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국제학석사학위논문

**China's Position on the UN Resolution  
of the Situation of Human Rights  
in the DPRK**

유엔 북한인권결의에 대한  
중국의 입장

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**Situation of Human Rights in the DPRK**

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## **Abstract**

# **China's Position on the UN Resolution of the Situation of Human Rights in the DPRK**

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Since its first debate on North Korea's human rights issue in 1992, the United Nations has gradually publicized the issue over time. In 2003, a resolution condemning North Korea's human rights situation was eventually adopted in the UN Commission on Human Rights (UNCHR). Titled "Situation of Human Rights in the Democratic People's Republic of Korea," this was the first official resolution that could bring North Korea's human rights issue to the General Assembly. When the UN Human Rights Council (UNHRC) became a subsidiary body under the General Assembly in 2006, the resolution on human rights situation in the DPRK was adopted on an annual basis since then.

With regards to this resolution, People's Republic of China has consistently voted against it. By revealing its opposition on discussing human rights issue of North Korea in the United Nations, China reinforced the non-intervention principle according to the UN Constitution and urged other member-states not to interfere with domestic affairs of the DPRK. Significantly, when North Korea's human rights issue was extended

up to the Security Council level in 2014, the delegation of China publicly argued that politicizing North Korea's human rights issue in the Security Council was absolutely inappropriate.

Regardless of the ups and downs in the Sino-North Korean relations, China's position on human rights issue of North Korea remains unchanged. When China was increasingly engaged with international human rights regime, it again did not give up on its role to stand as a defender of North Korea when it comes to the issue of human rights. Throughout the Cold War Era up until the Post-Cold War Era, China's position on the human rights issue of North Korea remained consistent in general.

The only changes were noticed from the grounds of China's support for North Korea. China's support for North Korea during the Cold War Era was based on the strong ideological affinity, anti-imperialism alliance among Socialist countries, and the bipolar international system. On the contrary, there were significantly weakened implications of ideology, changes in China's foreign policy towards the Korean peninsula, and the emergence of the unipolar international system accompanied by the rise of China in the Post-Cold War Era.

There could be a number of factors contributing to China's consistent opposition towards the resolution. One could be drawn from China's ideological homogeneity to North Korea. Sharing similar values on their perceptions of human rights, this could motivate China to prevent international condemnations on human rights in North Korea. China's poor records of domestic situation of human rights could also have affected its decision on the resolution, along with its controversial policy on North

Korean refugees. To avoid the criticisms from the outside world on such issues, China could have actively defended on behalf of North Korea. China's reputation as the representative of developing countries with a veto power could provide another explanation for its decision as well. Faced with strategic competition with the United States in the multilateral arenas, Beijing was brought to stand against Washington in the international human rights regime.

Whether which factor was more determinant than the other is not a matter of concern. Yet, it is important to note that the complex interplay between both domestic and international factors contributed in shaping China's position on the UN resolution of the situation of human rights in the DPRK.

Speaking of China's intention behind its behaviors within the international human rights regime, China has maintained a high level of assertiveness when dealing with the issue of human rights in any multilateral settings. This has been consistent since China came under severe censure by the international society for the Tiananmen crackdown. Yet, there is a lack of evidence to demonstrate China's revisionist behavior within the current international human rights regimes. Rather, China's strategy leaned more towards the engagement. Beijing sought to comply with the established international norms of human rights and follow by global standard in formality.

**key words:** *The United Nations, Human Rights in North Korea, The Situation of Human Rights in the Democratic People's Republic of Korea (DPRK), China's Position on Human Rights, UN Resolution*

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## **Abbreviations**

<b>AIIB</b>	Asian Infrastructure Investment Bank
<b>APEC</b>	Asia-Pacific Economic Cooperation
<b>ARF</b>	ASEAN Regional Forum
<b>COI</b>	Commission of Inquiry
<b>CCP</b>	The Chinese Communist Party
<b>DPRK</b>	Democratic People’s Republic of Korea
<b>ECOSOC</b>	Economic and Social Council
<b>EU</b>	European Union
<b>GDP</b>	Gross Domestic Product
<b>G-7</b>	Group of Seven
<b>ICJ</b>	International Court of Justice
<b>LMG</b>	Like Minded Group
<b>MFN</b>	Most-Favored Nation
<b>NGO</b>	Non-governmental Organizations
<b>ODA</b>	Official Development Assistance
<b>PPP</b>	Purchasing Power Parity
<b>P-5</b>	Permanent Five Members in the UN Security Council



<b>SCO</b>	Shanghai Cooperation Organization
<b>UN</b>	United Nations
<b>U.S.</b>	The United States
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UNCHR</b>	United Nations Commission on Human Rights
<b>UNHRC</b>	United Nations Human Rights Council
<b>UNSC</b>	United Nations Security Council
<b>UPR</b>	Universal Periodic Review
<b>WMD</b>	Weapons of Mass Destruction

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# **I. Introduction**

## **1. Research Topic**

The human rights issue of North Korea dragged the attention from the international society with the efforts from the human right non-governmental organizations (NGOs) in the United States. Consequently, the issue was brought to an expert body, the Sub-Commission on Prevention of Discrimination and Protection of Minorities under the UN Human Rights Commission in 1992.<sup>1</sup> Urged by the growing awareness on the issue, the resolution on the human rights situation in North Korea was first adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1997.<sup>2</sup> This resolution called for the UN Human Rights Commission to take actions with regards to the human right issue in 1998.

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<sup>1</sup> Cohen, R. 2014, "The High Commissioner for Human Rights and North Korea," in F. Gaer and C. Broecker (Ed.), *The United Nations High Commissioner for Human Rights, Conscience for the World*, Brill: Nijhoff, p.293-294.

<sup>2</sup> UN Sub-Commission on Prevention on Discrimination and Protection of Minorities, 1997, "Situation of human rights in the DPRK," UN Doc. E/CN.4/1998/2.

**Table 1. The Voting Results of the Resolution on the Human Right Situation in the DPRK (in UN Commission on Human Rights)**

Session	Date	Resolution Number	Voting Records on the Resolution			China's Voting Result
			Vote in Favor	Vote in opposition	Abstention	
59 <sup>th</sup>	16.04.2003	E/CN.4/RES/2003/10	28	10	14	Against
60 <sup>th</sup>	15.04.2004	E/CN.4/RES/2004/13	29	8	16	Against
61 <sup>st</sup>	14.04.2005	E/CN.4/RES/2005/11	30	9	14	Against

**Sources:** The Economic and Social Council Official Records (2003, 2004, 2005)

From 2003, the UN Commission on Human Rights started to take actions to address the issue and adopted the resolution on human rights in North Korea for the first time. Titled “Situation of human rights in the Democratic People’s Republic of Korea,” this was the first official resolution that could bring the North Korea’s human rights issue to the General Assembly. Along with the adoption of the resolution, the Commission on Human Rights also appointed a Special Rapporteur to investigate and report on the human rights situation in 2004.

After the 61<sup>st</sup> session of the UN Commission on Human Rights meeting held in 2005, it was finally agreed by the majority that the resolution on the situation of human rights in the DPRK to be dealt by the UN General Assembly. According to the resolution adopted from the 61<sup>st</sup> meeting, the Economic and Social Council (ECOSOC) approved the request to the Special Rapporteur to report his findings and recommendations to the General Assembly at its sixtieth session and the request to the Secretary-General to give the Special Rapporteur all necessary assistance in the discharge of his mandate.

**Table 2. The Voting Results of the Resolution on the Human Right Situation in the DPRK (in UN Human Rights Council)**

Session	Date	Resolution Number	Voting Records on the Resolution			China's Voting Result
			Vote in Favor	Vote in opposition	Abstention	
7 <sup>th</sup>	14.03.2008	A/HRC/RES/7/15	22	7	18	Against
10 <sup>th</sup>	26.03.2009	A/HRC/RES/10/16	26	6	15	Against
13 <sup>th</sup>	15.04.2010	A/HRC/RES/13/14	28	5	13	Against
16 <sup>th</sup>	08.04.2011	A/HRC/RES/16/8	30	3	11	Against
19 <sup>th</sup>	03.04.2012	A/HRC/RES/19/13	Adopted without a vote			-
22 <sup>nd</sup>	09.04.2013	A/HRC/RES/22/13	Adopted without a vote			-
25 <sup>th</sup>	09.04.2014	A/HRC/RES/25/25	30	6	11	Against
28 <sup>th</sup>	08.04.2015	A/HRC/RES/28/22	27	6	14	Against
31 <sup>st</sup>	08.04.2016	A/HRC/RES/31/18	Adopted without a vote			-
34 <sup>th</sup>	03.04.2017	A/HRC/RES/34/24	Adopted without a vote			-

**Sources:** UNHRC Documents and Resolutions from 2008 to 2017

After transformation of the UN Commission on Human Rights into the UN Human Rights Council (UNHRC), the resolution on the Situation of Human Rights in the DPRK has been annually adopted in the Council since 2008. China's position towards the resolution has been consistently in opposition ever since the UN Commission on Human Rights. Voting against the resolution, China has been upholding the non-interference principle according to the UN Constitution and urging other member-states not to interfere with domestic affairs of the DPRK. Despite China's efforts to prevent the debate over North Korea's human rights issue in the General Assembly, the resolution adopted in the UNHRC was frequently discussed in the Third

Committee of the General Assembly.<sup>3</sup>

In May 2014, UNHRC underwent the Universal Periodic Review (UPR) over the human rights issue of North Korea in which the Council provided a report containing 268 subjects of recommendation (A/HRC/DEC/27/108), including the prohibition of political prison camps and public executions.<sup>4</sup> While discussing the outcome of the review, 16 delegations including China made statements. The delegation of China appreciated the DPRK's commitment to implement accepted recommendations. China revealed gratitude that the government accepted its recommendations on the construction of sanitation facilities and housing constructions in rural areas; continuing to promote economic, social and cultural development; and to engage in dialogue and cooperation with human right mechanisms on the basis of mutual respect and equality. The delegation of China also called upon the international community to impartially and objectively look at the human rights situation in North Korea, as these recommendations seriously distorted the reality and were driven by sinister political motivations. Hence, China asked others to help the DPRK with its economic and social progress.

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<sup>3</sup> The Third Committee, so-called "Social, Humanitarian and Cultural Affairs Committee" within the General Assembly is in charge of the agenda items related to a range of social, humanitarian affairs and human rights issues that affect people all over the world, *The United Nations Website*, <http://www.un.org/en/ga/third/68/> (accessed on 31 October 2017).

<sup>4</sup> 김진아, 2015, '2014년 유엔총회 북한인권 결의를 통해 본 유엔 인권메커니즘 동학에 관한 연구: 그 함의와 전망을 중심으로', 『국방정책연구』, (한국국방연구원) 31권 1호 p.68.



**Table 3. The Voting Results of the Resolution on the Human Right Situation in the DPRK (in UN General Assembly)**

Session	Date	Resolution Number	Voting Records on the Resolution				China Voting Result
			Vote in Favor	Vote in opposition	Abstention	Non-Participating	
60 <sup>th</sup>	06.12.2005	A/RES/60/173	88	21	60	22	Against
61 <sup>st</sup>	19.12.2006	A/RES/61/174	99	21	56	22	Against
62 <sup>nd</sup>	18.12.2007	A/RES/62/167	101	22	59	10	Against
63 <sup>rd</sup>	18.12.2008	A/RES/63/190	92	22	63	13	Against
64 <sup>th</sup>	18.12.2009	A/RES/64/175	99	20	63	13	Against
65 <sup>th</sup>	21.12.2010	A/RES/65/225	106	20	57	9	Against
66 <sup>th</sup>	19.12.2011	A/RES/66/174	123	16	51	3	Against
67 <sup>th</sup>	20.12.2012	A/RES/67/181	Adopted Without a Vote				-
68 <sup>th</sup>	18.12.2013	A/RES/68/183	Adopted Without a Vote				-
69 <sup>th</sup>	18.12.2014	A/RES/69/188	116	20	53	4	Against
70 <sup>th</sup>	17.12.2015	A/RES/70/172	119	19	48	7	Against
71 <sup>st</sup>	19.12.2016	A/RES/71/202	Adopted Without a Vote				-

**Sources:** UN General Assembly Resolutions on the Human Right Situation in the DPRK from GA/10473 (2005) to GA/11870 (2016)

Followed by a series of adoption of the resolution on the Situation of Human Rights in the DPRK within the UNHRC, the discussion over the human rights issue in North Korea was extended up to the UN General Assembly level. The resolution was first selected as the agenda item in the 60<sup>th</sup> session of the UN General Assembly in 2005, and the human rights issue of the DPRK has been dealt on an annual basis in the General Assembly since then.

As the international community raised their voices for improvement in human rights situation of the DPRK, China no longer actively defended North Korea for its human rights violations. Rather, the delegation of China publicly stated that China wants to be disassociated with the resolution and consistently voted against it. China's reaction to human rights resolution of North Korea was not as intensive as to that of Belarus, Syria, and Iran. In the 81st plenary meeting of General Assembly held in 2006, the delegation of China firmly stated that China is against the practice of submitting country-specific draft resolutions on human rights. China regarded that such draft resolutions only exacerbate mistrust and confrontation among countries, thus uncondusive to promoting human rights in various countries.

Also, in the 70th plenary meeting of the General Assembly held in 2013, the delegation of China repeatedly emphasized its consistent position on country-specific resolutions regarding human rights. Since China believes that human rights can be promoted and protected only through constructive dialogues and cooperation, China made the decision to vote against the country-specific resolutions concerning Syria and Iran. Yet, with regards to the resolution on the DPRK, the delegation of China mostly saved his breath in the UN meetings and only expressed its disassociation with the resolution.

In spite of the strong opposition from the two permanent members, the resolution on the Situation of Human Rights in the DPRK was brought up to the Security Council. The delegation of China argued that the Security Council is not a forum

designed to consult the human rights issues, and such issues should not be politicized. With numerous daunting challenges placed before the international community, the Security Council should “strictly abide by its responsibilities and concentrate on addressing issues that really concern international peace and security.” Furthermore, Liu Jieyi asserted that the Security Council should focus more on the denuclearization of the Korean peninsula to maintain peace and security of the region and the world.<sup>5</sup>

The 7830<sup>th</sup> meeting of the Security Council held in December 9<sup>th</sup>, 2016 also revealed a strong opposition from China with discussing the situation of human rights in the DPRK. In this meeting, the delegation of China affirmed that China consistently stands for the denuclearization of the Korean peninsula and the maintenance of the peace and stability in the region. China sought for the solutions on the denuclearization of the Korean peninsula through dialogues and consultation. In addition, he strongly stated that discussion of the situation of human rights in the DPRK is “detrimental” to achieve the goal of the Security Council and “of no benefit whatsoever.”<sup>6</sup>

China regarded the top priority at this moment should be focused on resuming dialogues and negotiations, such as the Six-Party Talks, and the parties should jointly safeguard the process of denuclearizing the peninsula. China promised to make a positive

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<sup>5</sup> UN Security Council, 2014, “Report of the 7353rd Security Council Meeting on the situation of human rights in the DPRK,” UN Doc. S/PV.7353.

<sup>6</sup> UN Security Council, 2016, “Report of the 7830th Security Council Meeting on the situation of human rights in the DPRK,” UN Doc. S/PV.7830.

and constructive contribution to stability and peace on the Korean peninsula and push for the future dialogues and negotiations if necessary.

With such a firm opposition from two of the permanent members of the Security Council, China combined with Russia, the veto power of these two members will likely to prevent any further development of the resolution, such as accusing the supreme leader of the DPRK for the ruling of the international court of justice (ICJ). In so far as the human rights situation of North Korea does not deteriorate to the degree that threatens the world peace, China and Russia will continue to vote against the resolution, hence the resolution will be limited with its effectiveness.

## **2. Literature Review**

In general, studies with regards to China's position on human rights in North Korea are mostly underdeveloped. Hence, this research traced its roots from the literature work on China's human rights discourse and how it shaped its foreign policy on human rights. Human rights situation in China became the main theme of research after the Tiananmen Incident in 1989. As China initiated its reform and opening up in 1978, its domestic situation of human rights was largely unknown by the outside world. It was only after China had already made much improvements in human rights when the international society started to find interest in this regard. Therefore, the early work in this domain often focus on Chinese perspective of human rights and how it is different

to that of the West.

James D. Seymour highlights several aspects of China's perspective on human rights. According to his work, Chinese leaders take a cultural relativist approach when it comes to the issue of human rights. Based on cultural relativism, international standard on human rights should incorporate both diversity of values and nation's historical, social, cultural, and political realities. Furthermore, the Chinese government places more value on group rights than individual rights. Seymour also leaves a pessimistic note on the future of human rights in China by arguing that domestic political events will determine the future direction of human rights in China, rather than international standards nor foreign involvement.<sup>7</sup>

Andrew Nathan also takes note of contrasting perceptions on human rights between China and the West. He notes that Chinese officials view rights not as "natural," but as bestowed by the state, and to be restricted and defined by the law. In particular, China stresses the precedence of social and economic rights over civil and political rights. Though Nathan shares similar definition of human rights in China to that of Seymour's, his perspective on the future of China is rather optimistic. Suggesting the idea of "the second image reversed," Nathan anticipates the interactions between domestic politics of human rights and international affairs, rebounding to reshape domestic affairs.<sup>8</sup>

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<sup>7</sup> J. Seymour, 1994, "Human Rights in China," *Current History*, 93, 584. p. 256

<sup>8</sup> A. Nathan, 1994, "Human Rights in Chinese Foreign Policy," *The China Quarterly*, p.622-643.

Therefore, Nathan believes that this interplay between domestic politics and international affairs will eventually guide China to follow the international norms of human rights.

Later from the late 1990s, academics started to focus on China's behaviors and dealings with its human rights issue in the international settings. In her study, Ann Kent tested levels of compliance and learning, and effectiveness of international human rights regimes on China. From her observations on five case studies of China's interaction with UN human rights bodies throughout the timeframe ranging from before and after the Tiananmen Incident, it seems China "learned to be more enlightened in their definitions of their interests and to be more cooperative in their behaviors." She regards China's noticeable activism in its human rights diplomacy was more intended to uphold their principle of non-intervention over domestic affairs and primacy of state sovereignty, rather than revealing its efforts to comply with the international standard of human rights.<sup>9</sup>

Drawing a similar conclusion, Samuel S. Kim contends in his work that China has gradually evolved its strategy within the international human rights regime from system-reforming to system-exploiting. Hence, manipulating member-states and international human right norms to reflect Chinese perception of human rights. As a result, China was quite successful in persuading the international society with their

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<sup>9</sup> A. Kent, 1999, *China, the United Nations, and Human Rights: The Limits of Compliance*, Pennsylvania: University of Pennsylvania Press.

position on human rights.<sup>10</sup>

There are a number of recent studies specifically focusing on China's position on North Korea's human rights issue. Soon Chang Yang points to ideological homogeneity, priority of human rights, and domestic jurisdiction principle as contributing factors to China's cooperation with North Korea in human rights.<sup>11</sup> Similarly, Mikyoung Kim attributes China's position on North Korea's human rights to its reservations towards universal human rights, domestic policy agendas, and North Korean refugee issues within China.<sup>12</sup> Though expressed differently, the common thinking of these two studies is the shared perception on human rights between North Korea and China, along with the domestic human rights situation and policy orientation, shaping China's behaviors in the international human rights regimes. Consequently, the delegation of China made the decision to stand against the UN resolution on the situation of human rights in the DPRK.

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<sup>10</sup> S. Kim, 2000. "Human Rights in China's International Relations," in E. Friedman and B. McCormick, *What If China Doesn't Democratize: Implications for War and Peace*, Armonk, New York: M.E. Sharpe.

<sup>11</sup> 양순창, 2011, 「북한 인권문제에 대한 중국의 입장」, 『국제정치연구』, 14권 2호, p.21-43.

<sup>12</sup> M. Kim, 2010, "Human Rights Policies of China and Japan towards North Korea: Domestic Agendas and International Norms," *North Korean Review*, 6(1), p.6-19

### **3. Research Methodology**

In order to figure out China's intention behind its opposition on UN resolution of human rights in North Korea, this research will conduct an in-depth analysis on the internal and external factors contributing to this outcome. This study is heavily dependent on qualitative research methods; thus, it attempts to capture the Chinese government's behaviors towards the resolution on human rights in North Korea and to understand the reasons why China made such a decision and rhetoric in the United Nations. Therefore, the data being used to this analysis mostly derives from the official documents of the United Nations, Information Office of the State Council of the People's Republic of China, and the Amnesty International.

Referenced materials involve: 1) Official publications from the Information Office of the State Council of the People's Republic of China and the Ministry of Foreign Affairs; 2) Materials from websites of human rights NGO's and the United Nations; 3) The official records of UN resolutions on human rights in North Korea from Economic and Social Council (ECOSOC), UN Human Rights Council (UNHRC), General Assembly, and Security Council; 4) Academic articles and reports of renowned scholars or organizations.

To begin the research, this study first observed the voting patterns and rhetoric of the delegation of China in the United Nations, along with the development of the resolution on human rights situation in North Korea. Then, the study will attempt to



elucidate how China has come to form such position towards the resolution in the context of the Sino-North Korean relations and China's activism in the international human rights regime. The following chapter will draw an in-depth analysis on each factor contributing to China's opposition to the resolution. After conducting the analysis, the changes in China's position regarding the human rights issue in North Korea will be identified according to the analytical framework set out in this research. On top of that, another analysis will be conducted to figure out China's intention behind its decisions made within the UN human rights regime.

#### **4. Analytical Framework**

This study aims to provide an explanation for China's position towards the UN resolution on the Situation of Human Rights in the DPRK. Since analyzing voting patterns of China on that particular resolution cannot fully account for its position with regards to the issue, this study will focus on tracing any changes in China's decision and rhetoric on the resolution within the context of the Sino-North Korean relations and China's behaviors in the international human rights regime.

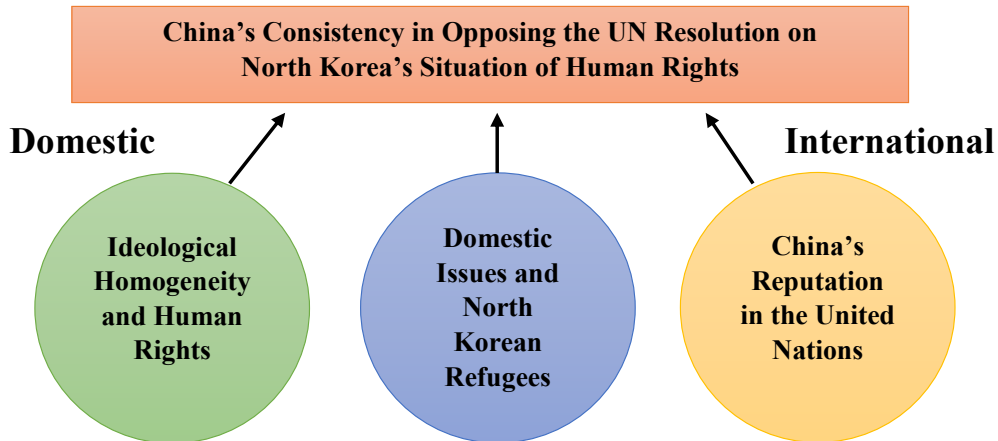
The study will address the following research questions: 1) Did China maintain its decision and rhetoric on the UN resolution of the human rights situation in the DPRK, regardless of the ups and downs in the Sino-North Korean relations? If not, what were the changes in China's position toward the resolution? 2) What are the impacts of

China's participation in international human rights regime on its position toward the resolution? Was China consistent with its position, regardless of its activism in the international human rights regime? If so, what does this imply and why China did not change its point?

To begin the research, China's perspectives and attitude toward human rights under each leadership will be observed along with the changes in the Sino-North Korean relations. Also, the changes in China's participation and behaviors within the international human rights regime will be examined to see whether there have been any changes in China's position on the human rights issue of the DPRK. In conclusion, the study will analyze changes in the factors attributing to China's position on the resolution from the Cold War Era to the Post-Cold War Era.

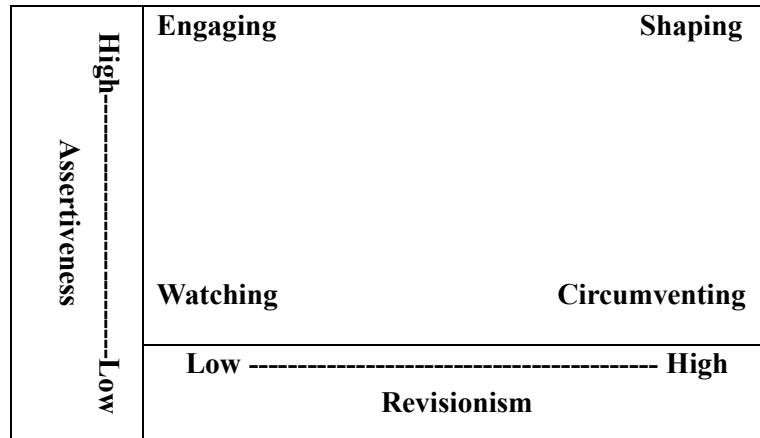
After addressing the research questions, the study will further delve into each factor that has contributed to China's decision to disagree upon the resolution on the human rights situation in the DPRK in detail. *Figure 1* below outlines largely three contributing factors that will be analyzed in this study: 1) Ideological homogeneity and human rights 2) Domestic issues and North Korean refugees 3) China's reputation in the United Nations. Factors which originate from the domestic features will be discussed at first and factors driven by the international environment will be discussed in the end.

**Figure 1. Contributing Factors to China's Opposition on the Human Rights Resolution of the DPRK**



In concluding part, the study will also briefly discuss China's intention behind its multilateral diplomacy, particularly with regards to the issue of human rights. This is largely divided into four strategies: 1) Watching 2) Engaging 3) Shaping 4) Circumventing. This classification takes the intensity of assertiveness and revisionism into account, thus China's strategy with high assertiveness but low revisionism is characterized as engaging, whereas low assertiveness with low revisionism is considered as watching. Likewise, high assertiveness combined with high revisionism is regarded as shaping, but low assertiveness with high revisionism is comprehended as circumventing.

**Figure 2. Four Strategies in China’s multilateral diplomacy**



**Source:** Wuthnow et al. 2012. "Diverse Multilateralism: Four Strategies in China's Multilateral Diplomacy." *Journal of Chinese Political Science/Association of Chinese Political Studies*, 17. p. 269-290

In this analysis, the level of assertiveness is concerned with China’s policies towards and within institutions, indicating to what extent China is willing to make its voice heard in the international arena. The level of revisionism is related to China’s role in multilateral institutions, whether it be a “status quo” power or a “revisionist”, thus indicating the intensity of China’s intention to revise the existing regime and shape a new world order. Power transition and assertiveness are two closely interrelated concepts, but separately looking at these factors could provide a sound explanation behind China’s decision in the multilateral settings. By conducting a detailed analysis on how each factor contributed to China’s decision to oppose, this study will examine whether China’s intention behind this opposition is assertive or one of revisionist.

## **II. China's Position on the UN Resolution of the Situation of Human Rights in the DPRK**

This chapter will examine the changes in China's position on the UN resolution of the situation of human rights in the DPRK. China's position to North Korea's human rights issue has transformed along with the changes in their bilateral relations over time. This could also be noticed within the context of the changes in China's activism in the international human rights regime from its early years to the recent days. By looking at these two aspects, this study will be able to capture the changing dynamics in China's position toward the resolution from the Cold War Era to the Post-Cold War Era.

### **1. Human Rights in the Sino-North Korean Relations**

#### **1.1 Blood Alliance under Mao Zedong (1949-1976)**

This period marked the pinnacle of the Sino-North Korean relations largely due to the socialist ideology and personal relationship between the two leaders. From the early stage of the Cold War Era, China's foreign policy was characterized as the lean-to-one-side (一邊倒) policy as Mao Zedong publicly stressed the solidarity of the socialist countries with the Soviet Union on the lead. Mao called for a robust alliance of socialist

countries against the potential threat from the American and Japanese imperialist bloc.<sup>13</sup> Likewise, anti-imperialism struggle was the main theme of the Chinese foreign policy under Mao.

Even before the establishment of the People's Republic of China on October 1, 1949, the Communist China had maintained a close tie with North Korea based on the mutual goal of International Communist Movement and Anti-Imperialism. This was particularly marked by Kim Il-sung's assistance for the Chinese Communist Party (CCP) during the civil wars against Kuomintang (KMT), China's entrance to the Korean War, and the large-scale economic aids provided by China even in hard times during the 1960s.

On top of that, the Sino-North Korean relations are officially defined as allies after signing the Treaty of Friendship, Co-operation and Mutual Assistance Between the People's Republic of China and the Democratic People's Republic of Korea on July 11, 1961. According to the Article II of this treaty, the two countries are responsible "to adopt all measures to prevent aggression against either of the Contracting Parties by any state."<sup>14</sup> Therefore, the Communist China was willing to establish a military occupation or a political protectorate over North Korea in so far as it remained a friendly neighbor

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<sup>13</sup> 朴東勳·이성환, 2015, 「북중관계 변화의 동인과 시진핑시대의 대북정책」 『국제정치연구』, 제 18집 1호, p.241-259.

<sup>14</sup> Y. Cho, 1995, "China's Alliance Policy toward North Korea in Post Cold War era," *The Journal of International relationship*, 126.

to China.

Furthermore, North Korea served as a “protective shield” for China, a barrier against the threat from the Japanese and American imperialists. Considering the strategic element of North Korea, China had to maintain its strong alliance with North Korea to watch out the “hostile” power in the South.<sup>15</sup> The leadership of Mao Zedong was another key factor that strengthened the Sino-North Korean relations during this period of time. For China to make the decision to enter the Korean War, the security factor was not the only one that was taken into consideration. In fact, many of the top leaders in the CCP were unwilling to take actions in the Korean War, yet it was Mao Zedong who pushed forward China’s entrance to the Korean War under the pretext of ‘Anti-American Assistance (抗美援朝)’.

Against the backdrop of strong brotherhood relations between China and North Korea, the crucial factor determining their solidarity derives from their common ideology. The two countries shared their roots from the Marxist-Leninist ideology, and this indicated that they share a common perspective on the idea of human rights. The Marxist-Leninism basically revealed hostility toward bourgeois and called for protection of the proletariats. Also, the idea of human rights could only exist within the class society.

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<sup>15</sup> H. Kim, 1985, *The Sino-North Korean Relations, 1945-1984*, Seoul: The Korean Research Center.

With socialist ideology playing a huge role in solidifying their relations, China and North Korea must have coincided with each other in terms of human rights based on their commonalities in ideology and socialist alliance. Therefore, under the blood alliance between Mao Zedong and Kim Il-sung based on the strong ideological affinity, there is no reason for China to disagree upon the perception of human rights in North Korea.

### **1.2 Friendly Relations under Deng Xiaoping (1978-1993)**

Followed by the third plenary session of the eleventh central committee of the CCP, the People's Republic of China initiated the reform and opening up under Deng Xiaoping in 1978. This brought a dramatic change in China's foreign policy and a fundamental shift in its ideology as well. Unlike Mao Zedong who insisted continuous class struggle for the reform of the upper class and the development of the society as a whole, Deng Xiaoping focused on the reform of the lower class through the economic development. As a consequence, the reform and opening up of China provided a point of diversion in their ideological pathways between China and North Korea.

Through this economic reform, Deng Xiaoping wanted to accomplish a socialist market economy with Chinese characteristics. Deng underscored the right to subsistence and used it as a pretext for the implementation of the reform. Yet, the ideological difference between China and North Korea only became more pronounced



after the reform and opening up. Deng's idea of reform drew a stark contrast to the spirit of 'Juche' ideology, which stresses self-reliance and independence. The Korea Workers' Party publicly criticized Deng's reform policy as yielding to the pressure of international capitalism.<sup>16</sup>

Moreover, China sought to place more value on mutual respect and equal footings in foreign relations, regardless of ideology or national capabilities, for its long-term strategic interest. It was a remarkable shift in its foreign policy orientation from consolidating socialist alliance to seeking national interest based on pragmatism. Breaking out of the Cold War framework, China intended to bail out of the old ideological diplomacy. China also aimed to create a peaceful environment for its sustainable economic development, thus it emphasized the peace and stability of the Korean peninsula.

Despite their ideological split after the reform, Deng Xiaoping continued to maintain a friendly relationship with the Kim Family in general. The high-ranking officials of the two countries continued to pay visits to each other and a number of unofficial visits took place in the midst of power succession process from Kim Il-sung to Kim Jung-il. Though the old friendship created between Mao and the Senior Kim persisted until Deng, pragmatism played a key role in modifying China's strategy

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<sup>16</sup> Y. Ji, 2001, "China and North Korea: A Fragile Relationship of Strategic Convenience," *Journal of Contemporary China*, Vol. 10, No. 28, p.387-398.

towards North Korea.

Prioritizing national interest, China no longer provided an unconditional economic aid to North Korea and it was now adjusted according to domestic circumstances. From the mid-1980s, China's economic aid to North Korea saw a significant decline. To create a peaceful international environment for its economic development, China was eager to normalize diplomatic relations with its old enemies, such as Japan, the United States, and even South Korea. From that point, China opted for a balanced strategy toward the Korean peninsula.

As North Korea has become a heavy economic burden for China, Deng attempted to persuade North Korea to undertake a new economic policy as China did. However, Pyongyang regarded market, globalization, and western investment as an economic rope that would strangle socialist countries. Sustaining 'Juche' ideology, North Korea took a completely different pathway to that of China's.

Speaking of human rights, China and North Korea developed different perceptions on human rights from this point. For China, the foremost task of the reform was to successfully achieve economic development, thus social and economic right so-called "the right to subsistence" was the top priority above any other types of right. On the other hand, North Korea highlighted the independence of humans as a part of social actors to consolidate its Juche ideology. North Korea also came up with the idea of "our way of human rights", revealing a strong sense of cultural relativism and taking its

intrinsic characteristics and values into account.

### **1.3 Balanced Relations under Jiang Zemin (1994-2001)**

Starting from the Jiang Zemin Era, China's foreign policy towards the Korean peninsula saw a major shift from the previous years. Against the backdrop of the post-Cold War Era, Jiang Zemin was faced with a completely different international environment to that of Deng's. The breakdown of the Soviet Union accompanied by the Tiananmen Incident, China had to deal with numerous uncertainties and criticisms from the outside world. As a result, China became isolated from the international society and it was certainly not conducive to achieve its goal of sustainable economic development.

Sensing dangers from the outside world, Jiang sustained its goal to construct a socialist market economy with Chinese characteristics. To meet this goal, China's foreign policy was preoccupied with stabilizing its surrounding environment. China actively participated in a number of multilateral organizations, such as Asia-Pacific Economic Cooperation (APEC), Shanghai Cooperation Organization (SCO), and ASEAN Regional Forum (ARF). While China preferred bilateral settings in the past, now it was an active participant in multilateral settings.

After Jiang's inauguration, he visited Pyongyang to emphasize their longstanding friendship and the importance of stability in the Korean peninsula in 1990. Though there were frequent high-level meetings between Beijing and Pyongyang until

1992, the diplomatic normalization between China and South Korea signaled a change in the Sino-North Korean relations. From 1992, there was another huge decline in the amount of economic aid provided by China to North Korea, and Pyongyang openly criticized Beijing for surrendering to capitalism and relying on the power of imperialists.<sup>17</sup>

The Sino-North Korean alliance based on ideological affinity and old friendship has significantly weakened after diplomatic normalization of Beijing and Seoul. For the next 8 years, there were no high-level exchanges between China and North Korea until Kim Jung-il made his visit to China in 2000.

China's strategy to the two Koreas were now clear: promoting economic exchange and cooperation with South Korea and supporting North Korea's regime to survive. To achieve both goals, the key was to maintain peace and stability on the Korean peninsula. China's foreign policy also set out five "no's" to North Korea: no instability, no regime collapse, no nuclear missiles, no defectors, and no conflict escalation.<sup>18</sup>

Though the Sino-North Korean relations was strained for a while, China was not indifferent to North Korea in the multilateral settings. When the international society increasingly paid attention to human right issues of the Democratic People's Republic

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<sup>17</sup> 김정일, 1994. 「사회주의는 과학이다」, 『로동신문』 11월 4일.

<sup>18</sup> S. Kim and T. Lee, 2002, *North Korea and Northeast Asia*, Maryland: Rowman & Littlefield Publishers.

of Korea, China refused to discuss such issue in the multilateral meetings as it was an intervention to domestic affairs.

For China who suffered many years from the international criticisms on human rights after the Tiananmen Incident, defending North Korea and other developing countries on this issue was a part of its multilateral human right diplomacy. Underscoring non-intervention principle and country-specific characteristics and values on human rights, the delegation of China did not want to enlarge North Korea's human rights issue within the United Nations.

#### **1.4 Recovering Relations under Hu Jintao (2002-2011)**

The fourth generation leadership appeared in China with the inauguration of Hu Jintao in 2002. Faced with side effects from the rapid economic growth on the domestic front, the new government under Hu aimed to construct a "harmonious socialist society" with the slogan of scientific outlook on development. China wanted to become a responsible and peaceful great power who maintained amicable relationships with both great powers and neighboring countries.

In order to create a friendly relationship with its neighboring countries, China actively took part in a variety of multilateral regimes and managed to reach the G2 level during Hu's era. China also attempted to recover the strained bilateral relations with North Korea, as it was devoted to creating friendly relations with other neighboring

countries as well.

Since maintaining stability in the Korean peninsula remains as the paramount goal of China's policy, Beijing was much more active in promoting the Six-Party Talks than its previous administration. For China, reducing nuclear provocations from North Korea was essential as sustaining the status quo was the best condition for China to solely focus on the economic development. Therefore, China openly denounced North Korea's missile launch and sent a clear message to North Korea to halt another provocation. Yet, China also made it clear that their friendship with North Korea will stay as it is in the 21<sup>st</sup> century.<sup>19</sup>

China also promoted economic cooperation with North Korea through the development of the Special Economic Zone (SEZ) in the Hwanggeumpyong and Rason areas. Rather than merely providing direct economic aids, China could help North Korea to foster self-perpetuating economy in this way. In 2012, Beijing and Pyongyang signed the "Joint Development and Management Agreement for the Rason Economic Trade Zone and Hwanggeumpyong-Wuihwado Economic Zone" and created the "North Korean-Chinese Joint Guidance Committee" to put this treaty into practice. However, economic cooperation between the two countries also ended up with conflicts by 2012.

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<sup>19</sup> M. Choi, 2012, "Prospects for China's North Korea Strategy in the Post-Kim Jong-il Era and Implications for South Korea," *International Journal of Korean Unification Studies*, Vol.21, No. 1, p.45-73.

With regards to the human rights issue, the resolution concerning the situation of human rights in the DPRK was adopted both in the UNHRC and the UN General Assembly during this period of time. Despite continuous efforts from China and Russia to stop further debate on this issue, it only gained more attention over time as more member-states get to recognize North Korea as a “rogue state” from the persistent missile launches.

Though China spoke with rather harsh words when speaking of the nuclear provocations, China was rather benign when it came to the human rights issue of North Korea. Upholding the non-interference principle according to the UN Constitution, the delegation of China urged other member-states not to interfere with domestic affairs of North Korea. Since the current situation of North Korea is largely due to sanctions and hostility from the international society, China urged others to help developing countries (including North Korea) to improve economic situation.

### **1.5 Deteriorating Relations under Xi Jinping (2012 -)**

Notwithstanding Hu Jintao’s efforts to recover the Sino-North Korean relations, it only took more downturn with the initiation of the Xi Jinping Era. The fifth generation leadership of China emerged as North Korea undertook the 3<sup>rd</sup> nuclear tests, disregarding warnings from China. Xi revealed his willingness to recover the Sino-North Korean relations and sent a special envoy with his letter to Kim Jong-un after his inauguration

on November 2012. However, Kim Jong-un was preoccupied with the next nuclear test and proceeded with another missile launch on December that year.

Ceaseless nuclear provocations of North Korea only prompted a negative reaction from the United Nations. The UN Security Council adopted another resolution concerning the nuclear threats of the DPRK and reacted with more strict sanctions to press North Korea. Since North Korea was no longer under control of China, Xi was determined with his position to de-nuclearize the Korean peninsula for its peace and stability. Though Kim Jong-un sent a special envoy to meet Xi in 2013, Xi repeatedly emphasized the importance of denuclearization and resolving problems through dialogues and negotiations, while the special envoy underlined the traditional friendship between North Korea and China.

After the execution of a pro-China North Korean political figure, Jang Song-thaek, on December 2013, the Sino-North Korea relations reached its nadir. On top of that, Kim Jong-un continued nuclear provocations and did not listen to the warnings and denunciations from the international society. Combined with derisive messages from the new President of the United States, Donald Trump, the current situation on the Korean peninsula seems far from the peace and stability as China wanted.

Against this backdrop, discussing human rights situation of North Korea seemed inefficient and untimely from the Chinese perspective. The delegation of China continued to show opposition to such country-specific resolutions and stressed the



importance of security issue above the others. When the issue was brought up to the Security Council level in 2014, the delegation of China spoke with a strong voice that it was absolutely inappropriate for the Security Council to discuss such issue. He argued that the Security Council should focus on more immediate issue related to the international peace and security, such as nuclear issues of the DPRK, rather than wasting its time on discussing domestic issues that do not pose any immediate threat.

## **2. China's Activism in the International Human Rights Regime**

### **2.1 System Reforming: Passive Learner Phase (1971-1979)**

With the unexpected replacement of People's Republic of China in place of Republic of China (Taiwan) in 1971, Beijing took a system-reformist approach in the United Nations. However, Beijing could not take an active interest in any activities in UN since they had no idea about how the system works.<sup>20</sup> Therefore, China opted to become a cautious learner and did not take any noticeable gestures within the UN human rights regimes. China did not participate in the activities of the UNHRC and did not sign any international human rights conventions.

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<sup>20</sup> S. Kim, 1999, "China and the United States," Economy, E. and Oksenberg, M (Ed.) , *China Joins the World: Progress and Prospects*, New York: Council on Foreign Relations, p.45.

There were a number of reasons for China's passive posture in the UN Human rights regime. First, China was facing a chaotic domestic situation of power struggle before and after Mao Zedong's death in 1976.<sup>21</sup> As a result, China could be fully engaged in UN operations only after the implementation of the reform and opening up under Deng in 1978. Second, China's ignorance of the UN system resulted in its passive behaviors. It was purely out of its anticipation that China would win admission to UN in 1971. Unprepared Chinese diplomats hurried their ways to UN, but they did not know what to do. With regards to the UN human rights regime, Chinese diplomats saw the idea of human rights as a complicated issue of politics, economics, social systems, and ideologies. In addition, there were already existent international human rights documents even before China's entry to the UN, thus Beijing had to study these documents before taking any actions.

Yet, gaining the UN membership meant China has become a party to the UN Charter, which incorporates basic human rights principles. Despite such passive posture from its new member, the West and other members of the UN did not put much pressure on China on the human rights issue. Since the utmost interest of the international community was the Cold War rivalry between the two superpowers, China's human rights status was not a big concern for them.

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<sup>21</sup> M. Wan, 2001, *Human Rights in Chinese Foreign Relations*, Pennsylvania: University of Pennsylvania Press, p. 107.

## **2.2 System Maintaining: Active Participant Phase (1980-1989)**

China heralded its reform and opening up in the 1978. As economic development took precedence over any other tasks, China's foreign policy was oriented towards more pragmatic approach. This resulted in China's active participation in the UN in the 1980s with joining all specialized institutions within the UN system.<sup>22</sup> Likewise, there was a clear shift in China's action from system reforming to system maintaining.

Consequently, China became an active participant of the UN human rights regime. China was institutionally involved in the human rights regime and was elected as a member of the UN human rights commission in 1981. Beijing also signed seven human rights conventions and one protocol between 1980 to 1989. The list of conventions and protocols are as follows: Convention on the Elimination of All Forms of Discrimination Against Women (1980); International Convention on the Elimination of All Forms of Racial Discrimination (1981); Protocol Relation to the Status of Refugees (1982); Convention Relating to the Status of Refugees (1982); Convention on the Prevention and Punishment of the Crime of Genocide (1983); International Convention on the Suppression and Punishment of the Crime of Apartheid (1983); International Convention Against Apartheid in Sports (1987); Convention Against

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<sup>22</sup> M. Wan, 2001, *Human Rights in Chinese Foreign Relations*, Pennsylvania: University of Pennsylvania Press, p. 108.

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1988).

Three factors could explain China's shift of actions in the UN. First, as a permanent member of the UN Security Council, Beijing saw the necessity of admitting basic principles of the UN. Second, China realized that participating in the UN human rights regime could help to advance its national interest and international leverage. Third, China no longer regards the UN as an exclusive tool of the West. By promoting active participation of socialist third world countries, developing countries could become more vocal in the international forums.

During this period, China maintained a good image within the international human rights regime in general. Aided by the weak enforcement mechanisms of these human rights regimes, China could successfully get away with certain obligations that are unfavorable and incompatible with its national interest.

### **2.3 System Refraining: Active Defender Phase (The Early 1990s)**

The Tiananmen crackdown in 1989 provided a watershed for China's position in the UN human rights regime. Faced with fervent denunciations from the international community and the threat of international isolation, China had to stand in a defensive posture in the UN system. Severely tarnishing its previous image in international human rights arena, China became the first permanent member of the UN Security Council to receive censure on human rights. The UN Sub-Commission on Human Rights meeting

in August 1989 specifically focused on the human rights issue in China and eventually passed a resolution on “Situation in People’s Republic of China.” Despite such efforts from the Western countries to use public shame to press China on improving human rights, Beijing tried its best to defend itself.

Another sub-commission session was held in 1990, which passed a resolution on Tibet in August 1991, making China’s efforts to prevent this to no avail. With regards to these resolutions, Beijing considered them as “null and void.” Surprisingly, the 1992 human rights commission saw a dramatic change. China managed to gain the majority votes on its no-action to the resolution by winning the support from developing countries. Beijing’s hard work on winning the support from Asian and African countries paid off. China’s shift in adopting more amicable peripheral foreign policy toward Asian countries and consistent diplomatic efforts to support African countries contributed to such success.

China was now fully devoted to activate its human rights diplomacy (人权外交) in both multilateral and bilateral settings. From 1993, Beijing sought to actively participate in the UN World Conference on Human Rights, which was held in Vienna in June 1993. During the Preparatory Committee (PrepCom) meetings held in Bangkok, China worked as a vice chairman of the First PrepCom. During this Bangkok PrepCom, Chinese delegation stressed the need for a single Asian voice on human rights. Japan, Thailand, Nepal, South Korea, and the Philippines were leaning toward liberal views on

human rights, while China, Indonesia, Iran, and Burma demanded more respect for cultural relativism in human rights. Nonetheless, the final result of the Bangkok Declaration did not change its view on universality of human rights, though it provided a good opportunity to understand how Asians had different perspectives on human rights and democracy unlike the Western countries.

China's argument in Bangkok highlighted the fact that unique national and regional conditions should be taken into consideration while acknowledging the universality of human rights. Also, China argued that the right to development is a universal and basic right. Moreover, promotion of human rights should be based on respect for state sovereignty, territorial integrity, and noninterference in internal affairs. The major goal of China's human right diplomacy in Bangkok was not to persuade others to understand Beijing, but to emphasize noninterference in domestic affairs. In this sense, Beijing was quite successful in Bangkok conference.

In the Vienna conference, China again worked as a vice chairman of the meeting and played a major role in progressing the meeting. At the beginning of the meeting, China was revealed as a hard-liner but made concessions to the declaration in the end by successfully including some of its key perspectives on human rights. Arguing on behalf of developing countries, Beijing firmly insisted the inclusion of the special conditions of countries, the inseparability of different types of rights, and rights to development into the Vienna Declaration. As a result, the Vienna Declaration included these clauses and Beijing became a successful vocal leader. This was possible due to the

support from the developing nations of “Asian group,” namely Syria, Iran, Iraq, Burma, Vietnam, North Korea, Malaysia, Bangladesh, Singapore, Indonesia, and so on.

Rather than remaining isolated by the international society, Beijing decided to actively participate in various international human right regimes during this period. Under the reform and opening up by Deng, China did not just take criticisms and stay embarrassed. To materialize its goal of economic development, China had to regain recognition from the international society. China’s improvements in economic and political areas, support from developing countries, and active lobbying by its diplomats all contributed to its success at the UN.

#### **2.4 System Settling: Stable Member Phase (The Mid 1990s-)**

By 1995, Beijing successfully recovered from the international criticisms on its human rights issues. China became more assertive and found great confidence in the human rights commission. This was marked by its easy victory for no-action vote on its resolution. The European Union diverged with their opinions on China’s resolution, and some other Asian and Western countries followed their lead. Even the United states stopped waging the anti-China resolutions in 1998. It seemed almost like the end of a long human rights struggle between China and the United States.

Yet, the Chinese government imposed repression on dissidents in 1998, thus the US proposed a draft resolution against China in return. To no avail, the resolution proposed by the US was again defeated by China's no-action motion with 22 in favor, 18 against, 12 abstaining, and 1 absent. By the late 1990s, Beijing has successfully managed to insulate its human rights issue in the international arena.

Its success in multilateral human rights diplomacy in the UN is largely attributed to China's success in achieving rapid economic growth and political stability. Developing countries gazed the outstanding growth of China in awe. Furthermore, China's great contribution to the world's poverty reduction was something unprecedented. The rise of China also changed the Western behavior. The Western countries could not give up on their commercial interests in Chinese market.

On top of that, China's active lobbying campaign in both bilateral and multilateral terms also contributed to its success. Revealing assertive characteristics in general, China remained extremely firm with its human rights principles. However, Chinese diplomats knew that making concessions in the end will make China look like a cooperator. With such strategic thinking in mind, China's behaviors in the international human right regime was largely calculated in consideration of its national interests.

Though it is true that China's multilateral human rights diplomacy was a huge success in outcome, whether it actually helped to improve its domestic human rights



situation is questionable. Although China formally signed numerous human rights conventions and protocols, it is meaningless if it is manipulated and evaded in reality. However, one thing is clear. In its process of developing multilateral human rights diplomacy, China gained extensive support from developing countries including North Korea. In return of its support, it seems understandable for China to be a defendant of human rights situation in North Korea.

### **III. Contributing Factors Shaping China's Opposition**

This chapter will delve into the contributing factors shaping China's behaviors in opposing the resolution on the human rights situation of the DPRK. This study identifies three major factors that contributed to China's position with regards to the resolution: 1. The ideological homogeneity in the definition of human rights between China and North Korea 2. China's domestic issues with human rights and North Korean refugees 3. China's reputation in the international regimes.

#### **1. Ideological Homogeneity in the Definition of Human Rights**

##### **1.1 Universal Human Rights based on Western Liberalism**

The history of universal human rights traces back to 10 December 1948 when

the Universal Declaration of Human Rights (UDHR) was proclaimed by the United Nations General Assembly in Paris with the approval from 50 member states out of 58.<sup>23</sup> Under the chairmanship of Eleanor Roosevelt<sup>24</sup>, the United Nations Human Rights Commission (UNHRC) commenced on creating the Universal Declaration of Human Rights. In its preamble, it clearly indicates inherent and inalienable rights of all human beings and the fact that "all human beings are born free and equal in dignity and rights."<sup>25</sup> Since representatives of all member states were involved to encompass all legal traditions, it is recognized as the most universal human rights document in existence.

The Declaration consists of 30 articles, which incorporates a variety of rights ranging from equality to liberty. These articles not only include positive and negative rights, but also various civil and political rights, along with social, economic, and cultural rights. These 30 fundamental rights later provided a basis for the international human right law. After proclaiming the declaration, the Assembly announced that all member states to publicize its contents and "to cause it to be disseminated, displayed, read and expounded

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<sup>23</sup> Universal Declarations of Human Rights, *The United Nations Website*, <http://www.un.org/en/universal-declaration-human-rights/> (accessed on 11 October 2017)

<sup>24</sup> Eleanor Roosevelt is the wife of President Franklin D. Roosevelt and the longest-serving First Lady of the United States. Through her active participation in American politics and public speeches to speak out for human rights, children's causes, and women's issues, she is renowned for dramatically changing the role of the first lady.

<sup>25</sup> United for Human Rights, "Universal Declaration of Human Rights," <http://www.humanrights.com/what-are-human-rights/universal-declaration-of-human-rights/> (accessed on 10 October 2017)

principally in schools and other educational institutions, without distinction based on the political status of countries or territories.” Thereafter, the document was translated into more than 500 languages and is known as the universal human rights in modern days.

Nevertheless, whether the universal human rights are truly universal is a matter of debate. Since the formulation of the UDHR was heavily influenced by the Western countries, it is inevitable for the document to perceive human rights from the Western Liberalist’s perspective. For instance, universal human rights value individual human rights over collective human rights. Furthermore, socio-economic rights were often preceded by civil and political rights, thus the idea of universal human rights were subconsciously highlighting democratic principles. Due to such controversy over the idea of “universal human rights”, those countries who support the idea of cultural relativism would find this definition of human rights does not exactly apply to their countries.<sup>26</sup> Those countries involve People’s Republic of China and North Korea, causing a clash of definitions in human rights.

## **1.2 Definition of Human Rights in China**

The idea of human rights has long been regarded as a bourgeois term in China

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<sup>26</sup> S. Kim, 2000, “Human Rights in China’s International Relations,” in E. Friedman and B. McCormick (Ed.) *What If China Doesn’t Democratize: Implications for War and Peace*, New York: M.E. Sharpe.

until the crackdown of Tiananmen Incident on June 4, 1989. After receiving international denunciation and severely damaging its reputation, Beijing saw the necessity to follow the international norm of human rights. In response to mass criticisms, the State Council of People's Republic of China published its first white paper on human rights on November 1991.<sup>27</sup> Titled "The Situation of Human Rights in China (中国的人权状况)," the white paper determined a number of underlying principles for the human rights discourse in China.

First, the paper evidently reveals its emphasis on cultural relativism over universality. Though the document states that it endorses the basis of the Universal Declaration of Human Rights in its preface, it also points out that independent states should interpret and implement human rights within the context of their own history, social, economic, and cultural peculiarities.<sup>28</sup> In other words, the concept of human rights in China does not necessarily be identical to that of the UDHR's. For example, the UDHR states in Article 1 that "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Unlike the inalienable and inherent nature of human rights suggested by the UDHR, the 1982 constitution of People's Republic of China states the

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<sup>27</sup> 中华人民共和国国务院, 1991, 中国的人权状况, <http://www.scio.gov.cn/zfbps/ndhf/1991/Document/308017/308017.htm> (accessed on 11 October 2017)

<sup>28</sup> K. Kinzelbach, 2016, China's White Paper on Human Rights. Global Public Policy Institute. <http://www.gppi.net/publications/human-rights/article/chinas-white-paper-on-human-rights/> (accessed on 31 October 2017)

fundamental rights of “citizens” are compromised by the even more fundamental duties of citizens. (Articles 51-54). Therefore, the human rights are not entitled or inherent but the citizens’ rights are defined and stipulated by the state in China.<sup>29</sup>

Second, one of the recurring theme of China’s human rights discourse is the primacy of state sovereignty. According to the white paper, it stresses that “the right to subsistence (生存权) is the most important of all human rights, without which the other rights are out of question.” The right to subsistence is also directly related to the idea of independence and sovereignty of a state, which is implied by the statement “without national independence, there is no guarantee for the people’s lives.” This also indicates how state survival is an essential condition for the protection of human rights. In addition, such emphasis on state sovereignty and independence is an indirect way of expressing China’s antipathy towards international intervention.

Third, the importance of China’s stability and development was consistently highlighted up until the latest white paper on human rights in China, published in 2015. Beijing believes that human rights could be better protected under the condition of political stability and economic development. By underlining the realization of Chinese Dream of the great rejuvenation of the Chinese nation, the recent paper indicates that China was able to achieve a great progress in human rights due to its economic and social

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<sup>29</sup> S. Kim, 2000, “Human Rights in China’s International Relations” in E. Friedman, and B. McCormick, *What If China Doesn’t Democratize: Implications for War and Peace*. Armonk, New York: M.E. Sharpe.

development.<sup>30</sup> It is also significant to note that China regards law-based governance as a key to ensure the development of human rights in China. Human rights being enshrined in the legal system and institution, the rule of law will bring a continuous progress in human rights of China.

Fourth, human rights in China place communities before individuals, duties and obligations before rights and privileges.<sup>31</sup> This is evident from the 1982 Chinese constitution, in which specifies the rights of “citizens” not “individuals” or “humans”. Furthermore, it clearly subordinates rights to the interest of the state, society, and collective. In Liu Huaqiu’s speech during the Vienna conference on Human Rights in 1993, he explicitly mentions that “nobody shall place his own rights and interests above those of the state and society, nor should be allowed to impair those of others and the general public.”<sup>32</sup> This means that the duty and the obligation of Chinese citizens is to value collective rights over individual rights. Tracing its root from the Marxist theory of human rights, China’s definition of human rights regard individuals as an equivalent

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<sup>30</sup> Information Office of the State Council of the People's Republic of China, 2015, "Progress in China's Human Rights in 2014," White Paper on Human Rights, <http://www.scio.gov.cn/zfbps/ndhf/2015/Document/1437146/1437146.htm> (accessed on 25 October 2017).

<sup>31</sup> S. Kim, 2000, “Human Rights in China’s International Relations” in E. Friedman, and B. McCormick, *What If China Doesn’t Democratize: Implications for War and Peace*. Armonk, New York: M.E. Sharpe.

<sup>32</sup> H. Liu, 1995, in Tang James Tuck-Hong (Ed.) *Human Rights and International Relations in the Asia and Pacific*, London: Pinter, p.215.

member within communities and the idea of human rights could not exist outside of communities nor the nation-state.<sup>33</sup>

The above four underlying principles found in China's discourse of human rights is clearly drawing a stark contrast to the idea of universal human rights presented by the UDHR. In order for China to share the same view on human rights with North Korea, the idea of human rights in North Korea should share more similarities to that of China's than that of the UDHR's. Acknowledging the fact that the two countries are sharing their ideological roots from the Marxist theory of human rights, North Korea is highly likely to share similar perspective on human rights with China.

### **1.3 Definition of Human Rights in North Korea**

The idea of human rights in North Korea originated from the Marxist theory of human rights, in which the class society defines human rights and the universality, inalienability, and rationality of universal human rights are repudiated.<sup>34</sup> Since human rights are a political concept, it cannot be dealt outside the context of class society. The idea of rights is constructed to secure the interest of bourgeoisie; thus it is difficult to

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<sup>33</sup> 황재욱, 2012, '북한과 중국의 인권인식 비교', 『통일연구원 기타간행물』, p. 419

<sup>34</sup> 채성호, 1994, '인권문제에 대한 북한의 태도', 『국제법학논총』 (대한국제법학회), 제39권 1호, p.67-71

accept the equality and innateness of human rights. Furthermore, North Korea prioritizes collective interest over inherent and absolute right of individuals, thus independence of individuals is also denied.<sup>35</sup> Under a socialist regime, the rights and freedom of citizens are in existence to realize the interest of communities and society. Therefore, rights and freedom could only exist within the context of society. In other words, human right and freedom is collective and social in nature.

Human nature and survival heavily depends on collectivism in North Korea. Hence, North Korea puts a strong emphasis on responsibility and duties rather than the rights of its citizens. This idea derives from the Marxist theory of human rights, in which “none of the supposed rights of man, therefore, go beyond the egoistic man, man as he is, as a member of civil society; that is, an individual separated from the community.”<sup>36</sup> In other words, human rights are not about individuals, but about communities and the nation-state in particular. Human rights cannot exist without the nation-state.

According to the dictionary of political terminology in North Korea, it defines human rights as the “political, economic, cultural, and social rights that are natural and fundamental to the people”.<sup>37</sup> This definition implies that human rights are not

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<sup>35</sup> 장명봉, 1995, ‘법적 제도적 측면에서 본 북한인권’, 최성철(편), 『북한인권의 이해』 서울: 북한인권개선운동본부, p. 268-273.

<sup>36</sup> L. Macfarlane, 1982, “Marxist Theory and Human Rights,” *Government and Opposition*, 17(4), p. 414-428.

<sup>37</sup> 1970, 『정치용어사전』, 평양: 사회과학출판사, p. 718.



considered as a mechanism to protect other's intervention to individuals, but rather a mechanism to ensure a harmonious life of communities. In this regard, responsibilities and duties are not on the opposite side of rights, but rather preconditions necessary for any human beings to enjoy their rights.

Along with the consolidation of Juche ideology in the 1980's, human rights in North Korea started to stress the independence of humans as a part of social actors. According to the Great Dictionary of the Late Chosun 2, "people's rights as social-beings are expressed through one's political, economic, cultural, and social life" This is North Korea's effort to combine the idea of human rights with the independence, creativity, and consciousness presented by the Juche ideology.<sup>38</sup> Likewise, North Korea intends to emphasize the socialist characteristics of human rights along with its Juche ideology.

Furthermore, human rights in North Korea reveal a strong sense of cultural relativism, which is another common aspect of human rights with China. Kim Il-sung once mentioned in a meeting with a group of reporters from the Washington Times in 1994 that "the fair standard of human rights depends upon the need and the interest of the people."<sup>39</sup> North Korea recognizes the fact that human rights are universal values, yet there is no such thing as a universal standard of human rights. Asserting so-called

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<sup>38</sup> 이무철, 2011, '북한 인권문제'와 북한의 인권관, 『현대북한연구』, 14(1), p. 148

<sup>39</sup> 김정일, 1998, '사회주의는 과학이다', 『김정일선집』, 평양: 조선로동당출판사, 제13권, p. 471.

“our way of human rights,” North Korea regards that the standard of human rights should take history, traditions, economies, developmental stages, life styles, and other specific conditions into account, so as to properly meet the demand of its people.

What is unique about human rights in North Korea is that it is constructed and manipulated to support the political regime of the Kim family. Unlike China who implemented the reform and opening up under Deng Xiaoping in 1978, North Korea remained as a socialist country under the dictatorship of the supreme leader (su ryong). Thereafter, right to subsistence and sustaining development became a crucial part of human rights in People’s Republic of China. On the contrary, human rights in North Korea were utilized to provide a justification for the ruling of the supreme leader. Therefore, the Juche ideology played a significant role in shaping human rights in North Korea.

Placing Juche ideology as the centerpiece of human rights, North Korea clearly defined ‘our way of human rights’ in the 1990’s. This terminology emerged in Rodong Shinmun on June 24 1995, in which 'our way of people-oriented socialism's lays the basis for this terminology. According to this article, North Korea defines that our way of human rights is based upon the people-oriented philosophy of Juche ideology. Thus, our way of human rights are independent human rights reflecting upon the people's will and demand.<sup>40</sup> Juche ideology also highlights that rightful guidance of the supreme leader

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<sup>40</sup> 김정일, 1997, ‘인민대중 중심의 우리 식 사회주의는 필승불패이다’, 『김정일선

should be accompanied by human rights in order to ensure the independence of the people. Consequently, Juche ideology requires loyalty of the people towards their supreme leader. This indicates that human rights will be gained only in return of their loyalty to the supreme leader.<sup>41</sup>

Due to the changes took place in political environments of China and North Korea, the two countries revealed different discourse of human rights in later years. Despite such differences, what makes China defend the human rights situation of North Korea seems quite clear from their ideological similarities.

#### **1.4 The Clash of Definitions from Ideological Disparity**

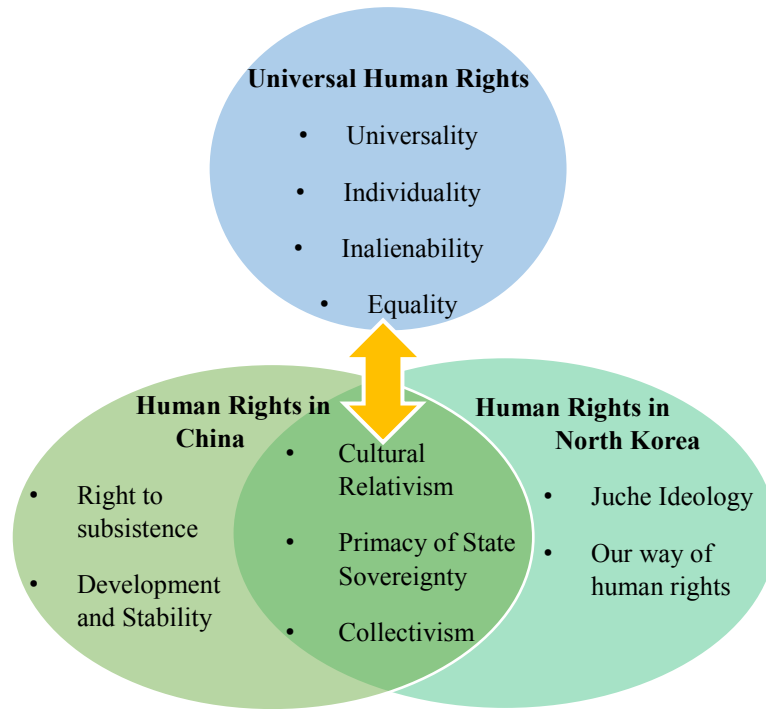
By examining human rights discourse of universal human rights, China, and North Korea, their similarities and differences provide a crucial explanation for China's decision to oppose the UN resolution on the situation of human rights in the DPRK. Though there are some differences in their definitions on human rights, both China and North Korea share a number of critical perspectives on human rights.

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집』, 평양: 조선로동당출판사, 제11권, p.40-48.

<sup>41</sup> 이무철, 2011, 「'북한 인권문제'와 북한의 인권관」, 『현대북한연구』, 14(1), p. 149-150.

**Figure 3. Similarities and Differences in the Definition of Human rights**



As it is easy to capture from the intersection of *figure 3* presented above, the core elements shaping their perception on human rights are the same. Cultural relativism, primacy of state sovereignty, and collectivism all play significant roles in constructing the concept of human rights in each country. Their differences derive from the changes in their political orientations, wherein reform and opening up affecting China and Juche ideology playing heavily on North Korea. It is also important to note that the common characteristics of the two draw a stark contrast to the characteristics of universal human rights. For both China and North Korea, universal human rights cannot be considered as universal, conflicting with their core elements of human rights.

As a consequence, the ideological homogeneity has greatly influenced their cooperation in human rights. Sharing similar views on human rights, which significantly conflicted with the values presented by universal human rights, it seems almost inevitable for China to identify with North Korea than with the UDHR. Such clash of definition on human rights due to the ideological disparity resulted in China's support for North Korea in human rights issue.

## **2. Domestic Issues with Human Rights and North Korean Refugees**

### **2.1 China's Domestic Issues with Human Rights**

In fact, China underwent similar history with its domestic human rights issue as of what North Korea is currently going through in the United Nations. Even before the breakout of the Tiananmen Incident, China's pathetic situation of human rights was recognized by a number of scholars. Confronted with the rave international criticisms after the Tiananmen Incident, China resorted to non-intervention principle and human rights diplomacy to deal with the large-scale sanctions and denunciations. After recovering its reputation within the international regimes, China is applying the same strategy to protect other developing countries those receiving harsh condemnations with regard to their human rights issue.

In the early years of the Maoist era, China's first Constitution of 1954 incorporated most of the human right principles identified in the UDHR. On top of that, the next three constitutions (1975, 1978, and 1982) mostly included guarantees of economic, social, and cultural rights along with civil and political rights. Yet, the socialist emphasis on collective social and economic rights prior to individual civil and political rights was prevalent. Strict socialist ruling prevailed during this period, which resulted in an equality of poverty.

Notwithstanding nominal civil and political rights specified in the constitutions, they were largely limited in reality by the countervailing "duties".<sup>42</sup> These duties took priority over rights, thus under the circumstances in which duty being threatened, it took precedence over rights. This derives from the socialist belief on the supremacy of the state over individuals. The law played as an instrument of the state and human rights are a matter of domestic jurisdiction, hence could be restricted if posed a potential threat to state sovereignty.<sup>43</sup>

The late Maoist period saw more congruence in China's constitutions and the reality. The 1975 constitution denied political rights to "class enemies" such as unreformed landlords, rich peasants, and reactionary capitalists. In addition, the law was

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<sup>42</sup> A. Kent, 1991, "Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989," *Human Rights Quarterly*, 13(2), p.183.

<sup>43</sup> A. Tay, 1989, "Communist Visions, Communist Realities and the Role of Law," *Bulletin of the Australian Society of Legal Philosophy*, 13(51), p. 240.

revised depending on the historical context, as the right to strike was inserted in the 1975 constitution to mobilize the masses during the Cultural Revolution.<sup>44</sup> In this sense, the rights were not universal, particularly when it comes to the class enemy.

By and large, the 1978 constitution was Deng's attempt to move away from the Maoist era. It restored the election of deputies "after democratic consultation" and expanded the people's rights to supervise the bureaucracy, thus expanding political and civil rights of Chinese citizens.<sup>45</sup> Soon after the onset of the reform and opening up, the 1982 constitution had to be modified to correspond with Deng's complex restructuring in the economic, social, and political systems. Civil and political rights were nominally expanded in the 1982 constitution, but even more restrictive control was imposed by the "four basic principles" presented by Deng in response to the Democracy Wall movement. According to these principles, "no exercise of democracy could contradict the socialist road, the people's democratic dictatorship, Communist Party leadership, and Marxist-Leninist- Mao Zedong thought."<sup>46</sup>

In terms of social and economic rights, they also diverged from the reality in a variety of ways. Due to the market mechanism, the right to work was greatly undermined.

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<sup>44</sup> J. Cohen, 1978, "China's Changing Constitution," *The China Quarterly*, No. 76, p. 832.

<sup>45</sup> A. Kent, 1991, "Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989," *Human Rights Quarterly*, Vol. 13, No. 2, p. 185-187.

<sup>46</sup> X. Deng, 1979, Uphold the Four Cardinal Principles, <http://english.peopledaily.com.cn/dengxp/vol2/text/b1290.html>, accessed on 13 October 2017.

Furthermore, rapid structural changes in economy could not catch up to the changes in social and security legislation. Social welfare and security services stated in the 1982 constitution were substantially overstated that it was impossible for the state to materialize.<sup>47</sup>

Furthermore, despite the increase in the number of new criminal legislation, the Criminal Law and the Criminal Procedure Law of 1979 could not assure sufficient protection against arbitrary arrest and facilitate fair trials. The law did not permit preparation of the defense and the right to be presumed innocent was almost nonexistent. The reform brought a significant liberalization to China. However, the problem was that the existing constitutional, legal, and institutional framework were not fully prepared to correspond with such dramatic structural changes.<sup>48</sup>

After China's crackdown on the democracy movement in Tiananmen on June 1989, the reaction from the international community and the international human rights regime was a pure astonishment. With this event, China could not avoid harsh criticisms from the international society for prioritizing state sovereignty over popular sovereignty. The news coverage of People's Liberation Army soldiers shooting the rallying citizens critically damaged the image of the Chinese government. With the United States at the

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<sup>47</sup> A. Kent, 1991, "Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989," *Human Rights Quarterly*, Vol. 13, No. 2, p.193.

<sup>48</sup> 조영남, 2016, 『덩샤오핑 시대의 중국 3: 톈안먼사건』, 서울: 민음사, p. 63.



forefront, multilateral bodies including the European Community, the Group of Seven (G-7), and the World Bank imposed sanctions on China.<sup>49</sup> Soon after the United States imposing sanctions on the lead, other nations followed its steps to apply sanctions. The mass scale of sanctions seemed more like a punishment to China for Tiananmen crackdown, rather than a preventive measure for future abuses.

In response to the denunciations from the international community, China had no other options but to put all its efforts to recover international relations. With the collapse of the Eastern Soviet bloc accompanied by domestic turmoil from the Tiananmen Incident, China struggled to escape from the international isolation. Against this backdrop, China actively participated in the international human rights regime and expressed its theory and perspective on human rights. China also sought to specifically explain its domestic situation of human rights to counter criticisms from the Western denouncers. On top of that, China demanded an equal-footing in the dialogues held in international human right regimes by condemning Western imperialism and power politics with its allies of developing countries.<sup>50</sup>

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<sup>49</sup> J. Seymour, 1990, *The International Reaction to the Crackdown in China*, New York: East Asian Institute, Columbia University.

<sup>50</sup> 윤영덕, 2011, 「중국의 인권담론과 인권현실의 갈등: 중국의 국제인권규범 수용 사례를 중심으로」 『민주주의와 인권』 (전남대학교 5. 18연구소), 11권 2호, p. 473-510.

Acknowledging the lack of official information revealed regarding the domestic situation of human rights, the Information Office of the State Council issued its first White Paper on human rights in 1991. Thus far, the official white papers on human rights published by the Information Office of the State Council amount to 47 in total, and their intention is mostly to respond to specific Western criticisms, such as China's criminal justice system, policy towards the ethnic minorities of Tibet, Xinjiang, and others, family planning program, religious policy, and rights of women and children.

With a significant decline in the criticisms on human rights from the international community these days, China has already ratified and joined a number of international human right laws and treaties. Yet, the effectiveness of ratifying these treaties in improving human rights issue in China is still in question. According to the International Report 2016/17 on the State of the World's Human Rights published by the Amnesty International, there were a number of issue areas in human rights of People's Republic of China within the following categories: 1) Oppression on the Freedom of Expression: the enforced censorship on publications and restrictions of the Internet 2) Oppression on the Freedom of Religion: Tibetan Buddhists, Uighur Muslims, and Falun Gong practitioners 3) Lack of Housing Rights: forced eviction of Tibetans 4) Death Penalty 5) Oppression on Ethnic Minorities: Xinjiang Uighur and Tibetans 6) Oppression on Freedom of Expression: democratic movements in Hong Kong Special

Administrative Region<sup>51</sup>

There are largely three problematic areas in human rights situation of China nowadays. One is the freedom of expression. There is a nationwide crackdown on human rights activists and lawyers. Human right defenders continued to be monitored, harassed, intimidated, arrested, and detained. Enforced censorship on anti-government or pro-democracy publications prevailed. In particular, there was a pro-democracy Umbrella Movement in Hong Kong Special Administrative Region in 2016. The participants were found guilty for “taking part in an unlawful assembly”. Another is the problem of judicial system. Shortcomings in domestic law and systematic problems in the criminal justice system led to widespread ill-treatment and unfair trials, sometimes resulting in irrevocable executions. The last one is the rights of ethnic minorities. Freedom of religion and belief, cultural rights, and even housing rights are being threatened in case of ethnic minorities of Tibet and Xinjiang Uighur.

During his opening speech for the 19th National Congress of the Communist Party of China held in 2017, Xi Jinping made a strong voice with regards to the separatism in the People’s Republic of China. In his rhetoric of “China Dream (中国梦),” freedom of expression and human rights were not on the list of priority. Instead, there was a great emphasis on “the political system of socialism with Chinese characteristics”

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<sup>51</sup> Amnesty International, International Report 2016/17: the State of the World’s Human Rights, Amnesty International Website, <https://www.amnesty.org/en/documents/pol10/4800/2017/en/> (accessed on 28 October 2017).

and the “rule of law” for anti-corruption. Xi also took a harder line on Hong Kong, which recently saw an unprecedented 79-day pro-democracy movement and the birth of an independence movement.<sup>52</sup>

Though China witnessed a great improvement in terms of human rights, there are still a number of problematic issue areas which draw attention from the international community. Without making improvements in this regard, China cannot help but to defend other socialist countries in the same position as it is. Utilizing similar strategies as it did before, China continues to make its voice to defend other developing countries and to defend itself within the international human rights regime.

## **2.2 China’s Position on North Korean Refugees**

China’s policy on North Korean refugees has long been a matter of debate. Faced with severe poverty and poor living conditions, there is a huge number of refugees fleeing from North Korea for food and work. Oftentimes, their first destination is China due to its geographical proximity. However, many of them are forcibly returned to their place of origin due to the restrictions of Chinese legislature on North Korean defectors. Regarding this issue, international law experts and humanitarian groups denounce the

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<sup>52</sup> T. Phillips, 2017, “Xi Jinping heralds 'new era' of Chinese power at Communist party congress,” <https://www.theguardian.com/world/2017/oct/18/xi-jinping-speech-new-era-chinese-power-party-congress#img-1>, (accessed on 19 October 2017).

Chinese government for not granting refugee status to these people.<sup>53</sup>

Though China ratified the United Nations Convention relating to the Status of the Refugee and the 1951 Refugee Convention, China refuses to issue refugee status for North Korean defectors. Humanitarian activists and organizations think these people certainly belong to the refugee category according to the international law. According to the UNHRC, they are refugees *sur place* who might not have been refugees at a later date because they have a valid fear of persecution upon return.<sup>54</sup>

In particular, the severe economic crisis in North Korea combined with the loosened security of the border region after the collapse of the Soviet Union prompted a rapid flow of North Korean refugees into China. The corruption of the North Korean officials and the border guards made this exodus much easier. Furthermore, increased economic activities between Chinese and North Koreans near the border regions attracted them with more business opportunities and better living conditions. All these factors combined dramatically increased the number of North Korean refugees fleeing to China, alerting the government to tighten its border control.<sup>55</sup>

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<sup>53</sup> E. Chung, 2013, "The Chinese Government's Policy Toward North Korean Defections," *Yonsei Journal of International Studies*, 2013 (Fall), p.285

<sup>54</sup> According to the Article 33 of the 1951 Convention, all member-states should not expel or forcibly return refugees to those territories where their life, freedom or physical integrity would be threatened.

<sup>55</sup> E. Chung, 2013, "The Chinese Government's Policy Toward North Korean Defections," *Yonsei Journal of International Studies*, 2013 (Fall), p.286

According to the International Crisis Group's report in 2006, there are approximately 100,000 North Korean defectors residing in China.<sup>56</sup> These defectors in China are under severe stress and pressure due to their fear of deportation and forced repatriation by the Chinese authorities. Once returned, these escapees are recognized as "traitors" by the North Korean government and they are susceptible to tortures, assaults, inhumane treatments, detention in the political prisoner camps, and even public executions for punishment.<sup>57</sup>

However, China identifies North Korean defectors as illegal migrants who cross the border for economic reasons. Beijing also restricts access of the UNHRC to North Korean asylum seekers in China and prevents humanitarian agencies from monitoring the border areas. Furthermore, the Chinese government refused the UN Commission of Inquiry's (COI) request to visit China and observe the issue of North Korean refugees. China made it clear that these illegal migrants undermine domestic law and border control.

There are a number of reasons for China's constant repatriation of the North Korean defectors. First, China signed the Sino-North Korean Mutual Aid and

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<sup>56</sup> International Crisis Group. *Perilous Journeys: The Plight of North Koreans in China and Beyond*, [http://www.crisisgroup.org/~media/Files/asia/north-east-asia/northkorea/erilous\\_journeys\\_the\\_plight\\_of\\_north\\_koreans\\_in\\_china\\_and\\_beyond.pdf](http://www.crisisgroup.org/~media/Files/asia/north-east-asia/northkorea/erilous_journeys_the_plight_of_north_koreans_in_china_and_beyond.pdf). (accessed 20 December 2017)

<sup>57</sup> 김석우, 2012, '재중 탈북자문제와 중국의 책임', 『新亞細亞』 19권 1호, p. 56

Cooperation Friendship Treaty in 1961, thus it is legally obliged to return the escapees. Second, China does not want a regime collapse of North Korea and is wary of such consequence from the rapid outflow of North Koreans. Third, the incoming North Korean refugees will only incline the socio-economic instability in China. The entry of these escapees will increase the job rivalry between low-skilled workers and such illegal migrants are merely seen as an additional economic burden for China.

North Korean refugee issue is indeed a tricky question for China. Considering national interests and its relations with North Korea, China has no choice but to maintain the current policy on forced repatriation of North Korean defectors. Yet, it is also unavoidable for China to receive the criticisms from the international community and human rights regime in this regard.

### **2.3 Criticisms from the International Society**

Both for its domestic situation of human rights and dealing with the North Korean defectors, China could not avoid facing condemnations from the international society. The Tiananmen crackdown was a great disappointment for the international community who witnessed a fraudulent claim of the regime's rhetoric for popular support. The Tiananmen Incident provided a pretext for the international society to scrutinize human rights situation in China. They criticized any hints of domestic instability in China, ranging from minority problems in the far western provinces to the

political liberalization taking place in Hong Kong and Taiwan.

In response to such criticisms, Beijing resorted to the Five Principles of Peaceful Coexistence and raised its voice for the respect of state sovereignty and the principle of noninterference. As a part of its reform, China opted a dual strategy of highlighting state sovereignty but simultaneously advocating interdependence. Therefore, China actively participated in the international organizations while firmly adhering to its basic principle of state sovereignty. China's aggressive activism in the multilateral settings resulted in a positive outcome by making great improvements in its international image.

There was not much difference when it comes to the issue of human rights of other nations. Sticking to its noninterference principle, China was unwilling to discuss domestic issues like human rights in multilateral settings. That is the reason why China reveals a consistent opposition in the UN when it comes to the human rights resolution on North Korea.

International criticisms were also directed to China's policy on North Korean refugees. In 2006, the High Commissioner for Refugees pointed out that forcibly repatriating North Koreans with the chance of persecution on return stands in violation of the Refugee Convention. Other UN bodies also called upon China to halt the forced repatriation of North Korean defectors. Some resolutions were adopted by more than 100 member-states in the UN General Assembly, which called upon North Korea's



neighboring states (particularly China) to cease the deportation of North Koreans.<sup>58</sup>

In addressing such denunciations, China sticks to refusal and strict position in maintaining its current policy on North Korean illegal migrants. Since North Korean escapees left their country for economic reasons, China does not believe them to befit the refugee category within the Convention. Since they would only qualify for refugee status when they have left their countries for political reasons, most of those North Koreans who fled to China were faced with political and legal constraints. Therefore, the judicious means to confer protection for these people are largely limited.<sup>59</sup>

Consequently, there is a slim chance of China changing its policy toward North Korean refugees in the immediate future. Yet, since it could not avoid constant condemnations and requests for observations from the international human rights regime, China will continue to defend human rights issue in North Korea to prevent further interruptions to its domestic affairs.

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<sup>58</sup> R. Cohen, North Koreans in China in need of international protection, <https://www.brookings.edu/articles/north-koreans-in-china-in-need-of-international-protection/> (accessed on 10 December 2017)

<sup>59</sup> H. Kim, 2006, "Transnational Network Dynamics of NGOs for North Korean Refugees and Human Rights," *Korea Observer*, 37:1, p. 74.

### **3. China's Reputation in the International Regimes**

#### **3.1 The Representative of Developing Countries**

In the national report for Universal Periodic Review (UPR) by the Human Rights Council in 2008, China elucidated that it “respects the principle of the universality of human rights and considers that all countries have an obligation to adopt measures to continuously promote and “protect human rights in accordance with the purposes and principles of the Charter of the United Nations and the relevant provisions of international human rights instruments, and in the light of their national realities.”<sup>60</sup> Put it differently, this means China would only respect the universality of human rights under condition in which “national realities” are taken into account. Likewise, China has been stressing its status as a developing country to justify its stance with regards to human rights.

Nevertheless, China has not fully explained what “national realities” precisely meant by. Instead, China added in the report that “Given differences in political systems, levels of development and historical and cultural backgrounds, it is natural for countries to have different view on the question of human rights. It is therefore important that countries engage in dialogue and cooperation based on equality and mutual respect in

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<sup>60</sup> The United Nations, 2008, “National Report of China to the Human Rights Council for the UPR,” A/HRC/WG.6/5/CHN/1, p.5.

their common endeavor to promote and protect human rights.”<sup>61</sup>

By defining itself as a developing country, China could successfully justify its slow progress in human rights. Being a developing country, the prime task laid before China is to resolve poverty and achieve economic growth. China also proved its effort to the international community by successfully meeting the poverty reduction target set by the UN Millennium Development Goals.

Seeing itself as the largest developing country in the world, China became much more vocal in speaking on behalf of other developing countries ranging from Africa and Asia. As a part of China’s Third World Diplomacy, Africa has received the official development assistance (ODA) from China for a long time. With China in need of support for its resolution on human rights, consistent lobbying efforts to African countries paid off.

Furthermore, remaining socialist countries in Asia, such as Syria, Iran, Iraq, Burma, Vietnam, North Korea, Malaysia, Bangladesh, Singapore, and Indonesia formed a like-minded group to give support to China as well. The so-called “Asian Group,” they revered the success stories of China and were in no hesitation to support their representative of developing countries in multilateral settings.

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<sup>61</sup> The United Nations, 2008, “National Report of China to the Human Rights Council for the UPR,” A/HRC/WG.6/5/CHN/1, p.5.

As the largest developing country in the UN, China will continue to exert its human rights principles on behalf of its like-minded developing countries. No matter what the result would be, China tried its best to protect their interests and to raise their voices in the international arena. With China firmly standing behind North Korea's background with a strong veto power, the human rights resolution of the DPRK seems highly unlikely to be adopted in the UN Security Council.

### **3.2 A Permanent Member of the Security Council**

As a permanent member of the UNSC, China knows that it should set a good example before other members of the United Nations. Acknowledging its important role within the security council, Hu Jintao stated in his speech at the United Nations' 60<sup>th</sup> anniversary in 2005 that “[We should] uphold multilateralism to realize common security... The United Nations, as the core of the collective security mechanism, plays an irreplaceable role in international cooperation to ensure global security. Such a role can only be strengthened and must not in any way be weakened.”<sup>62</sup>

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<sup>62</sup> J. Hu, 2005, “Build Towards a Harmonious World of Lasting Peace and Common Prosperity,” Speech at the Plenary Meeting of the United Nations' 60<sup>th</sup> Session, New York: United Nations.

By utilizing the premium as a member of P-5, China aims to meet several goals within the United Nations. First, China uses the United Nations to testify its image as a major power which deserves deference from the members. Through its actions in UNSC, China sought to demonstrate itself as a responsible major developing nation which seeks to resolve global security challenges such as WMD proliferation and terrorism.<sup>63</sup> This means China is willing to improve its contributions to UN activities. In 2015, China became the second-largest contributor to the UN's peacekeeping operations. By increasing its share of donations from 6.6% to 10.2%, China surpassed Japan in its share of contribution for the first time.<sup>64</sup>

Second, China's active participation in the UNSC is largely due to its vigilance over Taiwan. Beijing aims to clear up any standing ground for Taiwan in the international arena. By strongly upholding "One China Policy," China will never let Taiwan gain international support. Thus far, China used six vetoes and two of them were related to denying UN peacekeeping support to nations that recognized Taiwan. Since Taiwan issue is directly concerned with China's basic principle of state sovereignty, it is highly likely

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<sup>63</sup> S. Kim, 1999, "China and the United States" E. Economy and M. Oksenberg (eds.), *China Joins the World: Progress and Prospects*. New York: Council on Foreign Relations, p. 42-89.

<sup>64</sup> H. Jiang and Q. Wang, 2015, "Nation to contribute more to UN budgets," *The State Council of the People's Republic of China*, [http://english.gov.cn/news/top\\_news/2015/12/25/content\\_281475260295906.htm](http://english.gov.cn/news/top_news/2015/12/25/content_281475260295906.htm) , accessed on 31 October 2017

that China will continue to use its power as a permanent member of UNSC to isolate Taiwan from the international community.

Third, UN provides a venue for China to promote its vision of “democracy in international affairs” and to construct a “just and fair international order.”<sup>65</sup> With its veto power, China intends to advance its national interests and foreign policy objectives in UNSC. By using its power and influence, China could gradually shape the public opinion of UN members. For instance, China managed to alter the opinions of other P-5 on controversial security issues such as North Korea, Iran, Sudan, and Burma. China also used its veto power against the resolution of human rights situation in DPRK to be discussed in UNSC, arguing that nuclear threat of North Korea should take precedence over human rights issue in Security Council.

Last and foremost, Beijing aims to constrain Washington’s solutions on international problems and minimize its influence. Previously, the United Nations was used as a tool for the U.S. to enforce American unilateralism in multilateral settings. This was particularly visible when it comes to the issues related to human rights, humanitarian questions, and imposition of penalties and sanctions.<sup>66</sup> China issued two vetoes, one resolution on Burma (2007) and the other on Zimbabwe (2008) in UNSC. Both

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<sup>65</sup> E. Medeiros, 2009, *China’s International Behavior: Activism, Opportunism, and Diversification*, California: RAND Corporation, p.170-171.

<sup>66</sup> E. Medeiros, 2009, *China’s International Behavior: Activism, Opportunism, and Diversification*, California: RAND Corporation, p.171-172.

resolutions dealt with censuring these countries for their poor human right practices and calling for political change. By throwing its veto, China asserted that “human right issues do not belong to the purview of the Security Council because they do not pose a threat to international peace and security.”<sup>67</sup>

As a permanent member of UNSC, China knows how to use its veto power to defend countries who are under similar conditions to China in terms of human rights. China regards human right issues are not as important as hard security issues, which is directly related to world peace and survival. From Beijing’s perspective, international organizations have no right to intervene with domestic human right issue as China adheres to non-interference principle to internal affairs. Insofar as China maintains its position within P-5, human right issues will not be consulted in UNSC.

### **3.3 The Rivalry between China and the United States**

From 1990 to 1993, China saw a great expansion of its regional and international relations, along with a development in its economic and military capabilities. While maintaining its active human rights diplomacy, China noticed a signal of competition for a balance of power between the U.S. and itself. The United States

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<sup>67</sup> C. Lynch, “Russia, China Veto Resolution on Burma Security Council Action Blocks U.S. Human Rights Effort,” *Washington Post*, 13 January 13 2007.

publicly threatened China to remove its most-favored nation (MFN) trading status, as a means to press China to improve its human right conditions. Yet, the international environment was now gradually shifting towards the power struggle between the United States and China.

The major objectives of China's ruling elite in the 1990s was to prevent containment policy from the United States and to expand its international influence. Through consistent lobbying and the use of sticks and carrots strategy, Beijing was successful in meeting both of its objectives set out earlier than they expected. By this time, the international community started to gaze into the new theory of "China Threat".

China was one of the few remaining socialist countries after the end of the Cold War. Nevertheless, the United States did not consider China as the next number one enemy immediately after the breakdown of its old foe, the Soviet Union. Rather, Washington thought it could make China under control of the United States. Based on this line of thought, the United States resorted to confrontations rather than dialogues when pressing China on human rights.

However, Beijing was not as easy as Washington thought. Contrary to the United States' expectation, China stayed firm with its key principles in the international arena, but was also successful in entrapping others to side with them. Losing co-sponsorship from the EU and Japan with a group of Asian members already on China's side, U.S was rather isolated in proposing UN resolutions to condemn human rights



situation in China. Finding itself losing its grips on China, Washington resorted to “China Threat” and regarded the rise of China as a potential threat to the democratic peace.

China’s rise was not only analyzed through the lens of China Threat narratives. Some scholars suggested possible breakdown of China due to the numerous social problems caused by its rapid growth of economy. The rhetoric of China’s government officials was focused on responsible China who will devote to the development of global economy and world’s peace.<sup>68</sup>

Notwithstanding hostility arising from the “China Threat” narratives, Beijing found the international environment relatively peaceful from the late 1990s until the beginning of the 21<sup>st</sup> century. By applying different diplomatic strategies to great powers, regional neighbors, and developing countries, China sought to maintain the peaceful international environment conducive to sustaining its economic growth.

From the beginning of the new century, China rose up to the level of world power. As the power of the United States relatively declined, China and the United States were now mutually dependent on each other.<sup>69</sup> During this period of time, the “Assertive China” narratives emerged along with the deepening of previous narratives on “China Threat.”

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<sup>68</sup> 조영남, 2006, 『후진타오 시대의 중국정치』, 서울: 나남, p. 207.

<sup>69</sup> G. Rozman, 2010, *Chinese Strategic Thought toward Asia*, New York: PALGRAVE MACMILLAN, p.109-130.

Chinese policymakers, analysts, and the media defined China's rise as a "revitalization (复兴)" of China's rightful place in the world as a great power."<sup>70</sup> But they claimed that China was never a hegemonic ruler who resorted to force and coercion but rather a benign and benevolent great power. Despite such rhetoric from the Chinese officials, a number of renowned scholars such as Minxin Pei, Avery Goldstein, and Aaron Friedberg paid much attention to China's rise and its increasing assertiveness as a threat to the existing world order.

In fact, there was nothing new about China's assertiveness. China has always been strong and firm with the issues related to its core interests. In addressing disputes related to territorial integrity (Taiwan and Hong Kong) and separatism (Tibet and Xinjiang Uighur), China has never been easy. This is because they are directly related to state sovereignty. China's building up on its military capabilities could also be regarded as a means to protect the core interests. Besides, having accomplished such a dramatic economic growth in a short period of time, China has abundant resources and capital to invest in well-rounded areas to develop its capabilities.

As China reached the G-2 level in terms of its economic capability, China was now evidently involved in strategic competitions with the United States in multilateral arenas. Oftentimes, the United States and China clashed with each other and called upon

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<sup>70</sup> E. Medeiros, 2009, *China's International Behavior: Activism, Opportunism, and Diversification*, California: RAND Corporation, p.7-9.

their supporters to follow on their lead. The issues related to the human rights were not an exception. While China actively prevented human right resolutions on the DPRK, Sudan, Iran, Syria, Belarus, and Sri Lanka from being adopted in the UN Human Rights Council, the majority of the member-states sided with the United States.

China is also very sensitive to the issues related to the Northeast Asia. As a “regional great power”, China feels the responsibility to carefully handle the issues concerned with its neighboring countries. As a responsible regional power, China sees human right issue of North Korea as not as urgent and serious as its nuclear issue. Since sustaining stability of the Korean peninsula is the prime goal of China’s policy to the both Koreas, extending discussion of human rights up to the Security Council was a nonsense and completely inappropriate. Russia also agreed with China and used its veto to stop further debate on this issue in the UNSC.

On top of that, China saw the United States had no right to judge the human rights situation of other member-states based on its standard. China criticized the U.S. for having serious issues with human rights in many aspects, including racial discriminations, sexual violence against women, unfair treatment of immigrant workers, and so on. To counter Washington’s criticisms on human rights, Beijing also issued a number of human rights reports on the United States and detailed the problems and shortcomings within the situation of human rights in the U.S.

In so far as China standing as a strategic competitor to the United States in the international human rights regime, those developing countries who are susceptible to condemnations and scrutiny with their human rights issues will be protected under China's umbrella.

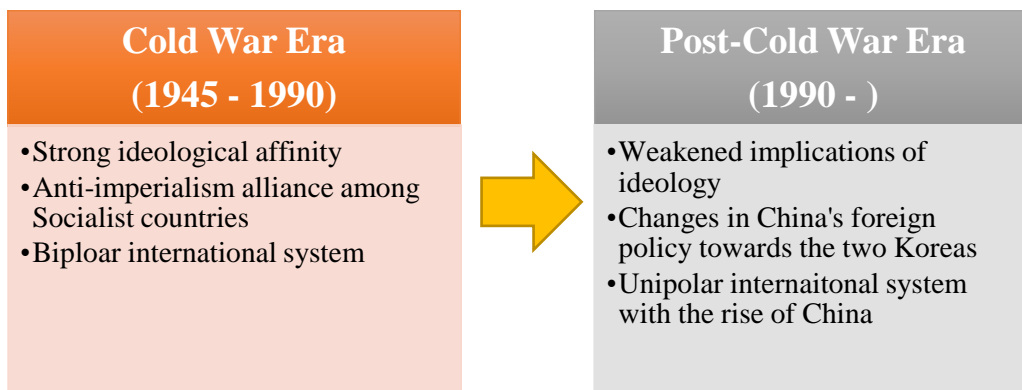
#### **IV. Conclusion**

China's consistency in opposing the UN resolution condemning human rights situation in the DPRK prods the memory of the international community's harsh criticisms on human rights of China after the Tiananmen Incident in 1989. China devoted tremendous efforts to recover its international image and regain respect from the international society. Over the history of the Sino-North Korean relations, the two countries saw certain changes in their ideological perspectives and the international environment.

In general, China's objection to the resolution against North Korea's human rights issue remained the same. Yet, when analyzing its grounds in detail, the contents of the factors attributing to China's position on the resolution has changed from the Cold War Era to the Post-Cold War Era. As listed in *figure 4* below, China's support for North Korea during the Cold War Era was based on the strong ideological affinity, anti-imperialism alliance among Socialist countries, and the bipolar international system. On the other hand, when it comes to the Post-Cold War Era, there were significantly

weakened implications of ideology, changes in China's foreign policy towards the Korean peninsula, and the unipolar international system accompanied by the rise of China.

**Figure 4. Changes in Factors Contributing to China's Position on the Human Rights Resolution of the DPRK**



To draw conclusion from the analysis on factors contributing to China's position with the resolution, each of these factors individually played its role in shaping China's strategy in opposing the human right resolution of the DPRK. As it was revealed from the previous analysis on the Sino-North Korean relations and changes in China's behaviors in the international human right regimes, domestic factors played more crucial role in shaping China's decision during the Cold War Era, whereas international factors played heavily during the Post-Cold War Era.

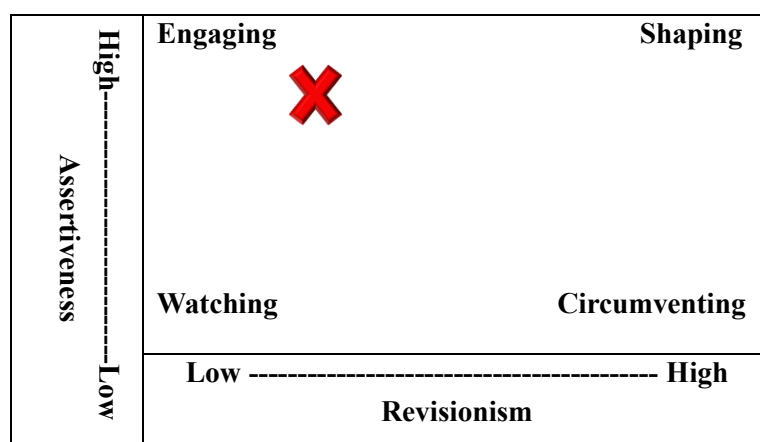
Though it is difficult to analyze whether which factor is more determinant than the other, the interplay of both domestic and international factors resulted in China's decision to the resolution on human right situation in North Korea. All of the three contributing factors provided a valid ground for China to defend North Korea with its human right issues.

To analyze the level of assertiveness and revisionism in China's position on North Korea's human right resolution, China has maintained a high level of assertiveness when it comes to the issue of human rights in any multilateral settings. This has been consistent since China came under severe censure by the international society for the Tiananmen crackdown. Since then, China actively implemented its human rights diplomacy, thus its basic principles on human rights remain intact until these days.

Speaking of revisionism, there is a lack of evidence to demonstrate China's intention to revise the current international human rights regimes. In other realms, some hints of China's revisionism could be spotted. For instance, China's establishment of Asian Infrastructure Investment Bank (AIIB) could be considered as China's intention to change the existing economic world order. Yet, there is no such effort revealed in terms of human rights. Rather, China's strategy leaned more towards the engagement. Beijing sought to comply with the established international norms of human rights and follow by the global standard in formality.

As a result, this study argues that China's intention behind the international human right regimes is closer to engaging, revealing a high level of assertiveness but a relatively low level of revisionism. This is marked on the *figure 5* below.

**Figure 5. China's Intention behind the International Human Rights Regime within Four Strategies**



**Source:** Reconstructed based on Wuthnow et al. 2012. "Diverse Multilateralism: Four Strategies in China's Multilateral Diplomacy."

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## 국문 초록

1992년을 시초로 유엔 내 북한 인권문제가 점차 공론화되기 시작했다. 2003년에는 북한의 인권상황에 대해 비판하는 결의안이 유엔 인권위원회에서 공식적으로 채택되었다. 처음으로 공식 채택된 이 북한인권 결의안은 북한 내 인권문제를 유엔총회 차원에서 다뤄질 수 있도록 격상시켰다. 2006년 유엔 인권이사회가 총회 산하 기구로 지정되면서, 북한인권 결의안은 매년 채택되기에 이르렀다.

본 논문은 유엔 북한 인권 결의에 대한 중국의 입장에 대해 분석한다. 북한인권 결의안에 대해 중국은 줄곧 표결을 통해 반대 의사를 표명해왔다. 유엔 차원에서 북한 인권문제를 논하는 것에 대해 반감을 표했던 중국은 유엔헌장의 불간섭원칙을 강조하며 다른 회원국들에게 북한의 내정에 간섭하지 않을 것을 촉구했다. 특히, 북한의 인권문제가 2014년에 유엔 안전보장이사회 차원의 논의로 확대되었을 때, 중국 대표단은 북한 내 인권문제를 안보리에서 정치화하는 행위는 옳지 않다고 역설했다.

남북관계가 점차 악화하는 상황에서도, 중국의 북한인권 결의안에 대한 입장에는 변함이 없었다. 중국이 국제 인권 레짐에서 점차 적극적으로 개입하게 되면서, 중국은 계속해서 북한의 인권문제에 대해 변호하는 역할을 마다하지 않았다. 냉전 시기부터 탈냉전 시기까지, 중국의 북한 인권 결의에

대한 입장은 한결같았다.

중국의 북한 인권 결의에 대한 입장에서 변화가 있었다면, 이는 중국이 북한을 인권문제에 대해 지지하는 근거에서 찾을 수 있다. 냉전 시기에 중국이 북한을 지지한 이유는 이데올로기적 동질성, 사회주의 국가 간의 반제국주의 동맹, 그리고 국제 양극체제에 기인한다. 반면에, 탈냉전 시기에는 이데올로기의 영향력 약화, 중국의 대한반도 정책의 변화, 국제 단극체제와 중국의 부상 등에서 그 근거를 찾을 수 있다.

중국이 결의안에 대해 줄곧 반대 입장을 취하는 것에 대해 다양한 요인을 들 수 있는데, 그중 하나는 중국과 북한의 이념적 동질성이다. 인권에 대해 유사한 가치관을 가진 중국과 북한은, 북한이 국제사회로부터 인권문제에 대해 비판을 받는 것으로부터 중국이 변호하도록 동기부여를 하는데 기여했을 수 있다. 중국의 처참한 국내 인권 현황과 논란의 여지가 있는 중국의 탈북자 정책 또한 이와 같은 중국의 결정에 영향을 미쳤을 것이다. 이러한 제에 대해 외부로부터의 비판을 차단하려면 중국은 북한을 대변해 적극적으로 인권문제를 변호할 수 밖에 없었을 것이다. 개발도상국의 대변인이자 유일하게 거부권을 행사할 수 있는 권한을 가졌기에, 이 또한 중국의 북한 인권문제에 대한 의사를 결정하는 데 기여했을 것으로 보인다. 미국과 다자영역에서 전략적 경쟁 구도에 있는 중국은 국제 인권 레짐에서 미국과

반대되는 입장을 취하고 있다.

어떤 요인이 가장 결정적인 영향을 미쳤는지는 논점이 아니다. 그러나, 국내적 요인과 국제적 요인의 상호작용이 중국의 북한인권 결의안에 대한 입장에 중요한 역할을 미쳤다는 사실에는 주목할 필요가 있다.

중국의 국제 인권 레짐 내에서의 행동에 대한 의도를 분석하자면, 중국은 다자환경에서 인권문제를 다루는 상황에서는 항상 강경한 태도를 취해왔다. 이는 중국이 천안문사태 이후 국제사회로부터 인권 문제에 대해 심각한 비판을 받았던 이래로 줄곧 변함이 없었다. 그러나, 현 국제 인권 레짐에서 중국의 수정주의적 태도를 증명하기에는 다소 무리가 있다. 중국의 전략은 오히려 적극적으로 참여하는 양상을 보이는데, 중국은 현 국제 인권 규범에 순응하며 표면적으로는 국제규범에 준수하는 태도를 보이고 있다.

**주요어:** 유엔, 북한 인권, 북한 인권 문제, 인권에 대한 중국의 입장, 유엔 결의

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