HUMAN RIGHTS QUARTERLY

Measuring National Human Rights: A Reflection on Korean Experiences

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ABSTRACT

This article proposes a research strategy to construct national human rights indicators and indices and uses this strategy for the assessment of human rights observance in the Republic of Korea during the period 1990 to 2007. To ensure reliability, the proposed indicators are derived from the Conclud-

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ing Observations issued by the committees of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The analysis of the constructed composite indices reveals a dramatic trend of a country's human rights improvements and setbacks over time. The article maintains that the proposed strategy is easily replicable by countries seeking to systematically assess and subsequently improve their human rights.

I. INTRODUCTION

Since the 1970s, measuring and assessing human rights has been a central enterprise in the research on human rights. Scholars and practitioners have sought to collect data on countries' human rights performance on the grounds that these efforts will lead to the construction of comparable measures, which will subsequently serve as the basis for the formation of credible public policies on human rights.[1] This rationale became the foundation for the early development of human rights indicators of Latin American and African countries, and these measures were used for the process of determining the distribution of US foreign aid.[2] In addition to providing a justification for such policy decisions, the invention of human rights indicators has propelled scholarly interest in studying the key conditions associated with advances or setbacks in the promotion of human rights worldwide.[3]

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1. Raymond D. Gastil, Freedom in the World: Political Rights and Civil Liberties (1978; 1979; 1980; 1981); Michael Stohl, David Carleton & Steve E. Johnson, *Human Rights and U.S. Foreign Assistance from Nixon to Carter*, 21 J. Peace Res. 215 (1984); Jack Donnelly & Rhoda E. Howard, *Assessing National Human Rights Performance: A Theoretical Framework*, 10 Hum. Rts. Q. 214 (1988); Charles Humana, World Human Rights Guide (3d ed. 1992); Michael Haas, Improving Human Rights (1994); Dipak K. Gupta, Albert J. Jongmon & Alex P. Schmid, *Creating a Composite Index for Assessing Country Performance in the Field of Human Rights: Proposal for a New Methodology*, 16 Hum. Rts. Q. 131 (1994); Todd Landman, *Measuring Human Rights: Principle, Practice, and Policy*, 26 Hum. Rts. Q. 906 (2004); Judith V. Welling, *International Indicators and Economic, Social, and Cultural Rights*, 30 Hum. Rts. Q. 933 (2008).
2. Lars Schoultz, Human Rights and United States Policy Toward Latin America (1981); David L. Cingranelli & Thomas E. Pasquarello, *Human Rights Practices and the Distribution of U.S. Foreign Aid to Latin American Countries*, 29 Am. J. Pol. Sci. 539 (1985); Thomas E. Pasquarello, *Human Rights and US Bilateral Aid Allocations to Africa, in* Human Rights: Theory and Measurement 236 (David Louis Cingranelli ed., 1988).
3. Neil J. Mitchell & James M. McCormick, *Economic and Political Explanations of Human Rights Violations*, 40 World Pol. 476 (1988); Steven C. Poe & C. Neal Tate, *Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis*, 88 Am. Pol. Sci. Rev. 853 (1994); Steven C. Poe, C. Neal Tate & Linda Camp Keith, *Repression of the Human Right to Personal Integrity Revisited: A Global Cross-National Study Covering the Years 1976–1993*, 43 Int'l Stud. Q. 291 (1999); Emilie M. Hafner-Burton & Kiyoteru Tsutsui, *Human Rights in a Globalizing World: The Paradox of Empty Promises*, 110 Am. J. Soc. 1373 (2005).

Despite the proliferation of interest in measuring and assessing human rights, there are controversies about whether designed indicators are comprehensive in their ability to capture the multidimensional nature of human rights. Difficulties arise especially when assessing the multiple dimensions of a particular country's human rights performance with a set of international indicators. Although the most widely accepted global indicators, including standards-based measures of personal integrity rights—e.g., imprisonment, torture, extrajudicial killings, and disappearances—allow for a rough assessment of the level of human rights protection in a country, these may not capture a more dynamic change in human rights observance at the national level. Indicators with a high level of abstraction prioritize cross-national comparability. Thus, they tend to truncate a great deal of variation in human rights practices within a country over time.[4]

We propose a research strategy that creates national human rights indicators and composite indices derived from the quantitative data of such indicators. This strategy will be used to assess human rights observance in the Republic of Korea[5] during the period 1990 to 2007. To minimize the degree of arbitrariness in constructing domestic indicators, this research strategy will follow the legal frameworks of the ICCPR and the ICESCR, especially the *Concluding Observations* (CO), which contain various concerns and inquiries raised by the committees responsible for addressing human rights practices—i.e., the Human Rights Committee and the Committee on Economic, Social and Cultural Rights (CESCR). This way, we maintain the legitimacy of our measurement efforts by connecting the national dimension to the international legal authorities. Based on domestically available quantitative data as well as qualitative legal information, we obtained a variety of both continuous and discrete measures or variables and consequently create the composite indices for the assessment of Korea's performance in the field of human rights.

The evolution of human rights in Korea provides an excellent laboratory for testing this research strategy because, during the period under study, Korea experienced a long stagnation followed by a rapid improvement in the protection of human rights and therefore showed ample variation in its records on human rights.[6] As shown in Figure 1, an examination of the Political Terror Scale based on Amnesty International's annual human rights

4. Landman, *supra* note 1.
5. All references to Korea in the text of this article refer to the Republic of Korea (South Korea).
6. Ian Neary, Human Rights in Japan, South Korea and Taiwan 68–98 (2002); Jeong-Woo Koo, *Institutionalization of Social Movements—Origins of the National Human Rights Commission of Korea: Global and Domestic Causes, in* South Korean Social Movements: From Democracy to Civil Society (Gi-Wook Shin & Paul Y. Chang eds., 2011).

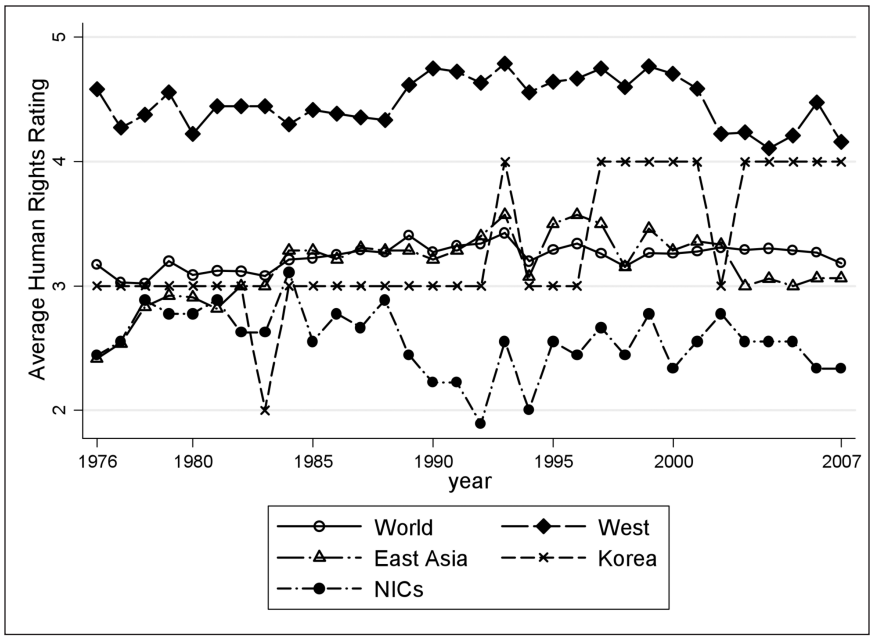

Figure 1. Human Rights Development in Korea, 1976–2007

reports reveals that the level of human rights protection in Korea remained lower than the averages of East Asia and the global level until the mid-1990s, except for 1993 when Korea's first civilian president, Kim Young Sam was inaugurated. It began to surpass its regional and world averages in 1997, a year before President Kim Dae Jung, a liberal political leader and Nobel Peace laureate, was inaugurated.

Propelled by the expansion of the discourse and movement of human rights, the level of Korea's observance of human rights became approximate to that of the West by the early 2000s, especially when several Western countries, such as the US, UK, Germany, Spain, Portugal, Sweden, and Belgium, experienced retreat in their levels of democracy and human rights. Meanwhile, the rest of East Asia witnessed significant human rights progress during waves of political democracy in the 1990s. This progress experienced setbacks in the early and mid-2000s in connection with military coups, such as Thailand in 2006, and other political turmoil, like the extrajudicial killings of Islamic fundamentalists in the Philippines in 2006. In comparison, Korea was able to maintain a higher level of human rights protection in the midst of democratic consolidation during the two liberal presidencies from 1998 to 2007. This pattern was similar to newly industrializing countries (NICs),

including South Africa, Mexico, Brazil, China, India, Malaysia, the Philippines, Thailand, and Turkey. While showing levels of human rights observance similar to those of NICs until the mid-to-late 1980s, Korea's record began to improve greatly after its democratic transition circa 1987 and continued to show increasingly higher levels of rights protection until recently. This dynamic trajectory of the Korean path to the protection of human rights is conducive to our efforts to highlight meaningful variation in the degree to which a country observes human rights over time.

Comparing the events that led Korea's human rights progress with the data analysis shows a rich and parallel trend in the trajectory of the evolution of human rights in Korea. Analysis indicates Korea saw a rapid improvement in both civil and political rights and economic and social rights after Kim Dae Jung took office and carried out a series of reform measures for the promotion of human rights. The upward trend was further strengthened when his successor, Roh Moo Hyun, continued to promote a national campaign for human rights. By contrast, the analyses reveal that the prior period governed by Kim Young Sam was characterized by unpredictable swings of human rights protection levels due to a lack of institutional commitments and public awareness of human rights. Drastic and notable changes took place: Korea underwent a rollercoaster period in its protection of economic and social rights that was largely attributable to the widespread adoption of neoliberal economic policies in the late 1990s and 2000s.

Our analyses also reveal there were notable differences between the developmental path of civil and political rights and of economic and social rights, which are not easily detected by global indicators. While the level of protection of economic and social rights remained higher than civil and political rights throughout Korea's democratization period, the gap became increasingly narrower when civil and political rights improved remarkably on the one hand, and economic and social rights achieved relatively modest improvement with the unfolding of neoliberal economic reforms on the other hand.

We argue that the proposed research strategy is legitimate and easily replicable by countries or societies seeking to systematically assess their records on human rights, to better explain their variations, and to put forward reliable policies for the betterment of human rights. As evidenced by a relatively high correlation between global and national indicators (over 50 percent in the Korean case), however, newly proposed indicators and composite indices are by no means a replacement for widely used global indicators. Rather, our proposed indicators and indices supplement their global counterparts by considering a broader collection of specific human rights areas, thus revealing more detailed variation in countries' human rights performance over time. Our contention is that once constructed with some universal standards and reliable data, newly designed indicators and

indices bring researchers and practitioners a step closer to better human rights observance at the local level.

II. MEASURING HUMAN RIGHTS: DEBATES

Amnesty International initiated its qualitative efforts to compare countries based on their levels of human rights observance in the 1970s, and similar efforts were echoed by the US Department of State. Since then, such organizations have compiled human rights records and cross-national comparisons on a regular basis.[7] Because these organizations have not supplied their estimates in a quantified form, individual scholars have sought to create quantified indicators in light of the originally compiled qualitative data. This group of scholars has paid particular attention to personal integrity rights, such as rights to freedoms from imprisonment, torture, extrajudicial killings, and disappearances. Standards-based measures were used to capture the degree to which such violations occurred, and these judgments were then translated into ordered indices ranging from one to five.[8] Two measures with ordinal scale data commonly known as the "Political Terror Scales"—constructed from the data of Amnesty International and the US Department of State—have been frequently used by social scientists who seek to uncover the economic, political, and cultural conditions associated with cross-national variations in the level of human rights observance.[9] More analytical, causal analyses were often motivated by policy-oriented concerns over how to distribute foreign aid or general concerns about how to improve human rights worldwide.[10]

Raymond Gastil and Charles Humana, who were former employees of Freedom House and Amnesty International, also made pioneering efforts to

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7. Haas, *supra* note 1.
8. Stohl, Carleton & Johnson, *supra* note 1; David Carleton & Michael Stohl, *The Foreign Policy of Human Rights: Rhetoric and Reality from Jimmy Carter to Ronald Reagan*, 7 Hum. Rts. Q. 205 (1985); David Carleton & Michael Stohl, *The Role of Human Rights in U.S. Foreign Assistance Policy*, 31 Am. J. Pol. Sci. 1002 (1987); Mark Gibney, Vanessa Dalton & Mark Vockell, *USA Refugee Policy: A Human Rights Analysis Update*, 5 J. Refugee Stud. 33 (1992); Steven C. Poe, *Human Rights and Economic Aid under Ronald Reagan and Jimmy Carter*, 36 Am. J. Pol. Sci.147 (1992).
9. R.D. McKinlay & A.S. Cohan, *A Comparative Analysis of the Political and Economic Performance of Military and Civilian Regimes: A Cross-National Aggregate Study*, 7 Comp. Pol. 1 (1975); R.D. McKinlay & A.S. Cohan, *Performance and Instability in Military and Nonmilitary Regime Systems*, 70 Am. Pol. Sci. Rev. 850 (1976); Han S. Park, *Correlates of Human Rights: Global Tendencies*, 9 Hum. Rts. Q. 405 (1987); Mitchell & McCormick, *supra* note 3; Poe & Tate, *supra* note 3; Poe, Tate & Keith, *supra* note 3; Christian A. Davenport, *Constitutional Promises and Repressive Reality: A Cross-National Time-Series Investigation of Why Political and Civil Liberties are Suppressed*, 58 J. Polit. 627 (1996); Hafner-Burton & Tsutsui, *supra* note 3.
10. P.J. Schraeder, S.W. Hook & Bruce Taylor, *Clarifying Foreign the Aid Puzzle: A Comparison of American, Japanese, French, and Swedish Aid Flows*, 50 World Pol. 294 (1998).

design comparable human rights indicators. Considering seventeen types of civil rights and nineteen political rights, which are much broader in scope than the ones covered by the Political Terror Scales, Gastil classified more than 100 countries along seven-point scales for both civil and political rights and issued a composite index of each country's status of freedom.[11] Likewise, Humana undertook ambitious efforts to rate over 100 countries along forty-four-point scales. Weighting several indicators and combining all the measures considered, Humana provided composite ratings, or "magic" numbers, which allow for comparing countries' practices of human rights in intuitive percentage terms.[12] Inspired, but not fully satisfied by Humana's influential undertaking, several scholars have suggested several alternative ways of constructing composite indices or ratings. Techniques like factor analysis or discriminant analysis were employed to give more weight to important rights and to avoid the fallacy of combining heterogeneous indices into over-simplified composite indices.[13]

Although international indicators have been enormously useful in assessing and ranking countries' human rights practices and their utility still remains valid, these global measures show limitations in revealing or detailing the dynamic patterns of human rights observance *within* a country. First, the list of global indicators is so short that it naturally curtails the much longer list of human rights essential for the promotion of human rights in the focal country. Therefore, the global indicators inevitably truncate the much larger variation in the level of human rights observance in the country. Consider, for example, conscientious objectors of military service in Korea and whether or not they are allowed to choose an alternative way of completing their national military duty, an issue that has propelled heated national debate in a country where serving in the military is considered an essential duty of a male citizen. This is one of the numerous controversial issues that could show us the extent to which the Korean government observes or fails to observe human rights which are central in the focal country, but is hardly dealt with by international indicators.

Second, global indicators rarely take into account the developmental stage of a particular country in the sphere of human rights. Therefore, the indicators consequential for a set of countries show little applicability for another set of countries. Consider, for example, variables 10 and 14: "freedom from court sentences of corporal punishment" and "absence of serfdom, slavery, and child labor" in Humana's list of indices.[14] With the exception

11. Gastil, *supra* note 1.
12. Charles Humana, World Human Rights Guide (1st ed. 1984); Charles Humana, World Human Rights Guide (2d ed.1987); Humana, World Human Rights Guide (3d ed.), *supra* note 1.
13. Gupta, Jongmon & Schmid, *supra* note 1; Haas, *supra* note 1.
14. *See* Humana, World Human Rights Guide (3d ed.), *supra* note 1, at 12. Questions 7 and 12 are example questions of the questionnaire Humana used to measure human rights levels.

of child labor, all of the issues specified are largely inapplicable to a large number of countries that have already achieved a modest level of human rights protection. If applied to those countries, which are no longer guilty of violating these rights, the indicators will produce no variation over time, and thus have no utility. Third, global indicators and their composite scores have a tendency to underestimate the level of abuses of human rights for the countries ranked high on the ladder. For example, even though Finland scored 99 in 1991, its high score inaccurately portrays that human rights practices in Finland in 1991 were nearly perfect.[15] If used to assess the extent that Finland protects human rights over time, Humana's global indicators provide little analytical power. Since it has increasingly become an axiom that human rights have no upper or lower bounds,[16] Humana's global indicators provide little power to analyze countries like Finland once the analysis concludes a country to have a perfect human rights record.

Despite early recognition of the important tools that assess national human rights practices,[17] few empirical attempts have assessed these practices, which contrast drastically with the expansion of endeavors seeking to construct global indicators. Some have suggested a set of rights and corresponding proxies for studying particular countries.[18] Yet few studies have performed the actual research of collecting data in a longitudinal fashion by creating composite indices and ultimately estimating progress or regress in human rights practices of a country during a pre-determined period.

Designing national indicators, however, may be fraught with pitfalls of overreliance on domestic standards. In the early history of the development of human rights indicators, states enjoyed a great deal of autonomy and freedom in employing methods for data collection and choosing pre-existing data for generating proxies. Yet legal scholars later questioned whether or not granting such autonomy and freedom created reliable indicators consistent with international law.[19] In this regard, the CESCR declared that it would not automatically accept national indicators crafted and submitted by national governments without clear guidance from international standards. Thus, it became crucial to rely on widely recognized international standards, derive appropriate national indicators based on these standards, collect data accordingly, and ultimately construct composite indices. This way the final product may serve as a legitimate and efficient means to assess a country's

15. *Id* at 17.
16. Robert Justin Goldstein, *The Limitations of Using Quantitative Data in Studying Human Rights Abuses*, 8 Hum. Rts. Q. 607 (1986); Haas, *supra* note 1, at 19–30.
17. *See* Rhoda E. Howard & Jack Donnelly, *Human Dignity, Human Rights, and Political Regimes*, 80 Am. Pol. Sci. Rev. 801 (1986).
18. *See id.*
19. *See* Matthew C. R. Craven, The International Covenant on Economic, Social and Cultural Rights: A Perspective on Its Development 30–34 (1995); Welling, *supra* note 1.

performance on human rights and to supplement existing tools for cross-national comparison.

Following Judith Welling's recent initiative linking human rights indicators to the ICESCR legal framework, we seek to base national indicators on the ICCPR and ICESCR legal frameworks.[20] These serve well as indicators because the ICCPR and ICESCR are part of the International Bill of Rights and Universal Declaration of Human Rights, which many countries are committed to. In particular, we derived national indicators from countries' obligations specified in the COs issued by the Human Rights Committee (HRC) and the CESCR. Treaty committees issue COs in response to a country's own human rights report and consider counter-reports from civil society groups to address undisclosed or conflicting information. Therefore, COs are an excellent venue for discussing key issues involving human rights in a particular country and potential solutions. By linking national indicators to countries' concrete obligations presented in the COs, we not only effectively capture the most prioritized national issues of human rights, but also maintain the legitimacy of the chosen indicators.

III. CONSTRUCTING NATIONAL HUMAN RIGHTS INDICATORS

A. Data Sources

The main sources of information we used to assemble human rights indicators for Korea during the period of 1990 to 2007 are from the five COs issued by the HRC and CESCR. The COs that evaluate the degree Korea adheres to the ICCPR were issued in 1992, 2000, and 2006, whereas those assessing the level of Korea's observance of the ICESCR were released in 1995 and 2001.[21] The issuing of these reviews was a response to official reports submitted by the Korean government to the HRC and CESCR. As shown in Table 1, after ratifying the two covenants in 1990, Korea gave its reports on the current status of human rights observation to either the HRC or CESCR on six different occasions—1992, 1997, and 2005 for the ICCPR and 1992, 1999, and 2007 for the ICESCR.

Considering that all the required reports were submitted, and the delay period was, on average, only 1.2 years, Korea seems to have successfully fulfilled its obligations required by the ICCPR and ICESCR. In the meantime,

20. Welling, *supra* note 1.
21. The most recent CO issued by the CESCR for South Korea was released in November 2009, but it was not considered for this study because it does not fall within the observation period of the study.

Table 1: Korea's Status on Periodic Reports for ICCPR and ICESCR

	Year of Ratification	*Due*	*Submitted*	*Reviewed*	*Response*	*Comments*
ICCPR	1990	1991	1991	1992		SR
		1996	1997	1999	2000	CO
		2003	2005	2006	2008	CO
		2010				
ICESCR	1990	1992	1993	1995		CO
		1997	1999	2001		CO
		2006	2007	2009		CO

civil society groups also reviewed the status of human rights in Korea and submitted their reviews in the name of counter-reporting, providing their own perspectives and evaluations and thus challenging those contained in the official governmental reports. After carefully reviewing and relying on the two sources from government and civil society, the HRC and CESCR expressed their *concerns* on the current status of human rights in Korea. The committees revealed these concerns by recommending further clarification of certain aspects of human rights practices and by suggesting specific policy measures to improve in areas that require attention and governmental intervention. The concerns articulated as inquiries and policy recommendations are central components of the COs and make the documents a remarkably useful channel that allows for a systematic understanding of the key issues and debates on local practices and Korean human rights laws.[22]

Although several concerns are already directly measurable in their current forms, many of them are far removed from the concrete and measurable parameters and thus require further consideration to be modified into reliable indicators. For example, a concern over "interference with the right to counsel during pre-trial criminal detention" is too broad to be used as an indicator,[23] as is a concern regarding "the treatment of prisoners . . . to help to reintegrate them into society."[24] For further example, it is similarly difficult to measure concerns involving the protection of civil and political rights, such as the use of excessive force by police,[25] extent of judicial

22. These concerns are enumerated in two tables and are available upon request.
23. *U.N. Committee on Civil and Political Rights, Consideration of Reports Submitted by State Parties Under Article 40 of the Covenant*, U.N. GAOR, Hum. Rts. Comm., 88th Sess., ¶ 14, U.N. Doc. CCPR/C/KOR/CO/3 (2006) (hereinafter *Reports Submitted by State Parties Under Article 40*).
24. *Report of the Human Rights Committee*, U.N. GAOR, 47th Sess., ¶ 481, U.N. Doc. CCPR/A/47/40 (1992) (hereinafter *Report of the Human Rights Committee* 47th Sess.).
25. *Id.* ¶ 516.

independence,[26] and discrimination against migrant workers.[27] The same logic is applied to the numerous concerns identified through the COs of the ICESCR. The lack of minimum wage regulations for small enterprises[28] hardly reveals what distinguishes small enterprises from others. A concern over sexual discrimination in the workplace and recruitment involves an identification of a central area of human rights abuse, but hardly provides information on distinct aspects of sexual discrimination in the specified settings.[29] Concerns that are not clearly observable also include the "sexual exploitation of children, child labour, and hardships caused by a breakdown of the family,"[30] the "affordability of housing for lower income groups,"[31] and the "low quality of education in public schools"[32] among others.

Furthermore, human rights indicators require not only measurability, but also availability of related data, qualitative or quantitative.[33] If not supported by reliable data, designed indicators are largely meaningless and provide little empirical significance. Researchers have noted that data availability or manageability is a significant constraint on the efforts to construct human rights indicators. For instance, when measuring how well Korea provides an adequate standard of living, the data on the numbers of homeless and vinyl house dwellers, which were considered as potential indicators for this measurement, were severely constrained by a lack of information in the 1990s and therefore prevented us from seeking ideal longitudinal indicators in this area. A number of potential indicators initially suggested as measurements for these concerns in the COs were dropped from the final list of indicators because supporting data was not available or reliable.

The application of both measurability and availability resulted in a smaller but still extensive list of human rights indicators in Korea during the period 1990 to 2007, which are displayed in Tables 2 and 3. The tables show broader areas or themes of human rights, their corresponding indicators, specific items in the COs from which the indicators are derived, the levels of measurement, and the minimum and maximum values. Here we list and

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26. *Report of the Human Rights Committee*, U.N. GAOR, 55th Sess., Supp. No. 40, ¶ 147, U.N. Doc. CCPR/A/55/40, Vol. I (2000) (hereinafter *Report of the Human Rights Committee* 55th Sess.).
27. Reports Submitted by State Parties Under Article 40, *supra* note 23, ¶ 12.
28. *General Comment No. 15, Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights*, U.N. ESCOR, Comm. on Econ., Soc. & Cult. Rts., 29th Sess., Agenda Item 3, ¶ 12, U.N. Doc. E/C.12 (1995).
29. *Id.* ¶ 11.
30. *Consideration of Reports Submitted by State Parties under Articles 16 and 17 of the Covenant*, U.N. ESCOR, Comm. on Econ., Soc. & Cult. Rts., ¶ 21, U.N. Doc. E/C.12/1/Add.59 (2001).
31. *Id.* ¶ 25.
32. *Id.* ¶ 27.
33. David L. Cingranelli & David L. Richards, *Measuring the Level, Pattern, and Sequence of Government Respect for Physical Integrity Rights*, 43 Int'l Stud. Q. 407 (1999).

use indicators or measures that provide reliable data during the observation period 1990 to 2007. To obtain reliable data, we consulted a wide variety of sources from governmental agencies, nongovernmental organizations (NGOs), and private foundations. Data sources for each indicator are provided in Appendix Tables 1 and 2.

B. Indicators for Civil and Political Rights

Table 2 shows the proposed indicators for civil and political rights in Korea and also displays the broader areas or themes these indicators belong to. The broader areas considered are as follows: (1) administrative justice, (2) rights of prisoners or detainees, (3) freedom of thought/belief/expression, (4) freedom of association/assembly, (5) rights of women and children, (6) rights of minorities (migrant workers and refugees). These broader areas correspond not only to internationally recognized issues of human rights, but they are also to key controversial areas often debated by researchers and practitioners specializing in human rights in Korea.

For measuring social and political rights we considered thirty-seven indicators, which we also separated into several subcategories. Most of these indicators, thirty-three of them, observed procedural or structural characteristics. This was done by observing whether Korea adopted a certain law, policy, or institution—e.g. whether provisions of the National Security Law supported social and political rights. Twenty-two of the thirty-seven indicators were binary measurements. Such binary measures were quantified as "yes" or "no," and their minimum and maximum values were 0 and 1; that is, the years that a rights-protecting law, policy, or institution were in place received a 1. Otherwise, they were assigned a score of 0. For a rights-suppressing law, policy, or institution, however, we used the opposite scheme by assigning 0 for the years with such a law and 1 for those without such a law.

Law and policy are indispensable to human rights; they act as crucial yardsticks to gauge the degree to which countries observe human rights.[34] Thus, there is an increasing awareness that human rights indicators must be designed as a way of monitoring legal and administrative processes.[35] Humana, a forerunner of the project of human rights measurement, also considered the dimension of law seriously and therefore devoted seven out of the forty questions, which constituted elements of his human rights index

34. Jeong-Woo Koo & Francisco O. Ramirez, *National Incorporation of Global Human Rights: Worldwide Adoptions of National Human Rights Institutions, 1966–2004*, 87 Soc. Forces 197 (2009).
35. *See* Green, *supra* note 33.

Table 2: Indicators for Civil and Political Rights in Korea, 1990–2007

Concerns	*Measures*	*Level*	*Min*	*Max*
	1. No independent review body for torture and amendment of criminal procedure	B	0	1(01)
	2. Confessions made after torture used as evidence in court proceedings	B	1	1
	3. A person's family is informed soon after their arrest	C	1	1
	4. The right of one deprived of his liberty to communicate with a lawyer	B	1	1
Administrative Justice	5. Existence of an independent review process by prosecutors for confinement facilities	B	1	1
	6. Ratio of rejected warrants	C	0.034(90)	0.278(07)
	7. Law permitting death penalty	B	0	0
	8. Application of death penalty to robbery	B	0	0
	9. No. of death penalty executions	C	0	23(97)
	10. Former political prisoners required to report to the police every 3 months	B	0	0
	11. Political prisoners forced to recant their beliefs ("law-abidance oath")	B	0	1(03)
Prisoners or Detainees	12. No. of complaints/convictions of use of coercive measures	C	35(01)	408(07)
	13. No. of political prisoners	C	1374(97)	79(07)
	14. No. of hours per week spent on reintegration program of prisoners	C	0.042	0.042
	15. Stacking of 30-day periods of isolation as a disciplinary punishment	B	0	0
	16. Enforcement of videotaping of interrogations	B	0	
Freedom of Thought, Belief, or Expression	17. No. of persons convicted of violating National Security Law	C	29(07)	633(97)
	18. Conscientious objection permitted under the law	B	0	0
	19. No. of people who visited North Korea	C	12(94)	158170(07)
	20. Limits on no. of recalls on persons who refuse military service	B	0	0
Freedom of Association or Assembly	21. Ratio of the injured to the uninjured during protests	C	0.016(07)	0.524(97)
	22. Teachers and journalists prohibited from founding or joining a party	B	0	0
	23. Restrictions on freedom of association of teachers	B	0	1(98)
	24. Restrictions on freedom of association of public servants	B	0	1(06)

Table 2: continued

Concerns	*Measures*	*Level*	*Min*	*Max*
	25. Procurement of women for prostitution treated as a criminal offence	B	0	1
	26. Laws and practices that encourage non-discrimination toward women	B	0	1
	27. Family headship system	B	0	1
	28. Enacted year of a comprehensive law prohibiting child labor	B	1	1
Women	29. Ratio of newly born boys and girls	C	106.2(07)	116.5(90)
and Children	30. Requirement of resistance for rape offense	B	0	0
	31. Marital rape accepted as a criminal offense	B	0	0
	32. No. of reported marital rape cases	C	0	0
	33. No. of female irregular workers	C	2548000(93)	3957000(06)
	34. Ratio of disparity of income between men and women	C	0.57(93)	0.67(06)
Migrant Workers,	35. Law prohibiting foreigners from holding public office	B	0	0
Refugees, and	36. No. of admitted refugees or boat people	C	19(04)	27(3)
Other Minorities	37. Ratio of wage of migrant to domestic workers	C	0.52(05)	0.67(06)

to legal rights. This legal emphasis has been repeatedly echoed by subsequent studies that track the formal commitment of countries to rights protection.[36]

The remaining indicators of civil and political rights—fifteen out of thirty-seven—in Table 2 were based on aggregated or disaggregated data—gender, age, and job status—and were measured on a continuous scale. These continuous measures involve not only the outcomes of governmental efforts to protect human rights via laws and policies, but also the extent to which rights are experienced by individuals or groups in their daily lives.[37] As suggested by maximum and minimum values in Table 2, the scales vary, ranging in numbers, percentage, ratio, or monetary value. Table 2 displays a wide variety of continuous measures, such as the numbers of complaints of governmental coercion, political prisoners, convictions for violations of the National Security Law, people visiting North Korea, executions of the death penalty, and admitted refugees.

To illustrate how the measurement effort works, consider a key human rights area such as freedom of association. In total, four indicators are proposed and assigned for this critical area. The human rights community in Korea has repeatedly emphasized the importance of protecting the right to freedom of association because state authorities have often placed grave limitations on it in conjunction with the threat of North Korea's communist influence and other concerns addressed by the National Security Law.[38] Historically, Korean governments have placed various restrictions on citizens' right to association in the name of national security and often suppressed democratic movements and their demands for right to association by invoking the National Security Law.[39] Despite a remarkable achievement in the ratification of major human rights treaties, Korea has refrained from adopting Article 22, which protects the right to association and remains the only article the Korean government has not adopted under the ICCPR and ICESCR.

Since 1992, when its first CO was released for Korea, the HRC has been concerned with denying teachers and public servants freedom of association. "[The] alleged dissolution of certain private university or school teachers' unions,"[40] raises concerns about "the remaining restrictions on the right to freedom of association of teachers and other public servants"[41] and the freedom to criticize the Korean government's "position vis-à-vis the rights

36. *See* Welling, *supra* note 1.
37. Landman, *supra* note 1.
38. Rennie J. Moon & Jeong-Woo Koo, *Global Citizenship and Human Rights: A Longitudinal Analysis of Social Studies and Ethics Textbooks in the Republic of Korea*, 55 Comp. Educ. Rev. 574 (2011).
39. Suk-Ki Kong, Transnational Mobilization to Empower Local Activism: A Comparison of the Korean Human Rights and Environmental Movements (2006).
40. *Report of the Human Rights Committee* 47th Sess., *supra* note 24, ¶ 485.
41. *Report of the Human Rights Committee* 55th Sess., *supra* note 26, ¶ 151.

of association of senior public officials."[42] The HRC has also consistently expressed its concern over the use of police force or other equivalents of state repression against demonstrators, invoking Article 22 of the Covenant. Other concerns include "prohibition of assemblies on major roads in the capital" and "the restrictions on the rights of teachers and journalists to be the founders or members of a political party."

To make such concerns observable, three indicators or measures were considered: (1) whether teachers or journalists are prohibited from founding or joining a party, (2) whether teachers and public servants are permitted to form their own associations or unions, (3) and the ratio of the injured to the uninjured during protests. All the indicators were measured on a binary scale, except for the latter indicator, which uses a continuous variable measurement of the extent of state repression.

C. Indicators for Economic and Social Rights

Table 3 displays dozens of indicators that are rooted in the key concerns raised by the CESCR through their COs, the broader areas to which such indicators correspond, specific items in the COs from which the indicators are derived, the level of measurement, and minimum and maximum values of the indicators. Five broad areas demarcate the most pressing issues of economic and social rights in Korea. These areas are: (1) labor rights; (2) social security; (3) rights of family, women, and children; (4) adequate standard of living; and (5) right to education. This categorization is largely consistent with previous efforts that range from Franklin D. Roosevelt's earlier advocacy of "self-evident economic truths" to the recent initiative by the United Nations Development Programme (UNDP) to design human development indicators that evaluate economic and social rights.[43] Each broader area of economic and social rights comprises several detailed concerns, each of which may be measured either in binary or continuous scales.

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42. *Reports Submitted by State Parties Under Article 40, supra* note 23, ¶ 19.
43. In his State of the Union Address in 1944, Roosevelt urged the Congress to enact a "second Bill of Rights" that would have included the right to a useful and remunerative job, the right to adequate food and clothing, the right of farmers to a decent living, the right of businessmen to fair trade, the right of families to decent homes, the right to good health, the right to protection from economic fears including unemployment, and the right to good education. *See* Daniel J. Whelan & Jack Donnelly, *The West, Economic and Social Rights, and the Global Human Rights Regime: Setting the Record Straight*, 29 Hum. Rts. Q. 908 (2007). Inspired by such earlier endeavors, UNDP considered such socioeconomic indicators as life expectancy, literacy, purchasing power, and sex equality in the course of inventing a composite measure called the human development indicator. *See* United Nations Development Programme (UNDP), Human Development Report (1991).

Table 3: Key Concerns in Economic and Social Rights, Korea

Areas	*Concerns*	*Level*	*Min*	*Max*
	1. Workplace regulations in enterprises with fewer than 10 employees	B	1	1
	2. Restrictions on teachers' and defense workers' right to form trade unions	B	0	1(99)
	3. Wage gap in ratio between workers in small vs. big enterprises	C	0.79(07)	0.88(96)
	4. Ratio (%) of accidents in the workplace	C	2.40(98)	7.17(07)
	5. No. of dismissals and/or lay-offs	C	103239(94)	145257(06)
	6. Unemployment rate	C	2(96)	7(98)
Labor	7. Ratio of top 20 percent to bottom 20 percent	C	3.63(92)	5.08(07)
	8. Ratio of irregular workers to regular workers	C	0.41(93)	0.52(00)
	9. Wage gap between regular and irregular workers	C	510000(03)	872000(06)
	10. Wage gap in ratio between male and female workers	C	0.57(93)	0.67(06)
	11. No. of sexual harassment incidents reported	C	17(99)	163(07)
	12. Ratio of employed disabled to unemployed disabled	C	2.07(90)	8.45(05)
	13. Enacted year of National Basic Livelihood Security Act	B	0	1(99)
	14. No. of insurers of the 4 major insurances (per 1,000)	C	250.9(91)	755.9(07)
Social Security	15. Application of National Pension Scheme to residents in small cities/provinces	B	0	1(99)
	16. Ratio of social security expenditure to military expenditure	C	0.17(90)	0.65(07)
	17. No. of public facilities for the homeless or mentally disabled	C	37(02)	43(01)
	18. Legal provisions allowing woman to vest her nationality in her child	B	1	1
Family,	19. Whether family headship system is abolished	B	0	0
Women,	20. No. of reported domestic violence cases (e.g. marital rape)	C	112790(02)	195286(07)
and Children	21. No. of daycare facilities	C	1119(90)	30856(07)
	22. No. of reported cases of sexual exploitation of children	C	3173(07)	6982(03)
	23. No. of the boy or girl family head	C	2501(07)	16001(96)

Table 3: continued

Areas	*Concerns*	*Level*	*Min*	*Max*
Adequate Standard of Living	24. No. of public lending apartments	C	71791(03)	110320(07)
	25. Government expenditure for health field	C	216880(06)	536735(04)
	26. No. of government funded medical facilities	C	10892(90)	12516(07)
Education	27. Year of the extension of free education to secondary sector	B	0	1(04)
	28. No. of hours on human rights education of law enforcement officers	C	3820(02)	20824(05)
	29. Ratio of female freshmen to male freshmen in college	C	0.63(90)	0.85(07)
	30. Size of private education market (1,000 Korean won)	C	9341568(98)	15244332(08)
	31. Ratio of household consumption for private education	C	0.031(90)	0.060(07)

A notable feature of Table 3, compared to Table 2, is the predominance of continuous measures, including development indicators. Therefore, binary variables focusing on the presence of relevant laws or judicial institutions receive less weight, even though these are still used for assessing the status of relevant legislation—e.g., the provisions of laws permitting teachers and public servants to organize unions and the enactment of the National Basic Livelihood Security Act. The reversed weight of continuous and binary measures is naturally linked to an important difference between civil and political rights and economic and social rights. The former immediately invokes the non-intervention or forbearance principle on the part of the state, whereas the latter requires the state or other authorities to actively provide goods, services, or opportunities.[44] Civil and political rights and their non-intervention principle may be effectively guaranteed by the presence of relevant laws or institutions and thus require the construction of binary measure-centered indicators. In contrast, economic and social rights may require a broad set of indicators that monitor the distribution of public resources in society. To this end, continuous measures may be a better tool to capture the extent to which those resources are distributed for strengthening human capabilities. Twenty-four out of thirty-one indicators were measured on a continuous scale. The remaining seven indicators were binary measures.

Not surprisingly, the most salient area regarding economic and social rights in Korea involves labor rights, as evidenced by the most frequent mentions of various labor rights in the COs by the CESCR. Propelled by political liberalization in the aftermath of the June Uprising in 1987, the labor movement emerged with active involvement from both industrial and white-collar workers. The workers began to question the horrible conditions in the workplace and turned their attention to how to democratize the workplace, whose management styles and labor relations were notoriously authoritarian.[45] The CESCR was aware of the salience of the labor issues that began to be publicly discussed and seen as a central dimension of economic and social rights in Korea and thus began to express its concerns over a variety of relevant issues, including income inequality, proper workplace regulations, the right to form unions, and industrial safety.

As an example of CESCR's involvement, CESCR expressed its concern regarding a variety of income inequalities, such as "the wage differential between men and women,"[46] lower wages of irregular workers compared to

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44. Jack Donnelly, Universal Human Rights in Theory and Practice (2d ed. 2003).
45. Hagen Koo, *Middle Classes, Democratization, and Class Formation: The Case of South Korea*, 20 Theory & Soc. 485 (1991); Doowon Suh, *Middle-Class Formation and Class Alliance*, 26 Soc. Sci. Hist. 105 (2002).
46. *General Comment No. 15, supra* note 28, ¶ 11.

regular workers,[47] and the non-observance of minimum wages for workers employed in small enterprises.[48] In its 2001 COs, the CESCR warned that income inequalities grew rapidly in Korea, especially after the 1997 financial crisis. The issue of income inequality between men and women was naturally extended to the discrimination of women in the workplace and recruitment processes, leading the committee to maintain its concern over the unequal status of women in society in their 2001 COs.[49] The indicators involving labor rights measure the degree to which economic security is guaranteed for individual workers—such as the number of accidents in the workplace, the number of lay-offs, and unemployment rates; or for distinct groups—such as wage gaps between regular and irregular workers and between male and female workers. In varying degrees, such indicators capture the extent of the growing inequality among the general public as well as distinct social groups, a top concern of CESCR in connection with the Korean government's "economy-first" approach.

Specifically, CESCR focuses on the rapid economic development in Korea and to what extent the economic success led to the observance of economic and social rights. The committee claims that the economy-first approach largely disrupted individuals' rights to social security, adequate standards of living, health, rights of marginalized groups in society, and other basic labor rights.[50] Furthermore, the committee points to the fact that the economy-centered perspective and the resultant overreliance on macroeconomic policies were tremendously strengthened in the midst and aftermath of the 1997 financial crisis and gave rise to profound negative effects on the enjoyment of economic and social rights. These negative effects include "large-scale employee dismissals and lay-offs, a significant deterioration in employment stability, growing income inequalities, an increasing number of broken families and marginalization of a large number of persons."[51] The committee further argues that such harmful effects influenced not only labor rights but also other areas such as the provision of social security, rights of women and children, and adequate standards of living.

As shown in Table 3, the proposed indicators linked to the provision of social security include the enacted year of the National Basic Livelihood Security Act, the year the National Pension Scheme was applied to residents in small cities and provinces, the size of enrollment in government sponsored insurance programs, and the amount of governmental funding allocated

47. Consideration of Reports Submitted by State Parties under Articles 16 and 17 of the Covenant, *supra* note 30, ¶ 17.
48. *General Comment No. 15, supra* note 28, ¶ 12.
49. *Id.* ¶ 11.
50. Consideration of Reports Submitted by State Parties under Articles 16 and 17 of the Covenant, *supra* note 30, ¶¶ 11–13.
51. *Id.* ¶ 12.

to welfare related areas. The suggested indicators measuring the degree to which adequate standards of living are guaranteed include the ratio of government housing, government expenditure for healthcare, and government funded medical facilities. To gauge the extent of the realization of the right to education, several indicators were proposed, and these include whether or not free education is extended to secondary schooling, gender gaps at the college entrance level, and the scale of the private education market.

IV. ASSESSING HUMAN RIGHTS IN KOREA

A. Creating a Composite Index: the Z-Score Approach

Having proposed and collected data on human rights indicators for civil and political rights and economic and social rights in Korea during the period 1990 to 2007, we now turn to the process of creating composite indices from the prepared indicators. Devising a composite index is a daunting and vexing task and has often invited criticisms.[52] This is a crucial step for making a yardstick to assess the absolute and relative positions of human rights among countries as well as within a country. The proposed research strategy focuses on the latter and seeks to create composite indices that help to estimate progress or setbacks of human rights in Korea during a predetermined observation period, and therefore may help scholars and policymakers to systematically assess Korean human rights and formulate better policies.

To create composite indices, we employ a straightforward and easily replicable approach, which is based on the usage of z-scores. As shown above, numerous indicators and corresponding data are measured in distinct units—number, ratio, currency, etc.—as well as on different scales—i.e., binary and continuous. Therefore, it may seem logical to standardize such disparate scales and units into directly comparable quantities or scores. The composite indices may then be based on the summed scores of the standardized values of the proposed indicators. Yet indexing efforts must be sought separately for civil and political rights on the one hand, and economic and

52. Two lines of criticisms have appeared. The first line, as a more fundamental criticism, casts doubts on the utility of indices that aggregate different measures of a property because a single index "obscures any patterns of interaction among the component variables, reducing rather than increasing the information available." Russel Lawrence Barsh, *Measuring Human Rights: Problems of Methodology and Purpose*, 15 HUM. RTS. Q. 87, 102 (1993). The second line that concurs with the index approach contends that indices may be reliable only if the components are properly weighted. *See* Gupta, Jongmon & Schmid, *supra* note 1.

social rights on the other hand, because it is crucial to avoid the fallacy of adding two different dimensions, like counting apples with oranges.[53]

A z-score represents the distance between the raw score and the mean in units of the standard deviation. Using an equation, a z-score is expressed as:

$$Z = \frac{\chi - \mu}{\sigma} \quad (1)$$

where χ is a raw human rights score to be standardized, μ is the mean of an indicator during the period of 1990 to 2007, and σ is the standard deviation of the indicator during the observation period. A z-score becomes positive when the raw score is larger the mean, i.e., zero, or negative when it is smaller.[54] When used for human rights measurements, a z-score indicates whether or not the status of human rights levels in a particular year is better or worse relative to the average of human rights levels in other countries from 1990 to 2007, and if so, to what degree advances or setbacks were made (the greater the z-scores, the greater the degree of human rights progress or regress). Note that in a z-score the difference between the actual human rights value and the average value is computed *relative to* the standard deviation, which measures dispersion of the indicator. That is, the z-scores are the function, not only of the distance of a value from the mean, but also to the degree of dispersion of the indicator. For instance, if improvements of human rights are made in a less coherent way, the expected increase in the z-scores may not be as great as the actual progress.

Though theoretically with no limits, any z-score outside the range -3 to 3 is extremely rare, i.e., 2.06% [$Pr(-3 \leq Z \leq +3)=0.9794$]. We unified the directions of z-scores so that a positive direction shows an increment of an average, while a negative direction shows a decrement. For example, the direction of z-scores of the number of political prisoners—from 1374 in 1997 to 79 in 2007—which was originally distributed from positive to negative, were reversed so that their positive values indicate lower numbers of political prisoners than the average from 1990 to 2007.

B. Assessing Human Rights

Figure 2 displays the two composite indices assessing the development of civil and political rights and economic and social rights in Korea from 1990 to 2007. The composite indices were calculated by dividing the sums of the z-scores of indicators in each dimension by the total number of indicators used.[55] To the extent that each composite index is adequately standardized

53. *See* Haas, *supra* note 1.
54. Damodar Gujarati, Essentials of Econometrics (1999).
55. When binary measures show no changes over time—e.g., constant existence or non-existence of law, policy, and institution—their z-scores are not computed. To deal with

Figure 2. Composite Indices of Human Rights, Korea, 1990–2007

through z-scores and controlled by the number of indicators used, the composite indices might be directly compared.

One common feature of these indices involves an unequivocal improvement of human rights over time. Despite the occurrence of several setbacks throughout the period, both civil and political rights and economic and social rights in Korea have remarkably improved. Since the year 1990 when Korea began to participate in the global campaign for human rights protection by ratifying the ICCPR and ICESCR, both dimensions of human rights have advanced by about 1 standard deviation on average (about 38.3 percent).[56] The remarkable improvement in human rights is particularly notable during the period of 1998 to 2007, when Korea was governed by two consecutive liberal political leaders. Note the two early dramatic spikes in the compos-

this, we assigned a certain z-score for these constant binary measures—positive for the rights protecting institution or negative for the rights suppressing institution. The z-score was derived from the situation that a rights protecting institution came into existence or a rights suppressing institution was removed in the middle of the observation period; i.e., 1999. The positive z-score was .9718 and the negative score -.9718.

56. $Pr(-0.5 \leq Z \leq 0.5)=0.3830$.

ite indices in 1998 for civil and political rights, and in 1999 for economic and social rights. Such spikes are also notable in 2006 for civil and political rights and in 2004 for economic and social rights. These findings are consistent with widespread *speculation* made by scholars and practitioners that President Kim Dae Jung (1998–2002) and Roh Moo Hyun (2003–2007) pushed hard for human rights legislation and policies, and contributed to the improvement of human rights in Korea.[57]

Figure 2 reveals that the level of civil and political rights observance in Korea remained low during the initial periods of democratic consolidation. For the beginning three years of the period during which Korea was under the leadership of a military government (1990 to 1992), civil and political rights in Korea were, if not suppressed, then largely ignored. As the first civilian president, Kim Young Sam, took office in 1993 the status of civil and political rights improved immediately, but the level of human rights observance during the rest of his presidency hardly surpassed the original level of 1993. Therefore, the record of human rights during the presidency of the first civilian government seems to have been characterized by unpredictable ups and downs. These trends in the early years contrast dramatically with the ones found during the presidencies of more liberal leaders.

An interesting pattern regarding the development of economic and social rights is that such rights seem to have been better protected than civil and political rights in the early and mid-1990s, but this gap became narrower in the late 1990s and 2000s under the two liberal administrations. Korea saw only a modest improvement of economic and social rights in the late 1990s mainly because of the financial crisis in 1998, while it witnessed a rapid improvement of civil and political rights during the same period. Figure 2 reveals that the level of economic and social rights worsened in 1998, yet in the following year, it immediately recovered and even surpassed the level of 1997. Because of the neoliberal economic reform—which was ironically favored by the liberal regimes in the late 1990s and early 2000s—the advancement of economic and social rights was delayed, especially in 2002, 2003, and 2006. The rollercoaster-like evolution of economic and social rights in the 2000s suggests there might have been competition between neoliberalism and human rights, with neoliberalism seeming to prevail.[58]

What areas of human rights contributed to advances or setbacks of human rights that are presented in Figure 2? To answer this crucial question, it is worth examining disaggregated data or thematic indices that show the degree

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57. Koo, *supra* note 6.
58. The rapid upward spike of economic and social rights in the year 2004 is noticeable. A closer analysis of the data suggests that the sudden improvement was linked to such factors as the numbers of day care facilities, government housing, government-funded medical facilities, and children as family heads, among others. All the facilities grew in number and the number of children as family heads decreased significantly in 2004.

Figure 3. Thematic Indices of Civil and Political Rights, Korea, 1990–2007

to which human rights are protected in certain areas previously demarcated. Figure 3 displays such disaggregated indices divided into six broad areas of civil and political rights: (1) administrative justice, (2) rights of prisoners or detainees, (3) the freedom of thought/belief/expression, (4) the freedom of association/assembly, (5) rights of women and children, and (6) rights of minorities such as migrant workers and refugees. The six disaggregated indices were computed by dividing the sums of the z-scores of relevant indicators by the number of indicators used. In this way, the difference in the number of the utilized indicators—e.g., nine for administrative justice and ten for the rights of women and children—may be properly controlled for, so that the indices may be compared with each other.

It appears that rights to freedom of thought, belief, and expression are the biggest winners. The rate of increase from 1990 to 2007 in their z-scores appears to be the highest, at about 52 percent.[59] In contrast, the area of rights of minorities shows the smallest increase, about 8 percent, suggesting that this area remains the most stagnant field in human rights

59. $Pr(-0.690 \leq Z \leq 0.578)=0.524$.

in Korea when comparing the earliest and the latest years.[60] Despite the increasing number of foreign residents, exceeding 1 million in 2009, and the subsequent popularization of the notion of multiculturalism, foreigners residing in Korea, including workers and brides, often suffer from a lack of respect and discrimination.[61] Korea is also known as one of only a few affluent countries alongside Japan that has most often kept its door closed to forced migrants; only thirteen asylum seekers were granted legal protection according to the 1951 Refugee Convention in 2007.[62]

Other areas of human rights appear to have also improved from 1990 to 2007. Similar to the patterns of improvement in freedom of thought, belief, and expression, the area of freedom of association and assembly also experienced a notable improvement, by about 31 percent, with the expansion of workers' unions and improved political freedom.[63] Notably, administrative justice was relatively well-protected throughout the entire observation period, notwithstanding some setbacks in 1994, 1995, and 1997 when a large number of death penalties were executed and the average level of civil and political rights worsened by about 41 percent.[64] During the period under study, prisoners, and women and children's rights seem to have also experienced some modest improvements, 29 percent and 32 percent, respectively. However, these improvements have been slow in comparison to other areas of human rights. Perhaps the relatively slow process in these fields is attributable to the Confucian cultural legacy emphasizing social order, gender distinction, and authority. The Korean public recognizes prisoners as one of the most discriminated social groups in Korea, and the majority believes that basic rights of criminal suspects may be restricted if the protection of such rights conflicts with the maintenance of social order.[65] For example, the Gender Empowerment Index compiled by the UNDP measuring the level of women's participation in the public sphere ranked Korea 64th in 2007, suggesting that women's civil and political rights are not effectively protected in Korea.[66]

Figure 4 displays the composite indices disaggregated into five key areas of economic and social rights in Korea. These areas are: (1) labor rights, (2)

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60. $Pr(-0.540 \le Z \le -0.319)=0.799$.
61. Neary, *supra* note 6.
62. Eunhye Yoo & Jeong-Woo Koo, Presentation at 106th American Sociological Association Annual Meeting: Love Thy Neighbor: Explaining Asylum Seeking and Hosting, 1982–2008 (2011) (PowerPoint slides *available at* http://wiz.skku.edu/wiz/user/jkoo/images/jrzqnom_002.ppt).
63. $Pr(-0.092 \le Z \le 0.881)=0.311$.
64. The rate of increase from 1990 to 2007 is about 41 percent [$Pr(-0.283 \le Z \le 0.852)=0.411$].
65. National Human Rights Commission of Korea, National Survey of Human Rights Practices (2011).
66. United Nations Development Programme, Human Development Report 2007/2008: Fighting Climate Change: Human Solidarity in a Divided World (2007), *available at* http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf.

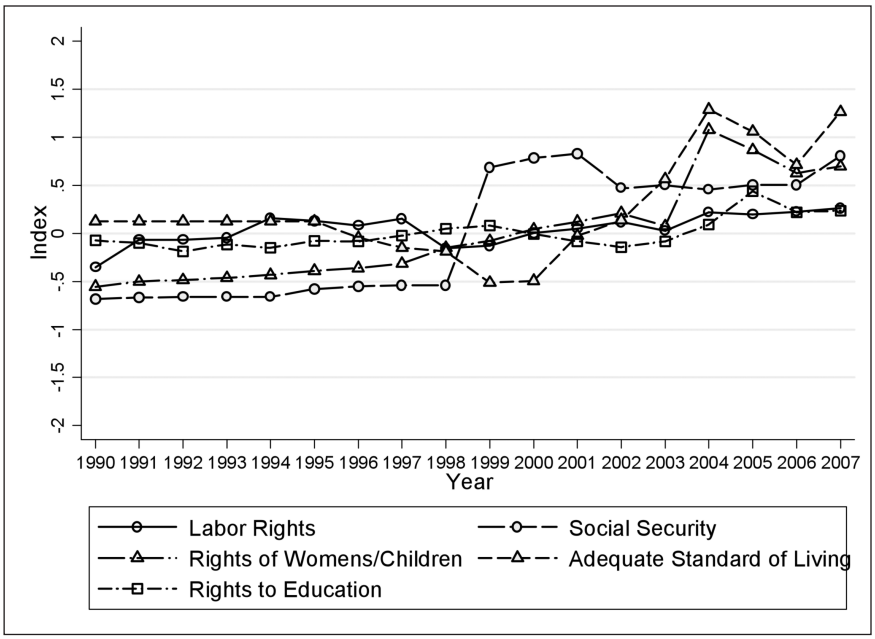

Figure 4. Thematic Indices of Economic and Social Rights, Korea, 1990–2007

social security, (3) the rights of women and children, (4) adequate standard of living, and (5) the right to education. The thematic indices were also constructed by dividing the sums of z-scores of each area by the number of indicators used for the area. This standardization allows for the comparison of the indices.

In a similar vein to the patterns in civil and political rights, Korea began to witness remarkable progress in economic and social rights after a liberal regime came to power in the late 1990s. Yet the momentum was not in the year 1998, but 1999, one year after the Asian financial crisis. In tandem with serious efforts by the two liberal governments to put forward welfare laws and policies, the level of social security improved most dramatically, about 54 percent, and standard of living improved significantly as well, about 35 percent, from 1990 to 2007. Spurred by the increasing number of daycare centers and the decreasing number of children as family heads, the level of protection of family, women, and children's economic and social rights also went up remarkably, about 46 percent. On the other hand, the standardized indices of the remaining two areas, labor rights and right to education, show only modest progress for the last two decades. As demonstrated by many scholars of Korean labor issues, the level of protection of workers' rights

was quite low in 1990. Notwithstanding the notable progress during the Kim Young Sam regime, labor rights barely improved during the two liberal regimes, which ironically favored neoliberal economic reforms, increasing the index by only 28 percent. Consider that, compared with other member countries of the Organisation for Economic Co-operation and Development (OECD) in 2007, Korea ranked poorly on several labor-related indicators involving work hours, gender wage gap, low wage earners, and deaths from workplace accidents.[67]

Compared to all the areas of economic and social rights, the right to education appears to be the most stagnant area. This is clearly demonstrated not only by the modest increase in its index, about 11 percent, but also by the finding that it ranked lowest in 2007. The data reveals that the increasing size of the private education market and the subsequent decrease in respect for public education are largely responsible for delaying the improvement of the right to education in Korea. However, this delayed improvement stems more fundamentally from ongoing problems rooted in the Korean educational system. Despite the efforts made by the two liberal administrations to grant greater autonomy to schools, legalize teachers' unions, boost transparency in school management, and promote students' basic rights, the Korean education system still maintains a strong sense of paternalism and hierarchy within the relationship between students and teachers, forces severe competition among students, and often tolerates rights-abusing practices, including corporal punishment and bullying.[68] All this suggests that, despite remarkable progress in overall human rights practices in economic and social rights in Korea, there remain specific areas, including the right to education, that require a more careful investigation and proper policy-intervention to accelerate improvement.

V. SUMMARY AND DISCUSSION

This article has sought to propose and execute a research strategy to design indicators and composite indices for the assessment of national human rights. By applying this strategy to post-democratized Korea, we have demonstrated the utility of this approach that helps to better estimate the quantitative trajectory of human rights evolution in a country. This was done by a combined examination of the global model of human rights represented by the International Human Rights Covenants and the COs drafted by their corresponding committees. This led to the identification of various indica-

67. Korea Labor Institute, Labor Statistics of Korea (2007).
68. Moon & Koo, *supra* note 38; Soon-Won Kang, *Democracy and Human Rights Education in South Korea,* 38 Comp. Educ. 315 (2002).

tors of civil and political rights and economic and social rights in Korea. This initial stage was followed by the next stage where we sought to collect quantitative data that measure the predetermined indicators. Finally, these quantitative measures were standardized with z-scores and summed to generate two composite indices, one for civil and political rights and one for economic and social rights. To show trends in particular areas of rights protection in Korea in the years 1990 to 2007, the data was separated into more specific thematic indices.

The analysis of the two major composite indices clearly demonstrates that, despite the existence of oscillating patterns, Korea experienced a dramatic improvement in human rights in the late 1990s and early 2000s when the two reform-oriented administrations with a strong commitment to rights-promoting policies were in power. Civil and political rights barely improved in the early and mid-1990s, yet they began to flourish from 1998, the inaugural year of Kim Dae Jung's presidency, and underwent an uninterrupted period of improvement throughout the 2000s. In contrast, the level of enjoyment of economic and social rights remained fairly high in the 1990s in conjunction with a rapid economic growth, but their evolution began to show a more dynamic pattern in the 2000s. Despite an overall improvement, economic and social rights were delayed in the early 2000s and there was a downward trend in 2006, signifying the enduring influence of the employed neoliberal economic policies. In addition, an analysis of the sub-fields also shows that the betterment of administrative justice and freedom of thought, belief, and expression were mainly responsible for the improved civil and political rights, but they were curbed by the compromised rights of minorities and prisoners. Social security and family, women and children's rights were the main improvers to social and economic rights, while the delay of labor rights and the right to education were attributable to its swings.

The first and foremost contribution of this article is that it not only devises a theoretical and conceptual framework of national human rights measurements, but also puts it to use in an empirical analysis that allows for the estimation of human rights observance in a country over time. Empirical works that use existing public data sources and construct composite indices for national assessments of human rights are extremely rare. Therefore, our project suggests a pioneering effort to take the initiative to pursue this line of research. It is the ultimate aim and justification of this article to show how to devise a tool for the national assessment of human rights and to help scholars and practitioners to make use of this in their empirical endeavors to gauge and assess national human rights. To this end, all the processes of the research have been detailed in such a way that makes the work easily replicable.

This article also contributes to the formation of enhanced human rights policies by providing aggregated as well as thematically disaggregated

information on national human rights observance of which policymakers take into account. Without an easily understandable measure or yardstick, policymakers cannot make reasonable judgments and policies. Despite the global diffusion of domestic human rights agencies, including national human rights commissions, few agencies have sought to produce such an essential tool and pay only scant attention to the importance of a systematic approach to measuring local human rights practices. The media coverage of annual reports of the Freedom Index and the worsened rights practices reported therein often shock and pressure local policymakers, yet their responses tend to be inevitably ceremonial without a deeper recognition of what is responsible for such setbacks.

Alternatively, a systematic and careful examination of a country's own human rights practices over time based on a sound theoretical framework and methodology, as well as richer data sources, permits policymakers to realize to what degree human rights have progressed and determine which areas fall behind, and thus require more public intervention. Our presentation of disaggregated data—e.g., civil and political versus economic and social rights, labor rights versus social security—is particularly relevant in this regard and clearly shows a way of overcoming the limitations of global indicators. Moreover, as there is an increasing demand for more comprehensive domestic polices on human rights due to worsening civil and political rights and deteriorating economic and social rights worldwide—note shrinking human rights in the mid-2000s in Figure 1—the creation of indicators and construction of composite indices are now more vital than ever.

In addition to these practical and policy-related contributions, this article makes further contributions to theorizing human rights in several important ways. First, our findings facilitate scholarly debate on the conditions associated with human rights improvements. Several social scientists have persuasively explained what leads to a better or worse human rights environment in the cross-national context by focusing on the effects of economic growth, democratization, and the role of transnational advocacy networks.[69] Our analysis reveals human rights are measured on a multidimensional scale and each dimension might require a different set of conditions or interventions to ensure an improvement. It further suggests that a setback in a dimension, such as the rights of minorities and the right to education, might restrain achievements in national human rights overall. As such, when addressing the national context, it may be more crucial to pay attention to the areas that fall behind, requiring policy to prioritize human rights improvement rather than confront the conditions that appear to be consequential in global comparative analyses. We still have insufficient knowledge of the paths leading to

69. *See* Poe, Tate & Keith, *supra* note 3; *See* Hafner-Burton & Tsutsui, *supra* note 3.

national progress of human rights, which is primarily attributable to a lack of well-devised national measures.

The second contribution our analysis makes is shedding new light on the theoretical link between economic advancement and the betterment in human rights. Contrary to conventional account, Korea's economy-first approach and subsequent adoption of neoliberal economic reform measures—exemplified by labor flexibility, a conglomerate-led economy, and privatization—seem to have delayed progress in economic and social rights, especially labor rights, rights of women, and the right to education. Several domestic opinion polls suggest that economic polarization is a top issue of Korea's national agenda, while disparate treatment towards the increasing number of temporary workers has suddenly become a central issue in Korea, blocking the path to a more rights-respectful society.[70] It is notable that, in response to these recent agendas, civil society leaders have emphasized the importance of a rights-based approach to economic development, highlighting that simple economic growth might not be a necessary condition for the improvement of human rights.

There are several caveats that need to be considered for the construction of a more reliable national measure of human rights. First, there is a vexing issue regarding assigning weights to diverse dimensions of human rights. Dipak Gupta et al.'s pioneering work looking for an ideal weighing method argues that without assigning proper weights, any composite indices would suffer from a lack of validity.[71] Here the basic assumption is that diverse human rights measures differ in their relative contribution to the larger whole of human rights. Although making a legitimate and crucial point, they do not consider statistician and human rights expert Jack Donnelly's formula. He states that human rights are interdependent and no right deserves more moral priority than others.[72] In recognition of this ongoing debate on the significance and proper methods of weighting, this project decided not to assign any weights to the indicators and measurements of human rights practices in Korea. This practical decision was also influenced by our consideration of the nature of short range longitudinal data covering only seventeen years that, unlike cross-national data covering typically over 100 countries and a similar number of degrees of freedom, provide insufficient degrees of freedom. Therefore, currently available methods for proper weighting, such as factor and discriminant analysis, may not be applicable. Future work should focus on how to properly weight national measures characterized by such a few degrees of freedom.

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70. *See* National Human Rights Commission of Korea, *supra* note 65.
71. Gupta, Jongmon & Schmid, *supra* note 1, at 148.
72. Donnelly & Howard, *Assessing Human Rights Performance*, *supra* note 1, at 215.

Second, national indicators, measures, and indices of human rights we propose must not be treated as a replacement of existing global indicators, such as the Political Terror Scale (PTS) and the Freedom Index. Instead, this tool permits us to overcome several limitations of the global indicators of human rights that provide only a rough approximation of and variation in the evolution of national human rights. It is safer to conceptualize that the national yardsticks supplement and often reinforce the values of the global barometers. As previously noted, the correlations between the constructed indices and several global indicators are generally high. For the civil and political rights index, its correlations with the PTS and the Freedom Index are 58 percent and 82 percent. Similarly, the economic and social rights are correlated with the PTS at 56 percent and with the Freedom Index at 87 percent. These barometers suggest new horizons by considering a richer set of indices by utilizing both aggregated and disaggregated indices, and by showing more variations in countries' human rights scores over time. Yet the high correlations between these two different indices may suggest that they reinforce, rather than separate each other. Furthermore, insofar as the key concern involves cross-national comparison, currently available global measures may still be employed as a useful yardstick.

One may think it is futile to seek an estimation of human rights development in a country with the help of quantitative methods on the grounds that there would be no objective measurement of human rights practices. Critics are correct that the proposed indicators would be rough approximations, heavily reliant on personal judgments of researchers, and often suffer from incomplete data.[73] However, as stressed by other scholars, such an attitude is too defeatist, preventing scholars and practitioners from moving forward in the empirical study of human rights.[74] Though lacking unbiased data or perfect methods, the efforts to refine human rights indicators and measures must proceed because such an exercise undoubtedly stimulates thought and debate and lays a foundation for a better assessment of human rights with national and cultural sensitivity and for improving human rights. This particular project certainly can be debated and we are fully aware of its preliminary nature. Nevertheless, we consider it valuable to conduct such a project because it may stimulate debate and bring us a step closer to a better understanding of human rights and how to improve them.

73. *See* Barsh, *supra* note 52.
74. *See* Gupta, Jongmon & Schmid, *supra* note 1.

Appendix Table 1. Data Sources for Civil and Political Rights in Korea, 1990-2007

Concerns	*Measures*	:	*Data Sources of Measures*
	1	:	Establishment of National Human Rights Committee (2001)
	2	:	Criminal Law
	3	:	Criminal Law
	4	:	Criminal Law
Administrative Justice	5	:	Criminal Procedure Law
	6	:	Criminal Law
	7	:	Criminal Law
	8	:	Criminal Law
	9	:	Ministry of Law, 2008, Death Sentence after 1980
	10	:	Criminal Law
	11	:	Criminal Law
	12	:	National Human Rights Committee, 2006, *Reports on Human Rights Conditions of Detention Facilities* (http://www.humanrights.go.kr/02_sub/body03.jsp?NT_ID=17&flag=VIEW&SEQ_ID=483088)
Prisoners or Detainees	13	:	Minkahyup, *Statistics of Political Prisoners* (http://www.minkahyup.org/bbs/zboard.php?id=cp_now)
	14	:	Supreme Court, *Annual Statistics of Juridical Affairs* (http://www.scourt.go.kr/justicesta/JusticestaListAction.work?gubun=10)
	15	:	Ministry of Justice, 2007, *Policy White Paper*
	16	:	Ministry of Justice, 2007, *Policy White Paper*
	17	:	Minkahyup, *No. of Convicted Persons by National Security Law* (http://minkahyup.org/html/menu0201.html)
	18	:	National Human Rights Committee, 2006, *Recommendations of National Action Plan for the Promotion and Protection of Human Rights 2007–2011*
Freedom of Thought, Belief, or Expression	19	:	Ministry of Unification, *Unification White Papers* (http://www.unikorea.go.kr/eng/default.jsp?pgname=LIBwhitepapers)
	20	:	Military Law
	21	:	Police Statistics (requested via Korean Public Information Disclosure System (http://www.open.go.kr/)
Freedom of Association or Assembly	22	:	Labor Law
	23	:	Teacher's Union Act
	24	:	Government Employee's Union Act
	25	:	Law on Prevention of Prostitution
Women	26	:	Equal Employment Opportunity Law
and	27	:	Family Law
Children	28	:	Children's Labor Protection Act
	29	:	National Statistics Office, *National Population Trend Survey* (*http://www.kosis.kr/*)

Appendix Table 1. continued

Concerns	*Measures*	:	*Data Sources of Measures*
	30	:	Criminal Law
	31	:	Criminal Law
	32	:	Criminal Law (marital rape was not recognized as a crime in Korea until 2008 court ruling)
	33	:	National Statistics Office, *Survey of Population with Economic Ability* (http://www.kosis.kr/)
	34	:	National Statistics Office, *Survey of Wage Structure* (http://www.kosis.kr/)
	35	:	Public Servant Law (Foreigners had been banned from holding public office until 2008)
	36	:	National Human Rights Committee, 2008, *Survey of Rights of Refugees*
Migrant Workers, Refugees, and Other Minorities	37	:	Various Sources: Seol Dong Hun, 1998, *Migrant Workers in Korea 1988-1998; NHRC, 2002, Survey of Rights of Migrant Workers;* Congress Labor Law Research Unit, 2005, *Lives and Working Conditions of Migrant Workers—A Year after Work Permit System*

Appendix Table 2. Data Sources for Economic and Social Rights in Korea, 1990-2007

Concerns	*Measures*	:	*Data Sources of Measures*
	1	:	Labor Standard Act
	2	:	Law on Government Employee's Union
	3	:	National Statistics Office, *Basic Income Structure Survey* (http://www.kosis.kr/)
	4	:	Korean Occupational Safety & Health Agency, *Occupational Hazard Statistics* (http://www.kosha.or.kr/information/statistics/statistics.jsp?menuId=6&rootNodeId=806&selectedNodeId=3033)
	5	:	National Statistics Office, *Wage and Working Hour Survey* (http://www.kosis.kr/)
Labor	6	:	National Statistics Office, *Survey of Population with Economic Ability* (http://www.kosis.kr/)
	7	:	National Statistics Office, *Income Distribution Index* (http://www.kosis.kr/)
	8	:	National Statistics Office, *Survey of Population with Economic Ability* (http://www.kosis.kr/)
	9	:	National Human Rights Committee, 2004, *Survey on the Discrimination of Irregular Workers*; National Statistics Office, *Working Condition Survey by Employment Status* (http://www.kosis.kr/)
	10	:	National Statistics Office, *Basic Income Structure Survey* (http://www.kosis.kr/)
	11	:	Ministry of Gender Equality, 2005, *Report on the Sexual Harassments*

Appendix Table 2. continued

Concerns	*Measures*	:	*Data Sources of Measures*
	12	:	National Statistics Office, *Survey of the Disabled* (http://www.kosis.kr/)
	13	:	National Basic Livelihood Security Act
	14	:	National Pension Service, *Annual Statistics of National Pension* (http://www.nps.or.kr/)
	15	:	Revision of National Pension Act
Social Security	16	:	Ministry of National Strategy and Finance, *National Finance Summary* (http://www.digitalbrain.go.kr/ifms/hp/pi/HpPiFinanceL.do?paramPfin_noti_mtr_div_cd=11)
	17	:	National Statistics Office, *Statistics of Homeless in Related Facilities* (http://www.kosis.kr/)
	18	:	Nationality Act
	19	:	Ministry of Justice, 2007, *Policy White Paper*
	20	:	Ministry of Gender Equality, 2005, *Statistics of Violence Against Women*
Family, Women, and Children	21	:	National Statistics Office, *Population Trend Survey* (http://www.kosis.kr/)
	22	:	Ministry of Gender Equality, 2005, *Statistics of Violence Against Women*
	23	:	National Statistics Office, *Statistics of Children Family Head* (http://www.kosis.kr/)
	24	:	Korean National Housing Corporation, *Statistics of National Lending Apartments* (http://www.jugong.co.kr/)
Adequate Standard of Living	25	:	Ministry of National Strategy and Finance, *National Finance Summary* (http://www.digitalbrain.go.kr/ifms/hp/pi/HpPiFinanceL.do?paramPfin_noti_mtr_div_cd=11)
	26	:	National Statistics Office, *Statistics of Public Health Center* (http://www.kosis.kr/)
	27	:	Ministry of Education, *Education at a Glance: OECD Indicators* (http://std.kedi.re.kr/index)
	28	:	National Human Rights Committee, 2007, *Human Rights Education in Public Sector* (http://www.humanrights.go.kr/02_sub/body03.jsp?NT_ID=17&flag=VIEW&SEQ_ID=555586)
Education	29	:	Ministry of Education, *Annual Statistics of Education* (http://std.kedi.re.kr/index)
	30	:	OECD Database, *Country Profile* (http://www.oecd.org/statsportal/0,3352,en_2825_293564_1_1_1_1_1,00.html)
	31	:	National Statistics Office, *Household Consumption Survey* (http://www.kosis.kr/)