

Constitution, National Agenda, and Presidential Leadership: Focusing on a Comparison between the Articles on Economy in the “National Founding Constitution” and the “Post-Korean War Constitution”*

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This paper analyzes the dynamism among Korea’s Constitution (institution), national agenda (economic reform), and leadership (president) by comparing the 1948 National Founding Constitution (NFC), which pursued an “equal economy” and a “market economy,” with the 1954 Post-Korean War Constitution (PKWC).

First, under the condition of the postcolonial agenda on land reform, the NFC promoted a socialist market economy that stipulated strong involvement by the state in the economy or an equal economic system of social democracy and not a liberal market economy. This was in line with the republican tradition that had existed since the Korean Provisional Government.

Second, through the active use of the NFC, the South Korean government and President Syngman Rhee (Yi Süngman) executed a policy of land reform—the biggest national agenda at the time—which led to the downfall of the radical left and had a decisive influence on the expansion of farmer support for the government. The landlord class and the Korean Democratic Party were also weakened. These outcomes were a result of a combination of a key national agenda (land reform), the principles of the Constitution, and Korea’s presidential leadership.

Third, Korea’s Constitution was transformed to promote a market economic system after the Korean War. The change in the spirit of the Constitution was due to the achievements of postcolonial reform through the success of land reform and the collapse of the left along with the emergence of a new national agenda to support postwar reconstruction and secure foreign aid. The constitutional basis for a market economy system was not laid out in the

* Translated from the published article in *Korean Journal of International Relations* 48(1): 429-454, 2008 with permission from the Korean Association of International Relations.

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NFC but in the PKWC.

Fourth, the amendment of the articles on the economy in the PKWC was done as a consequence of American demands. The US regarded the NFC as a Constitution that promoted 'state socialism.' As a result of the socialist orientation of the NFC and Washington's strong objection to it, a tense confrontation regarding the matters of the state's role in the constitutional articles and in the economy emerged. However, due to the need to secure American aid, Korea was obliged to amend the articles on the economy to support the US-backed market economy system. Washington felt the need to block the South Korean government's excessive involvement in the economy unless it was aimed at a market economy system and tried to establish this through a constitutional amendment.

Fifth, Syngman Rhee, who had been opposed to the amendment in the face of American pressure, used a strategy of exchange with regard to both Korean politics and the economy as well its power structure and economic system to ensure his third consecutive run for the presidency and to secure aid from the US. From a state development point of view, Rhee's strategy was a combination of "the regression of democracy, [and the] development of the market economy." Regarding the effects and consequences of the amendment, the PKWC led to a change in the Korean economic system and Korea's entry into the market economy system, an increase in American aid and changes in the aid package, the success of post-war reconstruction, and the establishment of the basis of the Korean market economy.

More than anything else, the constitutional amendment heavily influenced the quantity and quality of American aid and thus provided a legal and institutional tool for Korea's postwar economic development. In addition, the constitutional amendment provided enabling conditions as well as confining conditions in the trajectory of the development of Korean society as seen in the fact that the norms and spirit of the Constitution at the time of the amendment are still maintained without fundamental changes in Korea even today.

Through a comparison of the NFC and the PKWC, the success in mutual correspondence and relational dynamics among South Korea's early national agenda, the Constitution, and national leadership is clearly shown. In other words, there is a very strong correlation among the national agendas as regards land reform and post-war reconstruction, the principle and articles of the Constitution, and Korean leadership.

Keywords: *National Agenda, Constitutional Change, Presidential Leadership, American Influence, National Founding Constitution, Post-Korean War Constitution*

I. INTRODUCTION

Recently, there has been increased interest, both academic and practical, in Korea's constitution in Korean society. This seems to be a product of an understanding that numerous social and political problems in Korea

stem from institutional, and even more so, constitutional factors. The increased interest and research on the constitution not only focuses on the current democratic constitution, which was established after the June Democracy Movement in 1987, but also extends to the time when modern constitutionalism was introduced to Korea (Suh 2006). This is a current issue that has provoked a need for tracing its historical origin and path. Even in academia, the issue of the constitution goes beyond the disciplines of constitutional studies and political science; it is widely spread over philosophy, women's studies, international relations, history, sociology, peace studies, and cultural studies (Citizen's Action ed., 2007). Today, the issue of the constitution cannot be avoided when attempting to explain Korean politics and social problems.

Focusing on the time of the founding of the Republic of Korea, this paper seeks to analyze the correlation between leadership and national agenda through the lens of the constitution. In other words, it analyzes the dynamism among Korea's national agenda, constitution, and leadership. While there is no previous analysis that correlates these three variables, this paper offers an in-depth analysis based on primary sources of the relationship among the national agenda (economic reform), leadership (president), and the institution (constitution) in the early years of the Republic of Korea. Specifically, this paper tries to explain this relationship by analyzing the constitution's articles on the economy in the National Founding Constitution and in the Post-Korean War Constitution. That is, it compares the differences in the principles, spirit, and contents of the National Founding Constitution and the Post-Korean War Constitution and seeks to find the reasons and process that led to these differences.

In terms of sources, this paper seeks to find and analyze new facts using primary sources from not only within Korea but also from the US National Archive, which have thus far not been used in research (both in Korean and in other languages) on South Korea's early politics and constitution. These primary sources are important in that they empirically and analytically connect the lacunae in academia, through new historical facts, with the relationship between constitutional changes in modern Korea and Korea-United States relations and the Korean national agenda and its leadership. More broadly, it can be said that this new material fills the void in the

research on the constitution of modern Korea, Korea's economic institution, and Korea-US relations.

The dynamics among the national agenda, constitution (institution), and leadership is an area that has rarely been dealt with in the disciplines of international relations, constitutional studies, history, and economics. However, the dynamics among the three elements enables us to analyze Korea's politics, economics, constitution, presidential leadership, and relations with the United States systematically. The constitution, as a part of the institution, is an object of integrated studies, where politics and law studies as well as reality analysis and a normative approach come together. It could also be the most appropriate means of inter-disciplinary research through its deconstruction of traditional boundaries in the relationships between leadership, institution, and social conditions.

The constitution is one of the fundamental elements through which one may objectively come to know a country's politics, regime, and development of democracy as well as its characteristics, identity, ideologies, economic system, and judicial system. An in-depth study on a country's nation-building, regime, and democracy is inconceivable without research on its constitution. It is impossible to understand a country's formation, development, and characteristics fully without a close examination of the spirit, process, characteristics, conditions, influences, and consequences of the constitution. Thus, it is ironic that research on the constitution based on primary sources has been largely ignored despite the explosive growth in research on post-1980s South Korea in the fields of politics, economics, history, and constitutional studies. Therefore, this paper examines the dynamics among the Korean constitution/institution, national agenda/social condition, and leadership with a true inter-disciplinary mindset.

Prior research on the "Post-Korean War Constitution" from the fields of constitutional studies, political science, and history has focused mainly on interpreting the reorganization of the power structure, as the expression *Sasaqip kaehön* (rounding off to the nearest integer in a constitutional amendment) symbolizes. However, in terms of content and influence, the 1954 Constitution was more important in the transformation of the national economic system than of the power structure. Above all, it was through the "Post-Korean War Constitution" that Korea finally adopted the market

economy system, established not in 1948 but in 1954. The consolidation of the division of the peninsula and the South Korean-US alliance in the aftermath of the Korean War together have been viewed as the two major elements that stipulated the Post-Korean War system. In addition, the market economy system has become a major element in the national institution. The two major factors that have come to define modern Korea's international relations—the Korean-US alliance and the introduction of a capitalist market economy—were introduced at the time of the formation of the “Post-Korean War system,” not during the nation's founding in 1948. In other words, Korea's basic national system was founded in 1953, not in 1948. Major questions that this paper seeks to answer are as follows:

First, regarding basic facts, this paper shows what the 1948 National Founding Constitution (NFC) and the 1954 Post-Korean War Constitution (PKWC) respectively state with regard to the economy and tries to clarify what their basic principles and orientations were. What do they have in common and what are their differences? These are questions that have not been dealt with sufficiently in the fields of constitutional studies, political science, and history.

Second, what caused the changes made in regards to the economy in the constitutions? What were the agents, main causes, and processes of the changes? This paper deals with this under-studied topic. Why did Korea drastically change its National Founding Constitution?

Third, what is the relationship between the national agenda and the spirit of the Constitution (or the principle of the Constitution and the establishment of a national agenda)? Is it a close relationship? Is there any correlation between the 1948 National Founding Constitution and the key national agenda on land reform during the time, and between the 1954 Post-Korean War Constitution and the two key national agendas of its day: obtaining US aid and post-Korean War reconstruction? In answering these questions we can clarify the background and process of certain clauses that were added to the later constitution as well as observe the role of the constitution in the realization of national agendas.

Fourth, how and with what understanding did Korea's national leadership, especially that of Syngman Rhee, who was president throughout much of this period, attempt attempts to utilize the constitution for the fulfillment of a

national key agenda? The answers would show clearly the correlation among the 1948 National Founding Constitution, land reform, and Rhee's leadership, as well as the correlation among the 1954 Post-Korean War Constitution, securing US aid and post-war reconstruction, and Rhee's leadership. The correlation and dynamics among the three—the constitution as an institution, land reform, securing US aid; post-war reconstruction as a key national agenda; and national leadership—best exemplify the three elements of a modern democracy: national agenda, institution, and leadership. In short, clarification of the utilization and role of the constitution helps to evaluate the ability of a leadership structure that uses institutions for the realization of social agendas.

Lastly, what are the two constitutions' micro and macro influences on Korea's modern Constitution, constitutional government, and economic management? The answer to this question would clarify the real and practical influence that an institutional change generates. It would have certain implications for the current argument for a constitutional amendment.

II. THE NATIONAL FOUNDING CONSTITUTION AND THE BEGINNING OF THE EARLY ECONOMIC SYSTEM: THE ECONOMIC SYSTEM OF EQUALITY

What were the spirit and principles of the 1948 National Founding Constitution that defined the economic system of the newly formed Republic of Korea? From the beginning, the National Founding Constitution aimed simultaneously at market fundamentalism as well as state socialism.¹ In other words, the National Founding Constitution (NFC) was, as the author of its first draft wrote, “abolishing the system of an individualistic capitalist country,” seeking to do so “...while adopting the socialistic principle of equality, aims for the realization of a new type of state that harmonizes and

¹ The following contents are a summary and revision of Park, Myung Lim's (“Constitutionalism and Democracy in South Korea: Mixed Government and Social Market Economy”, *Korean Political Science Review* Vol. 37, No. 1, 2003: 113-134, The Korean Political Science Association.

amalgamates the strengths of individualistic capitalism, i.e., the freedom and equality of individuals and the valuing of creative ideas” (Yu 1949: 177). It is very surprising that even under the US military occupation, South Korea began with “abolishing the system of an individualistic capitalist country,” when today a capitalist market economy is considered as the *zeitgeist* and the basis for the national economic system.

The establishment of an economic democracy at the time of the founding of Korea has been termed “the biggest characteristic of Korea’s Constitution” (*Ibid.*, 10). By declaring in its preamble “To provide for the fullest development of the equality of each individual in all fields of political, economic, social and cultural life . . . To permit every person to discharge his duties and responsibilities . . . To promote the welfare of the people,”² the National Founding Constitution aimed to establish equal economy as the fundamental goal of the Constitution (*Ibid.*, 15). Article 84 also had a strong constitutional restraint on a liberal market economy system by stipulating: “The principle of the economic order of the Korean Republic shall be to realize social justice, to meet the basic demands of all citizens, and to encourage the development of a balanced economy. Within the limits of the foregoing paragraph the economic freedom of each individual shall be guaranteed.” The architects of the Constitution designed this article to emphasize “the development of a balanced economy,” which put equality ahead of competition as “the principle of the economic order of the Korean Republic” (*Ibid.*, 176).

The articles that discuss the development of a balanced national economy are strongly and thoroughly against a market economy. The contents declare, “Mines and other important mineral resources, marine resources, water power, and natural powers which may be utilized economically shall be owned by the State. In order to utilize and develop such resources, licenses shall , in case of necessity, be granted for a limited period to private persons in accordance with the provisions of law and shall be canceled in accordance

² Translator’s note: The quotes of the Constitution are from the official translation that was agreed to between the Secretary General of the Korean National Assembly and the US. Liaison Office (copy received by the editor from the Department of State, Washington, in August, 1948).

with the provisions of law.” (Article 85) and “Important transportation and communication enterprises, financial and insurance institutions, electricity, irrigation, water supply, gas and any enterprises having public character shall be owned and managed by the government or by the public. Foreign trade shall be under the control of the government” (Article 87). Such statements consistently stipulate the state’s strong involvement in the economy and disavow a liberal market economy by defining state-owned and government-controlled management of the public like a social market economy. It is not an exaggeration to say that these clauses appear to support a socialist constitution.

However, Article 15 of the National Founding Constitution had a principle that not only stopped at constricting a liberal market economy but also eschewed a centrally planned socialist economy: “The right of property shall be guaranteed. Its nature and restrictions shall be defined by law. The exercise of property rights shall conform to the public welfare. Expropriation, use, or restriction of private property for public purposes shall be accompanied by due compensation in accordance with the provisions of law” (*Ibid.*, 45). The principles in the articles on the economy in the National Founding Constitution therefore could be described—from the fact that it combined the procedure of a market economy, government involvement, liberal market economy, and a planned economy—as approaching a third way or the social market economy of post-war Europe.³

The fact that the Republic of Korea abolished the individualistic market economy system through the National Founding Constitution when it was occupied by the US and that present day Korea thoroughly supports a capitalistic market economy points to a major research topic that must be given proper academic attention. Research needs to clearly show when, why, and through what process the capitalist market economy was introduced.

³ However, it does not necessarily mean that South Korea had a social market economy system. It can be said that South Korea, borrowing from the wording of that time, utilized an equal economic system. The recent Constitution of the European Union revised ‘social market economy’ of the postwar era into ‘a highly competitive social market economy’ and embraces it as the goal of Europe as a whole. EU Constitution Article I-3: The Union’s Objectives, *Treaty Establishing a Constitution for Europe*, *Official Journal of the European Union*, Vol. 47 (16 Dec. 2004), C310/11.

Most of all, it came about through a reflection of the Korean spirit and the history of a long constitutional revolution within modern Korea—including its Provisional Government—rather than from US pressure or the mere import of a specific ideology from the West (Park, M. 2003: 115-117). In other words, it was the extension of a time-honored emphasis on the pursuit of equality, republicanism, the doctrine of Equality of Three (politics, economy, and education) and public property. The architects of the Constitution made sure that the articles discussing economics either reflected republicanism or the economic idea of equality that had been utilized since the Korean Provisional Government during the Japanese colonial period—Preamble, Article 15, 84, 85, and 87—and which rejected the classic market economy by positing “economic and social democracy.”⁴

The National Founding Constitution declared that the “duty” of property rights should promote in an appropriate manner the welfare of the public, thus making the protection of property rights non-absolute. However, by stipulating that the expropriation, use, or restriction of private property for public purposes must be accompanied by due compensation in accordance with the law, it also included declarations that clearly reject forfeiture without compensation, free distribution, and the denial of private property (Yu 1949: 45-47). To emphasize the point again, the fundamental spirit of the National Founding Constitution was the sublation of both capitalism and socialism as well as the market economy and a planned economy. The US occupation forces, which had a policy of transplanting a market economy system in the face of socialism, regarded the articles on economy in Korea’s the National

⁴ As the architects of the Constitution mentions, the FC was less a mere embracing of the Weimar Constitution (Weimarer Verfassung) than an extension of the system and design ever since the Provisional Government (Yu 1952: 26). This is similar to the Chinese pursuit of capitalism and socialism simultaneously since the Nationalist Revolution and shares characteristics of a third way that was booming in East Asia. This needs further in-depth study together with the fact that the Constitution of the Provisional Government, which is considered as the forerunner of the FC, was strongly influenced by the Chinese Constitution. Refer to Simei Qing, *From Allies to Enemies: Vision of modernity, Identity, and U.S.- China Diplomacy, 1945-1960* (Cambridge, MA: Harvard Univ. Press, 2007) for research on the third way and the mixed economy in China.

Founding Constitution as “a kind of state socialism.” (sic)⁵ As will be explained later in this paper, this perception and assessment by the US shows how minor the American influence was in the legislation of the articles on the economy in the NFC, which later prompted Washington’s persistent efforts to change the economic articles to that of a market economy orientation.

In terms of the national agenda, the issue of land reform was central; not only was it necessary to break the colonial economic system, but it was also the core national agenda that would determine the direction of the economic system as well as the democratic path of the newly formed country in terms of national administration—including the status of land ownership, the demands for political and social parties, the occupation policy of the military government, farmers protests, and competition with North Korea. In other words, the issue of land reform as a key national agenda was directly related to the issue of what type of prospects a post-colonial, newly formed country would have. In South Korea at the time when colonial rule ended in 1945, the total farmland owned by landlords and the necessary distribution was 1,447,000 *chǒngbo*.⁶ (Government-vested farmland: 269,000 *chǒngbo*. Landlord-owned farmland: 1,178,000 *chǒngbo*.)⁷ This extremely unequal structure of land ownership had been a resource for the radical left. Even after the distribution of land under the USMG (United States Military Government) at the end of 1948, 1,024,000 *chǒngbo* remained to be distributed (*Ibid.*, 20), an enormous amount. By the time real land reform began in June of 1949 under Rhee’s government, 833,881 *chǒngbo* of land was to be distributed. (Government-vested farmland: 232,832 *chǒngbo*. Landlord-owned farmland: 601,049 *chǒngbo*.)⁸

The will and strategy of Rhee was firm and clear when he became the

⁵ “Report on Economic Provisions of the Constitution of the Republic of Korea” (March 24, 1954), National Archives (Maryland), Record Group (RG) 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 20. The same materials are, in a different categorization, also included in the following documents: RG 84, Foreign Service Posts of the Department of State, Korea Embassy General Records, 1953-1955.

⁶ Translator’s Note: One *chǒngbo* is about one hectare.

⁷ Department of Farmland at the Ministry of Agriculture 1951: 18.

⁸ *Ibid.*, 42-43.

leader of the new independent nation. Shortly after the enactment of the Constitution, Rhee repeatedly emphasized –beginning with his opening address to the National Assembly before the establishment of the government (May 31, 1948) and throughout his statements on the administrative policy while president of the ROK—the elimination of the dilemma of autocratic-capitalistic land ownership, the granting of autonomy to the farming economy, the abolition of the tenant-farming system, the establishment of the land-to-tiller principle, and the urgency and importance of land reform based on equal land distribution. He proclaimed that a land reform law would be, first of all, enacted for all of this.⁹ It showed his determination for the national agenda in regards to post-colonial economic reform.

In fact, contrary to popular understanding, Rhee leaned favorably towards a communistic economic policy after the end of colonial rule—or at least he was willing to actively embrace the economic policy of communism. In *Kōn'guk kwa isang* (The Founding of the Nation and Ideals), Rhee's first book after his return to Korea, he revealed his feelings towards the design of the founding of the nation, stating, "Basically, I'm a person who has good feelings towards communism" ... "I agree with its [communism] ideology to a certain degree" ... "Later, there will be many things from communism that our government can adopt when making economic policy" and "By reforming capitalism and class egotism, the farmer can have land; the poor, consciousness" (Rhee 1945: 22). He continues by saying, "I can talk about communists in two parts; first is a group of people who argue to adopt economic policies for the welfare of the working class. I somewhat agree with this communism" (*Ibid.*, 23). These statements show Rhee's progressive plans for the economy. To formulate a constitutional basis for land reform, the clause "Farmland shall be distributed to self-tilling farmers. The method of distribution, the extent of possession, and the nature and restrictions of ownership shall be determined by law" was added to Article 86 of the NFC (Yu 1949: 181). While all of the specific statements in the land reform

⁹ "President's Statements on the Administrative Policy", 1986, National Assembly Secretariat, *Progress Report of the Constitutional Assembly*, 305-306; Robert Oliver, 1979, *Syngman Rhee and American Involvement in Korea, 1942-1960*, 152-153 (Seoul: Panmun Book Company).

clauses were put into law, the declaration that “farmland shall be distributed to self-tilling farmers” was defined as its essential spirit and immediately became an article in the Constitution at the time of the founding of the country. The fact that these clauses were included in the National Founding Constitution shows Rhee’s awareness of the issues regarding land. If these clauses had been absent, land reform itself would have reached an impasse and might have been impossible (Kim et al. 1989: 434-452, 999-1000, 1005). Therefore, the addition of an article on land reform to the Constitution was beyond the sphere of the norm and had enormous practical, political, and social implications. With land reform as a national agenda, post-colonial Korea could be effective and successful. The progressive land reform policies prevented protests from the landlord class as well as peasant revolutions, thus becoming the basis for the future industrial development that would spread socioeconomic equality. South Korea had therefore laid the cornerstone with land reform in the Constitution.

Just as important as the constitutional norms and national leadership was the organization of the bureaucracy to execute the national agenda. To succeed in land reform, Rhee appointed former communist Cho Pongam, who would later become his biggest political rival, as the Minister of Agriculture. It was a decision that was widely hailed as against the people’s expectations. With Cho as the head and Vice Minister Kang Chŏngt’aek, Director of Farmland Kang Chin Guk, and three left-leaning individuals (Yun T’aekchung, Pae Kich’öl, and An Ch’angsu), the core policy made in regards to land reform became decidedly radical, and came to represent the most progressive formation of an ideological spectrum that a South Korean regime could accept (Park, M. 1996: 482-483). The members of the Korean Democratic Party (Han’guk minjudang) criticized the people in charge of the Agriculture Ministry’s land reform by calling them “the Reds” (*ppalkaengi*) and the “running dog of the communists” (*kongsandang apchabi*) (The Dong-A Ilbo ed. 1975: 346; Kang 1965: 194). Truly, the initial design of land reform as planned by the Agriculture Ministry and based on the Constitution was the most radical outside the proposal put forth by North Korea and the communist left.¹⁰

¹⁰ For a comparison of various plans for land reform, refer to Korea Rural Economic

The government's initial land reform plan was "neither a purchase with compensation nor absorption without compensation but an appropriation with a certain amount of compensation for the public well-being."¹¹ It was an opportunity to take a "third way" or "third form" that repudiated purchase-with-compensation-and-distribution-at-a-cost as well as confiscation-without-compensation-and-distribution-without-cost that was long wished for by both the left and the right (Kim, S. et al. 1989: 475-476). This "third way" was explained as "adopting 'an intermediate position' of purchase-with-compensation-and-distribution-at-a-cost and confiscation-without-compensation-and-distribution-without-cost" (Kang 1949: 16). The constitutional basis for the third way was not only laid down in Article 86 on land reform but also in Article 15 on private property. This demonstrates an attempt to not only bring about a practical compromise but also an integration of constitutional spirit and clause. Cho Pongam criticized both North Korean radical confiscation-without-compensation-and-distribution-without-cost and the Korean Democratic Party/Democratic National Party's scheme to try to get more compensation from the farmers, thus clearly displaying his support for the third way.¹²

While it was a retreat from the initial plan of the Agriculture Ministry, the South Korean land reform that was completed before the Korean War basically followed a set of guidelines based on the spirit of the NFC. The official government report declared that "Regarding the farmland distribution, a total of 420,000 *chöngbo* had been completely distributed to 1,200,000 *ho* (household) by April 15, 1950" (National Assembly Secretariat 1971: 507-508).

The goal of the nation and its leadership to succeed in carrying out land reform as a main national agenda had therefore been completed before the catastrophe of the Korean War. In fact, to secure support for his own land

Institute ed., 1986, *Collection of Materials Related to the History of Land Reform*, pp. 28-33; Kim, S. et al., 1989, p. 574.

¹¹ Kang, Chin Guk, 1948, *The Ideals of the Farmland Reform*, quoted in Kim, S. et al., 1989, p. 474.

¹² "The 57th Issue of the Stenographic Records of the 2nd Regular Meeting", *Stenographic Records of the 2nd Regular Meeting of the National Assembly of the Republic of Korea, from the 51th issue to 88th issue*, p. 124.

reform from farmers and ordinary citizens, Rhee once strongly opposed the USMG's policy on land reform, saying that the "USMG has no right to dispose of it [land property] without an authorization by the Korean Assembly" (Oliver 1979: 154).

His appointment of Cho Pongam to the position of Minister of Agriculture was also a highly strategic decision that had a sophisticated political undertone. With successful land reform without the active participation of the landlord class, Rhee anticipated the dissolution of the political basis for the landlord class as well as the transfer of farmer support from the radicals to his government, thus keeping the landlord-centered Korean Democratic Party in check. With the success of land reform, the foothold and influence of the Korean Democratic Party rapidly collapsed and farmer support for North Korea ended. Through land reform, the Rhee-Cho Ministry accomplished its core national agenda by incapacitating not only the landlord-centered Korean Democratic Party but also the support for North Korea and the left's radical revolutionary policy. In this sense, the success of Korean land reform reveals a well-knitted matrix of a core national agenda, a constitutional (institutional) basis, and leadership (the president and government official).

III. THE NATIONAL FOUNDING CONSTITUTION'S ECONOMIC SYSTEM AND KOREA-US RELATIONS: A CONFRONTATION BETWEEN 'PLAN' AND 'MARKET'

After the end of the Korean War, the 1954 post-war Constitution significantly changed the statements made in the NFC on economy. What were the reasons and causes associated with the fundamental change of the principle and spirit of the socialist market economy of the NFC? There are four main causes that influenced the 1954 constitutional amendment on economy: the success of the post-colonial land reform as the key national agenda, the active involvement of the US, postwar reconstruction as a new national agenda, and the eventual approval of Rhee as the nation's leader. The most dominant and compelling among these causes were the influence and pressures of the Americans and the strategic decisions made by Rhee while acting as Korea's leader.

First, as a result of land reform—the state-led dismantling of landlords, the success in putting conservatives in check, and the progressive reform policy to eradicate radicalism—ironically meant that the need to embrace farmers and their interests was no longer needed. The division between the North and South had become absolute after the Korean War, and the competition to secure farmer support between the two had ended when South Korean farmers pledged their support for the southern regime. Second, with the destruction of the war and the resources for postwar reconstruction absolutely scarce, the need to secure foreign aid was essential. Acquiring foreign aid and support when the Korean Constitution advocated equal economy, state-ownership, state-control, and state socialism was not easy. The third point concerns the American economic policy in South Korea. From the beginning, the basic spirit and principle of the NFC and US economic policy in South Korea were difficult to reconcile. The discord brought a fierce confrontation between the two. In this sense, the major economic agreements and treaties between South Korea and the US, from the founding of the country to the amendments in the postwar Constitution on the economy, need to be studied.

As mentioned above, the United States perceived the articles on the economy in Korea's NFC as supporting state socialism.¹³ While this was indeed so, Washington regarded the NFC not as a product of advanced socialism but as a product derived from traditional elements in Korean history with no relation to Western socialism. Washington understood that “The economic provisions of the Constitution of the Republic of Korea are the outgrowth of several factors peculiar to the history of Korea and they represent a natural development without the background of those socialistic movements which grew out of individualism and capitalism in Western cultures. Important factors are the tradition of authoritarianism, historical antecedents of government ownership of property, the necessity of providing quickly some kind of management for former Japanese property seized by American military authorities and transferred to the new government, the social structure of Korea and the attitudes of the Korean people towards

¹³ “Report on Economic Provisions of the Constitution of the Republic of Korea” (March 24, 1954).

Japanese property, and various political events shaping constitutional provisions.” (*Ibid.*)

The analysis of these causes, excluding the explanation that the NFC’s articles on the economy reflected Korea’s history of authoritarianism, surprisingly corresponds to the truth. The US fully comprehended the basic spirit and principles of the NFC and its meaning in Korean history.

American interest in and study of the NFC appeared to be more direct and intense after its enactment rather than during the process of its legislation. A long held and dominant idea was that Korea’s NFC had been designed by the US and USMG. However, this view is incorrect as seen in both the contents of the Constitution and the process of its legislation. To begin with, the economic spirit and articles of the NFC are fundamentally different from that of the American Constitution. For an example, during the process of making the draft of the Constitution prepared, the USAMIG (United States Army Military Government in Korea) officials for the US-USSR Joint Commission stated “at no time during the work ... on draft constitutional provisions, and in their occasional and casual consultation with a few leading Koreans, did they give any consideration to economic provisions such as government-ownership of property.” (*Ibid.*) This understanding was the exact opposite in the NFC. When we examine the translation of the NFC by the US immediately after its legislation, the socialistic terms used in the articles on economy are limited in that they reveal a simple and literal translation of the original text.¹⁴ This example proves that the US did not deeply intervene in the (legislation of the) economic articles in the NFC.

According to the testimony and explanation of Ernest Fraenkel, a legal advisor at the time of the NFC’s enactment, the power structure in Korea was also very different from that in the US. Fraenkel explained, “It is misleading, however, to compare the presidential system of the Constitution of the Republic of Korea with the American type of government. Nothing comparable to the power of the Senate of the United States to consent to

¹⁴ General Headquarters Far East Command, Military Intelligence Section, General Staff, “Selected Items for the Information of Commanders and Staffs of Far East Command,” No. 2163 (22 July 1948), No. 2164 (23 July 1948), RG 319, E85, Box 3107; “Revised English Translation of Constitution of the Democratic Republic of Korea” (16 July 1948), RG319, E85, Box 3107.

the appointment of executive and judicial officers (with the exception of the Prime Minister and the Chief Justice of the Supreme Court) can be found in the Constitution of this country. The absence of both a federal system of government and a system of autonomous, municipal self-government vests in the President of the Republic of Korea executive powers on all levels of government. These overall powers can by no means be compared to the powers of the President of the United States, which are checked and balanced by the powers of the executive officers of the various States and municipalities.” After all, according to Fraenkel, the argument that Korea adopted the American style presidential system is nothing but “the fallacy of the frequently repeated statement” (Fraenkel 1999: 447-455). Even after accepting that there is a large difference between the outer power structure and its inner organization, the statement above proves that the common view that “the presidential system of Korea is an import of the American presidential system” is wrong.

A lack of American influence was the case during the institution of the Constitution. According to American reports concerning the activities of the South Korean National Assembly, “strict order were issued by the American Command that Americans were not to interfere or to participate in any way in the work of the newly established National Assembly, and that these orders were scrupulously observed.” Thus, this document said that “the myth which seems to have gained some credence that Americans influenced the Koreans to incorporate what might be termed socialistic provisions in their Constitution relating to government-ownership of property, is entirely groundless and should be permanently laid to rest.”¹⁵ With these testimonies, we can consistently explain how Korea’s NFC came to have a socio-economic spirit as well as principles and articles that are fundamentally different from that of the US or which the US would want to export. We can also explain why the confrontation between South Korea and the US became so severe following the founding of the state in regards to the management and principles of the economy and why the US tried so desperately to intervene to introduce a market economy system at the time of the postwar legislation.

¹⁵ “Report on Economic Provisions of the Constitution of the Republic of Korea” (24 March 1954).

Without these testimonies, it is impossible to explain why the US concluded that the articles in the Korean Constitution and their orientation expressed state socialism.

In September of 1948, immediately following the founding the state, South Korea and the US signed the “Initial Financial and Property Settlement between the Government of the Republic of Korea and the Government of the United States of America” (hereafter the “Initial Settlement”).¹⁶ While the full text consisted of fourteen items and supporting articles, the core clause in the Initial Settlement concerned the approval of the legitimacy of the USMG’s three year rule and its dealings with the economy as well as the transfer of every property right and duty of the USMG to the Korean government. Japanese-owned property was treated in this manner as well. In spite of certain restraints, the Initial Settlement was an official action carried out by the newly independent South Korea, a recovery of economic sovereignty. After the transfer of economic rights through the Initial Settlement, both countries signed the “Agreement on Aid between the Republic of Korea and the United States of America” (known as the “ECA Agreement”¹⁷) in December of 1948, which contained twelve items including a plan for aid to South Korea. The ECA Agreement was different from the Initial Settlement, as it aimed at better management and revival of the South Korean economy and included very strict and detailed restraints and regulations. South Korea had to discuss their overall economic policy with the US and had to establish their comprehensive economic revival policy in consultation with the US in order to ensure the efficient use of aid goods. Not only were the issues of budget, finance, trade, grain, foreign exchange, currency, and underground resources included in the ECA Agreement, it also regulated “the facilitation of private foreign investments in Korea together with the admittance of private foreign traders to transact business in Korea” (Article 2). The ECA Agreement was similar to the Initial Settlement in that it contained very detailed decrees

¹⁶ For an excellent study of the economic relations between Korea and the US during Rhee’s presidential rule that is based on primary sources, see Lee, Chong Won (1996); Lee, Dae Keun (2002).

¹⁷ It is called the ‘ECA Agreement’ or ‘ECA aid’ because it was signed based on the Economic Cooperation Act of the US and executed by the Economic Cooperation Administration.

that were controversial enough to be considered to be infringing upon South Korea's economic sovereignty. After the ECA Agreement, the US established the Economic Cooperation Administration Mission in Korea (the ECA delegation) in January of 1949 and began providing and carrying out ECA aid. Conforming to the American request, South Korea drew up a comprehensive economic revival plan that included the First Five-Year Plans for Production, the Five-Year Plans for Industrial Reconstruction, and the Five-Year Plans for the Procurement of Goods. It is very interesting to note that the origin of the concept of the Five-Year Plan for Economic Development—which is regarded as a unique feature of a planned economy and economic development designed by President Park Chung Hee—was not a result of the May 16th Coup d'état, but emerged long before that, during the Rhee government after the founding the state.

After the outbreak of the Korean War, when South Korea and the US were in a fierce battle concerning the future of Korea and unification, neither could make an economic plan or economic measure that went beyond the survival of South Korea and basic relief efforts. When truce talks began, it became imperative to come up with a specific plan for postwar rebuilding and economic reconstruction. Here, Rhee's strategy was resolute. It appeared to be a strategy of "securing postwar security and aid" through a hard line approach that opposed the truce and sought to continue the war. Rhee's strategy did not simply oppose the truce but proposed new conditions for it, stressing the importance of a strong South Korea-US alliance and the securing of aid. Rhee's plan was a huge success. It is seen immediately in the strong South Korea-US alliance established through the signing of the ROK-US Mutual Defense Treaty. However, the postwar system did not singularly originate from the security sections of the South Korea-US alliance. The alliance appeared after lengthy discussions and negotiations and as a result of exchanging the "securing of American aid" for the "amendment of basic economic principles in the NFC."

First, after comprehensive study and close discussions before the truce, the United Nations Command and the South Korean government signed the "Agreement on Economic Coordination between the Republic of Korea and the Unified Command" (known as the Meyer Agreement) on May 24, 1952. The Meyer Agreement called for the establishment of the Combined

Economic Board (CEB) for policy coordination and adjustment, which would consist of one representative from South Korea and one representative from the US. The CEB not only managed and enforced the aid fund but also acted as negotiator, adjustor, and advisor on the South Korean economy as a whole. Everything from the basic direction of policies to the management of the Korean economy needed to pass through bipartisan negotiations. In fact, it was “something like a supreme decision-making organization on the Korean economy” (Lee, D. 2002: 277). Due to the war and the need for aid, the economic sovereignty of South Korea had to be severely restrained only four years after the founding of the state. According to Article 3, the South Korean government not only had to report to the CEB frequently on commercial business but was also supervised on budget, finance, and prices, and needed to consult on policies concerning wages, imports and exports, and foreign exchange prior to the ratification of these policies.¹⁸

After the signing of the Meyer Agreement, the US dispatched various delegation-cum-research groups to estimate what the actual conditions and the size of the aid to Korea would be. The importance of the Meyer Agreement for South Korea, which was signed in anticipation of the truce, was great. First, US President Eisenhower dispatched Henry J. Taska as envoy and asked him to investigate, research, and report on a comprehensive plan for the reconstruction of the post-truce South Korean economy. This famous report became known as the Taska Report. The key suggestions of the Report were “setting-up of the three-year economic plan for industrial reconstruction by the Korean government, separation of military aid and economic aid, and aid for relief and aid for reconstruction, need of 8,830,000 US dollars for the three-year of the plan, concentration of aid for economic reconstruction and military enforcement.” The Taska Report took on a role of an initial guide for US aid to South Korea after the truce.

Second, the United Nations Korean Reconstruction Agency (UNKRA) requested that the Robert R. Nathan Association in the US research the actual

¹⁸ For the process of the signing of the agreement and its contents refer to RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files, 1953-59, Entry 422, Box 1.

condition and establishment of the reconstruction plan.¹⁹ The Association submitted the “South Korean Economic Reconstruction Plan”—which is also known as the Nathan Report—to the UNKRA. Key points in the report were that South Korea’s rehabilitation and financial independence could be achieved within five years (1958-1959) provided that there was sufficient foreign aid and a suitable reconstruction plan; that 1.25 billion dollars in foreign aid was needed for this; that the UNKRA was essential to manage the aid fund efficiently; that South Korea had an advantage due to its excellent human resources; and that the government needed economic liberalization including prices and privatization. The third factor influential in establishing South Korean-US economic relations was the dispatch of the American-Korean Foundation led by Edgar M. Queeny, which is not well known and will be explained later.

The fourth was the dispatch of Tylor T. Wood. The American government dispatched Wood in August of 1953 as the CEB representative of the UN to work with the Korean government to establish a plan for the use of the aid funds. After fierce discussion and debate, the two parties signed the “Combined Economic Board Agreement for a Program of Economic Reconstruction and Financial Stabilization” (the CEB Agreement) on December 14, 1953. While serious debate continued on various issues related to the direction of Korea’s economic reconstruction and the composition of aid goods, exchange rates, and investment priorities, the key point of contention concerned “economic reconstruction” (on the Korean side) versus “financial stabilization” (on the American side). In other words, the controversy centered on stabilization versus growth. Although the American position became dominant, the signing of the CEB Agreement was important in that it established the principle and direction of the postwar Korean economic reconstruction and it secured American aid in the rehabilitation of the Korean economy.

We note that within a very short period of time, American officials were dispatched to South Korea, from Meyer, Taska, Queeny, the Robert R.

¹⁹ This comprehensive report was immediately translated and distributed in Korea. See The Korea Development Bank, 1955, *Nathan Report—Plan for Korea’s Economic Reconstruction*.

Nathan Associations, and Wood. This was a unique time when the focus of American teams and officials was not on Korean security or military, but on the economy. We can see that the postwar South Korea-US relationship was about the economy as much as it was about security. The CEB Agreement can essentially be called the founding agreement between South Korea and the US in regards to the postwar economic relationship, just as much as the ROK-US Mutual Defense Treaty was in the area of security. In a letter to President Syngman Rhee dated December 19th and sent soon after the signing of the CEB Agreement, Wood wrote that “I feel the success of our common effort to strengthen and rebuild your country, which has stood so valiantly under your leadership in the forefront of the fight against Communism, is of vital importance to the security of the whole world of free man” and “We now have a truly workable agreement under which we can go forward, with full respect for the rights and responsibilities of our two countries, toward the important objectives we seek.”²⁰ We can therefore see American expectations of the CEB Agreement.

IV. FROM THE ‘NATIONAL FOUNDING CONSTITUTION’ TO THE ‘POST-KOREAN WAR CONSTITUTION’: US PRESSURE AND THE EMERGENCE OF A MARKET ECONOMY SYSTEM

After the signing the CEB Agreement, the Rhee administration submitted a bill to the National Assembly in January 23, 1954, to amend the Constitution only on matters concerning the economy. It was the only time the Korean government submitted a bill concerning only issues related to the economy since the founding of the state in 1948. The submission of a bill to amend the Constitution in January of 1954 was highly significant. In fact, the direct cause for the amendment was the recommendation of Edgar M. Queeny, who visited Korea with the American-Korean Foundation in August of 1953, to

²⁰ National Archives, RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 2.

President Rhee and his officials to transform the management of the economy into one that focused on private cooperation, citing that nationalization and other previous policies posed major obstacles to attracting foreign investment (Lee, C. 1996: 154). The American-Korean Foundation was a semiofficial organization that clearly played an incredibly influential role in Korea's postwar reconstruction, but this is rarely discussed. Therefore, a detailed study of its role and influence is necessary.²¹

A report by the Embassy of the United States in Seoul sent on March 5, 1954 to the US Department of State admitted to America's direct and powerful influence in Korea's effort to amend the economic articles of the Constitution by declaring that "this decision apparently reflects in part suggestions made by US officials and private individuals." This was very different from the dealings with the NFC of 1948, when the US did not intervene out of concern over interfering in another country's domestic affairs. The contents of the amendment were, according to the US Embassy's understanding, "proposed in the National Assembly which would have the effect of substituting private ownership and free enterprise, as the basic economic principle underlying the Constitution, instead of state ownership and control as at present." In a word, "the significance of this proposal therefore lies mainly in the Government's decision to emphasize its preference for the free enterprise system at this particular time and to clear the way for future specific legislation." In addition, the report included detailed explanations of the amendments made to Articles 85, 87, 88, and 89, which were key economic articles in the NFC.²²

²¹ Refer to the following documents concerning the American-Korean Foundation: RG 59, GENERAL RECORDS OF THE DEPARTMENT OF STATE DECIMAL FILES 1950-54, From 895B.49/1-551 To: 896.00/4-2850, NND 832905, Box 5698; RG 59 GENERAL RECORDS OF THE DEPARTMENT OF STATE, DECIMAL FILES 1950-54, From: 911.63/1-253 To: 911.63/11-154, NND 852928, Box 5813; RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 18, 20, 22. A detailed analysis is needed of the activities of the Foundation. These documents contain a wealth of material about the "Help Korea Train" Project that was promoted by the Foundation.

²² "Amendment of Economic Articles of the ROK Constitution," RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 20.

This clearly shows the aims of the report.

The aims of the report are well reflected in the dialogue between Rhee and Wood on September 7, 1953, before the signing of the CEB Agreement and when the conflict between South Korea and the US was at its peak. It is easy to see why Rhee wanted to keep industrialization controlled by the state and not private companies. Rhee had been deeply disappointed by the lack of patriotism on the part of Korean businessmen and thought that it would be absurd to leave the economic recovery in their hands. Rhee thought that the industrial facilities, at least initially, needed to be managed by the government. Wood, however, disagreed by claiming that he had seen many businessmen who had original ideas, energy, and patriotism and asserted that the president underestimated the potentialities of the private enterprises.

Wood argued further that the economy and prosperity of the US were built by private companies and that he hoped South Korea would follow the same path. Rhee responded by stating that he and the Korean citizens never believed in socialism. When the discussion turned to finding talented private businesses for economic development, Wood asked what Rhee thought about allowing American private capital into Korea, which would not only provide capital but also management skills. Rhee responded that he would welcome American businesses as long as they were not interested in solely exploiting Korea for their interests. Here, Wood confirmed that there were many good US companies interested in foreign investment and emphasized that any activities without interest would not be expected from businessmen.²³

After conducting a comprehensive review of the South Korean economy and the Constitution after the signing of the CEB Agreement,²⁴ the US stated that “there are several means for overcoming apparent obstacles to the development of free enterprise in Korea.” and “There are several kinds of obstacles, and they suggest their own respective kinds of remedies: constitutional obstacles, for which a constitutional amendment would be

²³ RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 2.

²⁴ “Report on Economic Provisions of the Constitution of the Republic of Korea” (March 24, 1954), National Archives, RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 20.

required.” Saying that among the ways of overcoming the numerous restraints on a free enterprise, “constitutional provisions in Chapter VI, Economy, impose absolute restrictions against ownership of some types of property” it specifically pointed to Articles 85, 86, 87, and 88. It was extremely hostile towards Article 87. It may be purely coincidental, but all of the items that the US found strongly questionable were those that had been included in the constitutional amendment designed by Korean government. It was really identical and quite matching.

However, even after the submission of the revised bill by the Korean government, the US demanded more liberal, market-friendly, and business-friendly measures and requested a clause-by-clause analysis of the amendments in Articles 85, 87, and 88, saying that “The purpose expressed by the administration in submitting these proposals was to expand and encourage the individual freedom and initiative of the people in their economic activities, and thus to stimulate a rapid increase in productive capacity and efficient development of the national economy. An examination of the text of the proposed amendments, indicates that if adopted they would not necessarily achieve the objective expressed. Ambiguities are introduced. Furthermore the general provisions stated would need legislative implementation. This is not a defeat in itself, since any such constitutional principle needs implementation; but the point is that free enterprise could not be magically introduced by merely adopting these amendments.”

In conclusion, they understood that “the task of introducing free enterprise into a country which has developed under a different way of life is difficult and cannot be accomplished by forcing on that country a complete new set of laws establishing a complete new set of relationships in economic activities. The cultural lag alone would prevent an immediate transformation. Some of the idealism expressed in the constitution and inherent in Confucian influences may have worn thin during the course of the recent war. But enough of it lasts to constitute a serious obstacle to a complete reform at one time”: “A program of reform in constitution, laws and administrative procedures of government providing for State ownership of specified public service and public utility enterprises to be operated and managed by independent public corporations would satisfy the idealism of the Korean people and their aroused nationalistic pride. Efforts in the future could be

directed towards modifying this situation if it seemed necessary. But in the meantime acceptance of this situation would represent a victory in principle for the Koreans. The price to be specified for such an acceptance would be the necessary changes in constitution, laws and administrative procedures which would clear the road for free enterprise in the other class of economic activity.” In other words, a technique is needed that clarifies the way towards free enterprise.

There is another important document in regards to South Korea-US post-war relations: a letter that Rhee sent to Queeny of the American-Korean Foundation just before submitting the bill to amend the Constitution. In the letter written on January 12, 1954, Rhee mentioned “I would like to call your attention the fact that people who do not understand our economic situation criticize us for government ownership of public utilities and strategic industries in general.” He also emphasized that “this government is opposed to socialism in principal and has been doing all it can to encourage private ownership of such industries.” However, he said that “Korean businessman cannot undertake the ownership and operation of these industries.” This is the same opinion that he had earlier expressed to Wood.

Furthermore, Rhee brought up the constitutional amendment, saying “Concerning your comment about the Constitution, as you know, the National Assembly has not been in complete cooperation with the Executive Branch of the Government, and we are waiting for the election of new legislators to consider needed change in laws. In May, legislators, including members of the Senate which was created only at the end of last year, will be elected and when the Assembly meets amendments will be introduced and changes made without much difficulty. I feel sure our new Assembly will give consideration to and will amend Articles 85, 87 and 88 of the Constitutions.”²⁵

Syngman Rhee, perhaps as a way to relieve the anxiety of the US with regard to the controversy regarding the Constitution, informed the US in advance about the bill to amend the Constitution. There is another point of great importance here. By January 12, Rhee had presumed that the bill would be passed in a new National Assembly to be formed after the general election in May. In spite of this, Rhee submitted the bill to amend the Constitution on

²⁵ “Amendment of Economic Articles of the ROK Constitution”

January 23 to the National Assembly and withdrew it, as discussed below, on March 9. A significant strategic political plan can be seen from this action. Rhee may have planned to use the American pressure on constitutional matters as an opportunity to extend the term of presidency for the first president of the Republic of Korea. This, however, requires a more careful review of the materials and facts.

V. CONGRESSIONAL DEBATE ON THE CONSTITUTION AND ECONOMIC SYSTEM: THE GREAT DEBATE OF MARKET ECONOMY VS. EQUAL ECONOMY

Fierce debates about the constitutional amendment unfolded in the National Assembly following the government's proposal for the amendment bill on January 23, 1954. It was the second greatest debate on the political system since the founding of the state, the first being the dispute on the National Security Law of the Constitutional Assembly. While the first dispute had been about the direction and prospect of human rights and democracy, the second was about the economic system. The historical meaning of this debate was, first, that it served as the final seal at the level of constitutional conflict regarding the economic system since liberation in 1945 and during the formation of the nation. Second, it showed the urgency of postcolonial reform since the time of liberation, which went through the process of competition between the South and the North, establishment of the country, and the Korean War, and symbolized the urgency of the time, which required an embrace of radicalism. Third, despite the fact that the debate ultimately ended with the incorporation of the American-led capitalistic world system into Korea's economic system, it showed that the market economy system was not simply implanted without mediation or internal struggle, for it only took root after a fierce internal battle that lasted until the end. Fourth, considering the meaning of the Constitution in the modern state, Korea's state system, core managing principle, and, to put it in a more abstract manner, its *raison d'être* were equipped with a social consensus, stability in the area of the economy (a market economy system), stable foreign relations, and tenable national security (the South Korea-US alliance), not in 1948 at the time of the

founding the state, but in 1954.

The government's explanation of the proposal was nearly identical to the US proposal for a more liberal economy. Considering the turbulent disputes and conflicts of past years with the US, the explanations provided for its decisions to override or amend the NFC seemed no longer to be coming from the same government that had come to power after the Constitution was established six years before. Let us inspect the specific contents of the proposal. The proposal was made on January 23, 1954 and brought before the National Assembly on February 25 by President Rhee and all his cabinet members.²⁶ We can see that the president and government, which had previously opposed the amendment, were now taking the lead in proposing a new amendment. As shown below, the amendment in the economic articles of the PKWC, which was confirmed on November 29, 1954, were, except for minor modifications, no different from what was initially submitted.

Art. 85	Exploitation, development or utilization of mines and other important underground resources, marine resources, water power and all other economically available natural powers shall be in accordance with the provisions of law.
Art. 87	Any enterprises having public character shall be managed by the government or by juridical persons of public law. When required, such enterprises shall be licensed to private individuals in accordance with the provisions of law. Foreign trade shall be controlled by the government in accordance with the provisions of law.
Art. 88	Private enterprises cannot be transferred to state or public ownership, or their management cannot be placed under control or direction of the state or juridical persons of public law, except when it is deemed urgently necessary in order to meet urgent necessities of national defense or national life in accordance with the provisions of law.
Art. 89	Article 15. Paragraph 3 of this Constitution shall be applicable to the transfer of private enterprises to state or public ownership as provided in Article 86.

First, regarding Article 85, the government openly questioned the clauses in the NFC that “Mines and other important mineral resources,

²⁶ National Assembly Library, 1968, *Materials for the History of the Constitutional Government, Volume 3—Proceedings of the Constitutional Amendment during the Second National Assembly*, pp. 164-166.

marine resources, water power and natural powers which may be utilized economically shall be owned by the State” by saying that this was “a problem in respect to private property and private management” and said that it should not be decided by the Constitution but by law in a way that is “appropriately flexible to the state of things at the time.” The government made itself more than clear that the reason for the 1954 constitutional amendment of the economic articles was that it intended to abolish state-ownership and strengthen the principle of private property and a market economy.

On Article 87, the amendment bill wanted to strike out the whole of Part I, which was about government and public management: “Important transportation and communication enterprises, financial and insurance institutions, electricity, irrigation, water supplies, gas and any enterprises having public character shall be managed by the government or by juridical persons of public law. When required by public necessity such enterprises shall be licensed to private individuals in accordance with the provisions of law and licenses shall be cancelled in accordance with the provisions of law.” The government explained this removal as being “in the spirit of the promotion of private enterprise, to make it possible to broaden the possibility of acquiring licenses by providing that the provisions of law relax the condition for public enterprises to be licensed.” It is clear from this that the government intended to promote private enterprise. Part II was also eased in order to ensure that the standard of government control was to be under the jurisdiction of the law, not the Constitution.

The intent of the amendment of Article 88 was also clearly to deny the spirit of the NFC, which had defined the state and public ownership. The proposal for the amendment stated that Article 88 “focused on the possibility that private enterprises can be transferred to state or public ownership or that their management can be placed under the control or direction of the state or juridical persons of public law” and asserted that “while respecting private enterprises, move the focus to the opposite side after which private enterprises cannot be transferred to state or public ownership, or their management cannot be placed under the control or supervision of the state or juridical persons of public law, except when it is deemed urgently necessary in order to meet urgent necessities of national defense or national well-

being in accordance with the provisions of law.” The amendment was clearly promoting respectful private enterprises and against the spirit and principle of the NFC.

Regarding Article 89, the government explained that, among the applicable clauses from articles 85 to 88, “the expropriation or use of the right to cancel licenses in Article 85 and 87 shall be fully provided in the law; the pertinent clauses in Article 85 and 87 are to be deleted and restricted in Article 86 and 88.” The applicable scope of Article 89 was therefore scaled down by placing the relevant clauses in Article 85 and 87 under the jurisdiction of the law.

As a result of this proposal by the government, debate fiercer than that during the legislation of the NFC in 1948 developed in the National Assembly, although it may be more accurate to say that the true argument about the economic system that did not occur at the time of founding of the state finally began. The spirit of the clauses pertaining to the economy in the NFC had been accepted without any intense dispute due to the social consensus since the time of the Korean Provisional Government and the strong postcolonial demands at the time. Because the 1954 Constitution sought to overturn Korea’s long social consensus, however, a forceful argument had ensued.²⁷ It is very interesting to note that the dispute on the economy and social system in 1954 had not occurred in 1948. The confrontation can be summed up as a dispute between equal economy supporters versus the market economy supporters and had the appearance of a dispute between republicanism and liberalism. The main focus of the dispute is described in the following paragraphs.

The questions raised by members of the National Assembly who opposed the amendments (Chŏn Chinhan, Chang Hongyŏm, Chŏe Kukhyŏn, Chŏng Namguk, Yi Yongsŏl, Im Kibong, Pak Chŏrung) are as follows. First, did the economic effect and influence of the NFC fail so considerably that an amendment bill was required? Was the spirit of the NFC ever truly observed

²⁷ National Assembly Library, 1968, *Materials for the History of the Constitutional Government, Volume 3—Proceedings of the Constitutional Amendment during the Second National Assembly*; National Assembly Library, 1968, *Materials for the History of the Constitutional Government, Volume 4—Proceedings of the Constitutional Amendment during the Second National Assembly*. Further research is required that interprets the discussions in these two proceedings based on the liberalist and federalist theory of the Constitution.

and practiced? Second, was South Korea at a stage where a market economy and liberal enterprises could be adopted? Third, if South Korea was to receive foreign aid, why was a Constitutional amendment necessary? Would a legal revision be enough? Fourth, was the possibility of foreign economic domination being considered? Wouldn't there be a danger in allowing colonial exploitation of the economy as the British and French had done in Iran, India, and Indochina? Shouldn't "national capital" or "native capital" (*minjok chabon*) be fostered first? Fifth, was this not promoting an oligopoly by granting freedom to conglomerates? Would a class struggle not follow the deepening inequality and the permitting of rich-get-richer and poor-get-poorer methods?

To refute the criticisms of the opposition, the government (Prime Minister Paek Tujin) and those who supported the bill in the National Assembly (Kwak, Sang Hun, Sö, Pöm Sök, Cho, Chu Yöng, Kim, Pong Jae, Pak, Yöng Ch'ul, Yö, Un Hong, Cho, Kwang Söp) argued that first it would not be a complete transformation from a command economy to a market economy. Second, the laws and institutions already set up by the government would be enough to safeguard an equal society even if the amendment passed. Third, the introduction of foreign capital was absolutely necessary because the economy was in tatters. Fourth, how much foreign capital would come in was more worrisome than an economic invasion by foreign capital, as the latter could be sufficiently regulated. Furthermore, fear of foreign capital could only be described as suicidal patriotism, and those who adhered to it were narrow-minded isolationists and ultra-nationalists. Fifth, because the clauses on state ownership stood in the path of receiving foreign capital, resolving the shattered economy with an amendment was a reasonable argument. Sixth, an amendment was needed to ensure the autonomy and creativity of the enterprises and so that the concern over the monopolization of corporation, capital, and market could easily be regulated by policies.

However, in addition to the battle over economics, which most clearly presented differing views since the founding of the state, the issues concerning the Constitution at the time had a political dimension. In light of the movement to abolish the restriction on the reelection of the first president by a faction of the Liberal Party and right-wing organizations that began after the government's withdrawal of the proposal on March 9, 1954, it is clear that Syngman Rhee intended to change the power structure using economic issues

via his demand (the extension of his term) in conjunction with the American demand (the constitutional amendment on the economy). Considering that the provisions of the Constitution were a compromise of power, the transfer of a power structure for an economic system was an exchange that could be fairly attempted. Consequently, Rhee succeeded in establishing both. Judging from the movement by the right-wing political parties and supporters of the Liberal Party to abolish the restriction on the reelection of the first president after the March 9th withdrawal, attempting such an “equation of exchange” was worthwhile. That is, when the constitutional amendment on the economic articles became unavoidable due to American pressure, the revision regarding the reelection restriction was added. In fact, one faction of the demonstrators in the movement stemmed from the right-wing organizations that had participated in the Pusan Incident of 1952 (Pusan chŏngch’i p’adong).²⁸ The same applies to the other political parties and the National Assembly, including part of the Liberal Party. The meeting of the Committee for the Promotion of the Constitutional Amendment (Hönböp kaejöng ch’ujin wiwönhoe) held on April 30 and again on May 3 sought permission to allow a lifetime term solely for the first president, proving and demonstrating that the movement for the constitutional amendment began before the General Election of May 20. This portrays Rhee as a cunning and experienced politician.²⁹

In terms of economic issues, part of the blame for the dispute in the National Assembly can be placed on the ruling Liberal Party’s creed, which did not match the government’s proposal for the amendment regarding the market economy. The Liberal Party from the beginning clearly envisioned itself, similar to the NFC, as champions of the tenets of the public good, harmony, denial of class, and cooperation—rather than of the individual, private property, and competition—as shown in its declaration of the foundation of the party, its political creed, and its policies. The declaration of

²⁸ “Political Development in the ROK,” RG 469, RECORDS OF THE US FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 13.

²⁹ Regarding the movement and the trends for the constitutional amendment of 1954, refer to RG 469, RECORDS OF THE U.S. FOREIGN ASSISTANCE AGENCIES, 1948-61, Office of Far Eastern Operations, Korea Subject Files. 1953-59, Entry 422, Box 12, 13, 20.

the foundation of the Liberal Party clearly stipulated that “the construction of a cooperative society following the economic system for a cooperative life and where everyone can live together and every nation can mutually prosper while every state can stand side by side” was the historical mission for the party. The key contents in their political creed and policy sought to eradicate exploitation by the monopolizing ruling elite, to abolish class distinctions, to remove prestige, and to close the gap between the rich and the poor, while supporting and promoting pantisocracy; the rights and interests of laborers, farmers, and working mass as citizens in a democracy; the idea of mutual help; the construction of a cooperative world, the realization of public justice in terms of the coexistence, co-prosperity, and mutual cooperation between labor and capital; and the protection of another’s freedom before one’s own, among other ideals (National Election Commission, 1965: 124-126). A clear characteristic was the denial and exclusion of modern liberalism and the capitalist ideology that promoted self-interest, class structure, individualism, and competition, in a fashion identical to that of the NFC.

A comparison between the economic articles of the 1948 NFC and the PKWC as established on November 29, 1954 is presented in the following table.

National Founding Constitution (1948)	Post-War Constitution (1954)
Art. 84. The principle of the economic order of the Korean Republic shall be to realize social justice, to meet the basic demands of all citizens and to encourage the development of a balanced economy. Within the limits of the foregoing paragraph the economic freedom of each individual shall be guaranteed.	No changes
Art. 85. Mines and other important mineral resources, marine resources, water power and natural powers that may be utilized economically shall be owned by the State. In order to utilize and develop such resources, licenses shall, in case of public necessity, be granted for a limited period to private persons in accordance with the provisions of law and shall be cancelled in accordance with the provisions of law.	Article 85. Licenses to exploit, develop, or utilize mines and other important underground resources, marine resources, water power and all other economically available natural powers may be granted for limited periods in accordance with the provisions of law.

National Founding Constitution (1948)	Post-War Constitution (1954)
<p>Art. 86. Farmland shall be distributed to self-tilling farmers. The method of distribution, the extent of possession, and the nature and restrictions of ownership shall be determined by law.</p>	<p>No changes</p>
<p>Art. 87. Par. 1. Important transportation and communication enterprises, financial and insurance institutions, electricity, irrigation, water supply, gas and any enterprises having a public character shall be managed by the government or by juridical persons of public law. When required by public necessity such enterprises shall be licensed to private individuals in accordance with the provisions of the law and licenses shall be cancelled in accordance with the provisions of the law.</p>	<p>Abolished</p>
<p>Art. 87. Par. 2. Foreign trade shall be under the control of the government.</p>	<p>Article 87. Foreign trade shall be controlled by the government in accordance with the provisions of law.</p>
<p>Art. 88. In order to meet urgent necessities of national defense or national life, private enterprises shall be transferred to state or public ownership, or their management shall be placed under the control or supervision of the state or juridical persons of public law, when it is deemed urgently necessary in accordance with provisions of law.</p>	<p>Article 88. Private enterprises shall not be transferred to State or public ownership, except in cases specifically designated by law to meet urgent necessities of national defense or national life, nor shall their management or operation be controlled by the State or by juridical persons organized by public law.</p>
<p>Art. 89. Article 15, Par. 2 of this Constitution shall be applicable to the cancellation of a license and the expropriation, use, or restriction of property as provided in Arts. 85-88. (Art. 15. The right of property shall be guaranteed. Its nature and restrictions shall be defined by law. The exercise of property rights shall conform to public welfare. Expropriation and the use or restriction of private property for public purposes shall be accompanied by due compensation in accordance with the provisions of law.)</p>	<p>Article 89. Article 15. Paragraph 3 of this Constitution shall be applicable to the expropriation of farmland as provided in Articles 86 and shall also be applicable to the transfer of private enterprises to the State or to public ownership as provided in the foregoing Article.</p>

VI. CONCLUSION

The conclusion of this paper—based on primary sources and with Korea's national agenda, Constitution, and leadership as variables—on the National Founding Constitution (NFC) and the post-war Constitution is as follows. First, the National Founding Constitution of 1948 was not, given the condition that the key national agenda was land reform, aiming to establish a liberal market economy but was closer to supporting a socialist market economy or a social democracy that stipulated strong involvement from the state. This was in accordance with the tradition of the state's republican involvement in the economy since the time of the Korean Provisional Government. A third way in which both the capitalist market economy and the socialist planned economy were eschewed had been a result of a social consensus in Korea that had been existed at the time of the Korean Provisional Government.

Second, the South Korean government under President Rhee was able to carry out land reform successfully, the major post-colonial national agenda, by utilizing the spirit and articles of the Constitution. This led to the collapse of the radical left and had a decisive influence on the expansion of a support base consisting of the peasant class. Farmer support and yearnings for North Korea also ended. At the same time, the influence of the landlord class and the Korean Democratic Party, the leading opponents of the land reform, was drastically decreased. In other words, the success of the land reform had three lasting effects in South Korea: the expansion of support for the government, the collapse of the landlord class, and the downfall of the left. It was the result of a perfect combination of the key national agenda of land reform, the spirit and principles of the Constitution that reflected the national agenda, and the leadership of President Rhee.

Third, during the course of the Korean War, the Constitution of Korea changed from an equal economy system or state capitalist system to a market economy system in order to secure aid in post-war reconstruction. Reflecting the change in the spirit and contents of the Constitution, a new national agenda emerged—due to the success of land reforms and the collapse of the left—to fulfill and promote post-colonial economic reform, post-war

reconstruction, and the acceptance of foreign aid. Thus, the market economy system of Korea, at least according to the norm and spirit of the Constitution, was laid not in 1948 at the time of national foundation, but in 1954.

Fourth, the revision of the chapter on the economy in the Constitution, although not well known, was due to strong American pressure. Washington directly and fiercely questioned the Korean state's excessive involvement in the economy and the shrinking of market autonomy, arguing that the socialist orientation of and the articles in the National Founding Constitution enabled this. This led to a conflict between Seoul and Washington regarding the articles in the Constitution and the role of the state in the economy, but in the end Seoul was obligated to revise the chapter on the economy in the Constitution to support a market economy in order to secure US aid. The US saw the 1948 Constitution as too egalitarian and as promoting state socialism. Thus, Washington felt the need to hold back Rhee's excessive involvement in an economy that was not oriented towards a market economy system and tried to realize this through a constitutional amendment.

Fifth, Rhee's leadership embraced the American demands for a constitutional amendment. Seen in terms of the actual contents of the amendment, Rhee, who initially opposed the amendment, seems to have used a strategy of exchange in which he exchanged politics for economy and the power structure for the economic system in order to run again for the presidency for a third consecutive time and gain aid and support from the United States. Rhee's exchange strategy, from a broad point of view on state development, led to a combination of "the regression of democracy and development of the market economy."

Sixth is in regards to the effects and consequences of the amendment. The post-war Constitution led to a change of the Korean economic system and its entry into the market economy system, an increase in American aid and the changes of its content, the success of post-war reconstruction, and the establishment for the basis of the Korean market economy. It is questionable whether Korea's post-war reconstruction could have been successful without its transition to a market economy system at the time.³⁰ The Constitutional

³⁰ Regarding the conflicts, the post-war constitutional amendment, ideology, and line and policy on national economic development see Park, T. (2000).

amendment, more than anything else, was heavily influenced by the quantity and quality of American aid and therefore soon became a legal and institutional tool for South Korea's post-war economic development. Additionally, because the norms and spirit of the Constitution at the time have been maintained without fundamental changes thus far, it can be said that the amendment provided enabling conditions as well as confining conditions in the trajectory of the development of Korean society. From a broader standpoint, this marked the beginning of modern Korea's market economy in earnest.³¹

In conclusion, regarding the initial question of this paper, the comparison between the National Founding Constitution (NFC) and the Post-War Constitution, Korea's early national agenda (economic reform), the institution/Constitution of Korea, and Korea's national leadership, uncovers mutual correspondence and relational dynamics. In other words, there is a very strong correlation among the national agendas of land reform and post-war reconstruction, the principle and articles of the Constitution, and Korean leadership. The leadership in the first republic inserted specific articles in the clauses on economy in the Constitution to carry out its national agenda by changing the economic articles in the Constitution. This demonstrates one of the most important characteristics of Korean democracy, that being the consensus about socio-economic reform and its realization. The problem of objectively measuring the accord or discord between the constitutional norms and the reality in the world, i.e., to measure objectively the size of the effect and influence of the constitutional norms on the real world, belongs to another study in the future.

³¹ In this regard, the experience of Korea may be thought of as an example of constitutional originalism, as discussed in-depth in Constitutional studies and in political theory on the historical roles of the early spirit and principle of the constitution. Constitutional originalism in Korea could go back to the Korean Provisional Government of the colonial period, but such an investigation is beyond the scope of this paper. Refer to the following for a recent discussion on constitutional originalism: O'Neill (2005); Goldford (2006); Park, S. (2006).

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