Review of Genocidal Elements on the Human Rights Abuses in North Korea

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Summary

This article started from the question of whether the violations of human rights being carried out in North Korea so far are applicable to genocide. The paper examines the configurable requirements of genocide by four large elements: the objective groups, the extent of destruction, the specific types, and intent to destroy. As a result, the paper has found that the North Korean leadership commits genocide with the intent to destroy religious groups, mainly consisting of Christians and national groups including half-breed children. Considering the tendency of imposing the highest sentence in international courts when the case is determined as genocide, it seems to require active research on the possibilities of ruling the North Korean human rights situation as genocide.

Keywords: genocide, Convention on the Prevention and Punishment of the Crime of Genocide, COI on Human Rights in the DPRK, specific intent, ICC
I. INTRODUCTION

The U.N. resolution to recommend referring the North Korean human rights issue to the International Criminal Court (ICC) has passed the U.N. General Assembly plenary session for two years in a row (Park 2015). Since the Commission of Inquiry (COI) was set up under the United Nations in March 2013, the committee submitted a report in March 2014 after the one year preparation period. The approval of the resolution was another outcome following the establishment of Seoul office for investigation of North Korean Human Rights according to the recommendation of the COI in June 2015. However, unlike the claim of Human Rights Ambassador Lee Jong-hun that the North Korean Human Rights violation situation should be designated as genocide in the COI report in 2014 (Roh 2014), the report concluded upon limiting the situation in North Korea as crimes against humanity which are to be submitted to ICC.¹

According to the report analyzing the crimes under ICC jurisdiction, among crimes against humanity, genocide, and war crimes, the prosecution rate of genocide accounted for the lowest rate of about 14% (Mclaughlin 2013, 79). Two hundred and eighty cases out of a total of 2,363 were prosecuted by the International Criminal Tribunal for Rwanda (ICTR), and the convicted were only 76 cases. The ICTR prosecution rate was high because of the nature of the ICTR indictment. The majority of the crimes charged by the ICTR were associated with genocide because of the nature of the crimes between the Hutus and the Tutsis in Rwanda in 1994. Since its inception, the tribunal has primarily delivered verdicts on the individuals who committed genocide. ICTR is also the first institution that recognized rape as a means of carrying out genocide.

If that is the case, is there no way to apply genocide to the human rights abuse in North Korea other than crimes against humanity? This article examines the possibility of including the current North Korean issues to genocide, referring to the COI report and other related materials. The standard

¹. According to a recent report by Marzuki Darusman, the U.N. North Korea Human Rights Special Rapporteur, it has been two years since the U.N. COI report was issued, but crimes against humanity committed by North Korea have not improved yet (2016).