Although rights-based claims are diversifying and opportunities and resources for claims-making have improved, obtaining rights protections and catalysing social change in South Korea remain challenging processes. This volume examines how different groups in South Korea have defined and articulated grievances and mobilized to remedy them. It explores developments in the institutional contexts within which rights claiming occurs and in the sources of support available for utilizing different claims-making channels. Drawing on scores of original interviews, readings of court rulings and statutes, primary archival and digital sources, and interpretive analysis of news media coverage in Korean, this volume illuminates rights in action. The chapters uncover conflicts over contending rights claims, expose disparities between theory and practice in the law, trace interconnections among rights-based movements, and map emerging trends in the use of rights language. Case studies examine the rights of women, workers, people with disabilities, migrants, and sexual minorities.

Celeste L. Arrington is Korea Foundation Associate Professor of Political Science and International Affairs at the George Washington University. She is the author of Accidental Activists: Victim Movements and Government Accountability in Japan and South Korea (Cornell, 2016) and articles in Comparative Political Studies, Law & Society Review, Journal of East Asian Studies and elsewhere.

Patricia Goedde is Professor at Sungkyunkwan University School of Law in South Korea, and a member of the Washington State Bar Association. She serves on the board of directors for the Korea Human Rights Foundation and is also a core faculty member of the SSK Human Rights Forum in Seoul.
Rights Claiming in South Korea

Edited by

CELESTE L. ARRINGTON
George Washington University

PATRICIA GOEDDE
Sungkyunkwan University
This book is dedicated to our daughters
### Contents

**List of Contributors**  page x  
**Acknowledgments**  xiv  
**List of Abbreviations**  xvi  

**Introduction: Rights in Action**  
Patricia Goedde and Celeste L. Arrington  

**PART I  RIGHTS IN HISTORICAL PERSPECTIVE**

1  Legal Disputes, Women’s Legal Voice, and Petitioning Rights in Late Joseon Korea  
   Jisoo M. Kim  
   21  

2  Defying Claims of Incompetence: Women’s Lawsuits over Separate Property Rights in Colonial Korea  
   Sungyun Lim  
   43  

3  “Equal” Second-Class Citizens: Postcolonial Democracy and Women’s Rights in Postliberation South Korea  
   Eunkyung Kim  
   63  

**PART II  INSTITUTIONAL MECHANISMS FOR RIGHTS CLAIMING**

4  A Clash of Claims: The Diversity and Effectiveness of Rights Claims around the Jeju 4.3 Events  
   Hun Joon Kim  
   85
Contents

5 Advancing Human Rights, Advancing a Nation: Becoming a Seonjinguk via the National Human Rights Commission of Korea
Soo-Young Hwang 106

6 The Constitutional Court as a Facilitator of Fundamental Rights Claiming in South Korea, 1988–2018
Hannes B. Mosler 126

7 Rights Claiming through the Courts: Changing Legal Opportunity Structures in South Korea
Celeste L. Arrington 151

8 Public Interest Lawyering in South Korea: Trends in Institutional Development
Patricia Goedde 172

PART III MOBILIZING RIGHTS FOR THE MARGINALIZED

9 From “We Are Not Machines, We Are Humans” to “We Are Workers, We Want to Work”: The Changing Notion of Labor Rights in Korea, the 1980s to the 2000s
Yoonkyung Lee 195

10 From Invisible Beneficiaries to Rights Bearers: How the Disability Rights Movement Changed the Law and Korean Society
JaeWon Kim 217

11 The Politics of Postponement and Sexual Minority Rights in South Korea
Ju Hui Judy Han 236

12 Discovering Diversity: The Anti-discrimination Legislation Movement in South Korea
Jihye Kim and Sung Soo Hong 253

PART IV SHAPING RIGHTS FOR NEW CITIZENS AND NONCITIZENS

13 The Rights of Noncitizenship: Migrant Rights and Hierarchies in South Korea
Erin Aeran Chung 279
14 Claiming Citizenship: Rights Claiming and Recognition for North Koreans Entering South Korea
Sheena Chestnut Greitens

Conclusion: Findings and Future Directions
Celeste L. Arrington and Patricia Goedde

Index
Contributors

**Celeste L. Arrington** is Korea Foundation Associate Professor of Political Science and International Affairs at the George Washington University. She specializes in comparative politics, with a regional focus on the Koreas and Japan. Her research and teaching focus on law and social change, legal professionals, social movements, the media, comparative policy processes, and qualitative methods. She is the author of *Accidental Activists: Victims Movements and Government Accountability in Japan and South Korea* (Cornell University Press, 2016) and has published in journals such as *Comparative Political Studies*, *Law & Society Review*, *Law & Policy*, *Journal of East Asian Studies*, and *Asian Survey*. Her current book project analyzes the growing prominence of litigation, lawyers, and rights language in Japanese and Korean politics through paired case studies related to disability rights and tobacco control. She earned her Ph.D. in political science from the University of California, Berkeley.

**Erin Aeran Chung** is the Charles D. Miller Associate Professor of East Asian Politics in the Department of Political Science at Johns Hopkins University. She previously served as the director of the East Asian Studies Program and the codirector of the Racism, Immigration, and Citizenship (RIC) Program at Hopkins. She specializes in East Asian political economy, international migration, and comparative racial politics. She is the author of *Immigration and Citizenship in Japan* (Cambridge, 2010, 2014; Japanese translation, Akashi Shoten, 2012) and *Immigrant Incorporation in East Asian Democracies* (Cambridge, 2020) and coeditor of the Cambridge Elements Politics and Society of East Asia series. Her research has been supported by grants from the Academy of Korean Studies, the Japan Foundation, the Japan Foundation Center for Global Partnership, the Social Science Research Council, and the American Council of Learned Societies.

**Patricia Goedde** is Professor at Sungkyunkwan University, School of Law. She received her Ph.D. and J.D. from the University of Washington, School of Law, and is a member of the Washington State Bar Association. Her research interests and...
List of Contributors

publications are in the areas of transnational legal mobilization, public interest lawyering, human rights, refugee advocacy, clinical legal education, and North Korean legal issues. She is on the board of directors of the Korea Human Rights Foundation in addition to other human rights and public interest foundation committees.

Sheena Chestnut Greitens is Associate Professor at the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin. Her work focuses on authoritarianism and security in East Asia, particularly China and the Korean peninsula. Her first book, Dictators and Their Secret Police (Cambridge, 2016) won the Best Book Award from the International Studies Association and the Comparative Democratization section of the American Political Science Association.

Ju Hui Judy Han is a cultural geographer and Assistant Professor in Gender Studies at UCLA. Her comics and writings about (im)mobilities, religious politics, and queer activism have been published in Scholar & Feminist Online, East Asia Forum, GeoForum, Critical Asian Studies, positions: asia critique, and Journal of Korean Studies as well as in several edited books including Territories of Poverty: Rethinking North and South (2015) and Ethnographies of U.S. Empire (2018).

Sung Soo Hong is Associate Professor of Law at Sookmyung Women’s University, Seoul, Korea. He received a Ph.D. degree at London School of Economics and has studied at the Human Rights Consortium University of London, Oxford Centre for Socio-Legal Studies and International Institute for the Sociology of Law. He has published many articles and books in Korea addressing human rights and law, and he has worked as a board member for academic associations such as the Korean Association of Human Rights Studies, Korean Association of Human Rights Law, and Korean Association of Legal Philosophy.

Soo-Young Hwang works on environmental rights with United Nations Environment Programme (UNEP). Prior to joining UNEP, she worked with the Office of the UN High Commissioner for Human Rights (OHCHR), the Ministry of Gender Equality and Family of Korea as well as the National Human Rights Commission of Korea (NHRCK). She received a Ph.D. in political science from the University of Hawai’i at Manoa. Her research interests includes states’ compliance with international law and norms and the process of construction of rights. She plans to undertake research on how the human right to a healthy environment has evolved, especially over the last ten years.

Eunkyung Kim is Assistant Professor of Liberal Arts College at Hansung University and a member on the board of directors of the Korean Association of Women’s History. Her research focuses on issues of gender, sexuality, family, and cultural history of cinema in South Korea. She is the author of Cultural History of Korean Students: From Liberation to the 1960 April Revolution (in Korean, Seohaemunjip, 2018). In recognition of her contribution to academic development with the book,
she was awarded a commendation by South Korea’s deputy prime minister and education minister in 2019. She is working on her second book, Movie, a Modern Ecstatic State.

**Hun Joon Kim** is Associate Professor at the Department of Political Science in Korea University. He has research interests in human rights, transitional justice, and international norms and institutions. He is the author of *The Massacres at Mt Halla: Sixty Years of Truth-Seeking in South Korea* (Cornell University Press, 2014) and a coeditor of *Transitional Justice in the Asia Pacific* (Cambridge University Press, 2014).

**JaeWon Kim** is Professor at Sungkyunkwan University, School of Law. His research and teaching focuses on the legal profession, comparative law and society, and disability law. As a regular contributor to *Korean Journal of Law & Society*, Professor Kim previously served as President of the Korean Association of Law and Society. He also is a Director of the Korean Disability Law Association. Kim’s article, “Legal Profession and Legal Culture during Korea’s Transition to Democracy and a Market Economy” appeared as a book chapter in *Raising the Bar* (William Alford, ed.) published by Harvard University Press in 2007. JaeWon Kim received his LL.M. and J.D. from the American University Washington College of Law and his J.S.D. from Cornell Law School, where he was honored as a Clarke Fellow. He is a member of the Pennsylvania State Bar and the District of Columbia Bar.

**Jiye Kim** is Associate Professor of Multicultural Studies at Gangneung-Wonju National University. Her academic research focuses on law and human rights, with particular interests in LGBTI, migrants, and children. She actively works with NGOs in advocating for minority rights and has published many articles in scholarly journals and books. Her recent publications include a book about being introspective about our own unintended discriminatory biases, *Seollyanghan chabyeoljuuija* (Changbi, 2019). She holds a Ph.D. in Social Welfare from Seoul National University and a J.D. from University of Washington School of Law.

**Jisoo M. Kim** is Korea Foundation Associate Professor of History, International Affairs, and East Asian Languages and Literatures and Director of the Institute for Korean Studies at George Washington University. She is also Editor-in-Chief of the *Journal of Korean Studies*. Her specialties are gender and the legal history of early modern Korea, and broader research interests include gender and sexuality, crime and justice, forensic medicine, literary representations of the law, history of emotions, vernacular, and gender writing. Her first book, *The Emotions of Justice: Gender, Status, and Legal Performance in Chosŏn Korea* (University of Washington Press, 2015), was awarded the 2017 James Palais Prize of the Association for Asian Studies. She is also the coeditor of *The Great East Asian War and the Birth of the Korean Nation* by JaHyun Kim Haboush (Columbia
List of Contributors


Yoonkyung Lee is a political sociologist specializing in labor politics, social movements, political representation, and the political economy of neoliberalism with a regional focus on East Asia. She earned her Ph.D. in political science from Duke University and was Associate Professor in Sociology and Asian and Asian-American Studies at SUNY-Binghamton before joining the Department of Sociology at the University of Toronto in 2016. She is also the Korea Foundation Endowed Chair of Korean Studies. Her publications include Militants or Partisans: Labor Unions and Democratic Politics in Korea and Taiwan (Stanford University Press, 2011) and numerous journal articles that appeared in Globalizations, Studies in Comparative International Development, Asian Survey, Journal of Contemporary Asia, Critical Asian Studies, Global Asia, and Korea Observer.

Sungyun Lim is Associate Professor of History at the University of Colorado Boulder. Her first book, Rules of the House: Family Law and Domestic Disputes in Colonial Korea (University of California Press, 2019), examines the emergence of the small patriarchal family as the legal unit of the family in Korea under the Japanese colonial rule through close examination of records of women’s civil suits over rights of inheritance, adoption, and divorce. Her current project deals with the history of burial sites and lineage property disputes from the end of the Joseon dynasty through the Japanese colonial period.

Hannes B. Mosler holds the chair for Politics and Society of Korea at the University of Duisburg-Essen, where he is affiliated with the Institute of Political Science (IfP) and the Institute of East Asian Studies (IN-EAST). He received his Ph.D. from the Political Science Department at Seoul National University and was a lecturer and professor at the Institute of Korean Studies and the Graduate School of East Asian Studies at Freie Universität Berlin. His major research interests are the political system, political remembrance, constitutional law, and civic education in Korea and comparatively. His publications include (co)edited volumes such as South Korea’s Democracy Challenge (Peter Lang, 2020) and The Quality of Democracy in Korea: Three Decades After Democratization (Palgrave Macmillan, 2018), as well as numerous journal articles.
Acknowledgments

This volume began as the George Washington Institute for Korean Studies (GWIKS) signature conference entitled “The Evolution of Rights in Korea,” held in Washington, DC on April 20–21, 2018. We sincerely thank all the participants, who traveled from multiple continents to join the conference. In addition to lively discussions among the contributors to this volume, the papers all benefited immensely from the insightful comments of other conference participants, including Li Chen, Hae Yeon Choo, Eric Feldman, Steph Haggard, Aram Hur, Sida Liu, and Andrew Yeo. Hae Yeon Choo, Sida Liu, and Andrew Yeo kindly gave us excellent feedback on the final draft, too. We also appreciate Soo-Young Hwang and Eunkyung Kim’s hard work, after joining later in the process. The conference and the book that resulted from it would not have been possible without the generous and sustained support from GWIKS, and especially its director Jisoo Kim. GWIKS program assistant Ann Yang and program coordinator Minhye Kim provided superb logistical and organizational support. We also thank the Sigur Center for Asian Studies and the Elliott School of International Affairs, both at the George Washington University. We appreciate the editorial assistance from Maddie Yingling, Trevor Haefner, and Sung Yeon Hong, and the outstanding indexing by John Grennan. Our deepest appreciation goes to Joe Ng, Finola O’Sullivan, and the CUP team for shepherding this volume through the publication process. While none of us could have foreseen that we would be finalizing this volume during a pandemic, we cannot express how grateful we are for the timely and excellent work that the contributors did under unprecedented and challenging circumstances. Finally, we thank our daughters and husbands from the bottom of our hearts.

This work was supported by the Core University Program for Korean Studies through the Ministry of Education of the Republic of Korea and Korean Studies Promotion Service of the Academy of Korean Studies (AKS-2016-OLU-2250009).
Acknowledgments

Note: This volume uses the Revised Romanization system for Korean transliterations of terms and names, except when there are preferred or commonly known spellings of names (e.g., Roh Moo-hyun or Lee Myung-bak). All translations of Korean are by the authors unless otherwise noted.
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADA</td>
<td>Americans with Disabilities Act</td>
</tr>
<tr>
<td>AIDS</td>
<td>acquired immunodeficiency syndrome</td>
</tr>
<tr>
<td>APF</td>
<td>Asia-Pacific Forum of National Human Rights Institutions</td>
</tr>
<tr>
<td>APIL</td>
<td>Advocates for Public Interest Law</td>
</tr>
<tr>
<td>APRRN</td>
<td>Asia Pacific Refugee Rights Network</td>
</tr>
<tr>
<td>BKL</td>
<td>Bae, Kim &amp; Lee LLC</td>
</tr>
<tr>
<td>CCEJ</td>
<td>Citizens’ Coalition for Economic Justice</td>
</tr>
<tr>
<td>CCK</td>
<td>Christian Council of Korea</td>
</tr>
<tr>
<td>CEDAW</td>
<td>UN Committee on the Elimination of Discrimination against Women</td>
</tr>
<tr>
<td>CERD</td>
<td>UN Committee on the Elimination of Racial Discrimination</td>
</tr>
<tr>
<td>CESCER</td>
<td>UN Committee on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>COVID-19</td>
<td>coronavirus disease 2019</td>
</tr>
<tr>
<td>CRC</td>
<td>UN Committee on the Rights of the Child</td>
</tr>
<tr>
<td>CRPD</td>
<td>2006 UN Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>DDA</td>
<td>Disability Discrimination Act</td>
</tr>
<tr>
<td>DPI</td>
<td>Disabled Peoples’ International</td>
</tr>
<tr>
<td>DPRK</td>
<td>Democratic People’s Republic of Korea</td>
</tr>
<tr>
<td>EPS</td>
<td>Employment Permit System</td>
</tr>
<tr>
<td>FKTU</td>
<td>Federation of Korean Trade Unions</td>
</tr>
<tr>
<td>HIV</td>
<td>human immunodeficiency virus</td>
</tr>
<tr>
<td>ICC</td>
<td>International Coordinating Committee of National Institutions for Promotion and Protection of Human Rights</td>
</tr>
<tr>
<td>IDAHO</td>
<td>International Day Against Homophobia</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labor Organization</td>
</tr>
<tr>
<td>ITTP</td>
<td>Industrial and Technical Training System</td>
</tr>
<tr>
<td>JCMK</td>
<td>Joint Committee for Migrant Workers in Korea</td>
</tr>
<tr>
<td>JRTI</td>
<td>Judicial Research and Training Institute</td>
</tr>
<tr>
<td>KCIA</td>
<td>Korean Central Intelligence Agency</td>
</tr>
</tbody>
</table>
List of Abbreviations

KCPA  Korea's Civil Procedure Act
KCTU  Korean Confederation of Trade Unions
KDAWU  Korea Differently Abled Women United
KFEM  Korea Federation for Environmental Movement
KFSB  Korean Federation of Small and Medium Businesses
KIS  Korea Immigration Service
KLPH  Korean Lawyers for Public Interest and Human Rights
KOCUN  Korea Center for UN Human Rights Policy
KODAF  Korea Differently Abled Federation
LGBTI  lesbian, gay, bisexual, transgender, and intersex
LOS  legal opportunity structure
MOEL  Ministry of Employment and Labor
NEIS  National Education Information System
NGOs  nongovernmental organizations
NHRCK  National Human Rights Commission of Korea
NHRI  National Human Rights Institution
NIMBY  Not in My Back Yard
NIS  National Intelligence Service
NPOs  nonprofit organizations
NSL  Korean National Security Law
NSPA  National Security Planning Agency
OHCHR  Office of the United Nations High Commissioner for Human Rights
OKA  Overseas Korean Act
PILnet  Global Network for Public Interest Law
PRC  People's Republic of China
PROK  Presbyterian Church in the Republic of Korea
PSPD  People's Solidarity for Participatory Democracy
QCF  Queer Culture Festival
QUV  Solidarity of University Queer Societies
RIDRIK  Research Institute for Disability Rights in Korea
ROK  Republic of Korea
SADD  Solidarity against Disability Discrimination
UN  United Nations
UPR  Universal Periodic Review
WPA  World Program of Action Concerning Disabled Persons