Thus, registering a child to the Chinese household registration system can have contradictory effects. Registration can be good

children of North Korean mothers in three provinces (Jilin, Liaoning, and Heilongjiang) of the northeastern part of China in 2012. According to research conducted by the Korea Institute for National Unification and Johns Hopkins University, however, an estimated 20,000 children are born to North Korean mothers in the same regions of China (KINU, 2013). Considering that many North Korean escapees in China live in inaccessible areas, many children are assumed to have stateless status, unlike the children surveyed by the NHRCK (You & Kim, 22 Jan. 2013; *NK Vision*, 5 Jul. 2013,).

²⁴⁶ Partial Amendment of the Settlement Support Act (proposed by Woo-Yea Hwang) Review Report of November 2010, p. 8; Partial Amendment of the Settlement Support Act (proposed by Jae-Kwon Sim) Review Report of November 2012, p. 4.

²⁴⁷ As briefly stated in Chapter 4, many North Korean women escapees in China are trafficked or forced to marry Chinese men who are usually poor and disabled (who have difficulty in getting married).

for the children as a means of guaranteeing basic human rights. Yet it can also preclude the children's ability to migrate with their mothers. Indeed, there have been some cases of Chinese fathers using registration as a system of extortion by holding the children in China and demanding that the children's mother send money to support them or arrange migration for the entire family to South Korea (Shin, 2011; *NK Vision*, 5 July 2013). If mothers are somehow able to bring their children (with or without the father's consent), third country-born children may then undergo an administrative process in South Korea, if their mothers choose to register them as South Korean nationals.

Under the South Korean Nationality Law, North Korean settlers automatically acquire nationality without having to undertake any legal procedures.²⁴⁸ Through this process, they register their births at a later date with acquaintances as witnesses (because they cannot register births and are usually not issued with birth certificates in China),²⁴⁹ and add the children to the mothers' family register. Although third country-born children are currently eligible to acquire South Korean nationality, the government is concerned that nationality problems may arise if such children are included in the category of "residents escaping from North Korea" and are provided with financial aid. Third country-born children can have both Chinese and Korean nationality; however, China prohibits dual citizenship.²⁵⁰ For this reason, the South Korean government is concerned that providing special protection and support might be construed as urging third country-

²⁴⁸ The process of registration for family relations is cleared during the stay at the *Hanawon*.

²⁴⁹ According to telephone inquiries to the person in charge of family registration at the *Hanawon*, North Korean escapees are exempted from the penalty for a late registration of a birth.

²⁵⁰ "The People's Republic of China does not recognize dual nationality for any Chinese national" (Chinese Nationality Law, Article 3, retrieved from <http://world.moleg.go.kr/World/EastAsia/CN/law/7761?y=0&searchCondition=ALL&x=0&searchKeyword=%EA%B5%AD%EC%A0%81>, accessed on 3 Dec. 2013).

born children to surrender their Chinese nationality.

To avoid the indeterminate expansion of the scope of beneficiaries and to prevent diplomatic disputes, several recent proposals to revise the Settlement Support Act have included provisory clauses, such as children “under 19 years old who do not have parents or guardians” and children “born in a third country but who do not have foreign nationality.”²⁵¹ Although the definition of North Korean escapees was confined to minors and stateless children, the bills did not pass the legislature for similar reasons as the 2010 bill. That is, if third country-born children who have no experience of “escape” are eligible for the Settlement Support Act, problems may arise, such as the issue of parity with those who are born after entry into South Korea. The problem of custody and the possibility of removal from the Act when a Chinese father appears and insists on the child’s Chinese nationality were raised to include stateless children in China.²⁵² Furthermore, it is suggested by the government that “For minors whose parents passed away or whose survival is not assured, it is difficult [in the administrative process] to prove objective facts of whether they are children of North Koreans or not.”²⁵³ The South Korean government also raised the concern that people disguised as North Korean escapees may enter the country for settlement funds or that brokers who introduce routes to South Korea for money might force the children’s entry to the country against their will.

²⁵¹ Partial Amendment of the Settlement Support Act (proposed by Myung-Chul Cho and nine other members) on 22 Nov. 2012; Partial Amendment of the Settlement Support Act (proposed by Jae-Kwon Sim and nine other members) on 2 Sep. 2012.

²⁵² Partial Amendment of the Settlement Support Act (proposed by Myung-Chul Cho and nine other members) Review Report of November 2010, p. 5.

²⁵³ Partial Amendment of the Settlement Support Act (proposed by Jae-Kwon Sim) Review Report of November 2012, pp. 4-5.

In this regard, the most recent bill (November 2013) takes a different approach from previous bills. All the other previous bills tried to revise the definition of “residents escaping from North Korea” (meaning North Korean escapees) in the Settlement Support Act (Article 2, Section 1); however, the recently proposed bill suggests revising “persons eligible for protection” in Section 2 of Article 2 instead.²⁵⁴ The November 2013 bill features an attempt to include third country-born children as eligible for support by classifying them under the category of recipients of the Act, leaving intact the definition of “North Korean escapees.” This move is an attempt to resolve nationality and diplomatic disputes and to find ways to provide support to third country-born children who have similar experiences to North Korean escapees; both are characterized by an unstable status, and encounter difficulty in receiving government support, especially children who come without their parents.

The situation of third country-born children without parents and of North Korean children without parents stand in stark contrast to each other.²⁵⁵ North Korean children without families have relatively easy access to the *Hanawon* and they are provided with a rental house and other forms of support when they reach adulthood. Third country-born children are allowed to stay at the *Hanawon* for humanitarian reasons; however, admission to the facility is difficult for third country-born children when they enter South

²⁵⁴ “The term ‘persons eligible for protection’ means residents escaping from North Korea who are provided with protection and support pursuant to this Act” (Settlement Support Act, Article 2 Section 2).

²⁵⁵ In recent cases, the number of children coming to South Korea without family has decreased because border crossing is difficult for young children and border controls were strengthened after the Kim Jung-Eun regime. As of May 2012, the number of North Korean youths without families was 572 (Gender Equality and Family Committee, 2012). These youths enter South Korea alone to avoid poverty or as a result of the death of or separation from their parents. They experience difficulties living by themselves, with some obligated to send money to remaining relatives in North Korea. Although the number of orphaned North Korean children coming to South Korea or staying in China has decreased, the number of children born to North Korean mothers has increased (*NK Vision*, 2013; NHRCK, 2012).

Korea alone or even when their mother arrives ahead of them. Thus, unless third country-born children come to South Korea holding their mothers' hands, they cannot easily be admitted to the *Hanawon*. Children of Chinese descent without parents encounter difficulties in proving North Korean relations (whether they are indeed the children of North Koreans). Conversely, for children without parents from North Korea, there are different ways to verify their identities because data are available from the NIS. For example, the NIS compares testimonies from other North Koreans, such as geographical information and miscellaneous observations about North Korea (Y. Y. Kim, 2009). The NIS and related government agencies spend a week to several months investigating North Korean escapees, and the escapees are placed in solitary confinement for a given period of time (about a week). The time allocated for investigation depends on how rapidly the escapees confirm their identities; this process is more easily accomplished by those who are relatives, friends, or neighbors of early entrants into South Korea, because their identities are checked by those who are already verified. Thus, the administrative inconvenience of securing proof of identity for third country-born children also prevents their inclusion in the category of "North Korean escapees."

Practically, however, no difference appears to exist between the classifications of third country-born children as "residents escaping from North Korea" (Section 1 of Article 2) or as "eligible persons for protection" (Section 2 of Article 2 of the Settlement Support Act). The South Korean government's perception is that in whichever category third country-born children fall into, the result is the same.²⁵⁶ That is, the government

²⁵⁶ Partial Amendment of the Settlement Support Act (proposed by Youn-Joe Sim) Review Report of November 2013, p. 4. The November 2013 bill is still pending and the deliberation on the bill will carry

worries that the issue of unfairness to South Korea-born North Korean children may be raised and thus, the indefinite expansion of eligible persons for protection might be unavoidable if third country-born children are acknowledged in the Act.

The South Korean government has maintained the view that North Koreans are South Korean nationals according to the Constitution. This perspective has held true even as the policies governing North Korean settlers have changed because of modifications to how North Koreans and administrative bodies (i.e., the Ministry of Patriots and Veterans Affairs, the Ministry of Health and Welfare, and the Ministry of Unification) are regarded. However, the case of third country-born children of foreign parentage shows that nationality and ethnicity are considered in determining one's status as South Korean. Issues related to Chinese nationality are identified as the cause of the failure of the proposed revisions, thereby depriving the youths of protection and support. If only nationality matters in determining who qualifies as a "North Korean escapee" (and thus who is regarded as a South Korean), the proposed revisions, which are limited to youths "who have not acquired another nationality"²⁵⁷ (i.e., stateless children), should be approved. As those who oppose the inclusion of third country born children under the same law as other North Koreans insist, third country-born children with Chinese fathers can obtain South Korean nationality, but they are still perceived as foreigners.

Policies affecting children with migrant backgrounds can be divided into two major groups: those for multicultural families and those for North Korean settlers. In accordance with each policy, these children are placed in different afterschool classes and

over to the next session.

²⁵⁷ Settlement Support Act, Article 2 Section 1.

are actively distinguished from one another (e.g., “multicultural” and “North Korean”) and from South Koreans. When teachers address children as “multicultural children,” they may have no intention of hurting the children, but the children may well feel that they are being treated differently from other South Korean children. In South Korea, the label “multicultural” is extended to children who are perceived as and marked as “other” than South Korean. When teachers refer to “multicultural” students, they may include North Korean children, whom they assume fall under this category (i.e., the category of “other than South Korean”). Young children do not have a thorough understanding of their countries of origin; when they are designated as “other,” they may not understand why, but they may experience marginalization. People who work at facilities for migrant children oppose separate treatment because this approach impedes the social integration of the children and segregates them.

The categorization of children according to various government policies overlaps, as is clear when third country-born children can belong to the category of “North Korean” and also to the category of “multicultural.” Furthermore, groups that do not belong to either category are emerging and have been given new names. For example, children born in China to a North Korean parent do not fit into the definition of “North Korean escapees” and have begun to be called third country-born children. Likewise, children from multicultural families who were not born in South Korea but have migrated to South Korea do not identify with the category of “multicultural children” and are called “immigrated youths of multicultural families.” The distinction between third country-born children (one North Korean and one foreign parent) and “immigrated youths of multicultural families” (one South Korean and one foreign parent) is evasive, in that both

groups of children entered South Korea after birth and have a parent with a foreign nationality. This kind of grouping is divisive, ignoring differences within groups and similarities between groups. Furthermore, designating children as “multicultural” and “North Korean” marks them as different from South Koreans and contributes to stereotyping and stigmatization.

To solve the problem of the exclusion of third country-born children and immigrated youths of multicultural families, support policies for newcomers are viewed from the perspective of a family unit. Narrowly defined legal terms preclude many people from citizenship. Meanwhile, South Koreanness is defined narrowly and confusingly, in that sometimes those who have South Korean nationality are not accepted as “true” South Koreans in South Korean society (e.g. *Hanhwa*, mixed-heritage people, and third country-born children). To redress this injustice to excluded groups of newcomers by political institutions and through social prejudice, immigration policy in South Korea should be reassessed. Thus, I argue for the introduction of a comprehensive immigration policy framework that would include North Korean settlers as migrants. The contours of a comprehensive immigration policy are the focus of the final chapter.

Chapter Six

Toward a Comprehensive Korean Immigration Policy

In the past, political reasons accounted for much of the motive to escape for North Korean escapees. Many experts in North Korea-related organizations and in research institutes, however, say that the motives for escape from North Korea have recently changed to include economic hardships and a wide variety of other reasons, such as reunion with family members, better lives, or better education for their children (NK Vision, 2013). The composition of the North Korean escapee population has also diversified since families often escape together. Of course, the plight of North Korean escapees is characterized by unique conditions, but the reasons why they migrate (escape) have diversified to the extent that the North Korean migrant population now resembles migrant populations from other countries. North Korean settlers are also newcomers to South Korean society and have difficulty adapting to their new surroundings and are marginalized just like other migrants, even though they are of South Korean nationality. Having citizenship does not guarantee their full membership in South Korean society. However, the fact that North Korean settlers undergo the same experiences as other migrants in South Korean society has been given little attention. According to I. J. Yoon (2011), general public perception shows similar support for considering North Korean settlers to be migrants (who should be treated the same as other migrant groups in South Korea) or coethnics (who should be treated differently from foreign migrants). Given the changed situation, policies for North Korean escapees need reassessment. Migrants and North Korean settlers should be considered within a broader framework of immigration policy in the future.

The national boundary of South Korea is arbitrary in that only North Koreans are legal citizens, while ethnic Koreans from other countries (e.g., *Joseonjok*) are not. The South Korean government has made major efforts to assimilate North Korean settlers into South Korean society. This is because the influx of North Korean settlers is understood mostly within the political context of the divided Korea. According to Seol and Skrentney (2009), South Korean society draws a hierarchical distinction among ethnic Koreans. They assert:

Though it is true that horizontal nationhood is typically a model or aspiration and not reality, we wish to distinguish and highlight the sociological significance of the hierarchical nationhood phenomenon from the discriminations and rights denials that are common in many if not all states. These rights denials usually come about based on beliefs in some ethnicity-, race-, or gender-based inferiority, inadequacy or stigma. (p. 151)

North Korean settlers have South Korean citizenship while *Joseonjok* do not; however, both groups have experienced discrimination and have low social status. Thus, some North Korean settlers complain that they are treated worse than *Joseonjok* without citizenship.

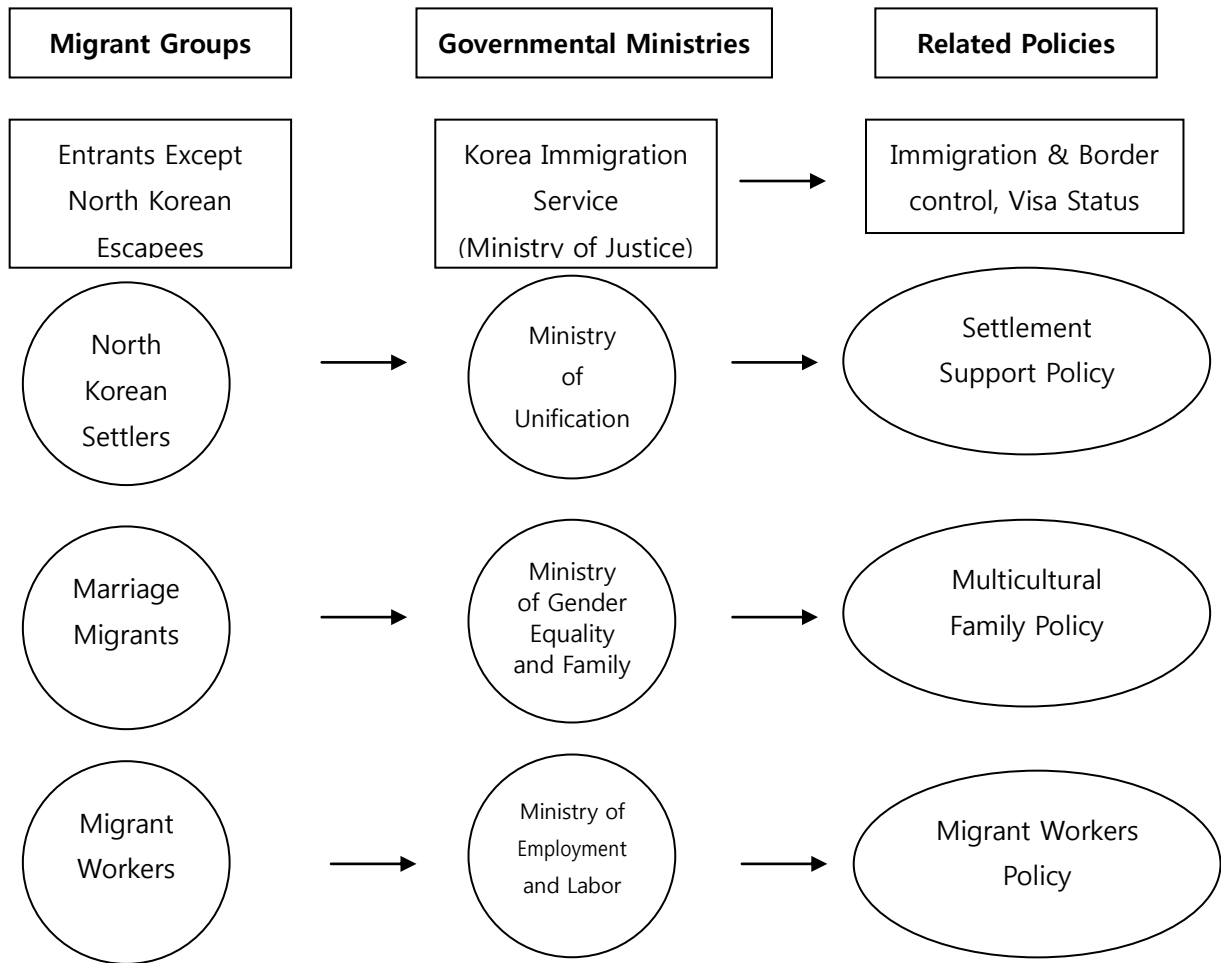
The South Korean government puts great emphasis on “co-nationality [ethnicity] and economic utility” regarding its policies for migrants. However, Seol and Skrentney (2009) assert that North Korean settlers are likely to be “at the bottom of the Korean hierarchical nationhood” because of their economic ineptitude (pp. 164, 166). They add:

But with the North Koreans, South Korea will be confronted with a population of full-blooded Korean people, members of the Korean nation, with constitutionally granted full equality—but who have very limited skills or even capacity to function well in South Korea’s highly competitive capitalist economy. (p. 166)

In this light, the South Korean government has focused on nurturing economically useful citizens by devising various job training programs; however, this support does not seem

to have a major effect on the actual employment of North Korean settlers, as shown by their low employment rate. Moreover, against the government's expectation, North Korean child migrants have not been assimilated "naturally," as the dropout rate indicates. Stigmatization and discrimination against a child's North Korean background hinders adaptation to South Korea. Thus, my argument is that it is necessary to view them as migrants and to focus less on making ideological use of them and on forced assimilation; this will rectify not only the exclusion of third country-born children but also the creation of ethnic markers of migrant groups.

Scholars assert that there is officially no "immigration policy" and no central administrative organization governing immigration policy in South Korea (Seol, 2013b; M. J. Chung, 2012). "Policy for foreigners" is the officially used term instead of immigration policy, while "multicultural family policy" and "foreign workforce policy" are used in a similar way but have a narrower scope. Separate policies and ministries are involved in policies for different migrant groups, as seen in Figure 4, but there is no centralized authority to mediate those policies.

Figure 4. *Current Immigration Policies in South Korea*

Ministries apply specific policies with their own targets according to their areas of which responsibility. For example, the foreign workforce policy of the Ministry of Employment and Labor is intended for unskilled migrant workers and does not apply to the entire foreign workforce, and the multicultural family policy of the Ministry of Gender Equality and Family is targeted at marriage migrants and their children. As each ministry proceeds with its own immigration policy according to its particular target group of migrants, and as many migrant-related policies emerge from different ministries, policies overlap for some groups while almost no policies exist for others, such as

guaranteeing the rights of legal migrant workers.

Three committees²⁵⁸ are supposed to determine and mediate policies for foreigners: the Foreigners' Policy Committee, which establishes and executes a master plan regarding policy for foreigners (Framework Act on Treatment of Foreigners Residing in the Republic of Korea, Article 8); the Committee for Foreign Human Resources (Act on the Employment, Etc., of Foreign Workers, Article 4), regarding foreign workers; and the Multicultural Family Policy Commission (Multicultural Families Support Act, Articles 3–4), which deals with multicultural family policies. However, the scope of their authority and their responsibilities are not clearly defined, and they have no power to manage a source of revenue.

Recently, it has been argued that an integrated immigration law should be enacted to unify the current Immigration Control Act, Refugees Act, and other laws related to foreigners,²⁵⁹ and that a new administrative body to control immigration policy should be established to integrate the above three committees.²⁶⁰ Currently, border control, foreign workforce policy, and social integration policy in South Korea are managed as disconnected policies (Chung & Jeon, 2012), while the focus is placed on social integration policies for particular groups: North Korean settlers and multicultural families. As the number of migrants increases, the need for a separate executive body of immigration policy has been proposed because the current system cannot effectively deal

²⁵⁸ The Foreigners' Policy Committee and the Multicultural Family Policy Commission are under the prime minister, and the Minister of the Office for Government Policy Coordination takes the chair of the Committee for Foreign Human Resources. Government officials from related governmental agencies serve as committee members.

²⁵⁹ See Table 1 in Chapter 3.

²⁶⁰ Establishing a centralized authority for immigration policy has been discussed in a couple of public hearings and conferences held by the Ministry of Justice and National Assembly Research Service and a few National Assembly members.

with complicated immigration policies.

In dealing with newcomers and redefining what it means to be South Korean, the South Korean government applies different and separate policies and rationales to different groups of newcomers. Table 10 shows the South Korean government's logic to differential treatment of migrant groups.

Table 10. *Different Groups of Migrants and Different Standards*

		Nationality	Ethnicity	Economic Utility	Political Meaning
North Korean Escapees		○	○	△	○
Marriage Migrants		△	×	×	△
Overseas Koreans	Korean American	×	○	○	×
	<i>Joseonjok</i>	×	○	△	×
Migrant Workers		×	×	△	×

(Seol and Skrentney (2009) argue that North Koreans have no economic utility, but since they are offered many programs by the South Korean government to build this utility, I used a triangle to indicate that they have slight utility.)

Therefore, different groups are given different status in South Korea according to their ethnicity and political usefulness (North Korean settlers), the possibility of their settling down (marriage migrants), and their economic usefulness (Korean Americans) with several policies and laws. The government perceives that North Korean escapees have limited skills to function in South Korea's capitalist economy (Seol & Skrentney, 2009) and put enormous efforts on job training, as seen in chapter 5. However, marriage migrants do not seem to be recognized as people who can participate in South Korean economy (i.e., economically active population of South Korea) by the government since little effort has been put to offer them jobs or job training programs.

Because policies for foreign migrants are dispersed among ministries²⁶¹ and there is no cooperation among ministries over decisions on immigration policies and budgets, policy overlaps are getting worse (M. J. Chung, 2012). Thus, different ministries employ the same projects (for multicultural families in many cases).²⁶² Thus, it is difficult to implement a coherent and effective immigration policy. Furthermore, rather than leading migrants to become “true” South Koreans, these separate policies have simply led to the creation of distinct ethnic groups within South Korea. Separate policies have also led to labeling migrants as the poor and “miserable” who need aid or as powerless victims,²⁶³ and migrants are not viewed as active agents of their own citizenship. Multicultural children are now defined as children who are not ethnically Korean and those who are poor, helpless, or inferior (I. S. Kim, 2010; M. K. Lee, 2012; Lee & Lee, 2011).

South Korean immigration policy has evolved from immigration control to social integration. Since the announcement of a support plan for families of women marriage migrants, mixed-heritage people, and migrants in 2006²⁶⁴ and the first Basic Plan for Immigration Policy in 2008, the South Korean government has moved from immigration control to social integration policy; that is, a policy that was initially narrowly focused on maintaining order through immigration control and management began to stress

²⁶¹ Currently, 19 ministries make policies for immigrants. Interview with Jong-Ho Shin, Gyunggi Research Institute by SBS. Retrieved from <http://sbscnbc.sbs.co.kr/read.jsp?pmArticleId=10000616093>

²⁶² For example, policies for marriage migrants are administered by the Ministry of Gender Equality and Family and Ministry of Justice, and there are concerns that these policies may overlap. *Yonhap News*. (2013, December 18). Retrieved from <http://www.yonhapnews.co.kr/bulletin/2013/12/16/0200000000AKR20131216121600372.HTML?input=1179m>

²⁶³ Mohanty (2003) raised a similar point about Western feminists labeling third-world women as powerless, universal dependents, or victims.

²⁶⁴ Press Release of Presidential Committee on Social Inclusion. (2006, April 26). Retrieved from <http://pcsi.pa.go.kr/publish/chp03.asp?ex=v&ex2=3&seq=3133>

improved treatment and human rights for foreigners. However, social integration programs are still mostly targeted at marriage migrants and their children and are focused on education in the Korean language and in Korean culture and society. “Integration” still means assimilation to South Korean society, and no efforts are made to reduce South Koreans’ discrimination and prejudice toward migrants. Social integration policies, which now only refer to multicultural policies, should also be directed at South Koreans to teach them to respect minority culture and to prevent discrimination. In this sense, enacting antidiscrimination law deserves much consideration. Assimilation policies of the South Korean government that disregard North Korean identity and subjectivity have not been effective in helping North Koreans to resettle.

According to the Second Basic Plan for Immigration Policy (2013–2017),²⁶⁵ South Korea’s immigration policy has mainly been concerned with border and immigration control. The second plan announced that the concept of “immigration policy” would also include border and immigration control, conferring nationality, and social integration (Ministry of Justice, 2012b). However, the term “policy for foreigners” is still used officially when indicating policies related to migrants, and both ministries and the public confuse the policy for multicultural families with immigration policy. In particular, the general public in South Korea regards multicultural policy as a policy for those who are not Koreans, and further, as a policy for vulnerable groups.²⁶⁶

Since immigration policies are applied differently to different groups from the time they enter South Korea, new policies are devised whenever new groups (such as

²⁶⁵ The first plan was between 2008 and 2012.

²⁶⁶ This confusion about terms related to multicultural families and multiculturalism in South Korea has a tendency to lead to antipathy toward multiculturalism.

multicultural families) emerge in South Korea. When new groups do not fit into an existing group, they are given new names and excluded, as seen in the case of third country-born children. Instead of dividing newcomers by applying different criteria to them, North Koreans, marriage migrants, and migrant workers should be treated equally under a comprehensive immigration policy framework, and then differential treatment should be applied to those migrants with special needs. My argument is that an integrated immigration policy is necessary instead of having multiple authorities administer immigration policy and applying different policies to different groups. This assertion, however, does not mean that all migrants should be treated the same, nor does it mean that no special policy should exist for migrants.

Differential treatment should be applied with a coherent standard around particular issues (such as language needs and child care) rather than around ethnicity and race (which are constructed by racializing policies and practices). Policies should be tailored to the needs of policy recipients and not determined by the perspectives of policymakers. Rather than creating a particular group first and then making a special policy for that group, a more comprehensive understanding of migrant background is required. In this way, those who require language assistance, such as third country-born North Korean children and multicultural children from other countries, can reap the benefits of the policy even if they do not belong to a certain group. Current immigration policy will constantly create disputes about the definition and expansion of a group, and this problem will not be resolved by simply changing the definition of a group or adding new people to it.

Current South Korean immigration policies confer benefits depending on which

group a person falls into. Such policies are in danger of homogenizing people within a group, “otherizing” a group, and excluding those who fall outside the group. People who do not belong to a certain group (e.g., third country–born children and immigrated youths of multicultural families) are excluded from benefits although they share similar experiences with people in that group. In the case of North Korean settlers, they are “deemed to belong to a certain ethnic group that is different from South Koreans not only by South Korean governmental policies but in their daily lives with South Koreans,” and personal and behavioral markers, such as accent and dress, have been used as ethnic markers of North Korean settlers in this othering process (H. Y. Choo, 2006, p. 590). In the case of third country–born North Korean children, their mixed-race status hinders their inclusion in South Korea.

Scholars and immigration-related personnel who agree on the need for a new immigration system, however, differ on the specific changes required. Creating a more comprehensive and integrated immigration policy framework would require establishing a new government immigration agency,²⁶⁷ or a new committee under the authority of either the president or the prime minister,²⁶⁸ or upgrading the existing Korea Immigration Service to the level of ministry. For example, Seol (2013b) emphasizes a “whole of government approach [an integrated government approach]” (p. 16) instead of segmented

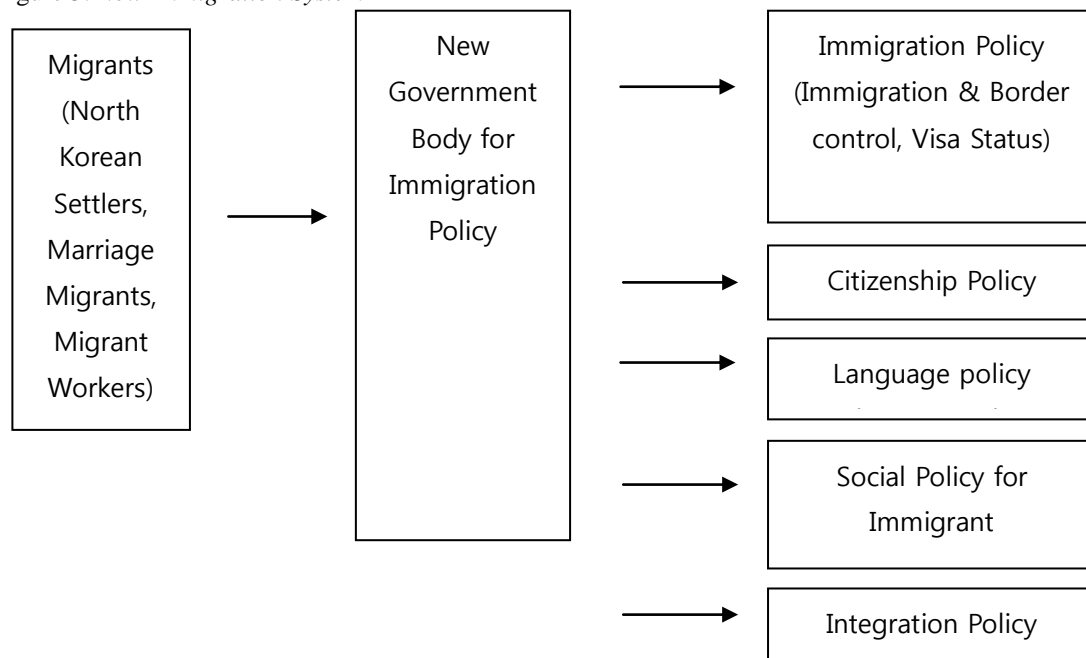
²⁶⁷ It is claimed that there is a need to create a new authority to handle policies relating to immigration as a control tower (Seok & Yoo, 2011). Retrieved from <http://news.mk.co.kr/newsRead.php?year=2011&no=461500> The South Korean government was creating a plan for a new immigration office; however, it rejected the plan in July 2011. Ministry of Strategy and Finance. (2011, July 11). Retrieved from <http://www.korea.kr/policy/actuallyView.do?newsId=148714936>

²⁶⁸ Currently, three committees mentioned above are under the prime minister; however, they should be integrated to one committee with more power (e.g., by strengthening its members with working-level officials) or they should belong to the president, who has immense power.

immigration policies and argues for establishing an immigration and nationality agency²⁶⁹ (tentative name) to establish and mediate immigration policy (M. J. Chung, 2012). Others support establishing a ministry-level authority²⁷⁰ to govern immigration policy or strengthening the current Korea Immigration Service to a ministry level. It is commonly asserted, in any case, that the Korea Immigration Service under the Ministry of Justice, which currently manages border and immigration control and social integration policies, is inadequate to control overall immigration and social integration policies, and that a reorganization of the immigration system is necessary.²⁷¹

As seen in Figure 5, the new perspective requires changes in the current immigration policy system.

Figure 5. *New Immigration System*



²⁶⁹ This argument is to build the immigration agency under the authority of the Ministry of Justice, similar to the Federal Office for Migration and Refugees under the Federal Ministry of the Interior in Germany. However, it is also argued that the immigration agency should be under the Ministry of Security and Public Administration as it is in Germany.

²⁷⁰ For example, an independent department of traditional immigration, such as the U.S. Department of Homeland Security and Citizenship and Immigration Canada.

²⁷¹ For the pros and cons of this issue, see Seok (the former commissioner of Korea Immigration Service) and Yoo. (2011, July 15). *MK Business News*. Retrieved from <http://news.mk.co.kr/newsRead.php?year=2011&no=461500>

Considering the history of migration and the number of migrants in South Korea, an agency-level government body would be more appropriate to deal with migrants than a ministry-level body. A framework incorporating immigration policies, which are divided into several policies and disconnected each other, should be established first. The function of a new immigration agency would include border and immigration control, visa and stay management, nationality-related tasks, and other particular needs for migrants. If the immigration agency were under the authority of the Ministry of Justice as it is now, immigration policies might be focused on control in a narrow sense. If the immigration agency were to be put under the control of current ministries, current committees should be incorporated and under the authority of the president to research, plan, and regulate immigration policy. Making the new agency and a new integrated committee directly responsible to the president is one way to empower the body to plan and mediate immigration policies. Meanwhile, central ministries should hand over power and funds to local governments to promote support to migrants depending on regional needs. There are 1,064 diverse NGOs supporting foreigners in local communities, but their participation in governmental policies is low (M. J. Chung, 2012). Thus, local level committees to organize cooperation between the government and NGOs and to keep track of various regional needs are conceivable. As stated in Chapter 3, South Korea has many emigrants as well as an immigrant population, ethnic return migration, and North Korean migration, and all of these should be managed within a comprehensive framework of immigration and citizenship policy.

Ministries with their own interests and policy orientation tend to support different proposals for restructuring the immigration and social integration system. In particular,

there is friction between the Ministry of Justice and the Ministry of Gender Equality and Family over social integration policy. The Ministry of Gender Equality and Family wants to view multicultural policies under a family policy framework, while the Ministry of Justice considers them to fall under its policies for foreigners. It is necessary to recognize and reinforce each ministry's function to form a consensus on the need to change the immigration system. Within the new government body, each ministry should take care of issues that fall under their purview. For example, the Ministry of Employment and Labor is in charge of employment policy for short-term visitors; however, the employment of all other migrants, such as long-term residents and marriage migrants, should also be governed by the Ministry of Employment. In the same vein, the policies of the Ministry of Gender Equality and Family should target not only marriage migrant families but also families of legal migrants.

Other than the conflicts between ministries, some people argue that it is too early to establish a government body in charge of immigration policies because foreigners still make up a small percentage (about 2.8%) of the South Korean population. Others argue against strengthening policies for foreigners due to concern about crimes committed by foreigners, fear of losing jobs to foreigners, and fear of losing cohesive South Korean national identity. According to a presentation paper given at a public hearing on the second Basic Plan for Immigration Policy, there are approximately 20 online anti-multicultural groups, such as the Club Against Multicultural Policy (with more than 10,000 members), many of which express these concerns (J. M. Kim, 2012). In addition, many North Korean settlers may not welcome being lumped into an overall immigration policy. North Korean settlers resist efforts to categorize themselves as "migrants,"

because they think of themselves as people who have simply moved from one region to another within the same country.²⁷² Parents of third country–born children refuse to be treated as members of a multicultural family for this reason; they do not consider themselves foreigners, since “multicultural family” means foreigners to them and to South Koreans.

However, a comprehensive immigration policy framework expands the target population (such as third country–born children), integrates policies for migrants, and recognizes migrants as equal members of South Korean society. For this purpose, institutional changes (public policy) should be accompanied by changes in public attitudes to eliminate discrimination.²⁷³ Immigration policies in South Korea have institutionalized racism/ethnicism and sexism. All groups of migrants, who were governed by different authorities from the moment of their entry, are to be governed by a new authority. Therefore, as seen in the term “children with migrant backgrounds,” it is necessary to view groups (e.g., North Korean escapees, marriage migrants, and migrant workers) simply as migrants without distinguishing between them, and benefits should be given to those who are in need. Children with migrant backgrounds should have support irrespective of their ethnicity or country of origin. This approach not only reduces policy repetition but also avoids excluding those who do not fall under the purview of a specific

²⁷² When a North Korean organization, mentioned in Chapter 5, appealed for calling them Koreans, without specifying “North,” they maintained that it distinguishes South Koreans by “region of origin” and is discriminatory (Petition Urging Partial Amendment of the Settlement Support Act, submitted to the National Assembly by the North Korean Escapees Alliance, including In-Sook Jang, the representative, on December 13, 2001, and discarded).

²⁷³ For example, roles of activist groups to prevent discrimination and revision on textbooks emphasizing ethnic homogeneity (which is in progress since 2007) might be effective. Gendered, raced, and ethnicized images of migrants are reproduced by media. Many TV shows in South Korea are stereotyping and victimizing migrants. Instead, media should play a role in educating South Koreans about respecting difference.

policy. Instead of distributing benefits to people depending on which group they belong to, those who are in need of language support or job training support, for example, should be granted it. This approach would not take benefits from North Korean settlers or multicultural children but would help deliver government support to those who need it.

In South Korea, certain groups, such as North Korean settlers and multicultural families, receive group-based benefits intended to make them equal Korean citizens (“Koreanize” them). However, this has only resulted in marginalizing those people. Thus, it is important for migrants to achieve substantial equality. Group-based policies have strengthened the distinction between “us” and “them.” For example, special programs in and out of school for multicultural children have resulted in separating those children from mainstream South Korean children by “otherizing” them with negative images and from other groups (e.g., North Korean children). To change this, restructuring policies should be accompanied by educating South Koreans to dissipate prejudices. Current multicultural policies are focused on teaching the Korean language and culture to migrants; education of South Koreans, however, is limited to the superficial experience of other cultures. Integration must be understood as “a two-way process involving both the newcomers and the receiving society,” and “successful integration can only take place if the host society provides access to jobs and services, and acceptance of the immigrants in social interaction” (Castles, Korac, Vasta, & Vertovec, 2002, pp. 112–113).

Moreover, migrants should be allowed to retain their identities. The goal of the South Korean government’s immigration policies is to help migrants who settle there to assimilate quickly and to encourage those who are not certain of settlement to leave. Once it is determined that migrants wish to settle down in South Korea, they are forced to

accept the country's culture and rules and to leave behind their differences, abandoning all aspects of their identity, which is an impossible project.²⁷⁴ By setting ideals of good citizens, the government makes an effort to assimilate them into Korean society, which represses diversity. Lim (2009) argues that South Korean national identity defines difference and diversity as undesirable and therefore inferior. However, as the North Korean settlers show, they want to retain their North Korean identity (58.4%) rather than to become "true" South Koreans (6.3%).²⁷⁵

Toward a more democratic and just citizenship theory and practice

The concept of citizenship in South Korea is understood in various ways. Since citizenship, nationality, and ethnicity are used interchangeably in South Korea, "being South Korean" has been understood as an acquisition of South Korean nationality and legal status and in accordance with Korean ethnic identity. Koreans typically believe in ethnic homogeneity whether they live in Korea or abroad. This emphasis on a united people is reinforced through history, the colonial experience and nation-building process, modernization and development, and the confrontation with North Korea. The unique historical and political context of South Korea has led to the appeal of a common "South Koreanness" and to a shared South Korean community. Overseas Koreans and North Koreans are assumed to have the same Koreanness based on blood ties, language, and shared history and culture. South Koreans and other ethnic Koreans (especially North Koreans and Korean Japanese) may all believe in this unique Korean identity.²⁷⁶

²⁷⁴ These expectations for migrants include abandoning loyalty to their country of origin and constructing new identity as South Korean.

²⁷⁵ *The Chosun Ilbo*, (2009, July 5), as cited in Kang (2011), p. 217.

²⁷⁶ On the other hand, South Koreans realize that overseas Koreans are different despite their Korean ethnicity and having different values and lifestyles.

However, the definition of South Koreanness is arbitrary, as seen in the example of Hines Ward, a famous U.S. football player whose mother is Korean. He never achieved South Korean nationality and thinks himself as American, but South Koreans think of him as Korean (in that he has Korean blood) and are proud of his success (being selected as an MVP). He is accepted as South Korean despite of his “mixed blood,” unlike other mixed-heritage people in South Korea. Thus, what Lim (2009) calls the “Hines Ward phenomenon” raises debates about Koreanness in that it is not only “pure-bloodness” that defines it; sometimes different standards are applied (e.g., economic success or economic utility). In many cases, there is no consistent way to define who is South Korean when different standards are used in different situations.

The legal definition of South Korean is also arbitrary in that only North Koreans are accepted as citizens in accordance with an authoritative interpretation of the Constitution, as demonstrated in Chapter 4, while other ethnic Koreans are not automatically awarded citizenship. In this light, South Korean membership is extended to different groups at different rates. The legal definition of North Korean escapees was clarified by the enactment of the Settlement Support Act, when there was a urgent need to distinguish between who is and is not North Korean (in particular, between North Koreans and Korean Chinese), as many North Korean escapees arrived via China. Children of North Koreans are legally South Korean, and third country-born children are also legally South Korean, but only if the mother registers her child’s birth on her family register. However, as seen in Chapter 5, their mixed ethnicity (whether they have Chinese nationality or not) prevents inclusion in the legal category of North Korean escapees.

This dissertation examined the legal status of North Korean settlers in South Korea and the policy of excluding third country-born North Korean children. I investigated how the notion of citizenship is applied in South Korea. By exploring citizenship and immigration policies and practices of South Korea, I showed the way in which those policies and practices affect creating differences and “otherizing” migrant groups, including North Korean settlers. Group-based differential treatment of migrant groups in South Korea shows a preference for blood-related Korean groups, such as North Korean settlers, spouses and children of South Koreans, and ethnic Korean workers, over foreign workers. However, as D. H. Kim (2012) asserts, group-based migrant policies in South Korea classify families who are outside the “normative [South Korean] family (South Korean parents and their biological children)” (p. 332), and this classification is based on the assumption that families composed of South Koreans (“us”) and nonethnic Koreans (“them”) are different from “normal” South Korean families and might have difficulties. By this logic, the South Korean government distinguishes third country-born North Korean children from other North Korean children. Thus, it can be said that third country-born children are differentiated twice: from North Korean settlers who are differentiated from South Koreans, to put it simplistically. South Korean society marginalizes migrant groups by essentializing their “cosmetic differences” (H. Y. Choo, 2006, p. 590) and makes hierarchies among coethnic groups and among migrant groups with various concerns, such as economic and political concerns.

In South Korea, social citizenship has not been fully developed in theory or practice. Squires (2007) notes that “debates about equality amongst contemporary political theorists—and liberal egalitarians in particular—have tended, until recently, to

focus on social citizenship, implicitly assuming that civil and political equality have been assured, and therefore no longer require scrutiny” (p. 534). While distributing rights and benefits through differential treatment of migrant groups, South Korea has put less emphasis on citizenship as individual rights (civil, political, cultural, and, above all, social rights) and put more emphasis on the collective national identity and goals (e.g., modernization and economic development). Creating fully assimilated South Koreans has been stressed in citizenship policies, but giving rights to citizens is almost ignored. For this reason, instead of giving migrants benefits from a weak social welfare system, the South Korean government creates benefits for newly created groups to guarantee their livelihood; however, this has produced vulnerable groups and essentialized their victimhood. As Cohen (1999) argues:

Justice and the rule of law, the democratic demand for voice and equal rights, and the communitarian concern for solidarity and collective identity could come together on the terrain of the democratic welfare state provided that social rights of citizenship are acknowledged. This is the core of what I have called the modern paradigm of citizenship. (p. 252)

Thus, while I argue for changes toward more comprehensive immigration policies, these should be accompanied by strengthening the welfare system and increasing public awareness for the need to accept differences and prevent discrimination.

It should be also noted that North Korean settlers and other migrants are active subjects in the citizen-making process of South Korea. Citizenship can be defined as democratic membership in a political community and as an active struggle to give substance to formal status and rights and to redefine their boundaries (Moon, 2005, p. 9). They are claiming South Korean membership by trying to be assimilated into South Korean society, refusing to assimilate, or struggling to gain and protect rights. Ong (1996)

views citizenship as “a cultural process of ‘subjectification,’ in the Foucauldian sense of self-making and being-made by power relations that produce consent through schemes of surveillance, discipline, control, and administrations” (p. 737). In the politics of North Korean citizenship, the South Korean state, civil society,²⁷⁷ and North Koreans themselves are participating as active agents. Thus, as H. Y. Choo (2006) notes, “the production of new citizen-subjects is an interactive process between North Korean settlers and South Korean society” (p. 590).

Researchers on South Korean citizenship have tended to focus on a particular group of migrants, such as marriage migrants, migrant workers, or North Korean settlers, and on their “problems” and maladjustment to South Korean society. However, the diversity within groups should also be explored, as feminist scholarship suggests. The case of third country–born North Korean children demonstrates the need to be cautious about essentializing a group (North Korean settlers), and I have attempted to study those who were excluded through the lens of citizenship and through an attempt to balance diversity and difference, equality, and social justice while giving attention to diverse and complicated contexts. Burgeoning citizenship and feminist theories in the West and in South Korea guided my project to go beyond the focus of a group and victim framework and toward comprehending the dynamics of political and economic factors that affect policy, and of the othering and racializing process shaped by policy. By suggesting policies that would give government support to those who need it, this work advances

²⁷⁷ Lim (2010) notes that a nexus between Korean civil society and foreign migrant workers has brought concrete legal and institutional changes.

inclusion in a more democratic and just way by reconsidering diversity and equality, even though it would be an ongoing project for citizenship studies.

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