

# Challenging the ‘Hierarchy of Nationhood’: Diasporic Entitlement and the Case of Korean Chinese (Chosŏnjok) in South Korea<sup>1</sup>

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## Introduction

The seven-and-half million-strong Korean diaspora is concentrated in China, North America, Japan, and the former Soviet Union. Since the late-1980s, many ethnic Koreans have been “returning” to South Korea, their putative ethnic homeland. Significantly, the treatment of the Korean diaspora based on where they are from, by the South Korean state, has not been equal. Particularly on issues of residency and employment rights, ethnic Koreans from China and the former Soviet Union were, for some time, relegated to second-class status, from a legal-institutional perspective, compared to those from North America. This inequality is encapsulated in the phrase, used by a number of scholars, the “hierarchy of nationhood,” which we examine in more detail below. Surprisingly, perhaps, the *Chosŏnjok* (조선족) or Korean Chinese community (for the remainder of this paper, we will use both terms interchangeably) challenged the unequal treatment imposed on them by the South Korean state; they did so by asserting rights based on ethnic sameness, their struggle for Korean independence, colonial victimhood, and cultural authenticity. While such expressions of *entitlement* are not unusual among marginalized

diasporic groups, the Korean Chinese community achieved something remarkable, namely, they succeeded in gaining employment, residency, and political rights initially denied to them by the South Korean state. Indeed, *in practical terms* (albeit not necessarily in principle), they have effectively overturned the “hierarchy of nationhood.” That is, while the *Chosŏnjok* have not quite achieved legal-institutional parity with their diasporic brethren, they now dominate a privileged visa category—i.e., Overseas Koreans status—from which they were once thoroughly and intentionally excluded. Indeed, at least some parts of the *Chosŏnjok* community have declared “victory” in their struggle for equal treatment. Consider, on this point, the view of the *Dongbuk-A Shinmun* (동북아신문), a leading voice of the Korean Chinese community in South Korea. In an editorial in September 2019, Kang Sŏng-pong wrote, “the discriminatory elements of the treatment of Korean Chinese and CIS [Commonwealth of Independent States] Koreans has disappeared.”<sup>2</sup>

On the surface, these changes are very hard to explain. After all, Korean Chinese were, at the time (beginning in the 1990s), foreign nationals: they were citizens of China. Moreover, nearly all were born in China and seldom had been outside the borders of their own region, still less traveled to South Korea. Nor did their arrival in South Korea go smoothly; in important ways, their presence was barely tolerated and often fraught. While the situation has improved over the decades, Korean Chinese still suffer from societal discrimination and are seen, by many mainstream South Koreans, as “poor cousins,” interlopers, and potential threats. The negative, stereotyped image of Korean Chinese was highlighted in the 2017 movie, *Midnight Runners* (*Ch’ŏngnyŏn Kyŏngch’al*; 청년경찰), which depicted *Chosŏnjok*, critics from the community charged, as “poor, vicious criminals” whose control of Daerim-dong, a district in Seoul with a large Korean Chinese population, as “a dangerous area where even police have lost control”

(Jung 2017).<sup>3</sup> Their treatment by mainstream society is neatly and bluntly summed up by a 67-year old Korean Chinese who stated, in 2018, “South Koreans treat us like foreigners. Worse, they treat us like dogs!”<sup>4</sup>

Clearly, in 2021, tensions remain between the Korean Chinese community and mainstream South Korean society. Yet, while these tensions are important, the focus of our paper is on the legal-institutional process that initially relegated the *Chosŏnjok* community to the bottom (or near-bottom) of the hierarchy of nationhood but were then effectively challenged “from below.” More specifically, our focus is on the struggle by the community to reshape that process in a manner that reflects its most pressing concerns. Understanding how a disadvantaged and seemingly powerless community could wage an effective struggle—particularly against a powerful state—requires a somewhat unconventional, although certainly not novel, framework of analysis. Our argument revolves around just such a framework, which has been dubbed discursive institutionalism.<sup>5</sup> Although we will discuss core elements of our approach as we proceed, we understand the need for some preliminary discussion at the outset. Thus, to begin, and most generally, we put ideas and discourse—the latter of which can be simply defined as the “exchange of ideas”<sup>6</sup>—at the center of analysis. We argue that ideas and discourse are not only consequential but also causal, which is to say they are “irreducible causes of political action.”<sup>7</sup>

While there is nothing theoretically groundbreaking here, it is a necessary corrective in the context of research on politics and policy in South Korea, which has long had a strong state-centric bias. The popularity of the state-centric paradigm, to a large degree, reflects the legacy and continuing influence of the literature on the developmental state in East Asia generally and in South Korea specifically. This literature, in broad terms, portrays the state as a largely unitary actor, insulated from social forces, doggedly pursuing its own developmental goals and interests,

the latter of which are centered on maximizing economic growth and technological advancement. Importantly, state-centric accounts are not limited to industrial or strictly economic policy but have also been applied to the immigration and nationality regimes,<sup>8</sup> and to multiculturalism and diaspora policy.<sup>9</sup> Indeed, underlying the “hierarchy of nationhood” argument is the assumption that “naked” power relations determine the state’s unequal treatment of different communities of ethnic Koreans. In this perspective, those with economic power (e.g., Korean Americans) are given greater privileges in return for the material benefits they will presumably bring to the South Korean economy; those with little to no economic power (e.g., *Chosŏnjok*), by contrast, must simply accept their position at the bottom of the hierarchy; they take what they are given and nothing more.<sup>10</sup>

Our approach does not dismiss the significance of state power and interests, but we argue that the process leading to institutional change should not be understood, as is often but usually tacitly the case, as a dyadic power struggle or as a struggle between opposing forces, where one side must literally “overpower” the other side either to prevent change or bring about change. (In cases where the power differential is not overly wide, the two sides are presumed to negotiate and compromise.) As we will discuss, the struggle by *Chosŏnjok* to overturn the hierarchy of nationhood had little to nothing to do with a coercive, dyadic power struggle, but was instead a fundamentally discursive struggle, which itself is a product or reflection of discursive agency. Discursive agency—another key element of our argument—refers to the capacity of actors, to put it very simply, to accept or reject ideas and to persuade others to do the same (and vice versa). In this respect, actors or “discursive agents” (i.e., real, thinking and speaking people whose ideas and discourse directly shape, reproduce, or reshape institutions) are able to “consciously chang[e] ... their institutions—for better or for worse—through deliberation,

contestation, as well as consensus-building around ideas.”<sup>11</sup> While our approach is microfoundational, we should add, we understand that people are not free-floating entities who can do anything and everything they want at any time; they are, instead, connected to or embedded in existing institutional arrangements and relationships of social power that both constrain and enable their (discursive) agency. In post-authoritarian South Korea, democratic institutions, including an independent judiciary, and the character of state-society relations have played decisive roles. It is important to understand, though, that democratic institutions are also, ultimately, a product of shared ideas and discourse.

With the foregoing in mind, our paper has three parts. First, we provide a brief descriptive overview of the initial stage of immigration by the *Chosŏnjok* to South Korea. Second, we describe the origins and character of the Korean Chinese entitlement claims and also address the question, “Do entitlement claims reflect an integral element of *Chosŏnjok* identity or are they simply rhetorical and strategic tools?” Our answer, at the most general level, is simple: the entitlement claims made by Korean Chinese cannot be reduced to a binary, either-or calculation. There are instrumental elements, but there are also deeply held affective elements integral to their identity as a people. At the same time, there are crucial processual and contextual dimensions (e.g., Cold War political dynamics; China’s ethnic minorities policy; South Korea’s legal-institutional treatment of the Korean diaspora) that shape both the externally and self-defined, as well as “strategic” or instrumental conceptions, of identity. Third, we explain how and why entitlement claims by the Korean Chinese have been effective in bringing about significant institutional change in South Korea. Using the discursive institutional framework just discussed, we argue that the ethnoracial foundations of South Korea’s multifaceted nation-building discourse has created a particularly receptive institutional environment for the Korean

Chinese entitlement claims of membership in the South Korean nation-state. A receptive environment, however, is not enough. In this regard, our framework also highlights the centrality of discursive agency, both on the part of Korean Chinese but also, crucially, on the part of their key allies—religious leaders and civic organizations—in South Korea.

### *Chosŏnjok* Immigration to South Korea in the 1990s

The details of the *Chosŏnjok* arrival in South Korea have been thoroughly examined elsewhere, so we will only provide a barebones sketch here.<sup>12</sup> This said, the ramp up in “ethnic return migration” was clearly connected to the winding down and subsequent end of the Cold War and South Korea’s effort to develop stronger relations with North Korea, which entailed building ties with China and the Soviet Union based on South Korea’s *Nordpolitik* policy.<sup>13</sup> A by-product of this policy was an opening up of travel between South Korea and China, in particular. While the opening of once-closed borders was obviously a necessary step for increased cross-border migration between the two countries, an equally and likely more important factor was rising demand within South Korea primarily for low-wage, non-professional labor combined with limited job opportunities for *Chosŏnjok* in China. There was, it is important to add, also an affective desire by many *Chosŏnjok* to return to their ethnic homeland, an opportunity that had been completely denied to them for their entire lives. The process of return migration began in the late-1980s and continued to increase over the years. From 1991 to 2000, the number of *Chosŏnjok* immigrants to South Korea went from around 18,000 to almost 78,000, with the large majority—even those with strong educational backgrounds (*Chosŏnjok* have the highest levels of educational achievement among all groups in China)<sup>14</sup>—engaged in labor either as undocumented workers or as low-paid “industrial trainees.”<sup>15</sup> Notwithstanding their status as

irregular workers stuck in “difficult, dirty, and dangerous” manual labor jobs (dubbed “3-D jobs,”) the appeal of working in South Korea was unmistakable. As Song puts it, “The relative economic backwardness in peripheral north-east China, where Chosŏnjok are concentrated, pushed them to seek employment opportunities in South Korea, where wages were substantially higher ... .”<sup>16</sup>

Importantly, in the early stages of *Chosŏnjok* migration to South Korea, there was a high expectation of mutual kinship on both sides. In welcoming a group of *Chosŏnjok* writers, for example, one South Korean author declared, “This [South Korea] is your homeland, which you should have been living in as owners together with us ... [indeed] you are still owners of this land.”<sup>17</sup> Unfortunately, the high expectation of mutual kinship was quickly dashed. Pervasive mistreatment and abuse at the hands of South Korean employers caused a deep sense of humiliation among many Korean Chinese.<sup>18</sup> The abuse was so bad that, at one point in 1996, the South Korean government produced a booklet that, among other things, had to explicitly advise employers not to beat their workers.<sup>19</sup> This sense of humiliation, Hyejin Kim notes, was punctuated by a brutal incident onboard a South Korean fishing ship, the *Pescamar*, in which six *Chosŏnjok* immigrants—after enduring “cruel discrimination” and physical harassment — murdered seven South Korean and three Indonesian seaman.<sup>20</sup> Regardless of the heinous nature of the crime, many Korean Chinese laid the blame primarily on the South Korean government, which, they argued, instituted unfair and inhumane policies that created the conditions that bred fratricidal violence.

The upshot is this: the first decade plus of significant migration to South Korea by Korean Chinese did not, in general, produce good feelings, trust, and kinship; if anything, it did just the opposite. Even without physical abuse and workplace violence, serious tension and

conflict were bound to develop. After all, the (institutional) relegation of the vast majority of Korean Chinese not only to 3-D jobs, but also to “illegal foreign worker” status in their putative homeland, embedded a highly exploitative and unequal relationship. It unequivocally demonstrated that, irrespective of “shared blood” and cultural ties, *Chosŏnjok* were, in the eyes of the South Korean state (and society), merely a source of cheap and disposable labor—not long-lost kin who were entitled to warm and welcoming treatment. The predictable backlash by Korean Chinese to their situation provoked even harder pushback by South Koreans. One useful example of this is provided by Kim Dae-joong, the editor-in-chief (in the 1990s) of South Korea’s influential, and strongly conservative, *Chosun Ilbo* (조선일보). In an editorial, Kim wrote that he once advocated accepting every *Chosŏnjok* and paying them the same as South Korean workers, but then changed his mind. The reason, according to Kim, was that South Koreans were “getting slapped in the face [by Korean Chinese] even though we’re helping them;” he also asserted that they were “backstabbing, dangerous, and completely untrustworthy.”<sup>21</sup>

In spite of the development of ill will, on both sides, as we will examine in depth in a subsequent section, Korean Chinese were ultimately able to bring about major improvements to their legal-institutional treatment and status within South Korea. This did not happen “naturally” or without a “fight.” Before getting to details of this struggle, though, it is important to address the question of *Chosŏnjok* identity.

### The Cultivation of a Korean Ethnonational Identity in China

The story of *Chosŏnjok* identity is complicated. It is very clear, though, that Koreans in China, over multiple generations, cultivated a strong and resilient ethnocultural identity based not only



on blood but also on national sacrifice—as heroic anti-Japanese fighters and as victims of oppression—and on cultural purity. This immediately suggests that *Chosŏnjok* identity is not merely a strategic tool but is instead a deeply rooted national and historical identity that has persisted over several tumultuous periods, including Japan’s imperial expansion, the internecine civil war in China the Cultural Revolution, and the Cold War. (China’s ascent to a global capitalist power marks another tumultuous period, but one that has, in an important respect, tended to weaken *Chosŏnjok* identity, especially in more recent years among the younger generation.)

For the second and third generation Korean Chinese (mostly born from the 1930s to the 1980s), the sense of *Chosŏnjok* identity—as opposed to a generic Korean identity—was formed and facilitated by a variety of factors and circumstances. One particularly important factor, in the post-colonial era, was the relative autonomy and space, both physical and cultural, the *Chosŏnjok* community enjoyed after the establishment of the People’s Republic of China (PRC). The physical and cultural space the *Chosŏnjok* experienced was largely the product, following the establishment of the PRC, of an ideological commitment to self-determination of ethnic minority rights. This led to the early establishment of autonomous regions.<sup>22</sup> In these “autonomous regions,” China’s officially recognized minority groups could take responsibility for local self-government and administration, using their own languages and people.<sup>23</sup> While China’s treatment of the country’s many ethnic minority groups has shifted over the decades—the Cultural Revolution (1966-1976) was a particularly dangerous time for national minorities—the idea and practice of ethnic regional autonomy has remained a fairly consistent feature of Chinese politics. As Barry Sautman notes, however, “[e]thnic regional autonomy is mainly cultural.”<sup>24</sup>

For the purposes of our argument, this cultural autonomy is key as it provided the framework for the *Chosŏnjok* to voluntarily maintain and develop a distinct ethnocultural identity even within the confines of an illiberal authoritarian political system dominated by a different ethnic group, namely, *Han* (漢) Chinese. Thus, until the early 1990s, most *Chosŏnjok* were able to live their lives largely isolated from *Han* Chinese society. As Choi writes, they resided in “Chosŏnjok villages in northeast China ... [and] communicated using the Korean language.” Moreover, Choi continues, “they maintained their cultural traditions, distinguishing them from those of the Chinese.”<sup>25</sup> Of particular note was the fact that, again until the 1990s, most Korean Chinese were educated in ethnic Korean schools. According to one source, about 85 percent of all Korean Chinese students attended Korean schools in 1990. That same year, the number of Korean schools in the Yanbian Autonomous Prefecture was 1,286 (1,106 elementary, 155 middle, and 25 high schools).<sup>26</sup> Korean Chinese also established, in 1949, one of the first universities located in an ethnic minority region within China, Yanbian (연변 Yŏnbyŏn) University. From its establishment, the university’s primary mission has been educating ethnic Koreans in the region and, by all accounts, it achieved its goal with over 100,000 graduates by 2009.<sup>27</sup>

Korean schools, not surprisingly, played a key role in developing and cultivating a Korean identity among the *Chosŏnjok*. A big part of this was simply because the primary language of instruction was Korean. As Choi puts it, “In speaking their language [in schools], Chosŏnjok effectively preserved their own identity, culture, and tradition in the middle of an assimilative Han culture.”<sup>28</sup> Writing two decades earlier, another scholar, Nam Il Sung, was even more assertive: “The Korean language itself is the very content of national culture ... .”<sup>29</sup> More generally, Park notes, that given the heavy concentration of *Chosŏnjok* in Korean schools, the

“schools naturally played an important role in maintaining a sense of *Chosŏnjok* ethnicity.”<sup>30</sup> In this regard, there were also conscious efforts to instill a strong ethnocultural identity among students. Children were taught, for example, the history of their people’s long struggle against the Japanese—a history that has also been memorialized in some 300 monuments (of anti-Japanese fighters) spread throughout the Yanbian region. In this history, patriotism toward their homeland of Korea was emphasized.

Outside of the educational system, Korean Chinese also devoted considerable effort to maintaining their identity through the publication of Korean-language newspapers and magazines. In 2000, there were at least 12 different *Chosŏnjok* newspapers and 21 magazines published in the Korean language.<sup>31</sup> Even in 2020, it is not difficult to find articles that focus on the colonial period and especially on the suffering endured by the *Chosŏnjok*. An article from the *Yŏnbyŏn Ilbo* (연변일보) on June 13, 2020 is representative. Part of a long-running series called “Heroes of Our Nation,” the article discusses the plight of a *Chosŏnjok* village in 1934, which was the object of “the enemy’s [i.e., Japanese] brutal subjugation ... [by] beasts with human skin [who] rushed daily to murder local people, burn homes, and steal grain.” The article—one of 88 thus far (as of July 2020)—also recounts the resilience of the *Chosŏnjok* villagers who were willing to fight the Japanese under desperate conditions.<sup>32</sup>

### “The Most Korean of Them All”

While *Chosŏnjok* identity has deep historical roots that necessarily connect to the Korean ethnic homeland, in more recent years Korean Chinese have made a concerted effort to distinguish themselves from South Koreans as *purser* Koreans. In other words, many *Chosŏnjok* claim that, over successive generations, while they have maintained the purity of Korean cultural traditions,

language, and racial identity, South Koreans have “contaminated” the essence of Koreanness, in part, by adopting too much from the United States and other western countries. This is evident, for instance, in critiques of South Korea’s tendency to incorporate loan words from western societies. After visiting South Korea, Ri Seon-hi, a *Chosŏnjok* author wrote, “I saw a signboard with the word, “Sŭtaendŭba” [스탠드바 stand bar], which made me feel upset .... I felt sorry to see such a sign board in this homogenous country.” While seemingly trivial, the use of English loanwords (written in Korean script) left a deep impression on the writer; as she put it, “my heart ached badly.” The reason was clear, namely, the use of loanwords meant to the author that her South Korean kin were “losing their cultural heritage” and their “cultural purity.”<sup>33</sup> The sense of “shock”—expressed by Ri—and disdain has been a recurring theme in *Chosŏnjok* literature.

More generally, *Chosŏnjok* have taken great pride in maintaining their Korean identity in the face of significant obstacles. Kim Gwan-ung, a Korean literature professor at Yanbian University, writes, “In such a gigantic country as China ... we *Chosŏnjok* are really tiny. Nevertheless, we have managed to keep our identity and the uniqueness of our ethnic culture for over 150 years, which is a miracle.”<sup>34</sup> In a similar vein, Kim Chong-guk, the director of the Yanbian Social Science Institute, asserts that the Yanbian *Chosŏnjok* are the envy of other Korean Chinese, South Koreans, and ethnic Koreans from around the world because of how “we have kept our nation’s traditions and customs so perfectly.”<sup>35</sup> In essence, Kim is claiming that the *Chosŏnjok* are the most Korean of all Koreans. The fact that these and other similar claims first began to appear in the early 1990s, during the first years of *Chosŏnjok* migration to South Korea, is no accident. In this regard, they contain a strong element of defensiveness, since the early interactions between *Chosŏnjok* and South Koreans, as we noted earlier, were often fraught due, in part, to overly optimistic expectations of ethnic kinship, which was juxtaposed against the

often harsh (mis)treatment of Korean Chinese migrants who, to repeat, were mostly delegated to low-wage, 3-D jobs in South Korea. The tense relationship between *Chosŏnjok* and South Koreans was also due to the legal-institutional treatment of Korean Chinese, particularly after 1999 with the establishment of the Act on Immigration and Legal Status of Overseas Koreans (hereafter, the Overseas Koreans Act or OKA). We will return to this point very shortly.

It was at that point, though, that the line between *Chosŏnjok* identity as a deeply rooted national and historical identity and *Chosŏnjok* identity as a strategic tool became blurrier. On the one hand, there can be little doubt, given the long history of maintaining a distinct ethnocultural identity within the confines of a nation-state dominated by *Han* Chinese, that it has been integral to defining who they are as a people. On the other hand, ever since *Chosŏnjok* began migrating to South Korea in large numbers, the preservation of an ethnocultural identity per se has (arguably) become less important, while the ability to establish an identity that undercuts the hierarchal assumptions built into South Korea's unequal treatment of the different parts of the Korean diaspora has become more important. In this regard, the (tacit) claim to be the "most Korean of them all," almost surely has a strategic element. To wit, those who make the claim on behalf of the *Chosŏnjok* were and are doing so not only to challenge the underpinnings of hierarchical nationhood, but also, and more concretely, to reconfigure that (institutional) framework such that it recognizes the *Chosŏnjok* as co-equal to other overseas Koreans. Reconfiguring the framework of hierarchical nationhood sounds like a tall order; in fact, it was. Obviously, too, it would take far more than simply asserting that they, the *Chosŏnjok*, were the "most Korean" and therefore were entitled to equal treatment. It is to this issue that we turn next.

Establishing the Hierarchy of Nationhood: The 1999 Overseas Koreans Act

Until the late 1990s, notwithstanding the unfolding of large-scale migration by Korean Chinese since the beginning of the decade, the South Korean state had more-or-less (from a policy perspective) ignored its diasporic communities. A key turning point came in 1999, however, when the Act on the Immigration and Legal Status of Overseas Koreans (hereafter, the Overseas Koreans Act or OKA) was passed. This was a groundbreaking law, as it endowed *some* members of the Korean diaspora—including those who were not born in South Korea or who had never even stepped foot in the country—with *de facto* dual citizenship.<sup>36</sup> More specifically, the OKA created a new visa category—the F-4 Overseas Koreans visa—that granted eligible “overseas Koreans” a two-year renewable visitor permit and, very importantly, a citizen’s registration card that qualified those individuals for national health insurance, the right to property ownership, and the freedom to work and change jobs—*except* for non-professional or manual labor jobs—of their own volition (the latter of which is a very important for migrant workers). The F-4 visa also opened the door to permanent residency and to *de jure* citizenship (originally, it is important to note, naturalization required the renunciation of one’s existing citizenship, but in 2010, a new law on dual citizenship was passed). There was, however, a gigantic catch. To wit, ethnic Koreans who emigrated to another country *before* 1948 were excluded. Practically speaking, this meant that all *Chosŏnjok* (and ethnic Koreans in former Soviet states, also known as *Koryŏ saram* 고려사람) were precluded from benefiting from the OKA; in effect, this not only made them “less Korean” than other ethnic Koreans, but also defined them as non-Korean from a legal-institutional standpoint. After all, the bill expressly included the term “overseas Koreans” and included a specific definition clause delineating, in legal terms, who would be considered (an overseas) *Korean* and who would not. The OKA, in this regard, marked the “official” creation of

a hierarchy of nationhood whereby the *Chosŏnjok* were relegated to the bottom and ethnic Koreans in the US and other wealthy countries ascended to the top.

The exclusion of *Chosŏnjok* from the OKA was based on several easily identifiable factors, as examined elsewhere.<sup>37</sup> First, the *Republic of Korea* did not exist until 1948. Accordingly, “no Chosŏnjok had ever been a citizen of an entity called the Republic of Korea ...;” thus, in the view of some (but certainly not all) government officials, “South Korea owed them nothing.”<sup>38</sup> Second, it was clear that there was a concern about a surge of Korean Chinese immigrants causing instability in South Korea’s labor market through sheer force of numbers. Third, and likely most important, despite already having normalized relations with China, the prospect of granting special legal status to more than two million Chinese citizens—essentially “claiming” Korean Chinese as belonging to a transborder Korean nation-state—clearly upset China’s leaders and threatened the still-nascent relationship between the two countries. On this last point, it is worth noting that most South Korean news reports at the time, citing statements by South Korean officials, highlighted China’s strong objections to giving *Chosŏnjok* the right to de facto South Korean citizenship as the most important reason for their exclusion. On the flip side, the primary motivation for the OKA was the desire, by state and business leaders, to tap into the economic potential of well-off ethnic Koreans, especially those living in the United States.<sup>39</sup> They were seen as sources of investment capital (the OKA passed during a time of economic turmoil caused by the 1997 Asian Financial Crisis) and as “global talent” who could contribute directly to South Korea’s technological advancement.

The key point is this: the OKA was a sovereign decision reflecting South Korea’s “national interests” as defined by policymakers, albeit through a fairly intense inter-bureaucratic process.<sup>40</sup> As a sovereign decision, the notion that it could be directly *and* effectively challenged

by a group of ordinary *foreign* citizens is, on the surface, absurd. Yet, this is largely, albeit with important qualifications, what happened. To jump ahead, even before taking effect, three *Chosŏnjok* (all citizens of China), with crucial help from South Korean individuals and organizations, filed a petition with the Constitutional Court demanding the bill be revised. They argued, most generally, that as descendants of Koreans who waged an anti-Japanese struggle in China on behalf of the Korean nation, it was unacceptable to exclude them and all other Korean Chinese from the benefits of the OKA. In addition, Korean Chinese, along with about 60 South Korean civic organizations, waged a public campaign against the OKA. Whether in the courts or on the streets, the core claim advanced by the *Chosŏnjok* (and their domestic allies) was that they were entitled to equal treatment in virtue of their Koreanness and despite their actual nationality. Perhaps to the chagrin and surprise of powerful bureaucrats and political leaders, the *Chosŏnjok* and their domestic allies succeeded in compelling the South Korean state to revise the law to include *Chosŏnjok* and other excluded ethnic Koreans in the definition clause of the OKA. Clearly, the full story is far more complicated, and we will address some of these complications as we proceed. Before doing so, it is necessary to highlight another equally indisputable point: the *Chosŏnjok*, even with the aid of South Korean NGOs, plainly lacked the material power (economic or political) to “compel” the sovereign South Korean state to do anything. After all, if they had that type of power, they likely would not have been excluded in the first place.

#### Theoretical Considerations: The Causal Significance of Ideas and Discourse

The capacity of *materially* powerless actors to induce a sovereign state to alter policies—and even to prompt far-reaching institutional change—raises an obvious question: Where does their power come from? Almost by default, the answer is equally obvious, namely, from immaterial



sources. The most salient “immaterial source,” in our analysis (and as we already noted), can be found in ideas and discourse. We recognize that we are saying nothing new here. The assertion that ideas and discourse matter (i.e., have political significance) has become quite common and practically hackneyed in academic analyses. Yet, in a great deal of political analysis focused on policy and broader institutional change, there remains a clear and even overwhelming tendency to valorize material or positional power as key explanatory variables. This has particularly been the case in research on policy and politics in South Korea, which has, as we have already emphasized, tended to be state-centric. There has also been a strong tendency to focus on strictly material interests. In considering the power of Korean Chinese to effectively challenge the South Korean state, however, it is apparent that a materialist, state-centric framework cannot provide a sufficient explanation.

Nevertheless, as we noted in the introduction, state power is important and often decisive. But states are not disembodied Leviathans; instead, they are ultimately composed of individual actors—or to use Schmidt’s term, “sentient agents” (i.e., real, thinking people)—who make decisions based on their interests and whose actions help to create and reproduce institutions.<sup>41</sup> Crucially, the interests or preferences of the state’s sentient agents are not exogenously given or predetermined, but instead are constructed through an endogenous process in which ideas (and discourse) play the central role. To appreciate the role of sentient agents in determining state policy, consider a recent and generally familiar example: the global spread of the novel corona virus (COVID-19). Despite facing objective conditions that were essentially the same for everyone, some countries responded by doing almost nothing; other countries implemented strict shelter-in-place orders, prohibited cross-border and intra-border travel, shut down all non-essential businesses, required social distancing and masks, etc. (of course, most countries were

somewhere in-between). What explains the differences? The (highly stylized) answer is clear: different priorities, different assessments of the risk, different goals, and so on. All of these differences, however, come down to specific ideas held by the key decisionmakers in each country. To return to the main point: the “endogenous process” we spoke of is, at base, nothing more than what goes on inside people’s heads, which may reflect long-term and strongly embedded “institutional thinking”<sup>42</sup> or the interplay of various ideas, whether firmly established (within a society) or brand new, already accepted or not-yet accepted, pre-held (inside an actor’s head) or recently learned, and so on.

While what goes on “inside people’s heads” is vital, there is also an obvious external element of thinking, namely, discourse. Ideas have to be communicated, debated, interpreted or explained, negotiated, clarified (or obscured). This is all part of a larger discursive process or struggle, which necessarily involves discursive agency. Discursive agency—to repeat—refers to the capacity of actors, again to put it very simply, to think *and* speak for themselves, which means having the capacity to accept or reject ideas and to persuade others to do the same (and vice versa). In this respect, it is discursive agents who create, sustain, or change institutions. Discursive agency, it is also important to emphasize, does not work from only one side or in only one direction. Thus, while there may be people struggling for change, others will be struggling to keep things the same (or to revert back to some past situation, whether real or imagined). This speaks to the deeply political nature of discursive agency and of institutional change or continuity more generally. Position, interests, and power also matter here. Some actors are in a better position to exercise agency and pursue their interests in virtue of the positions they occupy in society. State actors, in particular, are often able to play the most decisive roles, in large part because of their direct control of the policymaking apparatus and their control over material

resources. State actors also have privileged access to mainstream media and, therefore, are able to influence the national conversation more easily and readily than many other actors. But position or positional power is not everything.

### “Identity Politics”: Challenging the Hierarchy of Nationhood

This brings us back to the central question of this analysis, namely, “How and why were entitlement claims by the Korean Chinese effective in bringing about significant change in South Korea?” As we already stated, it was not merely a matter of making the case that they were entitled to equal treatment based on their Korean identity. It also involved three tightly connected elements. First, the *Chosŏnjok* needed influential allies in South Korean civil society, which they clearly had. These allies, which included religious leaders and rights-based NGOs, were not only willing to work in close conjunction with members of the Korean Chinese community but were also willing to play leading roles as discursive agents. Second, since the *Chosŏnjok* community, even with domestic allies, could not compel the South Korean state to do anything it did not want to do, they needed an authoritative “mechanism of change.” This mechanism of change was the South Korean court system, which, it is important to add, also has little material power, but does possess a great deal of discursive and positional power (via its institutional role) within the context of South Korean democracy. The third element relates to the ethnoracial foundations of South Korea’s immigration and nationality regimes (the core institutions of ethnonational identity); this element, moreover, links together all the other elements. As we have seen, the ethnoracial foundations of South Korea’s immigration and nationality regimes did not prevent the exclusion of the *Chosŏnjok* from the OKA (nor did it stop the creation of a hierarchy of

nationhood), but it nonetheless provided a crucial and perhaps indispensable ideational and discursive basis for challenging that exclusion.

### *Reprise: The Discursive Challenge to the OKA*

As we already discussed, it did not take long for Korean Chinese to challenge the OKA. The challenge, boiled down to its essence, was simply, “We are Korean and as Koreans, we are entitled to equal treatment.” In making this claim, they were partly relying on their history of anti-Japanese struggle, resistance, and loyalty to the Korean nation. It is likely the case, too, that their entitlement claim reflected a deeply held conviction that they were, in their hearts, Korean. While saying that what was “in the hearts” of many Korean Chinese may seem inconsequential and even trivial (from a social scientific standpoint), it should not be dismissed. On this point, it is worth emphasizing that the *Koryŏin*, who were also excluded from the OKA, did not join the *Chosŏnjok*. While we cannot make a definitive case here, the reason for the lack of action on the part of *Koryŏin* likely stems from their weaker identification as Korean. This weaker identification was due to a number of factors, including (1) a history of oppression by the Soviet state, including forced relocation to Central Asia; (2) their general loss of the Korean language; and (3) the relatively small size of their population in South Korea.<sup>43</sup> The upshot is this: for the *Chosŏnjok* community, their identity as “real Koreans” (in contrast to the *Koryŏin*) is what motivated them to act in the first place. And, without taking that step, there may never have been a challenge to the OKA and to the hierarchy of nationhood.

In making their entitlement claim, on another level, a number of interrelated legal points were advanced, all of which were summarized by Rev. Seo Kyung-seok (who played a leading role in the process) in an interview with the *Dongbuk-A Shimmun*.<sup>44</sup> The main points were, first,

*Chosŏnjok* never voluntarily relinquished their Korean nationality; instead, they were made citizens of the PRC without their consent. By South Korean law, then, they should have been considered dual nationals in the same way that North Koreans are recognized as citizens of South Korea (albeit with conditions). Second, unlike Koreans in Japan and the US, most Koreans in China did not have an opportunity to return to South Korea after Korean liberation. If they had been able to return, their legal status as South Korean citizens would not have been questioned. In addition, the *Chosŏnjok* community relied on South Korea's existing nationality law, which is based on the *jus sanguinis* principle, and, by extension, on the idea and discourse of ethnonationalism.<sup>45</sup> Specifically, in the argument submitted to the Constitutional Court, the *Chosŏnjok* complainants asserted that, because Article 2-1(1) of the Nationality Act adopted *jus sanguinis* as the essential basis for Korean nationality, they (and all ethnic Koreans) were, in effect, citizens of South Korea, even if living and born abroad with different nationalities. Thus, the South Korean government had no right to enact legislation that “violates the essential aspect of the right of equality stated in Article 1-1 of the Constitution.”<sup>46</sup>

Not surprisingly, the *state's* response to the foregoing legal argument, conveyed through the Ministry of Justice (MOJ), rejected the claim that *Chosŏnjok*, in virtue their blood ties (as well as their historical connections to South Korea), had any rights as South Korean citizens. Accordingly, the MOJ argued, the case should be thrown out because the complainants were, simply put, foreigners and, as foreigners, they had no standing to file a constitutional complaint since the case did not involve a violation of natural or basic rights. The MOJ had a number of backup arguments, too: (1) since the complainants had no evidence they were even “ethnic Koreans who emigrated to a foreign country or their lineal descendants,” they had no standing; (2) even if they could prove their Korean ethnicity, giving them a path to citizenship on that basis

alone would violate “public international law” prohibiting discrimination based on race or nationality; and (3) as citizens of China, granting the *Chosŏnjok* special privileges would bring about diplomatic friction. The MOJ also asserted that including Korean Chinese in the OKA would create problems for the national economy by disrupting the domestic labor market.<sup>47</sup>

### *The Verdict and Its Aftermath*

The Constitutional Court rejected all of the MOJ’s arguments—i.e., they were unpersuaded—and concluded, in the majority opinion, that there was no legitimate basis to exclude *Chosŏnjok* (and ethnic Koreans from the former Soviet Union) from the provisions of the OKA. Accordingly, the Court ruled that the “definition clause in the Act” (i.e., the clause that defined which ethnic Koreans were included and which were excluded) was unconstitutional and had to be revised. In other words, the Court accepted (or were persuaded by) the entitlement claims made by Korean Chinese and, in so doing, elevated ethnocultural identity above the “socio-economic and security reasons” cited by the Korean government.<sup>48</sup> The Court set a deadline of December 31, 2003, to complete the revision. As the deadline approached, it seemed evident that the government was not only dragging its feet, but also stepping up efforts to deport Korean Chinese residents who had overstayed their visas (as part of a broader effort to crackdown on unauthorized foreign workers). This crackdown, along with the foot dragging, provoked more demonstrations, one of which was the “Korean Nationality Recovery” movement, led by Rev. Seo, mentioned above, of the Seoul Chosŏnjok Church. As part of this movement, in November 2003, about 5,000 *Chosŏnjok* filed a petition with the MOL claiming a right to recover their Korean nationality, staged a rally in Yeouido, and then marched to the Constitutional Court where they submitted

another petition (formally filed by Jeong Dahwa, a lawyer, Rev. Seo, and Lee Chul-gu, a Korean Chinese).<sup>49</sup>

While the movement was controversial, it brought renewed attention to the OKA, which helped to underscore the entitlement claims made by *Chosŏnjok* and their South Korean allies. There were, it is important to add, also other protests led by *Chosŏnjok* activists, including an 84-day public strike that started on April 15, 2003, in central Seoul.<sup>50</sup> Such activity helped to generate sympathetic responses in mainstream South Korean media. One response in the *Hankyoreh* (a progressive newspaper), while only anecdotal, chastised the government for denying the undeniable “fact” that *Chosŏnjok* were Korean.<sup>51</sup> Less anecdotally, the *Hankyoreh* writer pointed out that, in the “National Public Opinion Survey on the Revision of the Overseas Koreans Act,” 77.4 percent of South Korean respondents agreed that Korean Chinese should be included in the OKA.<sup>52</sup>

#### *Amending the OKA: Victory or Defeat?*

Despite the long delay, on March 4, 2004, the OKA was amended by presidential decree to include the following definition of overseas Koreans: “A person prescribed by the Presidential Decree of those who have held the nationality of the Republic of Korea (including Koreans who had emigrated to a foreign country *before* the Government of the Republic of Korea was established) or of their lineal descendants, who obtains the nationality of a foreign country ... .” This revised definition was largely what Korean Chinese and their allies in the NGO community had demanded from the get-go. This was not, however, the end of the story. Indeed, a few months before the definition clause was revised, the government amended a related law (the Enforcement Rules of the Immigration Control Act) in a manner that would, in practice, negate

the ruling made by the Constitutional Court. Specifically, the amendment required that individuals from “foreign countries with a high number of undocumented migrants” applying for Overseas Koreans (F-4) status, submit documents evidencing that they would not work in “low-skilled” positions. This was meant to reinforce a much earlier amendment to the Enforcement Decree of the Immigration Control Act, made when the OKA was first enacted in 1999, that explicitly prohibited F-4 visa holders from engaging in low-skilled labor.

Importantly, the Constitutional Court ruled that these changes—clearly designed to exclude *Chosŏnjok* from taking advantage of the OKA—were constitutionally permissible.<sup>53</sup> And, for a period of time, the effort to prevent Korean Chinese from coming to South Korea as “overseas Koreans” was effective: for several years after the 2004 revision, not a single F-4 visa (i.e., the Overseas Koreans visa) was issued to an ethnic Korean from China or the former Soviet Union. Clearly, these exclusionary tactics could not but help to anger *Chosŏnjok* and their supporters in the NGO community, particularly since there was no other way to legally immigrate to South Korea, at least for the large majority. Thus, they continued to advocate for a more inclusionary policy. One particularly important set of advocates, both of whom opposed Rev. Seo, were also religious leaders: Pastors Kim Hae-seong and Im Gwang-bin. They believed that *Chosŏnjok*, by and large, only wanted an opportunity to visit and work in South Korea and were not interested in permanent residency or in South Korean citizenship per se. Their restrained position attracted a large number of *Chosŏnjok* activists.<sup>54</sup> It is worth noting that Pastors Kim and Im advanced their positions *before* the revision of the OKA in March 2004, which meant that it presented, to government officials (who were already planning to skirt the Constitutional Court’s ruling), a policy *idea* that could be palatable both to the South Korean state and to the *Chosŏnjok* community, as well as to the PRC. It is perhaps no coincidence, then,



that in 2005, the MOJ introduced a plan for a “Visit and Employment” program that more or less mimicked what the two pastors had proposed.

Two years later, in 2007, the “Visit and Employment” program (H-2 visa) was formally established. In practice, it allowed “poor cousin” ethnic Koreans from China and the former Soviet states to work in South Korea as non-professional *foreign* workers. In its original form, the H-2 visa was not much different from the Employment Permit System (EPS), which had been established a few years earlier (in 2004) for non-professional foreign workers more generally. The EPS (E-9 visa), which has a complicated history in its own right,<sup>55</sup> was designed, in part, to be a strictly temporary labor migration program for non-professional work categories in specified industries (the first of its kind in South Korea). Both the E-9 and H-2 visas set a strict time limit designed to prevent long-term settlement, forbade “family reunification,” and limited immigrant workers to certain sectors of the economy. There were, however, several important differences that provided significant privileges to *Chosŏnjok* that other foreign nationals did not enjoy. One such privilege of H-2 visa was the freedom given to ethnic Koreans to seek employment on their own and move to different workplaces, which is a freedom that E-9 workers have been fighting to obtain from more than 15 years.<sup>56</sup> Another privilege was the ability to freely *visit* South Korea (the “visit” part of the “Visit and Employment” program) for extended periods (three years) without having to demonstrate a familial connection. The H-2 program also allowed for a high level of migration: in 2007 and 2008, the first two years of the program, 92,212 and 102,767 H-2 visas were issued respectively.<sup>57</sup> Still, while the H-2 program provided Korean Chinese a somewhat privileged position relative to other foreign immigrants, it codified their institutionally inferior position relative to their “richer cousins” from the US and elsewhere. The hierarchy of nationhood was apparently still very much intact.

### *Climbing to the Top of Hierarchy?*

As we noted, the H-2 program reflected the interests and demands of at least part of the *Chosŏnjok* community (and their South Korean allies). It also reflected the interests of South Korean officials, who understood that the economy still needed a source of low-wage, temporary labor. The latter interest, however, could have easily been met by expanding the EPS to allow in more foreign workers regardless of ethnicity. The fact that South Korean decision-makers chose to rely on co-ethnics speaks to the underlying belief that a shared blood still shaped, to a (causally) significant extent, their decisions and actions.<sup>58</sup> Be that as it may, as a temporary employment program, the H-2 was successful in attracting, over the span of several years, hundreds of thousands of Korean Chinese workers. On the surface, then, there appeared to be little reason to dramatically alter the program. Yet, in 2010, the South Korean government did just that by allowing H-2 visa holders to change their visa status to F-4 (overseas Koreans) after fulfilling a number of conditions. The main condition was that, prior to applying for the F-4, the H-2 visa holder was required to work continuously for just one year (later changed to two years) in a specified industry (initially, the approved industries included agriculture, livestock, fisheries, and local manufacturing). Importantly, these were all areas designated for non-professional labor; apparently, one-year of work experience as a non-professional worker magically transformed that individual into a highly skilled one. We say “apparently” and “magically” because the prohibition on F-4 visa holders from engaging in “nonskilled” work or manual labor remained unchanged. This seemingly minor change had huge ramifications: during the first year of the revised rules, the number of F-4 visas issued to Korean Chinese shot up from 542 in the previous year (2009) to 10,113 in 2010, an almost 19-fold increase in one year. Nor was this a

one-off: from 2011 to 2018, the cumulative number of F-4 visas issued to *Chosŏnjok* was 215,156. Since 2010, moreover, *Chosŏnjok* have accounted for a low of 56.8 percent of all F-4 visas issued to a high of 78.7 percent.

If access to overseas Koreans' status signifies a group's status in the hierarchy of nationhood, then it appears that *Chosŏnjok* have climbed to the top. We are being a bit facetious: the issue is not quite so simple. After all, most Korean Chinese still must jump through the "H-2 hoop" to qualify for F-4 status—a hoop that does not apply to most Korean Americans and is, therefore, still discriminatory. Indeed, one commentator, the president of the Migration and Overseas Koreans Policy Institute, argued that the change still fell short of a "naturally" inclusive policy since, in attaching F-4 status to the H-2 visa, a fundamentally transactional relationship is created whereby *Chosŏnjok* are "rewarded" with overseas Koreans status only if they agree to engage in 3-D work.<sup>59</sup> Nonetheless, by sheer numbers alone, it is clear that Korean Chinese have basically taken over a visa program from which they were excluded, not once but twice, by conscious design. To repeat, even after the ruling by the Constitutional Court mandating a change in the OKA, policymakers manipulated immigration rules to make it all-but impossible for *Chosŏnjok* to take advantage of the amended law in 2004. Yet, only a few years later—and less than a decade after creating the OKA—policymakers ended up refashioning the immigration regime in a manner that mostly reflected the demands and interests of a "powerless" community of foreign citizens who, it is worth emphasizing, also lacked support of the state (i.e., the PRC) to which they formally belonged. Indeed, as we already made clear, the PRC was opposed to their inclusion in the OKA from the get-go. In this view, *Chosŏnjok* and their allies had to struggle against the expressed interests of two powerful states.

The question remains: “Why did the South Korean government, despite a decade of resistance, suddenly create an open path for large numbers of *Chosŏnjok* to obtain permanent residency and naturalization (via the F-4 visa)?” Unfortunately, there is no clear-cut answer (or at least one that we could ascertain). It is evident, though, that many in the *Chosŏnjok* community remained unhappy that, even with the “privileges” they enjoyed through the H-2 visa, they were still largely consigned to the “lower working class” in South Korean society.<sup>60</sup> This meant, in turn, that *Chosŏnjok* would continue to be treated more as “foreigners”—and as disposable labor—than as true compatriots. Thus, the idea that Korean Chinese, *as Koreans*, were entitled to better treatment did not die or fade away. It remained firmly in the minds of activists and supporters, who continued to advocate for policy change and for broader institutional change. Evidently, South Korean officials were still listening, too. For example, shortly before announcing the change in the H-2 program, in October 2009, MOJ officials visited Yanbian, Yantai, Dalian, and Qingdao in China “to listen to the opinions and complaints” of *Chosŏnjok*. While plans for a revision to the F-4 were already in place before the visit, it is nonetheless notable that the reason given for the expansion was not only to ensure that Korean Chinese could more easily live, work, and do business in South Korea, but also “to help them have a relationship with their motherland with the pride of the Korean people.”<sup>61</sup>

## Conclusion

It is worth thinking about where the struggle for greater inclusion began. To quickly recap, it began with a handful of Korean Chinese individuals—who occupied the very bottom rung of South Korea’s socioeconomic ladder—demanding that a powerful foreign state change its policy to better reflect their interests. It is hard to imagine a more hopeless situation. Of course, these

Korean Chinese individuals had the support of a segment of South Korea's influential NGO community, but even combined, they had no appreciable material or positional power. Their power, instead, rested almost entirely with the ideas and discourse they espoused, which, crucially, were already part of the discursive landscape within South Korea. To fully grasp the significance of "the ideas and discourse they espoused," it is useful consider a counter-factual: What if nobody from the Korean Chinese community spoke up? What if South Korean activists, as was the case with many ordinary South Koreans, also thoroughly disdained ethnic Koreans from "less developed countries" and saw them as undeserving of any assistance at all? Would the outcome have been different? Would Overseas Koreans status still be limited exclusively to ethnic Koreans from the richest countries? While we cannot know the answers, it is easy to imagine that, without anyone speaking (engaging in discourse), no case would have been brought to the Constitutional Court and the Court would never have ruled on the constitutionality of excluding Korean Chinese (and *Koryŏin*) from the OKA. And without that ruling, it is likely that the state would have remained on the same institutional path it set in 1999. (It is important, in this regard, not to neglect the discursive agency of individual justices: They could just have easily made a contrary decision—their ideas about national identity, one can argue, had a fundamental and clearly causal institutional impact.) In short, without the exercise of discursive agency, the institutional reality for ethnic Koreans today would likely not be what it is.

To be sure, *Chosŏnjok* continue to suffer from societal discrimination and prejudice and their institutional position is still not entirely coequal with ethnic Koreans from the US and other wealthy economies. Indeed, even today, many ethnic Koreans from China have become so alienated by life in South Korea that they have largely rejected their Korean identity, while, for others, the identification with their Korean heritage may have already been very weak and

abstract to begin with.<sup>62</sup> This does not mean that the legal-institutional changes that have opened the door to greater inclusion for ethnic Koreans regardless of nationality have been for naught or otherwise meaningless. Inclusionary legal-institutional change—as the experiences of ethnic and other minority groups around the world, including and especially in the United States, have clearly demonstrated—is often only the starting point for deeper, albeit not necessarily rapid or inexorably progressive, societal change. In South Korea, by some accounts, societal change has been grindingly slow and even regressive. Still, the broader inclusion of Korean Chinese and *Koryŏin* in the OKA has demonstrated a crucial point: South Korean national identity is not fixed, but instead is subject to change through a discursive or subjective process. This, in turn, has broader implications for the issue of multiculturalism in South Korea. After all, if South Korean national identity has proven to be subjective and malleable, in principle, it can be extended to any group of people regardless of race or ethnicity

## Endnotes

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<sup>2</sup> Kang Sŏng-pong, “9.2 chŏngch'aek chŏn-hwan-i Chungkuk tong-p'o-egke chunŭn ham-ŭi,” *Dongbuk-A Shinmun*, September 5, 2019.

<sup>3</sup> Jung Min-ho, “Chinese Urge Suspension of ‘Midnight Runners’,” *Korea Times*, September 11, 2017, [https://www.koreatimes.co.kr/www/nation/2017/09/177\\_236284.html](https://www.koreatimes.co.kr/www/nation/2017/09/177_236284.html) (accessed 10 November 2020).

<sup>4</sup> Cited in Eddie Park, “‘Too Different to Be Chinese, Not Good Enough to Be Korean’,” *Korea Exposé*, September 20, 2018, <https://www.koreaexpose.com/too-different-to-be-chinese-not-good-enough-to-be-korean>.

<sup>5</sup> Our analysis draws heavily from what Vivien Schmidt has labelled, “discursive institutionalism.” Schmidt refers to discursive institutionalism as the fourth “new institutionalism,” because it goes beyond the limits of traditional institutional approaches (rational choice, historical, and sociological), in part by adopting a dynamic definition of institutions “as structures and constructs of meaning *internal* to agents whose ‘background ideational abilities’ enable them to create (and maintain) institutions while their ‘foreground discursive abilities’ enable them to communicate critically about those institutions, to change (or maintain) them” (emphasis added). Vivien A. Schmidt, “Taking Ideas and Discourse Seriously: Explaining Change through Discursive Institutionalism as the Fourth ‘New Institutionalism,’” *European Political Science Review* 2 no. 1 (2010), 1.

<sup>6</sup> Schmidt, “Taking Ideas,” 2010.

<sup>7</sup> Christina Boswell and James Hampshire, “Ideas and Agency in Immigration Policy: A Discursive Institutional Approach,” *European Political Science Review* 56 (2017): 134.

<sup>8</sup> See, for example, Jack Jin Gary Lee and John D. Skrentny, “Korean Multiculturalism in Comparative Perspective,” in *Multiethnic Korea? Multiculturalism, Migration, and Peoplehood Diversity in Contemporary South Korea*, edited by John Lie (Berkeley: Institute of East Asian Studies, 2015), pp. 301-29; and Han Kyung-Koo. “The Archaeology of the Ethnically Homogeneous Nation-State and Multiculturalism in Korea (toward a Multicultural Society?),” *Korea Journal* 47 (2007): 8-31.

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<sup>9</sup> For relevant research on multiculturalism policy, see Iain Watson, "Multiculturalism in South Korea: A Critical Assessment," *Journal of Contemporary Asia* 40 (2010): 337-46; Ahn Ji-Hyun, "Transforming Korea into a Multicultural Society: Reception of Multiculturalism Discourse and Its Discursive Disposition in Korea," *Asian Ethnicity* 13 (2012): 97-109; and Kim Sookyung, "Soft Talk, Hard Realities: Multiculturalism as the South Korean Government's Decoupled Response to International Migration," *Asian Pacific Migration Journal* 24 (2015): 51-78.

<sup>10</sup> Nora Kim provides an example of this type of argument as she focuses on the importance of class-based privilege in determining the relative status of Korean Chinese versus ethnic Koreans from wealthier countries, the latter of whom are typically classified as "global talents or upper-class Koreans." Nora Hui-Jung Kim, "Flexible yet Inflexible: Development of Dual Citizenship in South Korea," *Journal of Korean Studies* 18 (2013), p. 9

<sup>11</sup> Schmidt, "Taking Ideas," 2010, p. 12.

<sup>12</sup> See Hyejin Kim, "International Ethnic Networks and Intra -Ethnic Conflict: Ethnic Trust and Its Demise among Koreans in China" (PhD diss., Rutgers University, 2006); Dong-Hoon Seol and John D. Skrentny, "Ethnic Return Migration and Hierarchical Nationhood: Korean Chinese Foreign Workers in South Korea," *Ethnicities* 9 no. 2 (2009); Hye-Kyung Lee, "Preference for Co-Ethnic Groups in Korean Immigration Policy: A Case of Ethnic Nationalism?," *Korea Observer* 41 no. 4 (2010); Sohoon Lee and Yi-Chun Chien, "The Making of 'Skilled' Overseas Koreans: Transformation of Visa Policies for Co-Ethnic Migrants in South Korea," *Journal of Ethnic and Migrations* 43 no. 13 (2017).

<sup>13</sup> Sanghyun Yoon, "Decision-Making Structure and the Policy Process in South Korea's Nordpolitik," *Journal of Northeast Asian Studies* 14 no. 3 (1995).

<sup>14</sup> For further discussion, see Sheena Choi, "Globalization, China's Drive for World-Class Universities (211 Project) and the Challenges of Ethnic Minority Higher Education: The Case of Yanbian University," *Asia Pacific Education Review* 11 no. 2 (2010); and Chae-Jin Lee, *China's Korean Minority: The Politics of Ethnic Education* (Boulder, Colorado: Westview Press, 1986).

<sup>15</sup> The "industrial trainee system" (ITS) was established in 1993 (as a major addition to a different program known as the Industrial Technical Training Program). The ITS, however, was not a "trainee" system in practice; instead, it was a side-door mechanism designed to allow small- and medium-sized firms to import tens of thousands of non-professional workers (South Korean immigration law, at the time, prohibited any immigration for the purposes of engaging in "low-skill" labor). For additional discussion, see: Hahn Chin Hee and Choi Young Seok,



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“The Effect of Temporary Foreign Worker Program in Korea: Overview and Empirical Assessment,” Unpublished manuscript (2006); Young-bum Park, “Admission of Foreign Workers as Trainees in Korea,” ILO Asian Regional Programme on Governance of Labor Migration—Working Paper No. 9. (2008); and Dong-Hoon Seol and John D. Skrentny, “Joseonjok Migrant Workers’ Identity and National Identity in Korea,” *Korean Identity: Past and Present Conference* (Stanford University, October 18-20, 2004).

<sup>16</sup> Changzoo Song, “Joseonjok and Goryeo Saram Ethnic Return Migrants in South Korea: Hierarchy among Co-Ethnics and Ethnonational Identity,” in *Diasporic Returns to the Ethnic Homeland: The Korean Diaspora in Comparative Perspective*, ed. Takeyuki Tsuda and Changzoo Song (Cham, Switzerland: Palgrave Macmillan, 2019), 64.

<sup>17</sup> Rim Yŏn Rim (e.d), *Sŏul param: Chungkuk Kyopo 36-in sup’iljip* (Seoul: Pangmul Sŏgwan, 1992), p. 3.

<sup>18</sup> Kim, “International Ethnic Networks,” 2006.

<sup>19</sup> Cited in James Lim, “Do Not Beat the Foreign Workers,” *Korea Times*, February 16, 1996.

<sup>20</sup> Kim, “International Ethnic Networks,” 2006. For additional discussion of this incident, see Jeongwon Bourdais Park, *Identity, Policy, and Prosperity: Border Nationality of the Korean Diaspora and Regional Development in Northeast China* (Singapore: Palgrave Macmillan, 2018).

<sup>21</sup> Kim Dae-joong. 1996. “Ethnic Koreans in China.” *Chosun Ilbo* [Chosŏn ilbo], September 7 [reprinted and trans. version in *Korea Focus* 4 (5): 143-145].

<sup>22</sup> Sautman points out that the CCP’s practice of regional autonomy for ethnic groups dates back to the late-1930s and was codified into Chinese law in 1949. The 1949 law was later superseded by the 1984 Regional Ethnic Autonomy Law, which was amended in 2001. Barry Sautman, “Scaling Back Minority Rights? The Debate About China’s Ethnic Policies,” *Stanford Journal of International Law* 46 (2010): 51+ (Gale Academic OneFile), <https://link.gale.com/apps/doc/A242172907/AONE?u=anon~1ab7ba2e&sid=googleScholar&xid=57c596f6>.

<sup>23</sup> Colin Mackerras, *China’s Ethnic Minorities and Globalisation* (London and New York: RoutledgeCurzon, 2003).

<sup>24</sup> Sautman, “Scaling Back,” 2010, p. 51. Importantly, “regional autonomy” has always been subject to strict limitations; in particular, any effort to assert political rights as a separate entity in China (i.e., a separatist movement) is not only prohibited, but also subject to severe sanction or punishment. See Hongyi Lai, “China’s Ethnic Policies: Political Dimension and Challenges,” *East Asian Policy* 13 no. 2 (2009): 5-13.

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- <sup>25</sup> Woogil Choi, "The Transformation of the Korean Chinese Community: The Case of the Age of Migration in China," *Journal of Contemporary Korean Studies* 3 no. 1-2 (2016): 248.
- <sup>26</sup> Gilnam Lee, "The Yanbian Chosŏnjok Population Decline and the Crisis of Ethnic Education," *Korean Society of Sociology Conference* (Seoul, South Korea, 2010).
- <sup>27</sup> Choi, "Globalization," 2010.
- <sup>28</sup> Choi, "The Transformation of the Korean Chinese Community," 2016, p. 250.
- <sup>29</sup> Park, *Identity, Policy, and Prosperity*, 2018, p. 80.
- <sup>30</sup> Park, *Identity, Policy, and Prosperity*, 2018, p. 80.
- <sup>31</sup> Park, *Identity, Policy, and Prosperity*, 2018.
- <sup>32</sup> Yŏnbyŏn Ilbo, "Pak Kil-Sŏng ch'ogi hangil hwaltong kwa kŭi puin uri minjokŭi mummyŏng yŏngungdŭl," *Yŏnbyŏn Ilbo*, January 6, 2020, [http://www.iybrb.com/ser/content/2020-01/06/51\\_387209.html](http://www.iybrb.com/ser/content/2020-01/06/51_387209.html).
- <sup>33</sup> Ri Sŏn-hŭi. "T'ullyŏjŏ kanŭn mosŭpappe," in *Sŏul param: Chungkuk Kyopo 36-in sup'iljip*, (Seoul: Pangmul Sŏgwan, 1992): pp. 60-61.
- <sup>34</sup> Kim Kwan-ung. "Chungguk Chosŏnjok munhage issŏsŏi chŏngch'esŏng munje-e taehan yŏngu," *Inmun Kwahak* 93 (2011): 93.
- <sup>35</sup> Kim Chong-guk. *Segikyoch'eŭi Sigagesŏ pon Chungguk Chosŏnjok* (Yŏnbyŏn: Yŏnbyŏn Inmin Ch'ulpansa, 1999), p. 271.
- <sup>36</sup> Park Hyun Ok, *The Capitalist Unconscious - from Korean Unification to Transnational Korea* (New York: Columbia University Press, 2015).
- <sup>37</sup> For a more detailed discussion, see Timothy C. Lim and Dong-Hoon Seol. "Explaining South Korea's Diaspora Engagement Policies," *Development and Society* 47 no. 4 (2018): 633-62.
- <sup>38</sup> Seol and Skrentny, "Joseonjok Migrant Workers," 2004.
- <sup>39</sup> Changzoo Song, "Engaging the Diaspora in an Era of Transnationalism," *IZA World of Labor* 64 (2014).
- <sup>40</sup> Lim and Seol, "Explaining," 2018.
- <sup>41</sup> Vivien A. Schmidt, "Taking Ideas and Discourse Seriously: Explaining Change through Discursive Institutionalism as the Fourth 'New Institutionalism'," *European Political Science Review* 2 no. 1 (2010). Our analysis adopts a constructivist definition of institutions. Following Schmidt (and others), we understand institutions as fundamentally subjective entities that are constituted and reproduced by ideas rather than the other way around,

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although once established, institutions also impact how and what people think. In this regard, they are “the settings within which ‘sentient agents’ are the thinking agents who develop ideas for action that convey through discourse.”

Vivien A. Schmidt, “Speaking of Change: Why Discourse Is Key to the Dynamics of Policy Transformation,” *Critical Policy Studies* 5 no. 2 (2011): 106-126. For a similar view, see Alexander Wendt, “Anarchy Is What States Make of It: The Social Construction of Power Politics,” *International Organization* 46 (Spring 1992): 391-425.

<sup>42</sup> “Institutional thinking” refers to the norms, priorities, rules, duties, and obligations that are “embedded” within specific organizations (e.g., a government bureaucracy), a profession (e.g., journalism), or an epistemic community such as natural scientists.

<sup>43</sup> Changzoo Song, “‘Uh... Well, We’re Russians’: Identity and Resistance to Ethnic Hierarchy among Koryŏ Saram Diasporic Returnees in South Korea,” in *Transnational Mobility and Identity in and out of Korea*, edited by Yonson Ahn, 131-145 (New York: Lexington Books, 2020).

<sup>44</sup> Webmaster of *Dongbuk-A Shinmun*. “‘Kohyange torawa salkwŏlli ch’atki’e tachayŏ,” *Dongbuk-A Shinmun*, March 30, 2004, <https://www.dbanews.com/news/articleView.html?idxno=904>.

<sup>45</sup> For a discussion of the ethnonationalist foundations of South Korea’s nationality law, see Lim, “It’s Not Just Talk,” 2019.

<sup>46</sup> Constitutional Court (South Korea), “Act on the Immigration and Legal Status of Overseas Koreans Case” (13-2 KCCR 714, 99hun-Ma494, November 29, 2001).

<sup>47</sup> Constitutional Court (South Korea), “Overseas Koreans Case,” 2001

<sup>48</sup> Constitutional Court (South Korea), “Overseas Koreans Case,” 2001

<sup>49</sup> Kwang-cheol Lee, “Chinese Compatriots Wish to Recover Nationality,” *Hanguk Kyungjae*, November 14, 2003, <https://www.hankyung.com/society/article/2003111465818>.

<sup>50</sup> Melody Chia-Wen Lu and Hyunjoon Shin, “Ethnicizing, Capitalizing, and Nationalizing: South Korea and the Returning Korean Chinese,” in *Return: Nationalizing Transnational Mobility in Asia*, ed. Biao Xiang (Durham: Duke University Press Books, 2013).

<sup>51</sup> Cho Il-chun, “Chaeoe tongp’opŏp kaejŏngan ‘ch’abyŏl’ haesonya chŏngdanghanya” (The revision of the Overseas Koreans Act, justification of or removal of ‘discrimination’ 제외동포법 개정안 ‘차별’해소냐 정당화냐) *Hankyŏre Shuinmun* (18 November 2003) <http://legacy.www.hani.co.kr/section-001065000/2003/11/001065000200311180039127.html>.

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<sup>52</sup> Cho, “Chaeoe tongp’opŏp,” 2003.

<sup>53</sup> Seori Choi and Chang Won Lee, “History and Current Status of the South Korea’s Overseas Korean Policies with Korean-Chinese Cases” (working paper, IOM MRTC Working Paper Series, IOM Migration Research and Training Centre, Goyang, 2015).

<sup>54</sup> Kim Chae-ŭn. “Chungguk tongp’o chiwŏn nokko Sŏ Kyŏngsŏk, Kim Hae-sŏng moksa ch’ungdol,” *Chosŏn Ilbo*, January 8, 2004.

<sup>55</sup> For additional discussion of this “complicated history,” see Julia Jiwon Shin, “A Transnational Approach to the Integration of Migrant Workers: With Focus on the Korea’s Employment Permit System,” *OMNES: The Journal of Multicultural Society* 7, no. 2 (2017): 128-53; and Denis Kim, “Promoting Migrants’ Rights in South Korea: NGOs and the Enactment of the Employment Permit System,” *Asian and Pacific Migration Journal* 20, no. 1 (2011): 55-78.

<sup>56</sup> The main reason foreign workers in the EPS program have been fighting for the freedom to move between workplaces of their own volition is that it helps, as Piao notes, to balance the employee-employer relationship by allowing workers to easily change jobs if, for example, they can earn a higher wage elsewhere or if they suffer from abuse, nonpayment of wages, or harassment—all of which are still fairly common occurrences. Piao You. “Hierarchical Citizenship in Perspective South Korea’s Korean Chinese.” *Development and Society* 46, no. 3 (2017): 557-89.

<sup>57</sup> “Number of Incoming Foreigners by Type of Visa and Citizenship,” KOSIS (Korean Statistical Information Service), [http://kosis.kr/eng/statisticsList/statisticsListIndex.do?menuId=M\\_01\\_01&vwcd=MT\\_ETITLE&parmTabId=M\\_01\\_01](http://kosis.kr/eng/statisticsList/statisticsListIndex.do?menuId=M_01_01&vwcd=MT_ETITLE&parmTabId=M_01_01).

<sup>58</sup> It is possible to argue that South Korean officials preferred Chosŏnjok because most spoke Korean fluently and understood Korean cultural norms and practices. But recall that the early interactions between Korean Chinese and their South Korean employers produced a great deal of tension, which not only became violent at times, but also deadly. More broadly, there is evidence that South Korean employers preferred workers from other countries. In a 2002 survey of 1,286 small and medium-size companies, for example, respondents expressed a strong preference for workers from Indonesia. China was second, followed by Vietnam. “Indonesians Most Favored Foreign Workers.” *Korea Times*, May 1, 2002.

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<sup>59</sup> Kwak Jae-sök. “Tongp’o chöngch’aegün ögug’in illyök chöongch’aegüi kürüse tamülsu öptta,” *Dongbuk-A Shinmun*, May 12, 2020, <https://www.dbanews.com/news/articleView.html?idxno=40251>.

<sup>60</sup> Kwak, “Tongp’o chöngch’aegün ögug’in,” 2020.

<sup>61</sup> “Chaeodopngp’o (F-4) palgüpdasang hwaktae,” *Dongbuk-A Shinmun*, November 27, 2009, <https://www.dbanews.com/news/articleView.html?idxno=12432>.

<sup>62</sup> See, for example, Song, “Chosönjok and Goryeo Saram Ethnic Return Migrants,” 2019; Park, *Identity, Policy, and Prosperity*, 2018; Choi, “The Transformation of the Korean Chinese Community,” 2018; and Steven Denny and Christopher Green, “How Beijing Turned Koreans into Chinese,” *The Diplomat*, June 9, 2016. <https://thediplomat.com/2016/06/how-beijing-turned-koreans-into-chinese>.

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