

The National Human Rights Commission of Korea: A Decade of Glories and Disgraces (2001–2011)

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Abstract

This paper aims to overview the records that the National Human Rights Commission of Korea (NHRCK) had trod for its first ten years in life. In Part 2, the backgrounds how NHRCK was born are observed. Part 3 will brief human rights conditions in Korea as understood in the international society. Part 4 will sketch the structure and working mechanism of NHRCK. Part 5 will highlight some of the major activities of NHRCK for its first seven years (2001–2007). Part 6 will focus the changes observed after the President Lee Myung Bak was inaugurated. (2008–2011) Part 7 will conclude with the suggestions for improvements in order for NHRCK to grow into a well-established institution as an effective government agency responsible for the protection and promotion of human rights in Korea.

Keywords

National Human Rights Commission of Korea, National Human Rights Commission Act, Lee Myung Bak

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I. Introduction

The year of 1987 was a watershed in the modern history of Korea, as it provided a solid foundation for her later journey toward the political democratization. In late June of that year, the nationwide civil revolts finally

ended with a monumental victory of the people, who, among others, had fought for the direct election of their President. For the Koreans, direct election of the President had been a symbolic task to retrieve the deprived democracy by the military dictatorship. People's victory was documented with the constitutional amendments, in a manner accommodating both the year-old dream and the newly emerging *Zeitgeist*. Under the new Constitution, the President is elected by the direct vote of the people, and serves for a single term of five years. The new Constitution also caused the birth of a new judiciary institution, the Constitutional Court. Within a short period, this new Court emerged as a star institution of the nation, and a valuable reference for other countries as well.

The victory of the people did not stop with the changes of the documents and the implementation of the new institutions. The true and real victory was the fundamental changes in their mindsets: People have come to realize their sovereignty and become ready to claim it in their daily lives. Now, the concept of popular sovereignty has been materialized, and the spirit of the participatory democracy has widely spread. Such awakening has permeated into all areas of their civil, political, social, economic, and cultural life. In all cross-sections of the society, old practices have been reviewed with the new standards. Catch phrases such as “consumers rights” and “demand-driven policies” have become a daily terminology. (Chang & Lee, 2003) The explosive growth of NGOs in the 1990s provided a new driving force for the democratic transformation of Korean society. (Eun, 2006; Lee, 2006; Cha, 2002; Cho, 2001)

In November 2001 another government institution was born in Korea with the blessings and expectations of the people and the civil society. The establishment of the National Human Rights Commission of Korea (NHRCK hereinafter) largely owes to the dedicated efforts of NGOs.

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grow into a well-established institution as an effective government agency responsible for the protection and promotion of human rights in Korea.

II. The Birth of NHRCK

The Republic of Korea was born in 1948 by the U.N. initiative. Ironically, however, it was not until 1991 that she finally became a U.N. member state. In that year, U.N. accepted both South Korea (ROK) and North Korea (DPRK) simultaneously as its member states. Regardless of their status as sovereign states in the international arena, however, domestic laws of both Koreas do not grant full recognition each other. The Constitution of South Korea consistently maintains that she is the sole legitimate state on the entire Korean peninsula and her territory includes the northern part occupied by the north as well.

In March 1990 the National Assembly of South Korea, by unanimous votes of the whole members, passed the resolutions ratifying the two major U.N. Covenants; the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). They became effective as of July 1990. (The Protocol to ICCPR was also ratified with some reservations.) Ratification of the two major Covenants was a preparatory step for Korea to become a member of the U.N. The entry to U.N. afforded Korean society a momentum to actively engage in international discourses on human rights, and an opportunity to learn of the international currents and trends.

The 1993 Summer of Vienna was filled with passion and zeal produced by over 7,000 delegates gathered from 171 countries covering all the corners of the globe. Included were some 30 South Koreans composed of NGO workers and a few lawyers. They were much enlightened with the fresh ideas of the human rights protection on the global level. Up to this moment, their knowledge, interests and activities in human rights hardly crossed over the national border. In particular, they were struck by the new terminology, “NHRI”, which was presented as an effective institution for the future realization of human rights in domestic system of justice. On return, these enlightened few initiated a new experiment. Mobilizing around, they organized the National NGO Coalition for the Establishment of an Independent National Human Rights Commission.

The 1993 Vienna Declaration of Human Rights and Action Plan for the

Protection and Promotion of Human Rights were formally adopted by the General Assembly of the United Nations in December of the same year, and “NHRI” became a core element of this document. In the mindsets of these Koreans pioneers, NHRI now has been enshrined as a symbol and hope for the future progress in the Korean human rights.

In the presidential election of 1997, they successfully put this agenda onto the catalogue of the campaign pledges of Kim Dae Jung, the winning candidate from the Opposition Party. Kim’s election was a clear victory for these aspirants. However, victory in election did not guarantee the immediate birth of an NHRI. For a long period thereafter, they had to wage all-out war to keep the issue alive. They had to manifest numerous statements, conduct organized picketing, sit-in demonstrations, and even hunger strikes. The progress was slow and tedious. In the course, the NGOs coalition held a series of public hearings to formulate a draft bill for the creation of the Commission. Many proposals and drafts produced by various actors drew public attention, inviting tensions among civil society, political parties and the government. The single most critical issue was how to make this new institution as an independent, and free standing public entity. The original draft by the Ministry of Justice aimed to put the Commission under its jurisdictional control. Faced with ferocious resistance from the civil society, however, the draft had to be withdrawn. International society also paid keen attention to the progress. Many UN Treaty Bodies expressed their wishes and expectations for the birth of a fully independent NRHI in compliance with the Paris Principles. As the administration failed to propose a draft bill, the ruling party in the National Assembly took the initiative to present its own draft bill. It took almost three years until the final enactment of the NHRCK Act, in November, 2001, by a narrow margin at the National Assembly. The conservative Opposition Party officially objected to the bill, and quite a few members of the ruling party did not join either. First time in the history of Korea, NGOs played critical roles throughout the entire process in the actual enactment of a statute. Finally, on November 25, NHRCK officially opened its doors to receive the first petition from a citizen.

NGOs had no official standing in the conventional regime of the rule of law, and their eminence was somewhat embarrassing to the existing stakeholders. However, their activities have been largely condoned, if not accepted, as a newly fostered universal rule, as epitomized in the practice of the United

Nations. Under the banner of participatory democracy, the civil society has taken actions in relation to the legislature, the executive, and the judiciary. Diverse activities of the Korean NGO groups deserve in-depth analysis. At a glance, however, three groups—namely, women, environmentalists, and persons with disabilities—have reaped remarkable achievements. Some of the NGO leaders of 1990s among these groups turned into policy makers in the government. They brought their agenda to the government, gaining a sarcastic nickname, “Next Government Officers” for themselves and “Near Governmental Organization” for their home institutions. Frustrated conservative wings criticized NGOs with derogative terms such as “red guards of the left-wing government.”

The birth of NHRCK was a clear victory for the citizens and the NGO activists. It was a monumental achievement of President Kim Dae Jung as well, who had been awarded the Nobel Peace Prize in the previous year (2000). However, in minds of Kim’s political opponents, the Commission remained as a symbol institution advocating Kim’s political ideology. This was the original sin of the Commission. To these conservative bents, Commission’s activities largely appeared to side with Kim’s political ideology and orientation. A clear example is found in the attitude dealing with the human right of North Korea. As Kim’s “Sunshine Policy” has been virtually repudiated by the conservative Lee Administration (2008–2013), the Commission was asked to actively engage in the activities directly targeted on the North Korean government.

III. Overview of the Human Rights Situation of Korea

There seems to be a wide consensus that Korea’s efforts for the promotion of civil and political rights deserve a fair credit, although a few issues continue to receive international criticism.¹ Public outcry for reformation of the police and prosecution has led to some concrete measures with institutional changes. For instance, surveillance mechanisms have been reinforced in the investigation and law enforcement processes. A number of detention facilities and military camps are now subject to routine scrutiny. As a consequence, incidents of blatant abuse of state power such as torture have been remarkably reduced in recent years. In addition, the world witnessed

1 Korea’s human rights records are often discredited due to its retention of death penalty and the National Security Law, and the denial of conscientious objection. However, no actual execution has been done since.

Korea's economic uprising over the past two decades. Eventually Korea joined the OECD in 1996, and successfully overcame the Asian financial crisis of 1997 while maintaining the average growth rate.

Contrasted with her remarkable improvements in the civil and political rights, Korea's records in social and economic rights remain poor. Among OECD countries Korea stands at the lowest level in her welfare budgets. The National Human Rights Commission has made a number of policy recommendations that would require substantial increase in welfare budgets. The ideological and political debates continue to determine to what extent these social rights should be realized and maintained.

Equal treatment has emerged as the most-craved value in contemporary Korea. On all fronts of the Korean society, battles for equality are underway. As the blatant usurpations of state power have decreased, "anti-discrimination" has emerged as a new issue of public concern. Korea appears to be undergoing a national campaign for the equality war. Under such backdrop, legal grounds prohibiting discriminatory practice and unequal treatment have been widely broadened. The National Human Rights Commission Act (2001) enumerates 19 grounds on which discriminatory treatment is prohibited. Along with the conventional categories such as race, gender, and social status, included therein are age, medical history and even "sexual orientation".²

As the Korean society is passing through a rapid transformation, cultural elements in the Korean people's perception of equality are also changing. All in all, battles for the equality will be a continuing agenda for decades to come, where no Korean is exempted from conscription.

IV. The Structure and Working Mechanism of NHRCK

The NHRCK was founded with the broadest jurisdiction covering over all types of human rights violations and discriminations. In a country where democracy has short history and therefore, diverse mechanisms for protecting human rights are lacking, Korean type all-inclusive system NHRI may be

2 Article 2(4) of the National Human Rights Commission Act, Law No. 6481, May 24, 2001, as amended as Law No. 8435, May 17, 2007 provided that the term discriminatory act violating equal rights means committing any of the following without any reasonable ground, on the basis of sex, religion, disability, age, social status, region of origin (referring to place of birth, base area of registration, principal area of residence before reaching maturity, etc.), national origin, ethnicity, physical condition including physical features, marital status such as married, single.

preferable. Also it will be more effective in setting up the uniform standards of human rights. (Nohyun, 2006)

NHRCK started with an enviable size and comfortable budget. Within a year after the birth, the Commission was staffed with over 200 full-time employees and three regional offices. The Commission consists of 11 Commissioners: Chairperson, 3 Standing Commissioners, and 7 non Standing Commissioners. All three branches of the nation (The President, the National Assembly, and the Supreme Court) share the legal power to compose the Commission. Diversity is a legal requirement, and at least four members should be female. Opposition party of the National Assembly can elect one standing and one non-standing commissioner. The President appoints the chairperson, one standing commissioner, and two non-standing commissioners. Originally, no formal appointment hearing was envisioned for any of the Commission members. However, since 2012, by amended law, “consultative” congressional hearing became effective for the appointment of the Chairperson.³

At the inception of the Commission, staffs were recruited from diverse sources. Career civil servants made over seventy percent, but the rest were invited from various sectors of society, such as NGOs, research institutes, and the academic institutions. The former group had been trained to comply with, not to raise question against the government. They had little expertise or experience in the field of human rights, which is basically built on the discourses of raising question based on the perspective of the minority. The latter group had been trained to “raise” question, but they had little experience (or even interest) in “resolving” the question. If harmony could be achieved and maintained between these groups, the Commission could grow into an ideal institution. Typically NHRI’s position stays in between the civil society and the government. A critical part of Chairperson’s leadership is how to maintain a delicate balance among these groups, without impairing vitality of the Commission.

A decision of the Commission has only advisory effect, without any binding force. To the Commission’s recommendation for remedy, a state agency has full discretion either to comply, or to simply neglect. All in all, the

3 Despite strong opposition of the Opposition parties in National Assembly, academic circle, and civil society, President Lee reappointed the incumbent Chairman for the term of another three years.

Commission lives on its moral authority rather than legal power. Typically, the Commission reviews only human rights violations by the state actions. But, discrimination by the private parties is also subject to the investigation of the Committee.

The Commission is a semi-international body in that it is obligated to implement the international norms into the domestic system of justice. Bridging the gaps between the international standards and the domestic ignorance and resistance is a hard job, and oftentimes the Commission falls into an easy prey of unscrupulous patriotism. It is subject to extra tension: between the international standards under the UN schemes and Korea's national interest and public sentiment.

Also the Commission is empowered to submit opinion to the courts (including the Constitutional Court) on the pending cases. The conservative Korean judiciary has not been accustomed to such new, alien system, and therefore, the Commission has to overcome the aloofness (and subtle hostility) of the court.

V. Glories of NHRCK (2001–2007)

A recent study concluded that for the period, Korea was quoted as a good example of how a NHRI can be a prominent actor for the protection and promotion of human rights. (Bum, 2010)

Some of its major achievements of the Commission may be highlighted.

First and foremost, the Commission has demonstrated the merits and efficiency of a new mechanism of human rights protection. “Complaints instead of pleas” has become a noble catch phrase in the battle against inhumanity. Public institutions that respond to the citizens’ “pleas” in non-judiciary manner were nothing new to the Koreans. But challenging the validity of state action by filing a formal complaint had belonged to the exclusive domain of the judiciary. For the period, over 6,000 formal complaints were filed yearly with the Commission, with steady increase by around 20 percent. They came from all the sections of state function to which the Commission responded with speed and efficiency. For example, it has dramatically improved the rights of the prisoners and detainees in other detention and protective facilities by operating a special task force to handle in-person complaints on-site. Police and military also became the

prime benefactors of the Commission activities. The extremely high level of approval rates (over 85 percent) signifies the high profile that Commission enjoyed in the Korean society.

Second, for the period, the Commission issued more than 170 policy recommendations in relation with the legislation and government policies. For example, the Commission opposed the deployment of military troops to the Iraqi War (2003.3.26), and blocked the attempt to legislate an overall anti-terrorism act. To eliminate the discrimination on the ground of gender, the Commission submitted its opinion to the Constitutional Court to review the unconstitutionality of the traditional Family Registry System of Korea (戶主制). Generally, these policy recommendations were supported by well-documented studies. Other major recommendations covered the controversial issues such as the abolition of death penalty (2004), amendment to the National Security Act (2004.8.12) as had been repeatedly criticized by the international society. In 2006, NHRCK presented its Action Plan to Promote Human Rights (2006–2008) to provide the founding guidelines for the overall National Action Plan. (NAP was finalized by the Ministry of Justice In 2007.) Under the Plan, two major legislations were to be enacted: The Human Rights Education Act and the Overall Anti-Discrimination Act. However, Commission's hard efforts were blocked by the lobby of the concerned government agencies.

Third, as a long term venture to raise the public awareness of the human rights, the Commission chose the pre-college schools as target institutions. It recommended against the diary writing assignments at the elementary school. The Commission continuously recommended the total prohibition of corporal punishment, and liberalization of strict dress codes in junior and senior high schools. It urged the provincial governments to legislate ordinances for the students' human rights.⁴ Government's bold ambition to build up the National Education Information System (NEIS, 2003.5.12) through which detailed information about students were to be collected was opposed by the Commission for the possible invasion of privacy. The Commission also urged the government to abolish the Reservation on Article 21 of the U.N. Convention on the Rights of Children (CRC). (Ahn, 2009)

As is often the case for a newly born institution, the Commission was

⁴ As of the end of 2012, four local provinces promulgated Students' Human Rights Ordinances.

driven by uncompromising passion and strived to prove itself. Unusual activism of the Commission was both welcome and frowned by the general public. In sum, both by fame and notoriety, the Commission has established her position in the Korean society for the first decade of the twenty first century.

VI. Disgraces of NHRCK (2008–2011)

1. Restructuring Plan

The year 2007 in Korea concluded with the election of Lee Myung Bak, a former business COE and the mayor of the Seoul Special City as the President of the nation. The Commission, a neutral and independent institution, neither hoped nor expected any drastic change by the peaceful transfer of the administration. The action taken by the new administration, however, betrayed all projections and expectations.

In early 2008 the Transition Team for the President-elect announced its restructuring plan for the government organizations. According to the Plan, NHRCK would be merged with a few other commissions and put under the direct control of the President. Categorically that would mean a clear violation of the Paris Principle, denying the independent nature of the Commission. Opposing vehemently, the Commission waged a full-scaled defensive war. Civil society and the opposition parties sided with the Commission. International society was also alert. OHCHR and ICC issued official statements and addressed letters to the Chairperson of the Team and the Ministry of Foreign Affairs. Partly owing to such pressure and largely by a political compromise, the plan was withdrawn and status quo of the Commission was preserved. But the cold and uneasy atmosphere lingered between the president's office and the Commission. The Commission was unduly neglected. It was neither asked nor allowed to brief the new President, as had been customary in the past. Uncomfortable neutrality did not last long. Suddenly, a critical event broke out.

2. Nightmare of The Candlelight Rallies and The Aftermath

Hardly had three month passed after the new President had been in his office, massive street demonstrations plagued the capital city. Beginning from early May 2008, almost every night, a huge crowd gathered downtown

Seoul near the City Hall, with the makeshift candlelight in their hands. The rallies continued well past midnights. On the surface, they seemed to protest against the President's proud announcement of the conclusion of the Free Trade Agreement between U.S. and Korea. "From now on, the best quality American beef will be available at the lowest prices." Import of American beef was an issue on point. But other causes such as cronyism and low morality of the cabinet members were mingled as well. A high expectation on the new administration suddenly turned into a sour disappointment. Nighttime down town Seoul offered an unusual treat to the foreign tourists.

It was more than an embarrassment to the incoming President who earned the position by an unprecedented landslide victory with a margin of five million votes. The rallies were conducted generally in peaceful manners. Although police haphazardly identified a few NGO groups as the conspirators, it would be fair to say that the crowds were gathered spontaneously with no identifiable overall organizers. Mobile phones were major communication tools. To most participants, including students of primary and secondary schools, the rallies meant more like a cultural event than a political protest. In early stages, police seemed to abide with the "passive and defensive" enforcement principle as required by the law and the police guidelines. However, on limited instances, when the crowd went wild and reckless, the riot police brutally attacked the demonstrators. Many demonstrators and bystanders were physically hurt. A few policemen were hurt as well. As a counter response, the slogans of demonstrators became stronger. "Down with the MB (President Lee's initials) Government!" "Occupy The Blue House (Presidential Residence)!" The buildings of a few conservative presses became the targets of the protest as well. Police barricades were attacked by a few reckless rioters. As the rallies persisted, International NGOs rushed in and speedily announced their statements denouncing the police and urged the administration to guarantee the freedom and speech and peaceful assembly.

The demonstrator citizens, alleging that their human rights were infringed by the police force, filed 137 individual petitions with the Commission. In late October, after exhaustive investigations, hearings and deliberations, the Commission dismissed the majority of the petitions, yet, ruled on a few cases. The Commission ruled that in these cases, police did abuse its legal powers to infringe the rights of the petitioners. The decision was made by 10 to 1 votes. Even those commissioners who were appointed by the President ruled

against the police. Sharply divided press and public sentiment precipitated the polarization of the national politics. Major press attacked the Commission for its “unbalanced” and “irresponsible” decision by condoning or even agitating violence against the legitimate government. They paid no attention to the underlying legal principle that the Commission lacks jurisdiction to deal with the demonstrators’ violent acts against the police. (Its mandates are limited to the petitions filed against but not for the public agencies.) A series of retaliatory measures were taken against the Commission. Special audits by the Bureau of Audit were conducted on the Commission. At the meetings of the National Assembly, members of the ruling party bombarded abusive words against the Commission and its Chairperson.

In midst of domestic insecurity, however, NHRCK reaped the year of 2008. Diverse and extensive activities were done throughout the entire year, in celebration of the 60th anniversary of the Universal Declaration of Human Rights. For example, to solidify its international leadership, the Commission hosted an international Conference on “Human Rights and Multicultural Society-Dignity and Justice for All.” The Conference produced the Seoul Guidelines on Cooperation among NHRIs for the Promotion and Protection of Migrants’ Rights to lay a ground work for practical actions of the states and NHRIs on that thorny issue.

On March 30, 2009 a Presidential Ordinance passed the Cabinet Meeting, to reorganize the structure of the Commission, by downsizing the Commission by 21 percent. It was clearly a retaliatory measure orchestrated by the President Office. The rationale proffered by the concerned government offices was that the Commission had functioned in extremely “ineffective manner”, and was grossly mismanaged and overstaffed. However, by many circumstantial evidences it is suspected that the restructuring was focused to dismiss the staffs who had been recruited from the civil society. Their job status within Commission was less secure than the career civil service officers, and consequently they fell into easy victim of the downsizing. (In October 2011 the Commission was added some 20 new staff members and a partial restoration of the numerical loss was restored, but none of those who were affected by the downsizing was rehired.)

The Commission immediately challenged the validity of the Ordinance by filing an Organ Dispute Petition to the Constitutional Court, as provided by the Constitution, based on the rationale that the President, in formulating

the ordinance, infringed upon the legal powers of the Commission in a manner infringing her independency as guaranteed by the law. The Court avoided a speedy ruling, and after 17 months, On October 26, 2010, by 6 to 3 decision, dismissed the petition for lack of standing. The Court ruled that the Commission is not an organ specifically enumerated in the Constitution itself, therefore it lacks the legal standing to file an organ dispute petition. By this decision, the Court retreated from its earlier position, which granted standing to a non-enumerated public organ.

Under the Lee Administration, the Commission had to suffer institutional humiliations by other government agencies. The Commission has a legal duty to regularly report of its major activities to the President and the Speaker of the National Assembly. It had been a well- established tradition that the President meet the Commission on the latter's request. However, the newly elected President Lee refused to hear from the Commission. Continued requests by the Commission remained unanswered, until the Chairperson who was appointed by his predecessor left the office. As such, the President seemed to have manifested a bias and hostility against the Commission.

Since July, 2009, the Commission has been headed by a Chairperson appointed by then incumbent President Lee. Civil society strongly protested the appointment of the new Chairperson who had never been exposed to the human rights experience, either in academy or in the field. Since his inauguration and following changes of membership, the Commission has shown a clear tendency toward passive inactivity. Worse of all, the Chairperson seemed to have little knowledge, much less confidence, in the independent nature of the Commission. He was reported to have uttered, when asked by the National Assembly, that the Commission is a part of the executive branch.

In late 2010, two standing commissioners (full-time) and one non-standing commissioner, resigned from their offices in protest against the arbitrary management of the chairperson, in violation of the bylaws and customs. One of the two standing commissioners had been elected by the National Assembly with a ruling party ticket. The public statements they issued aggravated social divides between the supporters and the opponents. Sixty-one "advisors" to the Commission resigned in sympathy of the leaving commissioners. Press coverage on the events was also sharply divided.

A series of public statements and picketing followed, but eventually

quieted down. In an incident, the Commission and Chairperson were insulted by a female high school student who refused to accept the prize she won at the essay contest hosted by the Commission. She made an official statement denouncing the Chairperson's misconducts in running the Commission. In August 2011 a devastating incident provoked the civil society. Unprecedentedly large scales of disciplinary actions were taken against the "unbecoming" staffs of the Commission. The incident broke out when the Chairperson fired a "contract employee" before her term expired. Fellow employees and the labor union staged an organized fight by consecutive picketing and contributing articles to the press. Most of them had joined the Commission with NGO backgrounds. Eleven staffs were disciplined for their unbecoming acts as public official. Their alleged "unbecoming" acts were the very ones that the Commission had formally urged other state agencies to allow as guaranteed by the Constitution.

In its annual report 2010, the Commission, in a diplomatic tone, subtly admitted low attendance records of the (whole member) plenary meetings and unsatisfactory level of communication with the civil society. (NHRICK, 2011 The Korean version).

Overall evaluation of the records of the Commission led by the present Chairperson is premature, but it would be fair to say that at the moment the Commission is undergoing a serious trouble. The Chairperson might have gained confidence of the President and some of the conservative community. But seen from outside, he and his Commission have substantially lost the confidence and support of the civil society and the general public. He has been repeatedly demanded to step down. Independency and political neutrality of the Commission appear to be shaky. A passive attitude seems to prevail in the daily works of the Commission. There has been a sharp decline in the approval rates. The Commission has made very few policy recommendations, and has kept silence on many important human rights issues. All these facts, taken together, indicate the Commission fails to meet the expectation as it once did. (Kim, 2011)

The two priority areas that the Commission seems to have emphasized may be "Business and Human Rights" and the North Korean Human Rights. In celebration of its 10th anniversary, the Commission hosted an international Conference on the former topic. (October, 2011) This topic is free of politics and harmless to the Commission. To deal with the human rights in North

Korea, the Commission enlarged its staff. Recently, against the customary rule for a NHRI not to directly address to the government of other states, NHRCK issued a statement denouncing the government of North Korea. It was reported that President, in appointing the Chairperson, asked him to actively engage in the human rights of North Korea.

VII. Lessons and Suggestions

By nature and by definition, human rights are universal values that transcend politics, national border, and even ideology. However, in reality, they could easily be entangled with politics. The case of NHRCK shows an example how the public perception and protection mechanism of human rights can fluctuate depending on the changes in the political environments.

Traditionally human rights discourses in Korea have been regarded as a political monopoly of the progressive bent. Conservative forces rarely professed the ideas or values of human rights. When they did, their terms were narrow, negative, defensive and evasive. The phrases typical employed by the Conservative forces are such as “human rights are counter-productive to the economic growth.” or “human rights of the majority are as important as those of the minority.” They tend to fail to positively identify the catalogue and contents of the human rights they profess to care for. The only positive phrase heard from the conservative may be “care for human rights in the North Korea.” However, this phrase has been largely used as a political campaign against the North Korean regime itself. Ironically, those who advocate for the human rights of the people of North Korea have paid little attention to the hardened conditions of the North Korean refugees who settled down in South Korea.

At the minimum level, three prerequisites have to be met, for a NHRI to function as an independent state institution as guided by the Paris Principle. First, the chief executive has to willingly honor, or at least tolerate the independent function of a NHRI. Second, the NHRI members should maintain their own pride and devotion as human rights protectors, and be willing to resist against state suppression and intervention. Third, and most critically, people and civil society have to guard the NHRI against unfair executive control.

In case of NHRCK, at least first two of the three prerequisites were met for the first seven years, but none of the three was met for the last three years.

What kind of NHRI do the Korean people would like to have in the future? Still it is a widely open question. Maybe ten year is not enough.

Postscript

For many aspirants of human rights and supporters of the National Human Rights Commission, the presidential election in December, 2012 ended with another disappointment. Park Guen-Hye of the conservative Saenuri Party won a five-year rental in the Blue House, with little commitment to the causes of human rights on her campaign pledges. While the majority of the Korean voters are celebrating Park's victory, who clearly favors "law and order" over the rights of the lonely souls, a great majority of the human rights defenders are fearful of the lingering unfavorable environment for human rights under Park Administration.

It is too early to make any judgment or projection one-way or the other. At the beginning stage, however, the worst was avoided at least. Unlike Lee Administration in 2008, Park's new Administration does not show any overt sign indicating its motive to discourage the National Human Rights Commission. The independency of the Commission seems to be honored on the surface. Yet, there lies ever-present danger that the incident like the candlelight rallies in 2008 may haunt the Administration arousing the temptation for repressive measures. Here lies the very reason why the aforesaid three requisites be met at all times.

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韓國國家人權委員會：十年的榮耀 與羞愧（2001–2011）

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韓國國家人權委員會前任主席（2006年10月至2009年6月）

摘要

本文的目的，在於勾勒韓國國家人權委員會（NHRCK）設立後的這十年來所走過的足跡及留下的記錄。第二部份回顧 NHRCK 成立的背景，第三部份從國際社會的角度，檢視韓國的人權狀況，第四部份介紹 NHRCK 的主要架構及工作機制，第五部份介紹了 NHRCK 成立前七年（2001–2007）的主要活動，第六部份將焦點放在李明博總統就職後，NHRCK 所發生的變化（2008–2011），第七部份則是以一些改進的建議作為結束。這些建議期許韓國的國家人權委員會能完善其建制，成為一個有效推動人權保障的政府機構。

關鍵字

韓國國家人權委員會、（韓國）國家人權委員會法案、李明博