son, helping to provide training, and providing transportation to and from work. Other evidence indicates that disabled people receive vocational training and jobs outside of Pyongyang.

There is other evidence of harsh discrimination based upon physical characteristics. Two sources indicate that dwarfs in North Korea have been put in a small community deep in the mountains of South Hamgyong Province. Their numbers are dwindling and only 30 couples remain. The Government's evident goal is to eliminate them quietly. Most observers of North Korean society have been limited to official tours of Pyongyang, Panmunjom, and model agricultural centers. These observers have commented upon the uniformity of the people's physique and the absence of deformities. It appears that Kim has effectively eliminated from foreign observation all persons who do not fit the image of "the new Korean."

V. LIFE

Article 3

> Everyone has the right to life, liberty and security of person.

Article 6 of the International Covenant on Civil and Political Rights elaborates on this provision of the Universal Declaration of Human Rights by limiting the application of the death penalty and anticipating its ultimate abolition:

> "In countries which have not abolished the death penalty, sentence may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant .... Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence...."

A. The Death Penalty under the DPRK Penal Code

To some extent DPRK law contains provisions consistent with these international standards. Article 275 of the DPRK's Code

of Criminal Procedure states that a judgment condemning a person to death shall be executed only upon the approval of the Standing Committee of the Supreme People's Assembly.* Article 30 of the Penal Code provides that "persons who have not reached the age of eighteen years at the time they committed a crime shall not be sentenced to the death penalty."**

Under Article 95 of the DPRK Constitution, "The President of the Democratic People's Republic of Korea exercises the right of granting special pardon." In addition, Article 103(11) of the Constitution gives the Central People's Committee the authority to grant general amnesties, which might benefit those condemned to death. The Code of Criminal Procedure also provides for pardon and amnesty. ***

In very significant ways, however, DPRK law departs from these standards. Rather than limit the death penalty to the "most serious crimes," there are approximately 47 provisions in the DPRK Penal Code which impose the death penalty, at least in certain circumstances. The Code classifies these offenses under six general headings: 1) Crimes against State Sovereignty; 2) Crimes against the State Administration; 3) Crimes against State, Public-Service, and Cooperative Property; 4) Crimes against Persons; 5) Crimes against the Property of Citizens; and 6) Military Crimes.

The Penal Code provides that some of these 47 crimes are punishable by the death penalty merely upon a showing that the of-

* See Constitution of the Democratic People's Republic of Korea, Art. 85.

** This provision is consistent with the similar limitations in Article 6(5) of the International Covenant on Civil and Political Rights.

*** See Code of Criminal Procedure Art. 5(7). These provisions are consistent with Article 6(4) of the International Covenant on Civil and Political Rights.

fense was committed. The remaining crimes are punishable by the death penalty (as opposed to imprisonment, correctional labor, or a fine) only upon a showing of aggravating circumstances. Article 47, which defines aggravating circumstances for the purpose of imposing the death penalty, explains that "the fundamental question to be decided in each individual criminal act is that of the danger to the public from the crime under consideration." It then stipulates six aggravating circumstances which can lead to death:

> "1) the commission of a crime aimed at overthrowing the people's democratic system; 2) the commission of a crime by a group or band; 3) the commission of a crime for the second time; 4) the commission of a crime for profit or other base motives; 5) the commission of a crime with unusual violence or cunning; 6) the commission of a crime against persons who are dependent on the offender and under his care or who are helpless because of age or other conditions."*

1. Crimes against State Sovereignty

There are eleven listed crimes against state sovereignty. All but one are punishable by the death penalty without the need to show aggravating circumstances. These crimes include: armed uprising (Art. 65); "participation for anti-state purposes in an armed intervention by foreign powers against the Democratic People's Republic of Korea, or in other actions aimed at blockading the Republic, or in forcible seizure of state property, or in the impair-

* Penal Code Article 48 defines extenuating circumstances, but the death penalty provisions refer explicitly only to aggravating circumstances.

ment of diplomatic relations, or in the disruption of treaties concluded by the Democratic People's Republic with foreign states" (Art. 66); communicating for anti-state purposes with a foreign power that has unfriendly relations with the Republic (Art. 67); high treason (Art. 68); terroristic acts (Art. 72);* undermining state industry, transportation, trade, money circulation, or the credit system for the purpose of harming the state in the interest of the traditional ownership system (Art. 73) or in the interests of former owners (Art. 74); propaganda or agitation advocating the overthrow, undermining, or weakening of the people's sovereignty (Arts. 76, 78); and aggressive acts aimed at suppressing or harassing the Korean people's national freedom on behalf of Japanese or other imperialism (Art. 79). In addition, under aggravating circumstances, espionage is punishable by death (Art. 71).

2. Crimes against the State Administration

Eight crimes against the state administration are punishable by the death penalty. They are: banditry and attacks on public and private institutions or on private citizens, robbery, and destruction of railroads (Art. 82); mass disorders by organizers, directors, and other participants (Art. 83); counterfeiting bank notes and state securities (Art. 84);** theft of firearms (Art. 88); railroad destruction (Art. 89); violation of "labor discipline (violation of traffic regulations, poor maintenance of rolling stock and road beds) by transport workers and such violation results or might have resulted

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* The term "terroristic" is not defined.

** Penal Code Articles 82 - 84 carry the death penalty; the other five offenses impose the death penalty only with especially aggravating circumstances.

in damage to or destruction of an airplane or an accident involving people" (Art. 92); and "propaganda or agitation aimed at arousing national or religious hatred or dissension and the dissemination, preparation, and storage of such literature" (Art. 101).

3. Crimes against State, Public-Service, and Cooperative Property

The only crime against "state, public service, and cooperative property" that is punishable by the death penalty is Article 106, which proscribes "[s]ystematic, organized, or large-scale pilfering from state, public-service, and cooperative establishments, warehouses and enterprises, or from goods shipped via railroad or ship."

4. Crimes against Persons

The only crime against the person that is punishable by death is the offense of homicide. Article 112 provides that the death penalty shall be imposed for homicide committed under aggravating circumstances and under the following circumstances:

1) when the crime was engendered by profit seeking, jealousy or other base motives;
2) when the defendant previously had been prosecuted for homicide or grievous bodily injury;
3) when the crime endangered the lives of many people or was especially painful to the victim;
4) when the purpose of the crime was to conceal another serious crime;
5) when parents or relatives were victims;
6) when the perpetrator had a special caretaking responsibility for the victim; and
7) when a helpless victim was exploited.

5. Crimes against the Property of Citizens

The only crime against the property of citizens that is punishable by death is robbery, and only when it is accompanied by aggravating circumstances (Art. 150).

6. Military Crimes

There are approximately 24 military crimes that are punishable by death, although, for most, death can be imposed only if the crime was accompanied by aggravating circumstances, committed in aid of the enemy, or undertaken during combat or wartime. These crimes are: "failure of a subordinate to carry out the orders of his immediate superior or the failure of a junior to carry out the orders of his senior when issued in the lines of duty" (Art. 266); resisting those performing their military duties (Art. 267); compelling a person who is performing his military duties to desist therefrom (Art. 268); absence without leave by a private or non-commissioned officer for up to 6 hours (Arts. 272, 274) or by anyone for more than 24 hours (273, 274); abandoning or deserting a unit or post (Arts. 275, 276, 277); failing without good reason to report on time for duty when assigned to or transferred from detail or to return on time from furlough (Art. 278); desertion accompanied by theft or plunder involving the use of weapons (Art. 279); evasion of military duties by infliction of injury upon oneself (Art. 280); flight from the battlefield or abandonment of a unit or post in a combat situation (Art. 281); illegal alienation, pledge, or transfer of army clothing or equipment (Art. 282); violating guard duty regulations or instructions (Art. 284); the abuse or exceeding of authority by a commanding officer in certain circumstances (Art. 286); surrender in aid of the enemy (Art. 290); failure of a commander to take the necessary measures during a retreat to destroy or render useless the means of waging war (Art. 291); unauthorized deviation by a commander from his battle order to aid the enemy (Art. 292); surrender not justified by

the combat situation or refusal to use arms or crossing over to the enemy's lines (Art. 293); abandonment of a sinking warship by a commander (Art. 294); divulging a state or military secret or losing documents containing such information (Art. 295); reporting false information on one's execution of a combat assignment (Art. 297); and looting the possessions of the dead and wounded on the battlefield (Art. 300).

B. Accounts of Executions, Deaths, and Assassinations

1. Public Executions

Reliable statistics on the use of the death penalty in the DPRK are unavailable. The use of the death penalty appears to have been widespread during certain periods of repression. For example, during the 1958-1960 period, 9,000 people were reportedly purged from the Party and killed after trials. They were accused of being "anti-Party elements, factionalist, poisonous elements, and counter-revolutionaries." *

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* Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 110 (1968). Kang's studies are regarded as the authoritative works on law in the DPRK.

At least in the past, the DPRK Government under Kim Il Sung staged mass denunciations and instant executions by firing squad in large public places to teach the public the consequences of committing political and anti-social crimes.* For example, as noted, the DPRK strictly controls sexual behavior. Deviance is treated as a sign of "bourgeois" values and has often been punished in public. The following case, reported by a defector who claims to have worked with the State Security Agency in the DPRK, is illustrative.** In July 1965, he witnessed a mass trial and execution in the valley of Mt. Banryong, in Hamhung City. His account is as follows:

> The defendant, a woman student of Hamhung Teachers College, was charged with prostitution for having had affairs for money with about 30 influential party members. One day a Security Agent arrested her as she was enticing a customer in a theatre. Because the Government at that time treated illicit sexual activities as an impediment to the socialist revolution, it ordered the Security Agency to execute sexual offenders in public as a lesson to the masses. A crowd of about 20,000 people gathered at the scene of the trial. A judge and the defendant entered at 10:00 a.m. The trial consisted of public denunciations and accusations. At about 2:00 p.m., the judge sentenced the woman to death for violating Kim Il Sung's order against moral decadence. Upon hearing the judgment, the crowd began to yell and curse her with great excitement. She was immediately executed by a firing squad.

Reports of mass trials have not been received in recent years, but public executions accompanied by public villification continued through at least the early 1980s. Recent defectors have provided accounts of past public executions for crimes such as treason, murder, aggravated rape, sedition, and other subversive crimes. Several defectors indicated in interviews that the criminal was brought to a stadium or school ground in front of a huge number of people. Sometimes the crowd became hysterical in its outbursts against the prisoner. They repeatedly threw stones, poked the accused with sticks, and sometimes even beat the prisoner to death, often while shouting slogans. The accused was sometimes associated with American plots and crimes. Based on other interviews on the legal system and reports of social stratification in the DPRK, it appears that, in at least some instances, the elite would not be so punished.

Despite the extensive list in the Penal Code of offenses warranting the death penalty, it appears that the DPRK Government has executed those persons who commit still other offenses when the authorities wish to make an example of the offender. For example, although the offense of rape does not formally carry the death penalty under the Penal Code, a North Korean fisherman indicated that he had seen two people executed in public for rape in Nampo City during the 1970s. These persons appear to have been from the wavering or hostile classes. One defector of the elite class and another long-term resident of the DPRK now living abroad have reported that the elite are not punished for rape. Based on other interviews on the legal system and reports of social stratification in the DPRK, it appears that, in at least some instances, the elite would not be so punished.

* Public executions have been used traditionally in China and Korea to educate and scare the populace into obedience. During the Great Proletarian Cultural Revolution in China (1966-1976), public executions (wan-jen da-hui) became a prominent part of the justice system. The descriptions cited in the text of public executions in the DPRK are similar to descriptions that have been made public of such executions in China.

** Kong Tak Ho, Inside Story of a Political Security Agency of North Korea: Testimony of a Defector 82-86 (1976).

2. Assassination and Execution of Political Opponents

According to one former DPRK resident, whose information is partially corroborated, the Ministry of State Security has used a special team of 15 to 20 members trained to asassinate the political opponents of Kim Il Sung and Kim Jung Il.* There are several unconfirmed reports of assassinations by this special team, including an allegation that it was responsible for the death of Nam Il, a former Vice Premier, who died in October 1975 in a suspicious car accident.

According to an unconfirmed report, special execution centers are operated in each province by the Public Security Ministry. Persons who have slandered Kim Il Sung or his son have reportedly been killed by a hit to the head with an iron bar.

3. Deaths in Custody

Several former inmates of camps for political prisoners reported that, at least through 1983, killings without due process and

* Interview with Kang Duk Hoon, former captain of the Jengsan ship, who defected from the DPRK in January 1982, reprinted in Institute of North Korean Studies, Collection of Testimonies of Defectors on Human Rights in North Korea 18 (June 1986).

a fair trial were a common occurrence. They report that if a prisoner tried to escape and was caught, he was publicly criticized before a crowd and promptly executed by the guards. For example, in 1976 Shin Young Hwan (age 33) and Kong Chang Duk (age 28) were reportedly caught escaping from their prison and were publicly executed. One former prisoner who left the DPRK in 1986 reported hearing coordinated gun fire that sounded like executions during the period of his imprisonment, from 1978 to 1983.* Other prisoners indicated that such gunfire marked the execution of people who had attempted to escape. A graduate from the Pyongyang Fine Art College was sentenced to a 20-year prison term for the "anti-revolutionary act" of drawing a portrait of Kim Il Sung on a piece of paper lying on the floor and later throwing the picture away. He was later executed in prison for unknown reasons during the early 1980s.**

* See 1 U. Choe & S. Shin, Jokuk-un Johanul Jomolli 405-06 (relating to an execution in early July 1980), 465-69 (relating to another execution in winter 1980)(1988).

** Testimony of Kim Man Chol as reported from South Korea, 20 February 1987. Kim Man Chol, age 47, defected with 10 family members in a small boat that reached Japan on 20 January 1987. He reported that another brother was sentenced to 25 years in a labor camp for criticizing the Soviet Union. The brother died in the camp.

VI. TORTURE AND INHUMAN TREATMENT

Article 5

> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The laws of the DPRK apparently contain no sanction against the use of torture or inhuman treatment. Although Article 108 of the Code of Criminal Procedure provides that, "In the course of interrogation of the accused, the pretrial investigator must not use any force, threats, or other similar measures in order to obtain his testimony or confession," there appears to be no procedure or sanction for assuring that this provision is respected in practice. Indeed, campaigns have occasionally been mounted to convince offenders to confess so as to avoid or minimize ill-treatment. Those detainees who refused to confess were beaten, deprived of food, given harsher work assignments, and otherwise punished more severely.*

All available evidence indicates that, at least through the early 1980s, North Korean prisoners were routinely tortured or ill-treated during interrogation and at times during later imprisonment. When a political offender was arrested, he was initially held in a detention center of the Public Security Ministry. Although reports

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* See Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 35 (1968).

were received from a wide range of prisoners covering various periods, no prisoners reported having avoided ill-treatment.

Reports indicate different methods of torture and ill-treatment. One political prisoner who escaped from the DPRK in 1986 described the ill-treatment he suffered while imprisoned from 1978 to 1982.* Because Kim Jung Il wanted to force him to make propaganda films, he was deprived of food and sleep. To limit his ability to sleep or rest, the guards forced him to sit with his hands on his knees in a rigid upright position. Every three hours he was allowed to stand for only two minutes. This ill-treatment lasted for one year and was, according to the former prisoner, even more painful than physical beatings. Moreover, as a form of punishment his diet was manipulated. His meals were limited to rice, corn, soybeans, and soup of leaves or plants with roots, and he reported that all salt was intentionally eliminated or limited.

A second account was given by a former DPRK resident who in 1958 was tortured by the Public Security Ministry in one of its detention facilities to force him to confess.** In what was known as "airplane" and "water torture," he was hung upside down and water was poured onto his face, making it difficult to breath.

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* Interview with movie producer, December 1986. See also 1 U. Choe & S. Shin, Jokuk-un Johanul Jomelli 321-29, 355-68 (1988).

** Interview with former prisoner who was interviewed in September 1986. See appendix 4.

A third account was given by a former DPRK resident* whose father worked for the Public Security Ministry and observed a scene in the interrogation unit of the Ministry in the mid-1970s. Security officials placed pencils between the fingers of a detainee and then squeezed his hand, demanding that he confess. The father heard the detainee scream in pain.

A fourth account came from a guard who served during the late 1960s and early 1970s in a detention center of the Public Security Ministry in Bukchang County.** He provided a detailed account of the facilities based on observations he made during a tour that he was given by his supervisor when he first started work. His description is as follows:

> The facility had six cells capable of holding 10 prisoners each. The last cell was a torture chamber. It had a wooden floor and a pot instead of a toilet stool.*** The cell had no water and the detainees were not allowed to wash. A terrible odor came from the toilet pot and the unwashed prisoners, forcing the detention worker to wear a mask. The torture chamber was rather dark and various torture tools laid about, including a rubber whip, sticks, and a bar. Detainees who did not comply with the rules or cooperate with their interrogator were taken to the

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* Interview with former pilot, who was interviewed in September 1986. See appendix 4.

** Kong Tak Ho, Inside Story of the Political Security Agency of North Korea (1976).

*** Most other defectors indicated that they had seen detention centers with stone or dirt floors.

torture chamber. Their pants were removed, a sharp, angled stick was placed behind their knees, and they were required to squat for one hour, producing intolerable pain and bleeding. The prisoners screamed and often fainted. Some detainees died of such torture and some killed themselves.

Foreigners have evidently been spared the worst treatment, but their deprivations have been similar. Ali Lameda, a Venezuelan who came to the DPRK to help prepare propaganda, was arrested in Pyongyang during 1967 because he objected to the propaganda as too unrealistic to be credible.* Lameda reported hearing the cries of other prisoners being tortured, but avoided this treatment himself. In one year of captivity, Ali Lameda lost fifty pounds, and his body was covered with sores and hemorrhages.

Lloyd Bucher, the Commander of the US Naval ship Pueblo, was seized and imprisoned with his crew in the DPRK in 1968. He testified to having seen a Korean who had been tortured for being a South Korean spy: the man's face was beaten to a pulp; one eye was out; the prisoner had bitten himself through his own lip; and his arm was broken with the bone protruding from the skin.** During interrogation, Captain Bucher and his crew were routinely punched repeatedly, kicked, hit with boards, and thrown against the floor and walls. Later, the prisoners were threatened and subjected to mock executions.

Hunger has also been used to "correct" the behavior of foreigners and to obtain confessions from them. Given very small quantities of food in any event, the prisoners were punished for

* Amnesty International, Ali Lameda: A Personal Account of the Experience of a Prisoner of Conscience in the Democratic People's Republic of Korea (1979).

** T. Armbrister, A Matter of Acountability: The True Story of the Pueblo Affair (1970).

misbehavior by adulterating the food with hair, pieces of human nails, teeth, and other human parts. The prisoners developed diarrhea, scurvy, pneumonia, hepatitis, and skin infections, and suffered damaged vision.

VII. PROCEDURAL FAIRNESS IN THE CRIMINAL PROCESS AND THE COURTS

Article 3

Everyone has the right to life, liberty and security of person.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1.Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

This chapter discusses the history and structure of the criminal justice system in the DPRK, particularly the procedures for arrest and trial. It shows that although the Code of Criminal Procedure contains elaborate procedural guarantees, these safeguards are not followed in practice, particularly in political cases.

A. The Legal Tradition

The Korean peninsula's legal tradition has lacked strong restraints on abuse of power. During the Yi or Choson dynasty, which lasted from 1392 until 1910, the magistrate

> "had to perform the duties of judge, prosecutor, and police chief in addition to his other functions as the head of the local government.... [T]he imperial judicial practice contained certain features that put the individual at a definite disadvantage. These included the presumption of the guilt of the accused, the non-existence of defense attorneys, the use of torture for extracting confession, the analogous and retroactive application of penal provisions, and the enforcement of group responsibility and group punishment."*

During the 36-year Japanese occupation (1910-1945), the Japanese government attempted to impose its own criminal justice system, which was based upon a German model. It lacked an independent judiciary, failed to limit government power, and provided no rights for the accused.** The oppressiven ature of the Japanese rule led many Koreans to resent and reject Japanese legal traditions, particularly during the period of armed conflict from 1937 through 1945. *** As a result, Japanese legal traditions were discarded after Japanese rule ended in 1945.****

The current DPRK legal structure is based principally on the Soviet legal system. The DPRK Constitution, Penal Code, and Code of Criminal Procedure closely resemble their counterparts in the Russian Soviet Federal Socialist Republic (RSFSR).+ The DPRK Constitution of 9 September 1948 is almost a verbatim copy of the 1936

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* Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 8 (1968).

** Id. at 10.

*** Id. at 12.

**** Id. at 17.

\+ Koo-Chin Kang, An Analytical Study of Criminal Law in North Korea, 4 Lawasia, Journal of the Law Association for Asia and the Western Pacific 1, 3 (1973).

Constitution of the USSR. The DPRK Penal Code of 3 March 1950 is very similar to the 1926 Penal Code of the RSFSR.* The North Korean Code of Criminal Procedure of 3 March 1950 is similar to the 1923 RSFSR Code of Criminal Procedure. And the DPRK Law on Court Organization of 1 March 1950 establishes a court system similar to the judicial system of the USSR and its various republics as they were structured in 1938.**

In 1972 the DPRK Constitution was somewhat modified to reflect Chinese constitutional developments. The Code of Criminal Procedure and the Law on Court Organization were apparently amended in 1974 to reflect these changes.***

B. Structure of the Criminal Justice System

The highest court of the DPRK is the Central Court,**** which consists of a President appointed by the Supreme People's Assembly and judges appointed by the Standing Committee of the

* Id.

** Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 22 (1968).

*** See R. Scalapino & J. Kim, North Korea Today: Strategic and Domestic Issues (1983); C. Kim, Korean Law Study Guide 18 (1987).

**** Constitution of the Democratic People's Republic of Korea, Art. 141. Prior to the 1972 Constitution, the highest court was the Supreme Court. This section's description of the structure of the criminal justice system is based primarily upon the provisions of the DPRK law. It has not been possible to confirm that the structure is, in all aspects, as described in the law.

Supreme People's Assembly. The Central Court, which supervises all lower courts,* has one collegium of judges for criminal cases, a second for civil cases, and a third for administrative cases.**

The Central Court has jurisdiction to serve as a trial court for particularly serious criminal cases. Otherwise, the Central Court serves as an appellate court for decisions of the provincial courts.***

Provincial courts have jurisdiction as the court of first instance over cases involving crimes against state sovereignty, as well as substantial crimes against the person, state and cooperative property, and against state duties. There is one provincial court for each of the nine provinces, and each has a separate collegium for civil and criminal cases.**** Provincial courts also have jurisdiction over other criminal cases referred by law to the jurisdiction of such courts. + Three-judge panels of the provincial courts + + also have appellate jurisdiction over judgments rendered by city and county courts. + + +

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* Constitution of the Democratic People's Republic of Korea, Art. 141.

** Law on Court Organization, Art. 50.

*** Id., Art. 48.

**** Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 60 (1968).

\+ Law on Court Organization, Art. 31.

\+ + Id., Art. 34.

\+ + + Id.

City and county people's courts have jurisdiction over criminal cases involving crimes against state administration, crimes against state and cooperative property, crimes against the person, crimes against the property of individuals, crimes involving violation of work laws and decrees, crimes against official duties, economic crimes, crimes against the social order, and crimes against the people's health.* Each People's Assembly selects lay assessors for the courts in the same jurisdiction from among citizens entitled to vote.** People's assessors ordinarily serve for a period of not more than 14 days.***

Special military courts have jurisdiction over military crimes. **** The presidents of these special courts are selected by the Central Court.+ People's assessors sit with the judges in the military courts; the assessors are military personnel who are elected by the assembly of the military personnel in the locality and division of the military they serve.++ Military Courts have responsibility for handling cases of counter-revolutionary activities, espionage, infringements upon the security of the state or the fighting capacity of the armed forces, failures of military discipline, and violations of military service rules.

The investigation and prosecution of civilian criminal cases are the responsibility of the Procurator General of the Central Procurator's Office and the Procurator's offices of the province, city, and county.* The Procurator General is appointed and may be removed by the Supreme People's Assembly. The Procurator General, in turn, appoints the procurators in the Central Office and in subsidiary offices at the regional, city, country, and other levels.** "The Central Procurator's Office is accountable for its activities to the Supreme People's Assembly, the President of the Democratic People's Republic of Korea and the Central People's Committee."*** Pursuant to Articles 85 and 96 of the Code of Criminal Procedure, the procurator supervises criminal investigations under his jurisdiction.

C. The Criminal Procedure Code

1. Arrest and Investigation Procedure

According to the Criminal Procedure Code, criminal proceedings may be initiated on the basis of declarations from citizens or organizations, communications from institutions or

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* Law on Court Organization, Art. 26.

** Law on Court Organization, Art. 14; Constitution of the Democratic People's Republic of Korea, Art. 134.

*** Law on Court Organization, Art. 15.

**** Law on Court Organization, Art. 37.

\+ Constitution of the Democratic People's Republic of Korea, Art. 135; see also Law on Court Organization, Art. 38.

\+\+ Law on Court Organization, Art. 39. While there are legal provisions for transport courts, these special courts were abolished in August 1958 and their functions were transferred to regular people's courts. See Kang, Machinery of Justive in North Korea, Korean J. Comparative Law 123, 128 (1977); Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influ ces Thereupon 59 (1968).

* Constitution of the Democratic People's Republic of Korea, Art. 143.

** Id., Art. 145.

*** Constitution of the Democratic People's Republic of Korea, Art. 146.

government officials, the confession of the perpetrator, as well as at the direction of a procurator, pretrial investigator, or court. If the declaration or communication establishes the elements of a criminal offense, a criminal investigation must be initiated, unless the procurator issues a reasoned decree refusing to initiate the criminal case.* Victims may also bring a civil suit, which can be considered in the same proceedings as the criminal charge.**

The Code specifies that investigations may be undertaken by commissioned officers of the army; pretrial investigators; and inspectors from governmental agencies for labor, finance, fire prevention, etc.*** These investigators have the right to arrest a person suspected of committing a crime.**** A procurator must exercise general supervision over any inquiry occurring in his jurisdiction.+ For serious offenses, the procurator must personally conduct the pretrial investigation.++ Only inspectors of the Ministry of State Security, however, have authority to investigate crimes against state

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* Code of Criminal Procedure, Art. 78.

** Id., Art. 12.

*** Id., Art. 79.

**** Code of Criminal Procedure, Art. 82.

\+ Id., Art. 85.

++ Id., Art. 86

sovereignty, including the crimes of engaging in an armed uprising, communicating with a foreign power for anti-state purposes, treason, desertion, crossing the border, espionage, terrorism, undermining state industry, sabotage, propaganda for the overthrow of the government, disseminating anti-state literature, and similar conduct.*

Article 6 of the Code of Criminal Procedure states: "No one shall be subjected to arrest or detention except in cases provided by laws and decrees and in accordance with the procedure established by laws and decrees." Any person who is arrested should be transferred to a procurator or pretrial investigator within 48 hours of apprehension. ** Article 84 states: "The period of inquiry conducted by an agency of inquiry [including the police or Public Security Ministry] may not exceed 10 days." During the pretrial investigation the suspect and the victim have the right to interrogate witnesses or conduct expert examinations upon a showing of "significance for the case." ***

Article 94 sets a two-month limit on the pretrial investigation, but also permits a one-month extension with the permission of the province procuracy, and additional extensions with the permission of the Procurator General. If the pretrial investigator finds sufficient evidence, the investigator is required to prepare a decree naming the accused and commencing the prosecution. The accused must be notified within 48 hours of that decree.****

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* Id.; Penal Code, Arts. 65-81.

** Code of Criminal Procedure, Art 83.

*** Id., Art. 91.

**** Id., Art. 100.

As noted, Article 108 provides: "In the course of interrogation of the accused, the pretrial investigator must not use any force, threats, or other similar measures in order to obtain his testimony or confession." Article 111 requires that, after the completion of the interrogation, the record be read to the accused and the accused given the right to demand additions and corrections in conformity with the testimony.

Article 141 permits searches only during the day, "except in instances not permitting delay." The official conducting the search may only remove articles "with direct relation to the case."*

Before the consideration of a case in a judicial session, the court must determine whether the procurator correctly decided to bring the prosecution, whether a defense counsel must participate in the trial, and whether witnesses should be summoned. **

2. Trial and Appeal

Article 138 of the DPRK Constitution provides that court "cases are heard in public and the accused is guaranteed the right of defense. Hearings may be closed to the public as stipulated by law."

Article 16 of the Criminal Procedure Code specifies:

> "The examination of cases in all courts shall be open. The courtroom may be cleared of the public for the entire session or for a part of it, upon a reasoned ruling of the court, only in cases either where it is necessary to protect state secrets, or where the publicity of judicial examination might be prejudicial to the public morals, or where it is necessary to safeguard the personal secrets of a citizen."

Article 17 of the Criminal Procedure Code goes on to state that, even in the event that publicity is prohibited, "the judgment of courts shall in all cases be proclaimed publicly."

Article 194 of the Code of Criminal Procedure provides that the trial begins with the reading of the decision to bring charges and to compel the accused to stand trial. The accused must then be asked whether he admits the charges against him.

Article 223 of the Code of Criminal Procedure requires that the judgment be based exclusively on the evidence recorded in the file of the case and presented at the judicial session. Article 223 also establishes the burden of proof in criminal cases: the "judges shall evaluate evidence according to their own conviction based on the examination of the given case." The judgment of the court in most cases is by simple majority of the presiding judge and two lay assessors. *

Article 250 of the Code of Criminal Procedure provides that a judgment can be vacated on appeal only for issues of law (cassation), including: (1) the inadequacy of the inquiry or pretrial investigation, (2) a substantial violation of judicial procedure, (3) a violation or incorrect application of laws and decrees, or (4) the manifest injustice of the judgment.**

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* Id., Art. 145.

** Law on Court Organization, Art. 27.

* Law on Court Organization, Arts. 17 (local and county court), 33 (provincial court), 44 (special courts); Code of Criminal Procedure, Art. 227.

** See also Law on Court Organization, Art. 18.

The President of the Central Court or the Procurator General is permitted to bring an appeal of any case at any stage in the proceedings. * A provincial or local procurator may also bring an appeal of cases in his jurisdiction.**

Article 275 of the Code of Criminal Procedure provides for a copy of the judgment to be sent to the Public Security Ministry and any other agency charged with the duty of executing the judgment, and for a procurator to supervise the execution of judgment.

D. Criminal Procedure in Practice

1. Party Control

Academic studies and interviews with former DPRK residents indicate that practices vary considerably from the procedures set forth in the laws. It appears that the Party exercises pervasive control over the criminal justice system. The central power in the justice system is actually the Public Security Ministry, which is the principal law enforcement agency and manages the correctional facilities. The Public Security Ministry reportedly decides which cases to bring to trial and which individuals to punish without trial. It is believed that unless a case is publicized, the accused often receives no trial or hearing, but is secretly punished without due process.

When the Ministry decides to dispense with trial in political cases, it apparently refers such cases to the Ministry of State Security, which then imposes punishment. As indicated previously, political offenders are believed to have been executed without trial or without

* Code of Criminal Procedure, Art. 264, modified by the Constitution of the Democratic People's Republic of Korea.

** Code of Criminal Procedure, Art. 242.

a fair trial. At least in the past, these executions have occurred publicly after mass trials to teach the public the severe consequences of certain acts.

If offenders are placed into a prison camp, they are unlikely to receive due process or a fair trial should they be charged with a further offense. For example, prisoners who have been caught trying to escape are believed to have been criticized before a crowd and openly executed.*

2. The Historical Lack of Judicial Independence

The current government has never had an independent judiciary. During the late 1940s and early 1950s, judges were selected from among workers, peasants, and office workers.** Few had legal training. In the late 1950s, judges and prosecutors were instructed to study Marxist-Leninist legal doctrines and to make their decisions "strictly in accordance with the revolutionary mass line or mass viewpoint."*** Many judges were declared

* See chapter V (life); see also Collection of Testimonies on Human Rights in North Korea, supra

** Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 66 (1968).

*** Id. at 38 (such abuses occurred particularly during the Flying Horse Movement of the late 1950s).

"'Anti-Party factionalists' and removed from their posts for having 'opposed Party leadership,' objected to 'the close relationship between the People and the People's Court,' and thus tried to 'establish an independent judiciary of super-class nature.' These 'Anti-Party factionalists were severely denounced for having advocated 'strict legality' and the 'protection of human rights,' and hence treated the people's enemy leniently."*

Judges and other judicial personnel have been prosecuted under Article 73 of the Penal Code, which forbids undermining "state industry." Periodic purges of judges and others concerned with the administration of justice continued through at least the 1970s.**

In December 1958 the judicial and executive branches responsible for the administration of justice were combined. The Ministry of Justice was abolished and its control over judicial administration was transferred to the Supreme Court, which in 1972 became the Central Court. As a North Korean jurist explained at the time of the abolition:

"This unification is highly significant in the development of our judicial system. It will strengthen not

* Id. at 38.

** Id. at 68-70 (for example, President of the Supreme Court Hwang Schwan, President of a Provincial Court Paek Sungmin, and Choi Yongtal). Although the Kang study was published in 1968, there is considerable evidence that purges of judges and others concerned with the administration of continued thereafter. See, e.g., Kang, Machinery of Justice in North Korea, 5 Korean J. Comparative Law 122 (1977).

only the Central Government's supervision and control over trials and court proceedings, but also enable local courts to realize, through trials, Party policies and platform with flexibility and accuracy, thereby contributing greatly to the further consolidation of the legal order and the acceleration of Socialist construction in our country."*

3. The Legal Basis for Undermining Judicial Independence

This subordination of the judiciary to Party dictates is now in many respects enshrined in law. While the Constitution appears to provide in general terms for an independent judiciary, the more detailed provisions of the Constitution, as well as actual practice, undermine any such independence.

Article 140 of the DPRK Constitution provides: "In administering justice, the Court is independent and judicial proceedings are carried out in strict accordance with the law." That provision is undermined by a parallel provision which gives the Central People's Committee the duty and authority to "direct the work of judicial and prosecutorial organs ...."** Similarly, Article 139 of the Constitution states that the Central Court

"is accountable for its activities to the Supreme People's Assembly, the President of the Democratic People's Republic of Korea and the Central People's Committee. The Court of the province (or

* Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 39 (1968).

** Constitution of the Democratic People's Republic of Korea, Art. 103(3).

municipality directly under central authority) and the People's Court are accountable for their activities to their respective People's Assembly."

The independence of judges may also be undermined by what seem to be very short terms in office -- terms which DPRK law has made coterminous with the parallel legislative body.* For example, the President of the Central Court, which is the highest court,** is selected by the Supreme People's Assembly, which is the highest organ of State power.*** "The Judges and People's Assessors of the Central Court are elected by the Standing Committee of the Supreme People's Assembly."**** Like the members of the Supreme People's Assembly, the judges of the Central Court are elected to four-year terms. + Similarly, the Provincial Assembly, which serves for four years, + +elects members of the pertinent provincial court to four-year terms. Likewise, the judges and People's Assessors of the People's Court are elected to two-year terms by the People's Assembly at the corresponding level, the members of which themselves serve two-year terms.*

* See, e.g., Constitution of the Democratic People's Republic of Korea, Art. 134.

** Constitution of the Democratic People's Republic of Korea, Art. 141.

*** Id. Art. 73.

**** Id., Art. 134.

+ Id., Art. 75.

++ Id., Art. 117.

There is considerable turnover in the personnel of the courts, presumably due to these short terms. Moreover, official lists of judges indicate that judges have been changed even more frequently than the short terms provided by law.** The Supreme People's Assembly is empowered to recall the President of the Central Court. *** Similarly, Article 184 of the Penal Code undermines independence by stating that a judge who passes an unjust sentence shall be punished for a term of more than two years. Because there are no apparent standards for what might constitute an "unjust" sentence, judges who render decisions contrary to the Party's view can be imprisoned. Criminal prosecutions against judges, however, can only be initiated by the Procurator-General, upon the approval of the Standing Committee of the Supreme People's Assembly.****

4. The Lack of Guarantees Necessary for a Defense

There also appears to be no provision for the accused to have access to counsel or visits from family during the investigative period. Only when the investigation is completed and the procurator transmits the file for prosecution does Article 174 of the Code of Criminal Procedure provide a role for counsel.

* Id., Arts. 117 and 134.

** See Kang, Machinery of Justice in North Korea, 5 Korean J. Comparative Law 122, 134 (1977).

*** Constitution of the Democratic People's Republic of Korea, Art. 76(8); Law on Court Organization, Art. 21.

**** Law on Court Organization, Art. 22 (revised by Constitution, Art. 88).

"Defense counsel shall be permitted to participate in a case at any time after the file of a case is referred to a court from the procurator. The court shall be obliged to secure to the defense counsel an opportunity to confer with the accused, to become acquainted with the file of the case, and to copy necessary information from it."

Article 41 of the Code of Criminal Procedure permits not only advocates, but also close relatives of the accused and representatives of the social organizations to which the accused belongs, to serve as defense counsel. By permission of the court, other persons may also serve as defense counsel. Article 42 states that defense counsel shall be required to participate in any case in which a procurator is participating or in which a physical defect prevents the accused from making himself understood.

All lawyers work for the government; they are considered judicial workers.* There is no current information on how an individual citizen of the DPRK might find a lawyer to assist him. In the past, however, a person desiring a lawyer had to visit the "Lawyer's Hall," where a lawyer was assigned, without any apparent right of the accused to select a particular attorney. Lawyers were prohibited from accepting cases on an individual basis.**

* Statute on Attorneys-at-law, 7 February 1947; see Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 18, 81-93 (1968) (the independent bar ceased to exist at the end of Japanese rule and beginning of the new government). More recent evidence indicates the continuing validity of this and following statements.

** Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 20, 89 (1968).

The defense counsel is not considered a representative of the accused, but rather an independent party in the trial, who is expected to help the court reach the correct judgment.* An active defense is considered to be an effort to distort the facts and to deceive the court. The counsel must ordinarily accept the client's guilt and only present facts to mitigate punishment.** Lawyers in criminal cases have been instructed to consider themselves "lawyers for the Party" and to put their duty to the state above their duty to the accused. For example, they have been informed by the official organ of the judiciary that it would be "irrational" to keep confidential any information that the accused revealed. The lawyer's duty is seen as one of persuading the accused to confess his guilt. President Kim Il Sung has denounced lawyers for "having advocated bourgeois concepts of humanitarian law."***

E. Ex Post Facto Applications of the Law and Retroactive Law

Article 11(2) of the Universal Declaration of Human Rights states:

"No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed."

* Id. at 84.

** Id. at 20, 89.

*** Id. at 91.

Articles 5 and 256 of the DPRK Penal Code are consistent with this norm. Article 5 provides that a "person shall be responsible in accordance with the law in force at the time the crime is committed." Article 256 supports this concept, providing an exception to the criminal provision for bigamy and polygamy in that the punishment "does not apply to relations entered into prior to the coming into effect of the laws governing equality of women."

Other provisions, however, demonstrate that the legislature considers it at least theoretically permissible to impose retroactive punishment. Although no reports of such prosecutions have been received, Article 17 of the Penal Code states that criminal punishment may be imposed for "socially dangerous" acts committed prior to 15 August 1945, even though the Penal Code was adopted on 3 March 1950. This provision remains relevant because Article 60 of the Penal Code waives any statute of limitations not only for "state offenses," but also for "aggressive actions against the national-liberation movement of the Korean people," that is, for "aggressive actions" which occurred before the advent of the current Government.

Similarly, Article 9 of the Penal Code appears to permit, at least theoretically, criminal responsibility by analogy, again violating the requirement that only conduct proscribed by law can be punished:

> "If a criminal act is not directly provided for in this code, the basis and limit of the criminal responsibility therefor shall be decided in accordance with the article of the present code that provides for the acts most analogous to it in importance and kind."

The Procurator General can invoke this provision by issuing a directive to the procuracy and to the courts that a certain act should be punished by way of analogy to a particular provision of the Penal Code.

VIII. DETENTION AND IMPRISONMENT

Article 9

> No one shall be subjected to arbitrary arrest, detention or exile.

The Government of the DPRK denies that there are prisons in the country, nor does it officially use the term "prison." Rather it calls detention camps "Special Dictatorship Target Areas."* The "Dictatorship" refers to the Dictatorship of the Proletariat. The term "Target Areas" refers to the need to focus on the errant individuals there and educate them on the duties and responsibilities of living in a socialist state. There are, however, several different sorts of prison facilities in the DPRK, including detention centers, rehabilitation centers in cities and counties, labor camps, reformatories for juveniles, maximum security prisons, relocation camps, and sanitariums.

A. Prison Administration

Most prison administration and other aspects of law enforcement in the DPRK are the responsiblity of the Ministry of Public Security. If the Public Security Ministry determines that an offense

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* The Korean euphemism for prison may have its inspiration in the Russian revolution. Soon after the Bolshevik Revolution of 1917, the term "prison" was abolished. In its place was the phrase: "Places of deprivation of liberty." Prison sentences were abolished. Correction of men's ideas and character, not punishment was the task of Soviet justice. The Soviet legacy was shared with the DPRK.

under investigation is political, it turns the case over to the Ministry of State Security. The State Security Ministry has sole responsibility for the surveillance, detection, arrest, detention, and execution of political offenders, and it operates entirely outside the formal criminal justice system. Both the Public Security Ministry and the State Security Ministry maintain extensive networks of surveillance and control throughout the country.

The Public Security Ministry and the State Security Ministry have a long list of predecessors in the DPRK.* The following are some of their names and functions:

1947 Security Bureau of the North Korea People's Committee.

1948 Ministry of Internal Affairs. Under the Ministry, there was an Intelligence Office to carry out the functions of the current State Security Ministry.

1949 Ministry of Internal Affairs. Intelligence was the responsibility of the internal division of the Ministry, which was known as the Political Security Bureau.

1951 Ministry of Public Security. During the Korean War, the Government set up a new Ministry to strengthen intelligence and law enforcement. The Ministry carried out the functions of the current Ministry of State Security and Ministry of Public Security.

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* To avoid confusion, this study generally uses the current names for the State Security Ministry (Kukga Bo Wi Bu) and the Public Security Ministry (Sahwae Anjun Bu), unless the historical context requires the terminology used at the time. While the following list is indicative of the changes which have occurred in the intelligence, security, and law enforcement agencies, there may have been additional shifts which are not fully reflected in the list.

1952 Ministry of Internal Affairs. The Ministry of Public Security was dismantled and its functions returned to the Ministry of Internal Affairs and its Bureau of Public Security.

1962 Ministry of Public Security. The old Ministry was revived.

1972 Ministry of Public Security. Under the new Constitution, an independent agency was established and made responsible for law enforcement and security. Within the Ministry of Public Security, there was a Political Security Bureau which carried out the functions of the current State Security Ministry.

1973 By order of Kim Il Sung, the Ministry of Public Security was split into two separate agencies: the Ministry of State Political Security and the Ministry of Public Security.

1982 The name of the Ministry of State Political Security was changed to the Ministry of State Security. On 15 April 1982 the Supreme People's Assembly re-organized the security system. Some sources indicate that the Assembly removed the Ministry of Defense and the two law enforcement agencies (the Ministry of State Security and the Ministry of Public Security) from the Cabinet and placed them under the direct control of the Central Committee of the Korean Workers' Party. Other sources indicate that these functions remained within the Cabinet, or at least that they were returned to the Cabinet in 1986.

B. Prisons

The following is a catalogue of various prison facilities in the DPRK.*

1. Detention Centers

Upon arrest for an offense of minor or medium severity, a person is brought to a county detention center, where he is held until he is assigned to a prison camp.** An example of a minor offense would be displaying any disrespect, even inadvertent, for Kim Il Sung, such as by sitting on a newspaper that contains a picture of Kim Il Sung. An offense of medium severity would be to criticize directly the Party or Kim's policies. Persons arrested in connection with non-political crimes are also kept in these centers.

2. No. 69 Labor Rehabilitation Centers***

There appear to be "No. 69" labor rehabilitation centers in nearly every city and county. Each center is believed to contain approximately 100 to 200 people. These labor camps are reported to

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* This section derives from various sources of information, including materials from South Korean government and academic experts. Because of the difficulties in relying on South Korean sources, this section only makes use of such material when it is consistent with other data.

** See chapter VI.

*** No. 69 probably refers to Cabinet Decree No. 69, which established these rehabilitation centers. The Republic of Korea's National Unification Board provided information on a so-called No. 49 minimal prison which sounds very similar to the No. 69 mentioned in the text. According to this information, there is one No. 49 prison for every two counties. The different numbers may, in fact, refer to the same camps but simply reflect a renaming that may have followed re-organization in the early 1980s.

be for minor offenders, as well as for undesirables whose sole offense may have been to be lazy and idle. The suspects are reportedly selected by the Public Security Ministry and subjected to involuntary labor for a term of three months to one year without any formal charge or trial.

3. Labor Camps/Workhouses

There are about 12 to 16 forced labor camps/workhouses with a population of approximately 500 to 2,500 per camp. Both adults and juveniles are sentenced to these camps, some after trial and some not. The types of crimes that can cause an individual to be sent to labor camp are said to include: theft, robbery, attempted murder, rape, being a child of a political criminal, or attempted escape to the People's Republic of China or the USSR. Recent defectors have indicated that criticism of the party line is also punished by placement in a workhouse.

4. Juvenile Detention Centers

Students who commit disruptive acts or neglect their school work are said to be placed in juvenile detention centers for up to six months without trial. After intensive ideological indoctrination and hard physical labor, they are reportedly returned to school. Reports suggest that there is approximately one center in each of the nine provinces. Pyongyang appears to have three detention centers nearby.

5. Maximum Security Prisons

There are at least twelve maximum security prison camps believed to exist in the DPRK. They are:

Province	County	Village/Location
Hamgyong-pukdo	Onsung	Changpyung Li, Poongchun Li, Dong Po Li
Hamgyong-pukdo	Hwacryung	Kulsan Li; Raksaeng Li
Hamgyong-pukdo	Kyungsung	Joo Eul Li
Hamgyong-namdo	Yoduk	Yoduk Myon
Hamgyong-namdo	Jungpyong	not known
Pyongan-pukdo	Yongchun	Upper Packma River, north of Yangsi
Pyongan-pukdo	Youngbyon	not known
Chagang-do	Hwacchun	not known
Hamgyong-namdo	Duksung	Rimangji Li (No. 23 Camp)
Hamgyong-namdo	Kacma Plain Areas	"No. 5 Camp"
Pyongan-namdo	Pukchang	Suksan Li (Mine areas): No. 17 Camp
Pyongan-namdo	Kacchun	Middle of Piho Mountain (Kacchun mines)

Four of the above camps are believed to have been added in 1982 to accommodate six to fifteen thousand new prisoners resulting from a campaign by Kim Jung Il to purge his critics and rivals.

More precise information on the location of the prison camps is not available. In the early 1980s the United Nations Command exhibited an aerial or satellite photograph of several unidentified structures in the northern section of Korea which the UN Command alleged to be concentration camps. The evidence provided was that the structures had none of the "signatures" or identifying marks which were common to mines, forestry camps, heavy or light industry, or any other work institution. The lack of large access roads, heavy

traffic, large water supplies, or hydroelectric facilities suggested that these sites were prison camps. It has not been possible, however, to obtain a copy of these surveillance photographs. The locations and existence of some of these camps are corroborated by much of the testimony that has been gathered.

A former resident of the DPRK who had been held prisoner for over four years testified during an interview that he was held in a prison camp that was not one of the twelve listed above. He said that the camp, which is located near Pyongyang, is known as both Prison Camp No. 6 and Nambukdo. There is other evidence that two additional camps have existed in Chagang and Yanggang provinces, but the precise location of these camps is not available. Professors Scalapino and Lee mention these two camps in their well-researched book, *Communism in Korea*.* According to their account:

> "These camps are known as No. 8 and No. 149 respectively, after the acts bearing those numbers promulgated by the government. The internees at Camp No. 8 are regarded as the more serious offenders. They live on government rations, and all of their work is turned over to the state. Prisoners at Camp No. 149 can have their families with them, and they live off what they themselves produce."

Estimates of the size of the maximum-security prison population derive from many sources. The Republic of Korea has estimated from defector testimony and satellite photographs that there are currently about 150,000 such prisoners in the DPRK. According to Ali

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* 2 R. Scalapino & C. Lee, Communism in Korea 830 (1972).

Lameda, other prison inmates derived much the same figure by multiplying estimates of the total number of maximum-security camps by the average population of the few camps with which they were familiar. * In addition, Ali Lameda believed that his camp, Sariwon, which is not included on the above list of 12 maximum security prisons, held no less than 6,000 to 8,000 prisoners, with about 1,200 isolated in an area reserved for diseased inmates. Interviews with recent defectors provide similar statistics, not only as to the size of the maximum security prisons, but also as to the number of prisons. The Seoul-based Research Institute on North Korea believes that there are 115,000 maximum-security prisoners. Although the divergence in these estimates may reflect the difficulty of researching DPRK prisons, they may also suggest that the prison population changes according to the intensity of purges. The latter interpretation is supported by the fact that a few prominent individuals who have been jailed have even returned to office or public duties.

Defectors over a period of years have indicated that thousands of prisoners in these maximum security prisons are former party members, former influential politicians, their family members, and individuals who have been critical of the Kim family. Other prisoners include pro-Japanese, anti-revolutionary capitalists, and former landowners. Most of the prisoners are reported to have been confined without trial or formal charges.

The Japanese, South Korean, and, in earlier cases, the North Korean media have published names of a number of leading political figures imprisoned in these camps. They include Kim Chang Bong, Kim Bong Hak, and Kim Do Man, who in 1984 were arrested on a charge of subversive plotting, purged from the Party, clandestinely transported to prison during the night without trial, and confined in the political prison camp near Kaechun Mines. By the time

* Amnesty International, Ali Lameda: A Personal Account of the Experiences of a Prisoner of Conscience in the Democratic People's Republic of Korea (1979).

they arrived at the camp, they were reportedly already suffering from hunger, chill, and illness. Other well known internees include: Lee Yong Mu, a former member of the Korean Workers' Party Politburo, who was confined in October 1977 on the charge of being an anti-revolutionary; Ryu Chang Sik, a former secretary and candidate member of the Party Central Committee, who was purged in October of 1975; Pak Kum Chul, a former vice-premier and Party Politburo member, who was purged in 1972 and confined with his family in the prison in Kyungsang County; Hu Hak Bong, former head of the organization in charge of covert activities against South Korea, who was purged in January 1969; and Kim Kwang Hyup, a former secretary of the Party Secretariat, who was purged in December 1967.* It has not been possible to obtain further names of some of the high officials reportedly in these camps. Defectors and other informants were reluctant to provide these names out of a stated concern that the release of new names would seriously jeopardize the prisoners' families, and might even result in the prisoners' executions.

* Since coming to power in 1945 Kim Il Sung has methodically eliminated opponents and anyone else who might challenge his leadership. Fragmentary information is available only about more prominent individuals who have been imprisoned, executed, exiled, or summarily removed from office. Even this information is necessarily incomplete because many individuals have disappeared from public view without any official notice or other trace. More information is available from the period prior to 1972 when the Government held a number of well-publicized trials. 2 R. Scalapino & Chung-Sik Lee, Communism in Korea, appendix 2 (1972). The present study does not contain a list of the many cases about which there is some information, because it has not been possible to investigate each case thoroughly. Although available information indicates that certain officials were "only" summarily dismissed from office or purged, there is considerable reason to believe that a large percentage of those individuals also suffered imprisonment or other punishment. Some of these individuals have been "reeducated" and have later returned to government positions, for example, Kye Ung Tae, Su Yun Sok, and Choe Kwang.

Interviews with former prisoners and published testimonies on six of the camps consistently describe miserable prison conditions and degrading treatment of prisoners. Political prisoners are sent to maximum security camps in remote and isolated villages. Most camps appear to be located near a mining site, or in inaccessible mountain areas near the Chinese border. The camps are heavily guarded, and ringed with multiple sets of barbed-wire at a height of three to four meters. Dogs and armed guards circulate in the camps, and land mines are planted on the perimeter. Reports suggest that prisoners have been detained in crowded and unsanitary cells or clay-and-thatch huts.

Reports also suggest that a political prisoner's family may also be interned in these camps. According to reports, when interned with the alleged offender, the family's property is confiscated and its resident identification cards are revoked. Children are believed to be denied schooling, visitors are reportedly not permitted, and letters or other forms of communication are also said to be prohibited. All civil rights of the prisoners are reportedly revoked: prisoners have been deprived of all government benefits, including rations of daily necessities and medical insurance. They have been forced to cultivate the land and harvest food to survive. They are reportedly punished if they assemble in groups. Those suspected of expressing grievances or complaints, or of planning an escape, have reportedly been beaten or publicly executed.

Ex-prisoners and visitors to prisons also report that prisoners are forced to engage in hard labor, mostly in mines, timber yards, quarries, or irrigation projects. Once placed in a camp, such maximum security prisoners are believed to be confined indefinitely, without any clear statement as to the length of their sentence. Many have reportedly died from execution, torture, disease, starvation, or exposure. *See* chapters V (life) and VI (torture).

6. Relocation Areas

Cabinet Decree No. 149 authorized the forced transfer of suspicious populations to remote villages. These villages have often been designated simply as No. 149 areas. Such transfers have been described as two-way processes: the exiled displace residents of a secure village, who in turn are sent to other villages or even the area that had been cleared. For instance, an ex-resident of the DPRK who was a former farmer in Baechun county* testified that he personally witnessed the involuntary exile of about 500 families from five villages within his county: Munsan, Keumsan, Bongwha, Jangjeong, and Yeokkudo. The Government explained its use of Cabinet Decree No. 149 by claiming that, because the areas were close to the Demilitarized Zone, relocation to a safer area was necessary. A local resident told the ex-resident that a large portion of those moved were the families of people who had fled to South Korea; former landowners; "counter-revolutionaries"; or potential defectors. All that remained in the villages were two or three families of Party members. Those exiled were transported on a night train, and their household belongings were later shipped by freight train. To avoid leaving the newly emptied village without inhabitants, the Government imported replacements, about 70% of whom were involuntarily moved from Hamgyung province.

Another ex-resident of the DPRK,** a truck driver working for a timber yard in Sintan, Cheolwon County, Kangwon

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* Lee Hyun Joo, Collection of Testimonies of Defectors on Human Rights in North Korea, supra, at 24-25.

** Chung Bum Mo, Collection of Testimonies on Human Rights in North Korea, supra, at 25-26 (former timber yard worker in the DPRK).

province, helped move a total of over 400 families in several different instances between 1969 and 1983, when he left the DPRK. He moved one group away from the Demilitarized Zone and then moved other groups into the emptied villages along the Demilitarized Zone. Sometimes one family was forced to move several times. A third ex-resident of the DPRK* also personally knew about 15 people who had disappeared in a single Dong (a sub-district within a city) of 60 households near the Demilitarized Zone.

Unlike the maximum security camps for political prisoners, there are no barbed wires or guard posts around the relocation areas. The villagers can leave the areas temporarily and receive visitors from outside, but only with the prior approval of the Public Security Ministry in the village. They are not free, however, to move out of the areas permanently -- a restriction that is reinforced by the "No. 149" stamped on their resident identification cards. The No. 149 areas are believed to be located in coal mining or timber regions in remote mountain villages, and the areas are said to be carefully selected so that they are not located within 50 kilometers (31 miles) of the two major cities of Pyongyang and Kaesung, 20 kilometers (12 miles) of the Demilitarized Zone or the sea coast, or 20 kilometers of other major cities. This exiled population was estimated in the early 1980s to number about 15,000 families or 70,000 residents.

7. Sanatoriums

There have in the past been reports -- particularly from Korean Catholics and Protestants -- that religious believers, "bourgeois intellectuals," and political dissenters have been labelled "insane" for their beliefs and then placed in sanatoriums, that is, institutions similar to psychiatric hospitals. Their confinement

* Interview with former agent on fishing boat who was interviewed in September 1986. See appendix 4.

reportedly occurred involuntarily and without any formal procedure to guarantee fairness. There continue to be reports of approximately one sanatorium in every two counties, with each facility housing between 100 and 200 people. There are 150 counties. Consequently, we can estimate that there are between 7,600 to 15,200 "patients" in these sanatoriums, many of whom may have genuine psychiatric problems. Specific information on these institutions is difficult to find. With the disappearance of religious and bourgeois groups, the extent of sanatorium use today is not known.

C. Conditions of Detention

In a country with thousands of prisoners and dozens of prisons, it is difficult to generalize about conditions, especially when information is so difficult to obtain. The observations made below refer primarily to maximum security prisons and appear to reflect general prison policies. In addition to the use of torture described previously, the deprivation of food and clothing and the absence of minimally adequate living conditions are also used to force prisoners to conform and obey. The status and behavior of a prisoner appears to determine the amount and quality of food he is allowed to eat. Prisoners who were high-ranking officials or came from elite families have been given more food (over 500 grams/day), including meat and occasionally sweets. But most prisoners seem to eat under three hundred grams of very poor quality food per day. Their meals consist of foods such as rice, corn, soybeans, soups of leaves, and plants with roots. Rations are then limited further if a prisoner breaks a

camp regulation. In many camps, the prisoners reportedly must survive on the food that they can produce by farming the land.* But prison camps are often situated in barren and rocky land, where the growing season is relatively short, so the cultivation of sufficient food is difficult. There are reports of prisoners dying of malnutrition. *See* chapters VI (torture) and XVII(C) (food).

The living quarters in many camps are inadequate and unhealthy. Two former prisoners with elite classifications indicated that they were kept in solitary confinement. The regular prisoners, however, were housed 30 to 50 in a small cell, with only enough room to lie down and a hole in the ground for a toilet. Some prison camps evidently do not even have cells in formal buildings. Rather, the prisoners live in clay huts or in lean-tos made of wood and stones. Their clothing allotment is at best one military uniform per year, and a few ex-residents of the DPRK report having observed such prisoners walking around in rags.

The effects of poor diet, inadequate living conditions, and insufficient clothing are exacerbated by the work schedule. It appears common for prisoners to work ten- to twelve-hour days. Most are believed to labor in the harsh conditions, that is, in mines and logging in the northern provinces. According to several accounts, a typical prison schedule is:

5:00 a.m.	forced wake-up
7:00 a.m.	in the field (mine)
6:00 p.m.	return to the camp for eating, indoctrination sessions, etc.
9:00 p.m.	bedtime

Informed sources who previously resided in the DPRK indicated that the failure to meet production quotas resulted in some form of punishment. If a prisoner is not on work assignment, he may be kept in a sitting position with his hands on his knees for the entire day, except for two-minute breaks every three hours. Those prisoners caught escaping may be shot on the spot. Several former residents of the DPRK witnessed executions of prisoners who attempted to escape. *See* chapter V (life).

D. Detention of Foreigners

There have been several reports regarding the existence of foreign nationals detained in North Korea against their will and without being permitted to contact their embassy representatives, including Japanese, Chinese, French, other Europeans, and some Arabs. Many of these appear to have been victims of kidnapping efforts that the DPRK evidently initiated in the late 1970s for the apparent purpose of enhancing Pyongyang's technical and espionage capabilities and of having "defectors" testify to the glories of DPRK society.

For example, in 1978 a South Korean movie director and a South Korean actress were taken by DPRK agents in Hong Kong and brought to Pyongyang to assist Kim Jung Il in making films.* They were imprisoned for four years, from 1978 to 1982, because they refused to cooperate. They eventually won the confidence of Kim Jung Il and were later able to escape from the DPRK through Europe. They report that during their stay in Pyongyang, they came

* Cabinet Dec. No. 14 (30 January 1952) on "Regulation on Demand/Supply and economy of grains" provides in Art. 2, paragraph 3 that the prisoner camps under the Ministry of Internal Affairs (now the Public Security Ministry) must produce their own foods for consumption, and Cabinet Dec. No. 24 (21 February 1952) allocated land for farming to the prisons. Although the current status of these measures is not known, the practice of subsistence farming by prisoners appears to have continued.

* See generally, U. Choe & S. Shin, Jokuk-un Johanul Jomolli (1988).

into contact with a number of other foreigners who had been kidnapped to assist the DPRK Government.

For example, they reported seeing in December 1978 a Jordanian woman who was being held against her will in an official guest house in Pyongyang surrounded by barbed wire and who was prevented from writing to her family in Jordan.* Later in June 1979 the same house was reportedly occupied by Catherine Hong, age 21, who was previously living in Macao with her mother and younger brother. ** She and another woman from Macao are believed to have been kidnapped in June 1978 by four men and taken by boat to the DPRK. Hong (also identified as Kong Yong-aeng) is reported to have said that she and another woman (later identified as So Myo-Chin) had attempted to escape the DPRK by running into the Indonesian Embassy in Pyongyang, but the Embassy officials refused to help the two women and returned them to the custody of the DPRK authorities. Hong was then detained; the whereabouts of the other woman is not known.

In 1978, three young Japanese couples were abducted from the Western beaches of Honshu Island. At the time Japanese police were puzzled about the identity of the kidnappers, but material evidence linked the perpetrators to Pyongyang. In 1987, Kim Hyon Hui, the woman who has been charged with planting a bomb on a Korean Airlines airplane en route from Bahrain to Bangkok, testified that a Japanese woman had taught her the Japanese language and about Japanese society. The Japanese woman said she had been abducted from a Japanese beach in 1979 and brought to the DPRK. The description of the former tutor matched a description of one of

* 1 U. Choe & S. Shin, Jokuk-un Johanul Jomolli 140-44, 250 (1988).

** Id. at 304-08.

the missing Japanese women, but Kim Yu Mi was unable to identify a photo of the missing woman.

A Swedish book* reports that a group of four Lebanese women were taken against their will to Pyongyang. They were reportedly placed in a spy school together with women from France, Italy, the Netherlands, and other countries. Two of the Lebanese women managed to escape through a country in Eastern Europe and eventually returned to Beirut in 1979. The book bases its report on accounts by the escapees.

In addition, a South Korean and a Korean-American have apparently been abducted. During an Easter vacation in 1979, Ko Sang-mun, a South Korean, was touring Oslo, Norway. He lost his luggage and asked a taxi driver to take him to the South Korean Embassy. The driver mistakenly dropped him at the DPRK Embassy. The tourist entered the building and was evidently kidnapped by North Korean diplomats. Authorities in Norway and Sweden later reportedly discovered that the DPRK diplomats had transported Ko Sang-mun first to Stockholm and then to Pyongyang. On 30 June Radio Pyongyang announced that Ko "heroically had come to the northern part of Korea." According to Swedish sources who have researched this case, Ko's trip to the DPRK was not voluntary. In the same month, June 1979, "Chung Ryen-sup" a 22-year-old Korean-American soldier was reported by Swedish sources to have disappeared after having been stationed in the Federal Republic of Germany. A devout Christian born in South Korea, he immigrated to the US in 1973 and later joined the US Army. After refusing for many weeks to answer questions regarding this case at the Panmunjom talks, the Pyongyang authorities declared in August 1979 that Chung had escaped to the DPRK because he could not "stand the life in the aggressive imperialist US Army."

* A. Ek, H. Pettersson, E. Linander, An Expensive Diplomatic Initiative? 116 (1980) (in Swedish).

There are also reports of several failed attempted abductions of ethnic Koreans. In the winter of 1979, DPRK diplomats reportedly attempted to seize a South Korean professor, Won Byong-oh, at an international ornithology meeting in Moscow. A Korean businessman in Thailand is reported to have narrowly avoided capture in 1987. In Japan many Korean-Japanese report having been physically detained by pro-Pyongyang Koreans. Those who have provided accounts of this practice have escaped captors and in some cases have provided information to the Japanese authorities, who are aware of the practice.

Most significant in terms of known numbers is the problem of the 6,637 Japanese wives of Koreans who returned from Japan to North Korea following the Korean war. According to Japanese authorities, 1,828 of them were known still to be holding their Japanese nationality. Although the DPRK Government had promised them the opportunity to return to Japan on visits, there are no reports of any returning. Even letters were scarce. Less then 30% of their families in Japan were reported to have heard from them. Despite appeals by Koreans in Japan and inquiries by the Japanese Government, the DPRK has insisted that the wives automatically had become DPRK citizens upon arrival in North Korea and that their situation was an internal matter. The DPRK

Government added that the women were happy.*

One case demonstrates that the DPRK does not automatically inform a foreign government of the fate of its nationals. On 11 May 1963, two Japanese fishermen, Sotoo Terakoshi and his nephew Takeshi, then aged 24 and 13, sailed aboard a 1.5 ton fishing boat from Takahama port in the town of Shiga, Ishikawa Prefecture on the Sea of Japan. The fishing boat was found adrift 10 kilometers off Shiga a few days later with the crewmen missing and believed dead. Funeral services were held. But 24 years later, in January 1987, Sotoo's sister received a letter from her brother. The letter was postmarked with an address in Guseong, North Pyongan.**

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* Information on the living conditions of the Japanese wives as well as the Korean returnees is very difficult to obtain. Japanese records indicate that 17,000 Koreans have visited the DPRK from Japan between 1970 and 1982. According to one Japanese authority on these travels: "The Korean people returning from a visit to North Korea were able to corroborate ... stories [about the political oppression, social injustice, racial discrimination, and poor living conditions]. But, they have hesitated to describe or reveal all that has actually happened to the Japanese-Korean residents in North Korea, for fear of reprisals upon themselves or their family. The actual situation, accordingly, has never been made known in Japan. In fact, there was information handed down by word of mouth that the former leading member of the Korean association [a Japan-based, pro-DPRK organization] disappeared while visiting North Korea. And the returning brothers [Korean-Japanese colleagues] urged, in writing, not to criticize the country of North Korea, but to become active in participating in the patriotic task under the Korean association." Comments by Katsumi Sato, Director of Korean Research Institute of Japan, in Kim Won-jo, A Disillusioned Trip to North Korea 326 (1983).

** See also chapter X(B) concerning the case of two crewmen of a Japanese ship who have been imprisoned in the DPRK.

IX. PRIVACY

Article 12

> No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 64 of the DPRK Constitution provides: "Citizens are guaranteed inviolability of the person and the home and privacy of correspondence."

These guarantees are regularly violated by a complex network of security organizations which keep close watch on citizens. The organization of that security network is shrouded in secrecy. The security police, described in chapter VIII, investigate citizens and maintain all records on the classification of citizens.* No ordinary North Korean has the right to see their records. The head of the security police is not listed in the Directory of Officials of the DPRK. When the Pyongyang Radio announced Kim Il Sung's visit to the Ministry of State Security to commemorate its 40th anniversary, the names of the Ministry's officials were not mentioned. In a rare revelation, *Rodong Sinmun* (Workers' Daily) identified Lee Chin Su in his obituary of August 1987 as the director of the Ministry of State Security.

* For a fuller discussion of the neighborhood surveillance system, see chapter XVI(A)(7)(c) infra.

One tool used by the security police is bugging devices. According to a DPRK local official now living in the United States, a scientist had his home bugged through his radio set. One day when he came upon some rotten apples among the family's rations, he became angry and said that all the high-ranking cadres take the fresh apples and give the rotten apples to the lower ranks. He then exclaimed: "Kim Il Sung is a son of a bitch." For this comment, the scientist was reportedly executed in 1986. The former local offical knew the details of this case because they had been fellow prisoners. A high-ranking DPRK intelligence officer who defected stated that he decided to defect once he found a bugging device in his Mercedes 250.*

Because of the surveillance and the attendant risk of harsh consequences, fear appears to govern all social relationships. Former DPRK residents and foreign travelers frequently comment on the pervasiveness of fear. All but the ruling elite are said to be afraid to discuss politics, voice criticism, or say anything outside the limits determined by the Party. In housing units people reportedly have very little to say to one another. In many cases, even within families there is evidently little discussion of current events, news, ideas, or feelings. Spontaneous, unrehearsed discussions are said to be rare. Even the elite air force pilots are reportedly afraid to discuss the foreign news broadcasts that they hear over their airplane radio sets.

One Korean-American, Yang Sung Chul, visited the DPRK in 1981. In an article published two years later, he stated:

> "One morning I got up an hour earlier than my usual breakfast time. Without my guide I ventured out of the hotel and walked along Pot'ong River canal. While strolling, I met a high school student sitting on the park bench, studying. When I approached her, she became apprehensive and nervous. I tried to calm her down, but she glanced around furtively, as if she expected to see someone observing us. When I told her that I was from the United States she shrieked and jumped to her feet. She calmed down when I told her that I, too, was a Korean, although I was from a country considered to be her enemy. She attempted to maintain her composure, but fear and anguish never disappeared. It seemed to me, moreover, that her anxiety stemmed less from her being with me than from her worries that someone (an authority) might be watching us.... Before departing I asked her, if she could, to meet me the next day at the same time and place. Later, I decided not to keep the appointment, not merely for my sake, but for her safety as well. Under such an atmosphere of uncertainty and unpredictability, I, too, became apprehensive and cautious about attempting another meeting. I cannot remember her face now, but I can still vividly recall her frightened look when first we talked."

* Interview in September 1986. See appendix 4.

Several years ago, a European businessman who was working in the DPRK visited a government office to obtain some documents pertaining to his construction work. After waiting for several hours in one office he decided to cross the hall to see if he could get better service in another office. As he attempted to cross the hall a group of soldiers with weapons blocked his path. They had seemingly come out of nowhere. From this experience he surmised that no one is allowed to visit any government office without special permission. He and others have observed that government buildings themselves are not publicly identified. There are no placards or markings. This practice adds to the eerie sense of isolation -- particularly in Pyongyang -- and the fear of being watched.

When North Koreans travel abroad, they always travel with a group. The North Korean students in China are said to be clannish and frightened to talk to strangers. During the United Nations

Conference on Women in Nairobi, Kenya, in 1985, a North Korean delegation of men and women attended. In one case, when a South Korean woman began to talk to a female North Korean delegate, a male North Korean broke up the conversation abruptly and escorted his compatriot away.

Another example occurred during the International Forum on Science, Technology, and Peace held in Moscow from 17 to 26 July 1986, when a Latin American delegate approached a US scientist with a proposition for a cruel joke. He suggested that they embarrass the North Korean representative from the Academy of Sciences, Sin Mun Gyu, by asking for a group photograph. As expected, when he was approached by the two foreigners, he refused to be photographed and walked away. This act caused the North Korean some discomfort and revealed that even a member of the North Korean elite felt insecure and fearful at being photographed with foreigners. The fear appears to be based on the possibility that he could be accused of becoming too friendly with foreigners and thus be charged with disloyalty.

Chinese and Soviet citizens who visit or are stationed in the DPRK complain about the sense of isolation. They report that residents will only talk to them about official business or with official permission. There is little or no socializing. The Chinese and Soviet citizens return to their homeland with a great sense of relief and freedom.

X. MOVEMENT

A. Travel

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

The DPRK Constitution does not guarantee freedom of residence and travel. Moreover, the DPRK Penal Code contains severe restrictions on this basic right. For example, Article 230 of the Penal Code states that "[c]rossing the border without permission" is punished by imprisonment for up to three years. No North Korean may travel abroad without official authorization, and punishment for violating this rule can extend not only to the violator but also to

his family.* In addition, Article 229 of the Penal Code authorizes punishment for "[a] person who maintains a residence without a passport or temporary certificate ... by imprisonment for a term of up to 2 years." Each of these provisions greatly restricts the freedom of movement guaranteed by the Universal Declaration of Human Rights.

Other restrictions limiting the right to travel may be found in Provisionary People's Committee (PPC) Act No. 57:** Article 122 states that all citizens over 18 years of age must carry a citizen ID card issued by the Public Security Ministry. Prisoners and mentally disordered persons are not issued such ID cards. Interviews suggest that the authorities have checked ID cards at the entry or exit to Pyongyang and at other check points, although we do not know how systematic this practice has been.

Article 11 requires that persons who change their residence must surrender their ID card within two weeks to the Public Security Ministry for recording of their new address. Article 9 provides that persons who lose the card shall be issued a new card, subject to penalty. Those persons who lose the card a second time can be subjected to forced labor for up to one year.

* Article 70 imposes group criminal responsibility for the family of a soldier who leaves the DPRK. Persons associated with the soldier can be punished by imprisonment, confiscation of property, loss of voting rights, and exile. Some commentators sympathetic to the DPRK have reported that this statute has been amended to remove the punishment for the family, but there is evidence from persons who have recently left the DPRK that the provision is still applied in practice.

** Provisional People's Committee Act No. 57 was adopted with regulations on 7 March 1947 and appears to still be in force.

Regulations under PPC Act No. 57 impose further restrictions: Article 3 states that persons who plan to stay in an area other than their residence for over 90 days must obtain a permit from the Ministry. Article 13 adds that persons who plan to move must report their old and new addresses to the Ministry for registration.* Article 52 restricts travel to obtain employment by providing that those people who want to change their job must obtain approval from the Ministry. Such job changes are also recorded on one's ID card and in government records.

Article 55 states that persons who plan to travel must obtain a permit from the Ministry for accommodations. Articles 56 and 57 provide that all citizens must obtain approval from the Ministry to accommodate a transient or traveler other than a household member. There is no recourse available under the laws for denial of the permits. Article 60 states that a host has a right to demand that a traveler show the Ministry approval to obtain accommodations. Article 59 requires that when the traveler leaves the premises, the host must issue him a certificate of overnight stay which must be surrendered to the Ministry and to the traveler's employer upon his return home.

In practice, travel in the DPRK is severely limited. Except for high officials, North Koreans do not have access to travel in cars. Most of their lives are spent in housing units where they live, shop, and work. Travel beyond those bounds appears to require government approval. For example, several North Koreans in Pyongyang told their Korean-American visitors during the 1980s that they could not travel by intercity train or bus without permission, and that they needed a pass to travel from one county to another. Similarly,

* As described in chapter IV's discussion of Pyongyang, however, the government restricts the freedom of movement of those who would wish to change their residence.

Korean-Japanese living in the DPRK have complained that they are required to remain in one location and that they cannot obtain permission to travel within the DPRK -- for example, when a relative is coming from abroad. Whether such travel is approved can depend on one's political classification.

B. Asylum and Nationality

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The DPRK Constitution affords the right to asylum only to applicants of certain political persuasions: "The Democratic People's Republic of Korea extends the right of asylum to foreign citizens for fighting for peace and democracy, national independence and socialism, or for the freedom of scientific and cultural pursuits."

The only prominent foreign political figure to seek and receive asylum in the DPRK is Prince Norodom Sihanouk. Prince

Sihanouk was formerly the head of state of Cambodia, and later became the President-in-exile of Democratic Kampuchea. Kim Il Sung provides Prince Sihanouk with a villa and his own private Buddhist temple. The Prince also maintains residences in Beijing and Paris. He is free to travel to the United States, Europe, and throughout Asia.

The DPRK Government has not respected the wishes of its own citizens to seek asylum abroad, as reflected in two cases of defection in the 1980s. In the fall of 1983, Min Hon Ku, a 21-year-old North Korean soldier, stowed away on a Japanese fishing boat that had docked in Nampo, DPRK. Upon landing in Japan, he was detained at the Yokohama Immigration Center. A few days later, the ship and its Japanese crew returned to the port of Nampo to continue their commercial business. The DPRK Government arrested the captain and the chief engineer, Isamu Beniko (56) and Yoshio Juriura (55), on charges of espionage, and held them without trial. More than three years later, in April 1987, Kim Uk Chong, deputy head of the international section of the ruling Korean Workers' Party, stated that the DPRK Government was ready to solve the problem of the two Japanese nationals by trading them for Mr. Min. Kim threatened that the Japanese would be put on trial for espionage if the exchange were not accepted. When the Japanese Government rejected the exchange, the two sailors were tried and sentenced in December 1987 to 15 years in prison. There were reports in June 1988 that the two Japanese crewmen might be released after the Olympics in September 1988. The possible release was reported by North Korean media to be based upon a provision of the DPRK Criminal Code which stipulates that one day of pretrial detention can be credited against three days of a sentence.

The most spectacular defection from North Korea occurred on 15 January 1987, when an entire family of eleven, headed by Dr. Kim Man Chol, sailed by boat from the port of Chongjin to Japan. This escape was the first defection of an entire family since the end

of the war. The family sought asylum and ultimately settled in South Korea after a stopover in the Republic of China (Taiwan).

The DPRK Government attacked Dr. Kim's character and threatened him and his family if they stayed in South Korea. Pyongyang radio reported on 6 March 1987:

> "As to Kim Man Chol, he was a liar, humbug, and loafer who made no scruple of discarding conscience and obligation.... Devoid of elementary human morals, he had long had an illicit intimacy with his younger brother's wife Choe Pong Ye.... In his mad lust for flesh, he teased other girls, married or unmarried, regardless of the place and time, and tried to violate even his adopted daughter aged 19.... Kim Man Chol did not defect the DPRK because he disliked to live there, much less he sought any asylum because of any discrimination.... Miserable is the doom of the renegades, betrayers. The end of Kim Man Chol who entrusted his lot to the puppets who have betrayed the country and the people and are faced with destruction can never be an exception."

Defectors to South Korea claim that their defection can lead to harm to their families. Many of them express concern that their families will be arrested. This fear is said to have greatly limited the numbers of North Koreans seeking asylum. Since the end of the war, less than 1,000 North Koreans have sought asylum in the South. In part this low number is due to the DPRK's tight military fortifications, its pervasive surveillance, and its propaganda describing famine and lawlessness in the South. But a major reason is surely the fear that family, relatives, and friends of anyone who defects will be severely punished. In fact, some of the defectors who were interviewed for this study cited their lack of family ties in the DPRK as a key factor that allowed them to seek asylum.

XI. FAMILY

Article 16

> 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
>
> 2. Marriage shall be entered into only with the free and full consent of the intending spouses.
>
> 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 63 of the DPRK Constitution provides: "Marriage and the family are protected by the State. The State pays great attention to consolidating the family, the cell of society."

The Law on Equality of the Sexes of 30 July 1946 states in Article 4 that women shall have the right to free marriage and that forced marriage is prohibited. Article 6 sets the age of marriage as 17 for women and 18 for men.

Interviews with former DPRK citizens, visitors, and others reveal that practices are far more restrictive than the provisions of the law would suggest. Apparently, marriages must be approved by the Government, and women and men are forced to delay their wedding until they have sufficiently served their country. Kim Il Sung told the Korean Democratic Women's Union: "Women on their part must strive to learn more and work more for the Party and the

revolution even if their marriage is delayed a bit." The minimum age of marriage is now believed to be set in practice at 26 for women and 30 for men. Reports suggest that if one marries a person with a lower classification, one inherits the lower classification, and that marrying someone outside of Pyongyang requires that one leave Pyongyang. Apparently, the State also regulates inter-classification marriages. Some reports suggest that even the wedding ceremony is carefully controlled by the State, including the number of guests, the wedding day, and the food consumed. For example, according the these reports, non-elite groups are limited to five wedding guests.

A. Motherhood

The pressures of work, political education, and mandatory group sporting activities, for both parents and students, leave very little time for family life. *See* chapter IV. Except for women in the elite class, all women are required to work. Former DPRK residents speak of "women's exhaustion, frustration, and resentment."* Women complain of being over-worked and of having too little

* See generally, T. Yi, Bukhan-eui Yeosung Saenghwhal (1981); Halliday, Women in North Korea: An Interview with the Korean Democratic Worker's Union, 17 Bulletin of Concerned Asian Scholars 46 (1985).

recreation and time with their families. Most couples, except for the elite, cannot afford to have more than two children, even with both parents working. Statistics suggest the average number of children is about 2.2 per family -- low for an Asian, non-industrialized country. The low birth rate is particularly striking because the DPRK apparently has not enforced or made widely available birth control. On the contrary, in 1981 the State encouraged the creation of large families of four or five children. Despite state support for infant nurseries, school, and children's medical facilities, the Government seems unable to persuade people to have more than two children. Mothers with two children still are required to put in a full day.* With the birth of a third child mothers reportedly can obtain a slight reduction in work hours, but this incentive does not appear sufficient to overcome the other impediments to childbearing.**

B. Children

Even for infants, class background appears to be the main determinant of the quality of care. Orphans are considered the most sacred and privileged. Orphans are raised by the Party in special orphanage schools, the most famous of which is the Mangyongdae School for Revolutionary Offspring. Interviews strongly suggest that

* A Canadian Council of Churches Delegation that traveled to the DPRK in November 1988 reorted that women with three or more children under the age of 13 were permitted a six-hour workday at "full wages." We cannot confirm this report, nor do we know whether this policy is implemented throughout the country or what the term "full wages" means precisely. Canada-Asia Working Group, Currents: Report of the Canadian Council of Churches Delegation to the Democratic People's Republic of Korea, 4-13 November 1988. Vol. 10, No. 4, at 10. (1989) Hereafter, Report of the Canadian Council of Churches Delegation to the DPRK.

** See chapter XVII(B) on work.

these children are favored because they are not subject to parental influence and can therefore be raised to serve the needs of the State. They are reported to receive their clothing, educational supplies, and food directly from President Kim Il Sung and the Korean Workers' Party. A ceremony for the presentation of clothing once or twice a year is believed to mark the occasion for the orphans to receive their gifts. The Party chief of the students is called "Father." Orphans are apparently exempt from the Party investigations into family background that all other junior high school students are reported to undergo to qualify for high school attendance. After graduating from high school, regular students must work for two years before being recommended for college training. Orphans, however, can enter the University directly from high school. Orphans are given high status jobs, forming a small coterie around the top elite.

Aside from the orphan class, heredity plays a key role. Children of revolutionary heroes and of Party officials attend special schools and gain easy access to the Korean Workers' Party. Kim Il Sung has declared, "families of revolutionaries are better in thoughts; the better they are in thoughts, the humbler they are and love work more." Most of the special schools are located in Pyongyang. Loyal and "reliable" citizens in the rest of the country receive a lower quality of education. A large underclass receives few educational opportunities.

Regardless of class background, the children of Korean residents of Japan who returned to the DPRK are denied full rights. Korean-Japanese who have visited North Korea have reported that the children of the returnees are discriminated against on the basis of their "birth" and for "reasons of parentage." This discrimination not only extends to the political realm but also limits access to health care and education.

Kim Il Sung and his Government have assumed a great deal of the responsibility for the raising, education, and well-being of children. The Government has attempted to replace filial loyalty with a system of loyalty to the state that begins at infancy and con-

tinues to parenthood. Under this policy, love of the revolution is supposed to be superior to love of family. The DPRK publication *Kulloja,* in April 1974, explained this ideological doctrine:

> "There is no worthier deed than to devote oneself to the revolutionary struggle to construct a society of socialism and communism.... It is inconceivable to think of the happiness of an individual or a family apart from revolutionary struggle. There cannot be loftier love than communistic human love formed for the sake of revolution. Therefore, love between father and son, mother and son, husband and wife, brothers, or friends can become a true love only when it is combined with love of comrades contributing to the revolution."

> "All ranks of anti-Japanese revolutionary guerrilla forces were filled with the most beautiful and lofty revolutionary obligation -- which regards it as 'natural reason' and revolutionary duty to lay down one's youth and life without hesitation for the leader.... The members of the anti-Japanese guerrilla forces grounded in faithfulness to the leader ... came to bear ... the most lofty revolutionary obligation. The revolutionary obligation that they thus bore was one that was realized and strengthened on the basis of boundless faithfulness to the great leader. It is precisely the fact that the obligation was realized on the basis of boundless faithfulness to the leader that constitutes the inherent characteristic of the revolutionary obligation they bore."

At the age of three months, the infant -- at least in Pyongyang and Wonsan (a city on the eastern coast of the DPRK) -- is placed in a nursery during the day, so that the parents can work outside the home. If childbirth occurs during the planting or harvest season, nursing mothers are believed to bring their infants to

the fields. Mobile nurseries are established in many agricultural areas. A regular agricultural work schedule requires women and mothers to arise before the men: in many cases around 5:30 a.m. for regular work days and before 3:00 a.m. during the planting season. An hour might be spent on breakfast, shopping for food, and morning political lessons. Mothers with infants drop the children off at the local nursery. According to one analyst of DPRK society, "Nurseries and creches seemed to serve two purposes: to raise children as 'ideal communists' and shield them from the possibility of bad parental influences, and probably more importantly, to free parents, especially women, for work outside the home."

Academic studies and regulations identify two types of nurseries. At daily nurseries mothers collect their children after work, or around 6:30 or 7:00 p.m. (After dinner, the parents and children have to attend political lessons. It is reported that these lessons generally last about two hours.) At weekly nurseries, the child stays for the entire week, if the parents' work or travel requires such assistance.

Children of the elite in Pyongyang receive special care. The model school shown to all foreign visitors has a heated swimming pool, a rainbow slide in commemoration of Kim Il Sung's legendary climbing of a locust tree to catch a rainbow, and an electrified "Reunification Train" that stops at one station called "South Korea." Children of the non-privileged classes do not get such lavish and made-for-foreign-eyes facilities.

In urban areas outside of Pyongyang and Wonsan, where the non-privileged families live, the nursery system is not always available. The grandparents, if living, still take care of the children. These areas generally have a less advanced system of health and educational services. Often their schools operate on half-day schedules, and are totally oriented to vocational education.

XII. PROPERTY

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

The DPRK Constitution gives primary protection to the property of the state and cooperative organizations. For example, Article 70 states, "The property of the State and social cooperative organizations is inviolable." Article 18 establishes that "the means of production are owned by the State and cooperative organizations." Article 19 provides: "The State may own property without limit. All natural resources of the country, major factories and enterprises, ports, banks, transport and communication establishments are owned solely by the State." Only Article 22 provides some limited protection for private property:

> "Personal property is property for the personal use of the working people. The personal property of the working people is derived from socialist distribution according to work done and from additional benefits granted by the State and society. The products from the inhabitants' supplemental husbandry including those from the small plots of cooperative farmers are also personal property. The State protects the working people's personal property by law and guarantees their right to inherit it."

The DPRK often boasts that it is the first government to have abolished taxes. While technically correct, the DPRK Government is the country's only employer, sets all wages, and establishes all prices. Hence, the Government takes its revenues from the profit or surplus which is produced. Moreover, the Government exacts levies in kind from farmers who must give about one quarter of their produce to the State. The only private property that seems to be exempt from these levies is the food grown in private plots. This food is often sold on the black market.*

What limited private property people have tends to have been given to them by the State. For example, there are numerous reports that the State provides uniforms to children, students, and workers, although it is unclear if the individual has the right to this property as his or her own or if it is treated as a loan from the State. Similarly there are many reports that washing machines, television sets, and other major appliances are received primarily, if not solely, as personal gifts from Kim Il Sung. Any defacement or misuse of these items is said to be treated as an act of disloyalty.

It is worth noting that what little property people do have as their own appears to be subject to arbitrary deprivation. The origin of the gilding on a monumental statue of Kim Il Sung in Pyongyang appears to provide one example of this problem. Needing 580 kilograms of gold to cover the statue, the DPRK authorities reportedly imposed a special levy. The women's league in each district was given a quota, which the league then pressured each family to help it meet. The quota for Pyongyang was believed to be 99

* Recently Kim Il Sung has attacked the limited autonomy of the collective farms with their private plots. Kim has begun an "imperative" campaign to bring all cooperative property under state control. Last year, it was reported that the markets for farmers were operating only monthly, rather than weekly. See Harrison, The 'Great Follower' Kim Il Sung promotes a Chinese-style open-door policy., Far Eastern Economic Review, 3 December 1987, at 38.

kilograms. Family jewelry, rings, hair pins, and even gold extracted from teeth were used to fulfill the quota. The campaign to contribute personal gold is said to have extended to digging up tombs and taking the gold from the corpses. Later, representatives of the People's Republic of China reportedly visited Pyongyang at a time when the DPRK was requesting financial assistance. According to a former well-placed DPRK official, the Chinese authorities objected to providing assistance, stating that if the DPRK was wealthy enough to build such a golden statue, the DPRK was not in need of assistance. According to this former official, the DPRK authorities then removed the heavy gold cover from the statue and used it for foreign exchange.

There are also reports from former residents of the DPRK and from Korean relatives who have visited the DPRK that people have been ordered to "donate" their sweaters and clothing when the State's export reserves for yarn or cloth have been depleted.

Given the DPRK Government's general actions and attitudes toward its population, it is reasonable to fear that these takings may not have been accomplished in a manner that would meet basic standards of procedural fairness.

XIII. RELIGION

Article 18

> Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The only completely accepted religious belief in the DPRK is the worship of Kim Il Sung and his family. Traditional forms of religious belief are generally suppressed.

A. Traditional Religious Practices

Article 54 of the DPRK Constitution of 1972 recognizes freedom of religion in a very limited fashion: "Citizens have freedom of religious belief and freedom for anti-religious propaganda." By contrast, Article 14 of the DPRK Constitution of 1948 stated that citizens enjoyed freedom of belief and religious worship services.

Article 258 of the Penal Code appears to prohibit the freedom to function as a priest, minister, or other religious leader in formal religious institutions, as it provides: "A person who in religious organizations performs administrative acts shall be punished by correctional labor for a term of up to one year." Article 257 of the Penal Code states that those who force others to donate to a religious organization may be punished by up to 2 years in prison.

Volume I of the Selected Works of Kim Il Sung states:

"Religion is superstition. Whether one believes in Christ or Buddha, this is essentially a superstition. Religion has historically been in the service of the ruling class in deceiving, exploiting, and oppressing the people; in recent times it has been used as an ideological tool of imperialists for aggression against backward peoples."

The DPRK Dictionary of Politics* contains the following definitions:

"Christianity: a spiritual instrument of the exploitative class for the destruction of liberation struggle by exploited working masses."

"Buddhism: an ideological tool of government by the feudalist ruling class."

"Confucianism: one of the principal targets of our struggle along with bourgeois ideology."

The policies of the DPRK toward Christianity, and especially Catholicism, during the 1940s and 1950s have been documented with detailed testimonies in the book *Catholic Korea*.** According to the book, in December 1949 extensive anti-religious campaigns began in the areas under the authority of the DPRK. At first the

* The Government of the DPRK issued the Dictionary of Politics to provide a guide for behavior and for understanding official terms.

** J. Chang-mun Kim and J. Jae-sun Chung, Catholic Korea (1964) [hereinafter cited as Catholic Korea]. This book contains many documents regarding the persecution of the Catholic church. Especially important are the photographs, the individual accounts of torture, and the compilation of lists of the arrested, the disappeared, the tortured, and the executed.

churches were closed. Then, in June 1950, many were arrested and 150 priests were executed. Several religious leaders disappeared.

The book's account of the conditions of confinement for the Christians are consistent with those faced by most political prisoners under Kim Il Sung. Eighteen prisoners were placed in each cell. Since there was not enough room to sleep flat on one's back, the prisoners had to sleep on their sides. The prisoners were commanded not to stand but to sit in a squatting position. At first they were fed only 100 grams of millet mixed with soybeans at each meal. Later they received 240-400 grams per day.* There was no medical care. The Christian prisoners were organized into labor gangs and subjected to constant verbal and physical abuse. Some starved to death.

During the Korean War, DPRK troops reportedly killed Christian prisoners by drowning them in the sea or shooting them in underground caves.** By the end of the war all Christian worship had ceased and the large community of Catholics had disappeared. *** Pursuant to the Land Reform Act of 5 March 1946 and

* For a discussion of the relationship of this ration to minimum daily requirements, see chapter XVII(C) on food.

** See Catholic Korea at 355 et seq. (detailing a massacre in the caves in which 290 people were killed).

*** In 1949 there were an estimated 250,000 Catholics in all of Korea. It is not known how many of these lived in the northern section. It is assumed, however, that the number was substantial.

Government encouragement, the property of religious organizations, Buddhist temples and churches were looted and confiscated in the 1950s. Many were apparently used by high-level members of the Workers' Party as places of recreation. There is little or no remaining evidence of the 300,000 Christians who lived in Pyongyang before 1948, then comprising one sixth of Pyongang's population. In addition to being executed, imprisoned, or otherwise persecuted, many Christians fled to the south.

In the post-War period, the DPRK Government has continued to restrict religious freedom.* An assessment of freedom of religion provided by a North American Professor of Korean studies is illustrative: "During a visit to the DPRK in 1981 I asked my guide if any Christian churches functioned and he said no.... they [the Korean people] could no longer believe in a Christian God."** Similarly, another report indicates that "there are neither Buddhism, Christian churches, nor any religion in North Korea. While I was in North Korea for about eight years, I saw no churches nor met any religious believers."***

Various religious tracts are published for officially approved religious organizations in limited numbers. Korean Bibles published

* For an analysis that found a small, fragile community of Christians in the DPRK and suggests a greater degree of religious freedom than indicated below, see Report of the Canadian Council of Churches Delegation to the DPRK, supra.

** Cumings, Human Rights in the Democratic People's Republic of Korea, in Human Rights in Korea 351-52 (Asia Watch, January 1986).

*** 1 U. Choe & S. Shin, Jokuk-un Johanul Jomolli 118 (1988).

in the 1980s have been sanitized to conform with the DPRK's policy on religion. According to a Korean-American Christian who returned to the DPRK for a visit, the North Korean Bible that he read is very different from the original Bible in that there are no spiritual words or references to anything religious.

In 1972 the Government created several religious organizations with the political responsibility of entering into dialogue with counterparts abroad and attending international religious meetings. In these encounters the organizations were to advocate withdrawal of US armed forces from Korea and promote the North's reunification plan.* These groups include the "Chosun Christians Federation," the "Chosun Buddhists Federation," and the "Chundogyo Central Leadership Committee." The members of the Chosun Christians Federation are believed to have been specially trained by the Government in Christian hymns and doctrine. Apart from these government-sponsored religious activities, it is prohibited to practice any traditional religion in the DPRK. One Korean-American visitor was not allowed to donate money or religious materials to his fellow Korean Christians. Punishment for engaging in religious activities reportedly range from cutting rice rations to banishment to rural areas. Some religious leaders have been put into sanatoriums or mental health facilities. Hard-core believers of the older generation have also been committed to provincial sanatoriums for the mentally ill or have been confined to remote villages.

A few Buddhist temples appear to be maintained for tourists and special foreign dignitaries. While nearly all of the Buddhist temples have been destroyed, the temples at Kumkang (Diamond Mountain) and Mount Myohyang have been restored. A few old

* The only mention of religious organizations in the Korean press during the last two years was in regard to their international appeals for reunification and the overthrow of the South Korean government. There was not even a ceremony for Buddha's birthday.

monks maintain the premises but, according to an American reporter who visited the temples, perform no religious rites. Prince Sihanouk, the former Cambodian head of state, has a residence in the DPRK. Since he is a Buddhist, the Government has trained a Buddhist monk and has re-created a temple so Sihanouk can attend services. This temple is not open for anyone else.

In recent years, the North Korean authorities appear to have taken actions that may foreshadow some degree of liberalization, although it its far too soon to make any judgments in this regard. For example, in April and May 1986, officials permitted a visit to North Korea by ten representatives of the National Council of Churches in Christ, USA visited North Korea from 18 April to 3 May 1986. Based upon their conversations with the Korean Christians Federation in Pyongyang, they reported that there were about 10,000 Christians in the DPRK, most of whom are over forty years of age. Of these Christians only half are reported to practice their faith regularly. According to the delegation, there were ten very elderly pastors plus 20 new pastors who graduated since 1972 from a theological seminary in the DPRK. There were no institutionalized churches. The delegation heard that all services are held in private homes, and it observed one such home service.* The delegation was told that in 1983 and 1984, ten thousand Bibles and a new hymnal were published. The delegation reportedly met with 35 Korean Christians.

More recently, on 6 October 1988 *Hankook Ilbo* (a South Korean daily newspaper) stated that the DPRK Government will have opened a Catholic church and a Protestant church in Novem-

* An October 6, 1988, report from the Hankook Ilbo, a South Korean daily newspaper, states that the DPRK Government will have opened a Catholic church and a Protestant church in November 1988. At this writing, it is unclear whether this step foreshadows significant changes in regard to freedom of religion. See Report of the Canadian Council of Churches Delegation to the DPRK, supra.

ber 1988. And it is reported that the authorities have recently permitted a North Korean Catholic seminarian to train at the Vatican.

DPRK law does not appear to recognize the right of conscientious objection to military service. Instead, the Constitution provides: "National defense is a supreme duty and honour for citizens. Citizens must defend the country and serve in the army as stipulated by law."

B. The Worship of Kim Il Sung and Kim Jung Il

The cult of Kim Il Sung has taken on religious proportions and Kim's belief system has become the only authorized one in the DPRK. This uncritical and forced worship of Kim Il Sung suppresses all forms of organized religion and violates the DPRK citizens' rights to freedom of thought and conscience. The cult of Kim Il Sung and his family is not just a political ideology; it is a system that necessitates strict controls and a network of police. The dogma leaves no room for contrary ideas, disagreement, or appeals to outside authority.

The actual historic record of Kim's life reveals that he was not the principal nationalist leader in the pre-liberation (pre-1945) period. To prevent this knowledge from being circulated, Kim Il Sung purged anyone who might contradict his contrived histories. There are many reports of Koreans sentenced to 20 years in prison for contradicting Kim's account of history. As discussed in previous chapters, to enforce adherence to the cult, Kim Il Sung and Kim Jung Il have banned most access to outside information and have created a multi-layered surveillance system to spy on people's thoughts, feelings, and expressions.

Typical of the dogma of this belief system are the following declarations of faith:

> "The whole society must be firmly formed into a united political force that breathes and moves as a

single thought and will, under the leadership of the Supreme Leader *(Suryung)* [Kim Il Sung]." (Editorial by Central Broadcasting on 3 January 1986)

"The agrarian revolution, nationalization of major industries, the agricultural cooperative system and the socialist industrialization that have been brilliantly realized under the wise leadership of the great leader are a brilliant embodiment of the lofty intention and noble moral character of the fatherly leader who is striving to make the working people free themselves from exploitation and subjugation and enjoy an abundant and happy life as the masters of nature and society.

Without taking even a moment's rest or a night's comfortable sleep through his life, the great leader Comrade Kim Il Sung has paid the greatest attention to the people's life and dedicated everything to the people's happiness....

The lofty will of the fatherly leader who intends to make our people the happiest people in the world is now tirelessly inherited and brilliantly realized by the dear Comrade Kim Jung Il." (Jung Chun Ki, *The Revolutionary History of the Great Leader Comrade Kim Il Sung Is a Noble History of Devoted Service to the People*, in Kulloja [in Korean], No. 4, April 1988, at 17-24.)

"Think, speak and act as Kim Il Sung and Kim Jung Il think." (A common slogan in North Korea.)

Kim Il Sung has created a cult which places himself and his family in a fabricated historical and supernatural relationship to the DPRK and the world. The news media carry legendary stories about his family. For example, soon after Korea was emancipated from Japanese rule, three stars -- a greater star, a female star, and a baby star -- are said by the media to have risen over Mt. Sorak in Kangwon

Province in South Korea. The stars represented "Great Leader" Kim Il Sung, his wife, and his son, Jung Il. The legend states, "In the old days, the great leader (Kim Il Sung) had the power to move the ground, and today the Juche-star (Kim Jung Il) has the power to move time." Kim's theory of self-reliance is credited with the power of changing nature. The great construction projects to redirect rivers and the educational goals of re-molding the citizenry are promoted with the promise that the world and its inhabitants can be perfected according to Kim Il Sung's dreams and promises.

Great expense is allocated to voluminous accounts of Kim's origins and life. The 33-volume history of the DPRK (published in 1982) devotes over half its contents to the life and achievements of Kim Il Sung. The historical record has apparently been altered to give Kim sole credit for all revolutionary, intellectual, social, and economic achievements. For example, he is credited with writing the Law on the Equality of the Sexes, even though contemporary interviews in the 1940s with members of the Korean women's movement fail even to mention his name. All organizations in Korea pay homage to Kim Il Sung and/or his son for their creation, their work, and their accomplishments. A 31 January 1986 article from *Rodong Sinmun* on "Loyalty to the Leaders" repeats a well-known formula of respect to Kim Il Sung: "The founding of the Union of the Agricultural Working People of Korea was a brilliant fruition of the great leader Comrade Kim Il Sung's unique ideas and theory...."

The Kim cult is remarkable for its narrowness. Apparently, no foreign thinkers are studied in depth. Only brief mention is given to Marx, Lenin, Stalin, and the leaders of the Third World. Korean citizens are instructed to read the works of Kim Il Sung and

his son.* It appears that most, if not all, published works from the DPRK on theory, practice, and analysis are credited to the Kims. The history of the revolution has been re-written to give primary credit to Kim and his family. Kim's writings are placed as advertisements in the foreign press. These clippings have been placed in museums in Pyongyang, apparently to indicate that the foreign press publishes and reads the writings of Kim Il Sung.

Several hours each day are scheduled for the study of the cult of Kim Il Sung and Kim Jung Il. Special rituals, celebrations, and classes are devoted to the honor of the Kims. The lessons taught do not particularly focus on the cult's ideology or philosophy, but rather on the geneology, romanticized history, kindness, sincerity, and well-meaning of the Kims. Students are trained in a culture of political gratitude to the Kim family. Children in day care centers are instructed to say grace to the photographs of the two great leaders. This ritual includes raising one's hand in a raised arm salute and saying thanks to the father and the son. In 1981, a Korean-American scholar observed girls in a senior-middle school singing songs about the glories of Kim Il Sung's achievements. The lyrics included the following lines:

> "Our father is Marshal Kim Il Sung
> Our abode is the bosom of the party.
> Oh, ours is a socialist nation best in the world
> The great leader has built."

The Kim cult is organized along the lines of a supra-family. Kim Il Sung represents himself as the father of all the citizens.

* Even studies in the Marxist tradition have been banned from reading lists. There are reports that it is a serious offense to read, for example, Engels' Anti-Duhring essay. See Halliday, The North Korean Enigma, in G. White, R. Murray & C. White, Revolutionary Socialist Development in the Third World 138 (1983).

On his birthday, he presents students with a package of personal gifts -- uniforms, coats, sweaters, stationery, caps, and shirts. As has been mentioned, Kim's largesse is the origin of many, if not most, expensive consumer items. For example, a large refrigerator was Kim's personal gift to a participant in the Sixth Congress of the Korean Workers' Party. Cars are gifts to outstanding military and political officials. This paternalism exacts from every Korean a heavy price of deference, absolute loyalty, and primary allegiance to the leader. The Korean media constantly reminds the people that it is everyone's "revolutionary duty to lay down one's youth and life without hesitation for the leader."

The human resources and capital necessary to produce and maintain the cult's memorabilia demand considerable expenditures and well-organized think-tanks. To accomplish the production of voluminous hagiography and historical re-writing, an entire city in the DPRK is said to have dedicated its whole industry to publishing. A group of intellectuals has reportedly been selected to write Kim's speeches and "discover" new theories. The work of writers and artists must pass through a long process of censorship.

A primary responsibility of the Korean Workers' Party (KWP) is to marshal the masses to follow the "revolutionary truth and laws and precious ideological and theoretical assets, which the respected and beloved leader Comrade Kim Il Sung has discovered...."* To accomplish the task of establishing ideological purity the Central Committee of the KWP in 1974 adopted the "Ten Principles."** The

* Rodong Sinmun "On Kim Il Sung's Leadership" (28 January 1987).

** The Ten Principles may have been developed in several stages and then codified.

preamble praises Comrade Kim Il Sung as a great philosopher who created the Juche thought, "the ethnic leader for all Korean people, and the savior for all people engaged in the world revolution and the international communist movement."* The preamble obligates all Party members eternally to respect and to be loyal everlastingly to Kim Il Sung. The Ten Principles are:

"1. To dedicate ourselves to struggle to arouse the whole society in pursuing the revolutionary thought of the great Chairman, Comrade Kim Il Sung;

"2. To offer our highest loyalty to the great Chairman, Comrade Kim Il Sung;

"3. To make absolute the authority of the great Chairman, Comrade Kim Il Sung;

"4. To believe in the revolutionary thought of the great Chairman, Comrade Kim Il Sung, and to maintain the uniformity of the teachings of the Chairman;

"5. To carry out thoroughly Comrade Kim Il Sung's unconditional principles and teachings;

"6. To strengthen the unification of Party thought and revolutionary unity;

* Traditionally, the term savior (star or hsing in Chinese) referred to the spirits of deceased emperors. During the Cultural Revolution (1966-1976) in the People's Republic of China all references to Mao Tse-tung contained the term "savior."

"7. To study the Communist policies and revolutionary practices of the great Chairman, Comrade Kim Il Sung;

"8. To cherish the political tasks established by the great Chairman, Comrade Kim Il Sung, and to repay the Chairman for his political wisdom and consideration by loyalty and by promoting political consciousness and technological improvements;

"9. To establish a firm organization and rules in order to unify the Party, the people and the army under the sole commander of the great Chairman, Comrade Kim Il Sung;

"10. To succeed in and accomplish the great revolution intitiated by the Great Chairman, Comrade Kim Il Sung."

These general principles for devoted Party members are supplemented by specific regulations:

"1. A party member only recognizes the authority of Comrade Kim Il Sung.

"2. A party member accepts unconditionally the teachings of the Chairman and regards them as a yardstick for making all decisions.

"3. When making reports, discussing a topic, giving a lecture, or quoting from a document, one has to refer to the Chairman's teachings and never speak or write about something inconsistent with the Chairman's views.

"4. Every suggestion made by Party cadres must be compatible with Chairman Kim Il Sung's teachings.

"5. It is the highest honor to mitigate any concern or anxiety of Comrade Kim Il Sung's. One must regard it as a duty to protect Comrade Kim Il Sung."

As these principles and regulations suggest, the Kim cult is more than a political doctrine, and appears to deify the Kim family.

XIV. FREEDOM OF EXPRESSION

Article 19

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

Article 53 of the DPRK Constitution states: "Citizens have freedom of speech, the press, assembly, association and of demonstration." But the Penal Code contains a number of proscriptions which violate this constitutional provision as well as Article 19 of the Universal Declaration. These proscriptions illustrate how the DPRK Government restricts the freedom of expression and the flow of information between North Korea and the rest of the world. Indeed, even the DPRK Constitution contains a provision which gives a sense of the attitude of the Government with respect to the flow of information: "Citizens must heighten their revolutionary vigilance against the maneuvers of the imperialists and all hostile elements opposed to our country's socialist system, and must strictly preserve State secrets."

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* Article 19 of the International Covenant on Civil and Political Rights specifies that these rights may be subjected to limitations provided by law and necessitated by "the rights or reputations of others" and the protection of the "national security or of public order (ordre public), or of public health or morals." While these limitations appear broad, they cannot justify the nearly total restrictions on freedom of expression in the DPRK.

Article 99 of the Penal Code provides broad discretion to the Government in restricting expression:

> "Persons who spread or concoct lies or false rumors that might result in mass agitation or distrust of the government, or in undermining the authority of government agencies, shall be punished, insofar as the acts are not anti-state in character, by imprisonment for a term of up to 2 years or correctional-labor work for a term of up to one year."

Article 100 of the Penal Code provides that a person who divulges state secrets (which do not appear to be defined) if the act is not in the nature of treason or espionage, shall be punished by imprisonment for a term of more than 2 years. Articles 189 and 295 impose more severe punishment if the person making the disclosure is in an "official" or "military" capacity.

The expression of anti-state sentiments is also suppressed. Penal Code Article 76 provides:

> "Propaganda or agitation appealing for the overthrow, undermining, or weakening of the people's sovereignty by treasonous acts or urging the commission of anti-state crimes shall be punished for a term of more than 2 years and total or partial confiscation of property."

The broad discretion and vagueness of this statute is particularly troubling. The same provision requires that if the agitation is of the masses, or occurs under war conditions, or is accompanied by the exploitation of national or religious prejudices, it is punished by death and confiscation of property. Similarly, Article 77 provides for the punishment of people "who disseminate, prepare, or keep literature with anti-state content" by imprisonment

for more than one year and total or partial confiscation of property.

The Penal Code also contains a number of restrictions on expression not addressed to criticism of the Government. Article 231, for example, authorizes punishment of any "person who discloses outside the country ... an invention made [within the country] or who receives a patent for such an invention outside the country." Article 244 prohibits "violation of censorship regulations." And Article 245 establishes punishment for any "person who prepares, distributes, or advertises pornographic literature, printed books, pictures, or other such materials or who keeps them to sell or distribute."

A. Media

In addition to these formal restrictions on speech, the media faces further restrictions in practice. Radio, television, and newspapers are controlled by special agencies of the State Administration Council. The major agencies are the Korean Central Broadcasting Committee, including the Radio Department, the Radio and Television Broadcasting Committee, and the Television Department; the Korean Central News Agency (KCNA); and the Press Guidance Bureau.

Most former citizens of the DPRK who have been interviewed indicated that North Korean-made radios, which apparently are all that may be purchased for home use, are capable of receiving only Government stations and broadcasts. In addition, loudspeakers in most communal and working areas carry Government radio stations. The Government reportedly has also established a wiring system with the apparent aim of permitting it to disseminate "sensitive" information to every village and community without the possibility of foreign monitoring.

It is prohibited to listen to radio broadcasts from South Korea or abroad. A defector from the North Korean Air Force commented,

soon after his defection in February 1983, that his colleagues had access to foreign radio broadcasts, but would not discuss what they heard because of possible punishment. Consequently, he was unable to guess how many of his Air Force associates listened to the broadcasts. *

Despite the punishments for listening to or talking about unauthorized broadcasts, two friends of Kim Jung Il from 1978 to 1986 reported that some members of the elite have transistor radios and secretly tune in foreign broadcasts. Some Japanese visitors have also reported smuggling in such foreign radios, contrary to governing regulations.

There are several major periodicals: *Rodong Sinmun* (Workers' Daily), the official daily of the Korean Workers' Party (KWP); *Kulloja* (Workers), the theoretical journal of the KWP; and *Rodong Chongyon*, the newspaper of the League of Socialist Working Youth and a major vehicle for disseminating information about Kim Jung Il. Provinces and major cities have their own party papers, such as the *Pyongyang Sinmun*. The *Choson Inmingun* (Korean People's Army) is the official newspaper of the military, but its circulation is tightly restricted.

The celebration of the 40th anniversary of the newspaper *Minju Choson* reflects the media's devotion to glorifying the Kims. According to a Pyongyang Domestic Service radio program of 3 June 1986, the celebration occurred at the People's Palace of Culture, where portraits of Kim Il Sung decorated the hall. Slogans proclaimed: "Long live the supreme leader Comrade Kim Il Sung!" The meeting began with the singing of "The Song of General Kim Il Sung." A message from the Party and the Government pointed out:

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* Other former DPRK residents in 1986 corroborated this report.

> "the supreme leader Comrade Kim Il Sung founded the newspaper *Minju Choson* on June 4, 1946, on the basis of the revolutionary tradition achieved in the press and publication sectors during the glorious anti-Japanese revolutionary struggle period. Thus, our people's government infiltrated the party's policy and the lines of the state into the masses through its organ and organized and mobilized the masses to implement them."

Kim Chong Suk, a cousin of Kim Il Sung who is identified in the broadcast as a reporter then stressed that the paper is a "Juche-type * revolutionary paper that was founded and is led by the great leader Comrade Kim Il Sung and is being guided by dear Comrade Kim Jung Il, and is the organ of the Government of our dignified Republic." **

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* "Juche" is a concept of self-reliance or autarchy in which the DPRK asserts its complete economic, political, and military independence from all other countries.

** It is significant that Kim Chong Suk is mentioned by name. She is listed as a deputy to the Supreme People's Assembly, elected in February 1982, and as a Vice Chairman of the General Federation of Trade Unions of Korea. She is married to another political leader, Ho Tam, an executive secretary in charge of South Korean affairs. As mentioned, the same radio program also gives credit to Kim Jung Il. We are told that: "Comrade Kim Jung Il helped to freshly edit the content of the paper and to organize the format of editorial work.... [and he deeply understands] all the questions, great or minor, arising in operation of the newspaper in the work and life of the reporters and editors, including ... the issue of adhering to thepropaganda of the respected leader's greatness.... [He] has taught: the paper Minju Choson was founded with important missions as a genuine propagandist, instigator, and organizer serving the Korean people ... and educating our people with democratic ideas and inspiring them to the work of building the nation."

B. Subjects of Media Attention

Virtually every newspaper, radio message, and piece of propaganda contains praise of the wisdom and glory of the leadership. Articles about the Kims are normally printed on the first page of newspapers and are run as the leading story in radio or television broadcasts. Newspapers reserve bold typeface exclusively for the names of the Kims, using honorific terminology. The media occasionally identifies selected individuals as exemplary workers, model soldiers, or loyal Party members, but no political leader other than the Kims is given substantial attention.

In over two years (1986-1988) of reviewing North Korean newspapers and radio broadcasts, no criticism of the Party or debate of basic issues was apparent. The purpose of nearly all information, news, and education in North Korea seemed to be to indoctrinate the people to the superiority of the North Korean system. There were five types of major news items: 1) reports on Kim Il Sung's and Kim Jung Il's activities, including their thoughts on the revolution, the Party, the Army, economic development, and foreign policy; 2) the greatness of the socialist system; 3) Party and Army policies regarding economic development, socialist ideology, and correct devotion to the leadership and the Party line; 4) the plots of South Korea and the Americans to spread rumors about the North's peaceful intentions; 5) criticism of the South Korean Government and society; and 6) meetings and announcements regarding fraternal socialist and Third World leaders.

As to South Korea, the media contains a plethora of specific negative information and disinformation. The South is excoriated for being a fascist colony of the United States. One Korean-American visitor to Pyongyang in 1981 asked some DPRK college students about their views of South Korea and the United States; he reported:

> "Not to my surprise, they knew practically nothing about these countries or their people. One of the students asked me how the South Koreans make a living. When I replied that South Korea is one of the very successful exporting nations in the world, they looked very startled. Also, when I mentioned that many South Koreans living in the United States are professors, medical doctors, scientists, and successful businessmen, they looked at me with disbelief."*

The brief family reunification visits in December 1985 allowed selected North Koreans to see their families in the South. The North Korean reporters who accompanied this group reported:

> "We have been to Seoul. Over there, we got an impression that it was a city of brutal terror resembling prison without iron bars.... Everyone looked as if they were being chased by something, and wore terrified looks as if they were afraid of something. People wear such restless and terrified looks because they are constantly in danger of being imprisoned...."

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* Adding to the effect of the DPRK Government's disinformation is the pervasive fear in the DPRK that anything contradicting the Party line will be considered subversive. The Korean-American visitor realized that he was treading on thin ice: "I did not pursue this [the questions on South Korea and Overseas oreans further, lest they get into trouble with the authorities." Visits to North Korea often have minimal value because the interviewer wisely realizes that asking probing questions can be dangerous for the hosts.

The disinformation appears to frighten potential refugees from trying to escape to the South. Many ex-residents of the DPRK, while still in the North, believed the South to be in a state of constant crisis. Though dissatisfied with the North, they saw the South as poverty-stricken and ruled by merciless killers of students, opposition leaders, workers, and farmers.*

Example of the North's disinformation campaign were provided by its reports in 1986 on the purported AIDS epidemic in the South. The Korean Central News Agency in Pyongyang reported on 26 March 1986 and 26 April 1986 that:

> "'... the worst contagious disease of the 20th century' is spreading in South Korea threateningly. People even shun a handshake in fear of this disease, 'leprosy of modern version' and 'worst disease of national ruin.' ... The number of those infected with AIDS has rapidly increased in South Korea these days, reaching more than 600,000. Deaths are on the steady increase and many cases and deaths are reported from among foreigners who toured South Korea.... The press of many countries write that 'Seoul is a source of AIDS.'"

A radio program of the DPRK Domestic Service provided a similarly fabricated report on 21 October 1986:

> "Facts show that the U.S. imperialists have committed the heinous criminal act of testing the AIDS virus biochemical weapons on South Korean residents in cahoots with the puppet Chun Doo Hwan ring, a criminal act that can never be condoned even after thousands of years.... a Japanese commentator has exposed ... the reason the U.S. imperialists have used South Korea as a testing ground for their major nuclear weapons and biochemical weapons is because South Korea is so far from the continental United States that they are safe from any damage and that they have calculated that no matter how many South Korean people die as a result of the tests, the South Korean people's resentment at the death can be subdued through the puppets.... there is no place in South Korea which has no AIDS patients or people who have not contracted the AIDS virus ...."

In fact, there have been only a handful of AIDS cases in South Korea, nothing remotely like an epidemic.

Similarly, the papers have exaggerated and distorted interviews with foreigners as part of their effort to idealize the DPRK. During a visit to North Korea in 1981 Lee Manwoo, a Korean-American professor, was asked by the *Rodong Sinmun* (Workers' Daily) what he thought of Pyongyang. He recalled saying: "It was a beautiful and clean city." The paper published his comments as follows: "Professor Manwoo Lee of Millersville State College, U.S.A., said that Pyongyang is the most beautiful city in the whole

* The willful inaccuracy of the DPRK's disinformation campaign should not obscure the fact that authorities in the South have been guilty of serious human rights abuses. See Asia Watch, Human Rights in Korea (1986); A Stern, Steady Crackdown: Legal Process and Human Rights in South Korea (1987); and Assessing Reform in South Korea (1988).

world and that he has never seen such a beautiful city in his life."*

Often, North Korean propaganda has been used to force sacrifices in the North for the benefit of the "oppressed compatriots" in the South. In the 1970s the North Korean government owed a tremendous foreign debt, principally to China and the USSR. Because the Government used rice to pay off part of this debt, it drastically reduced the daily rations of rice and grain. DPRK newspapers justified this sacrifice as necessary to feed the starving South Korean masses, explaining that huge stockpiles of rice were being maintained for the happy day of reunification when the poor masses in the South would finally have the opportunity to obtain decent nourishment.

North Korean propaganda is particularly pronounced in the area of photography. The Government seeks to portray an image of a happy, robust, healthy, well-clothed, and well-functioning society. The pictures produced in the North Korean pictorial magazine, *Korea,* and the documentaries for both domestic and foreign consumption, express an exaggerated and unrealistic image. One US

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* Lee Manwoo, How North Korea Sees Itself, in Journey to North Korea: Personal Perceptions (C.I. Eugene Kim and B.C. Koh, eds. 1983). Professor Lee also describes another experience with the press: "On the second day of my visit to Pyongyang, I was taken to Kim Il Sung's birthplace, Man'gyongdae, which has become North Korea's mecca. My guide gave me a long lecture about Kim's birthplace, his childhood, and his revolutionary career. At this museum my guide and I argued about Kim Il Sung's role in the liberation of Korea in 1945. I suggested that Kim Il Sung did not liberate Korea; Korea was liberated because Japan lost the war. But Rodong Sinmun (Workers' Daily) reported, 'Professor Lee was deeply impressed by the story of the Great Leader, Kim Il Sung, and he believes that there is only one truly great leader in the whole world, Kim Il Sung. Professor Lee, after touring the museum, said, "The Great Leader fought for the liberation and independence of Korea in the past and today the Great Leader is sacrificing everything to achieve the reunification of Korea."' Ironically, Professor Lee notes: "During my stay in North Korea my hosts told me that the Communists in the North never lie and distort. They also assured me that they would honor my request not to carry any article about me in Rodong Sinmun." Id. at 123.

scholar of Korean society, who has done a content analysis of the pictures in the pictorial magazines, has concluded:

> "Professional models are used for supposedly random photographs of people going about their everyday business. The same men, women, and children (even babies) appear in pictures as collective farmers, office workers in Pyongyang, factory workers in different cities, and students at various schools and colleges."

Documentaries on health care also appear to use professional movie actors and actresses for the roles of patients, medical doctors, and staff.

Before 1985, the North Korean authorities allowed no unauthorized photographs of people or places. One foreign photographer's film was confiscated in 1984 when he took a picture of a child crying. According to a Japanese report in 1985, one was then allowed to take pictures of structures of no military value, in which public activities were undertaken (such as buildings and bridges). But when visitors in recent years have attempted to photograph events or places which might cast a negative light on North Korean society, guides have threatened the photographer or prohibited the photograph outright. In 1986, for example, a Swiss camera crew was threatened with the loss of its expensive equipment if it took uncomplimentary films. As a result, independent photographs of North Korea -- especially from outside of Pyongyang -- are still difficult to obtain. In October 1988, a delegation from the Washington, D.C.-based International Center for Development Policy, was not restricted in its picture-taking during a visit to Pyongyang. It is unclear whether the freedom granted to this delegation represents a shift in official policy.

Criticism of the DPRK's propaganda campaigns has been viewed as a treacherous act. The most dramatic example was that

of the poet and translator Ali Lameda. As a fellow Communist from Venezuela he was given a rare invitation to work in Pyongyang as a propaganda translator in 1966. According to his own account, because he commented that the propaganda was unbelievable and should be modified for foreign consumption, he was arrested, charged with being a foreign spy, and held in solitary confinement for more than six years.

C. Reporting by Foreign Media

Foreign journalists attempting to report on the DPRK confront the same sizable roadblocks as do ordinary would-be travelers to North Korea. No foreign journalists other than those affiliated with state-supported media are accredited to Pyongyang. Incoming planes are believed to be inspected for foreign literature, which is confiscated and destroyed.

Because the DPRK Government is extremely sensitive to bad press, it tries carefully to orchestrate all meetings with foreigners. In 1985 the Government hosted the Third-World Journalists Conference but limited attendance to sympathizers of the North Korean Government. No requests for informal meetings between Conference participants and journalists, writers, political leaders, or common people were honored. The agenda was carefully controlled by the DPRK hosts; according to participants, every meeting was a rehearsed performance. The Government also issued a statement reporting that the journalists had been to Kaesong, but the journalists later said they had not traveled to Kaesong. The statement appears to have been an attempt to give the false impression that the journalists could travel freely in the DPRK.

When unfavorable press comments were made by foreign correspondents visiting North Korea in December 1986, the Korean Central News Agency accused them of being "spies" and "imposters," even though they had been invited by the DPRK Government. James Miles of the United Press International, Graham Earnshaw of

Reuters, and Pierre-Antoine Donnet of Agence France Presse were accused of being "paid trumpeters of imperialism." Mr. Donnet replied from Beijing that all interviews with Korean officials were denied, but "our guides repeatedly told us that they hoped we would write articles favorable to North Korea."

XV. FREEDOM OF ASSOCIATION AND ASSEMBLY

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 53 of the DPRK Constitution provides that citizens have freedom of assembly, association, and demonstration, and assigns the State the duty of guaranteeing "conditions for the free activities of democratic political parties and social organizations." Article 68 notes that "Citizens must cherish their collective and organization and develop the revolutionary trait of working devotedly for the good of society and the people and for the interests of the homeland and the revolution."

A number of provisions of the Penal Code violate Article 20 of the Universal Declaration of Human Rights as well as the freedom of association guaranteed by the Constitution. Article 78 of the Penal Code provides that "organized activity" and "participation in an organization created to ... [challenge state sovereignty]" is punishable by death. Under Article 82, "[b]anditry, the organization of bands or participation therein" can also be punished by death. These restrictions have been used to limit severely the freedom of association. For example, former DPRK residents indicate that unauthorized meetings of three people or more have been considered to be an illegal "band."

Chapter Nine of the Charter of the Korean Workers' Party defines the nature of mass organizations in the DPRK and their relationship to the Party:

"[T]he organizations of the working masses are political and supporting organizations of the Party that inherit the glorious revolutionary tradition of the anti-Japanese guerilla struggles.

"The organization of the working masses are the Party's faithful helpers that tie the Party to the masses.

"The Socialist Working Youth League of Korea is the revolutionary organization of young people that directly inherits the revolutionary tasks and is the Party's fighting rearguard unit...."

All organizations and associations, including women's organizations, religious associations, unions, and political parties, are controlled by the Government,* which uses these organizations to recruit supporters and members of the Korean Workers' Party. No independent institutions or associations are permitted to exist.

The Korean Workers' Party is responsible for supervising over 100 mass organizations.** Four of these organizations -- the Socialist Working Youth League, the Korean Democratic Women's League, the Korean Federation of Trade Unions, and the Korean Federation of Agricultural Workers -- have a combined, though overlapping, membership of over eleven million people. Their main purpose is to support the Korean Workers' Party and to be loyal to Kim Il Sung and Kim Jung Il. These mass organizations are frequently involved in major campaigns to achieve governmental objectives. For example, the Chollima (flying horse) campaign mobilized the entire society, including youth, women, unions, and other organizations, for objectives such as increased production. Children are also mobilized through such organizations to line the route from the airport to Pyongyang when foreign dignitaries visit the DPRK.

Several foreign visitors and former residents of the DPRK have reported that Kim Il Sung's and Kim Jung Il's birthdays require active participation in athletic exercises, calesthentic exhibits, parades, coordinated card displays, and mass demonstrations. Attendance is mandatory at rehearsals, the occasions themselves, and other mass meetings. Failure to attend is viewed as reflecting a lack of revolutionary ardor or even disloyalty. Attendance is maintained through threats of official reprisal.

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* See, e.g., R. Scalapino & J. Kim, North Korea Today: Strategic and Domestic Issues (1983).

** See generally R. Scalapino & J. Kim, North Korea Today: Strategic and Domestic Issues (1983); Rodong Sinmun (1985-1988).

XVI. POLITICAL PARTICIPATION AND ELECTIONS

Article 21

> 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
>
> 2. Everyone has the right to equal access to public service in his country.
>
> 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

In violation of Article 21, the DPRK does not allow its citizens to choose their government by "periodic and genuine elections." Kim Il Sung, his family, and a very limited group of loyalists have ruled the DPRK for forty years. Without free and fair elections or other popular participation, they have designated Kim Il Sung's son, Kim Jung Il, as his father's successor. Moreover, because of their family backgrounds or imputed disloyalty, many North Koreans are excluded from membership in the ruling Korean Workers' Party and from government service.

A. Overview of the Governmental Structure

The DPRK Constitution provides for legislative, executive, and judicial branches of government, as well as for elections. Never-

theless, most government functions are effectively controlled by the Korean Workers' Party (the Party).

The 1948 DPRK Constitution, apparently patterned after the 1936 Constitution of the USSR, created a strong centralized state which, in theory, was dominant over the Party. It also protected private ownership of property. The 1972 DPRK Constitution, evidently patterned after the Constitution of the People's Republic of China, created an explicitly socialist state with detailed provisions spelling out the planned nature of the economic system. According to some sources, the Korean Workers' Party has even had direct control over defense, intelligence, security, and law enforcement in recent years.* Reports suggest that these functions may have been returned to the Cabinet in 1986. *See* chapter VIII.

B. Elections

Article 8 of the 1972 DPRK Constitution provides that "organs of State power at all levels ... are elected on the principle of universal, equal, and directed suffrage by secret ballot."** Article 52 of the Constitution provides: "All citizens who have reached the age of 17 have the right to elect and be elected, irrespective of sex, race, occupation, length of residence, property status, education, party affiliation, political views and religion."

Articles 73 and 75 of the Constitution establish the Supreme People's Assembly as "the highest organ of State power in the [DPRK]," with elections every four years. Delegates are elected on

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* See Chin-wee Chung, The Evolution of a Constitutional Structure in North Korea, in R. Scalapino and Jun-yop Kim, eds., North Korea Today: Strategic and Domestic Issues 25 (1983).

** Similarly, Article 74 requires elections to the Supreme People's Assembly and Article 116 requires elections to local people's assemblies.

a ratio of one delegate for each 30,000 citizens, yielding currently over 600 delegates, 97.6 percent of whom represent the Korean Workers' Party. The Korean Workers' Party approves only one slate of candidates, and the secret ballot is not guaranteed. Two other political parties exist, but they are government-controlled facades for a multiple party system. In the 1986 elections, news accounts reported that over 50% of the voting population had cast their ballots by 11:00 a.m., and by noon nearly everyone had voted. DPRK Government sources announced that Kim Il Sung and his son were unanimously re-elected to the Supreme People's Assembly, and that participation was 100%. No dissenting votes were reported.

C. Powers of the Supreme People's Assembly

Under the Constitution, the Supreme People's Assembly, the national legislature, is empowered to:

-- enact and amend the Constitution and laws;

-- formulate major domestic and foreign policies;

-- elect the President;

-- elect and recall Vice Presidents, Members of the Central People's Committee, the Premier, the Vice Chairman of the Defense Commission, and the President of the Central Court;

-- appoint and remove the Procurator General of the Central Procuracy;

-- approve the people's economic plans;

-- approve the nation's budget;

-- determine matters relating to war and peace.

The Assembly is not empowered to impeach or recall the President, nor to appoint or remove Cabinet members.

The Assembly meets once or twice a year for two to four days. When the Assembly is not in session, its Standing Committee performs some of its functions.

An analysis of 1982 indicated that the Assembly had up until that year met 48 times and handled 107 matters.* No legislative measure had ever failed to pass in the Assembly, suggesting that its role is to ratify the policies of the Executive and the Korean Workers' Party.

D. President

The President is elected by the Supreme People's Assembly to a term of four years. He may succeed himself indefinitely. On 28 December 1972 Kim Il Sung became the DPRK's first President under the Constitution of 27 December 1972, and he has been re-elected on three occasions.

The President heads the Central People's Committee, the military, and the Defense Commission. Article 89 of the Constitution affirms that the President is "the head of state and represents state power." Under the Constitution, he is empowered to:

-- direct the Central People's Committee;

See Chin-wee Chung, The Evolution of a Constitutional Structure in North Korea, in R. Scalapino and Jun-yop Kim, eds., North Korea Today: Strategic and Domestic Issues (1983).

-- call and direct the Cabinet meetings;

-- direct the military;

-- proclaim legislation and issue decrees;

-- exercise clemency;

-- confirm or terminate international treaties;

-- recommend to the Supreme People's Assembly the election and recall of Vice Presidents, the Secretary and Members of the Central People's Committee, Premiers, and the Vice Chairman of the Defense Commission;

-- propose legislative bills to the Supreme People's Assembly; and

-- supervise the Central Court and Central Procuracy.

The Constitution explicitly endorses the political and economic philosophies of Kim Il Sung. For example, Article 4 declares that the idea of Juche is the guide for the DPRK's policies. Articles 18 through 34 outline the socialist economic system and specifically cite President Kim's systems of mass mobilization in agriculture and industry. In sum, the Constitution legitimizes Kim Il Sung and his policies as the sole authority of the DPRK.

Official press reports from Pyongyang suggest that the President devotes much of his energies to inspection tours during which he makes local laws and announces national policy. Reflecting Kim Il Sung's power to rule without any constitutional accountability, he

has declared that his son, Kim Jung Il, will succeed him as head of state.

E. Central People's Committee

Under the Constitution the highest policy-making organ in the executive branch of the national government is the Central People's Committee. It includes the President, Vice Presidents, the Secretary of the Central People's Committee, and those who are elected by the Supreme People's Assembly at the recommendation of the President. There are 15 members.

The Central People's Committee is constitutionally empowered to:

-- formulate national domestic and foreign policies;

-- direct the Cabinet, local people's assemblies, and local people's committees;

-- direct courts and procuracies;

-- direct defense and state political security;

-- supervise the execution of the Constitution, laws, presidential decrees, and the directives of the Central People's Committee;

-- repeal any acts which contravene the above provisions;

-- establish or abolish Cabinet ministries;

-- appoint and remove ministers or Cabinet members, at the recommendation of the Premier;

-- appoint or recall ambassadors or diplomats;

-- appoint or remove major military officers;

-- confer "general" status;

-- exercise clemency;

-- reorganize administrative districts; and

-- proclaim a state of war and order mobilization in times of emergency.

F. Cabinet and Ministries

The Cabinet of the DPRK is an administrative body which carries out the policies formulated by the Central People's Committee. It is not a policy-making body.

The Cabinet is responsible to the Supreme People's Assembly, the President, and the Central People's Committee. Its members are the Premier, thirteen vice premiers, and over 30 ministers, commissioners, and board chairmen of the central government. The Premier can be recalled by the Supreme People's Assembly at the recommendation of the President; all other members are removable by the Central People's Committee at the request of the Premier.

Some sources state the Cabinet has no power over matters of national defense, security, intelligence, and police. Other sources indicate that these functions may have been returned to the Cabinet in 1986. In any case, the powers of the Cabinet are limited to:

-- directing ministries and local people's committees;

-- establishing or abolishing the agencies under the direct control of the Cabinet;

-- preparing national economic plans;

-- directing and administering industries, agriculture, commerce, construction, transportation, communications, national land management, urban management, science, education, culture, and public health;

-- establishing measures to strengthen currency and banking institutions;

-- carrying out foreign affairs and entering treaties with foreign nations;

-- preparing measures to maintain social order and to protect the national interest and the rights of citizens; and

-- abolishing lower agency decisions which contravene the decisions of the Cabinet.

G. Judiciary and Law Enforcement

The judiciary and procuracy of the DPRK are discussed in chapter VII. Law enforcement agencies are discussed in chapters VII and IX.

H. Local Governments

There are nine provinces, comprised of 150 counties, 139 cities, and 150 townships, as well as four special cities under the direct control of the national government. The local governments at the provincial, county, and city levels are organized very similarly to the national government.

The members of the people's assemblies in the provinces and special cities are elected to four-year terms, and those in counties and cities are elected for two-year terms. The people's assemblies at each level elect people's committtees to perform local functions.

South Korean academics report that these local governments are administrative units of the national government rather than autonomous local governments. They are under the control of the national government and the Workers' Party. Any legislation or act of a local government can be abolished or vacated by the Central People's Committee.

I. Korean Workers' Party

In the DPRK's early years, the Congress of the Korean Workers' Party was convened annually. As Kim Il Sung, his son, and their top followers consolidated their power, the Party Congress met less frequently, reflecting its reduced significance. The Party Congress is supposed to be convened every five years but, in fact, has been held less frequently. The last Party Congress took place in October 1980.

The official decision-making body of the Korean Workers' Party is its Central Committee. The size of the Central Committee has varied, but a recent count by an academic analyst found 150 regular members and 104 candidate members, who appear to serve as alternates. The Central Committee is supposed to meet every six months but meets less frequently in fact. In practice the Politburo of about 17 regular members and 16 candidate members runs the

Party, together with the Secretariat of the Party, which consists of about eight secretaries and the General Secretary. The Politburo makes Party policy and the Secretariat implements that policy. The Politburo is run by a three-person Presidium of Kim Il Sung, Kim Jung Il, and O Jin U. As the General Secretary of the Korean Workers' Party, Kim Il Sung heads all of these bodies, and his son, Kim Jung Il, holds the second ranking positions. Members of the Korean Workers' Party are also the key figures in the Supreme People's Assembly and the Central People's Committee of the Executive.

Reports indicate that the process of becoming a member of the Korean Workers' Party is quite demanding. To apply for candidate membership, one must apparently obtain recommendations from two or more Party members who have been regular Party members in good standing for at least two years in the immediate past. After the application is approved, the candidate member must reportedly wait at least a year before becoming a regular Party member; interviews suggest that this time period enables the Party to review the candidate's loyalty to Kim Il Sung, Kim Jung Il, their policies, and their ideology. In 1982 there were believed to be three million Party members out of a total population of over 20 million persons.

Despite this large number of Party members, a small group have actually ruled the DPRK since its liberation from Japan in 1948. Since then, an academic specialist on the DPRK stated that only about 350 Party members have held the following 550 key political positions:

48	--	Members of the Korean Workers' Party Politburo and Secretaries.
338	--	Members of the Korean Workers' Party Central Committee.
50	--	President, Vice Presidents, Central People's committee members.

117	--	Ministers, Commissioners or heads of the Boards of the Central Government.

XVII. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

This chapter describes various aspects of economic, social, and cultural conditions in the DPRK. The chapter attempts to give a picture of life in the DPRK and stresses any divergence between the Government's statements and actual conditions. When governmental policy has deliberately increased deprivations, this chapter indicates that economic, social, or cultural rights have been violated. In particular, this chapter will provide further evidence of discrimination as to these rights. Otherwise, the chapter provides descriptive material relevant to these rights.

A. Social Security

Article 22

> Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

The official retirement age for men is 65 and for women 60. "Retirement" is said to allow workers to be assigned to less demanding jobs although their hours of work are reportedly not lessened. Visitors and one former DPRK Government official report that there appear to be few if any facilities where retirees regularly spend time in leisure activities. At "retirement" the food rations of the elderly are believed to be reduced.

B. Work, Rest, and Slavery

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

As noted, everyone except the ruling elite in the DPRK is forced to work very long hours for minimal pay and limited food rations. Citizens are assigned their jobs and cannot change them without governmental permission. There are no independent labor unions.

The DPRK Constitution (Article 69) expresses scant respect for international norms forbidding forced labor: "It is the sacred duty and honour of citizens to work. Citizens must voluntarily and honestly participate in work and strictly observe labour discipline and working hours."

Article 27 of the Constitution similarly declares: "All the working people of the country take part in labour, and work for the country and the people and for their own benefit by displaying conscious enthusiasm and creativity." Article 28 states: "The State guarantees that working hours are fully utilized through the proper organization of labour and the strengthening of labour discipline." Article 29 provides: "In the Democratic People's Republic of Korea the minimum age for starting work is 16 years." And Article 56 provides: "Citizens have the right to work. All able-bodied citizens can choose occupations according to their desire and skills and are provided with stable jobs and working conditions."

Article 28 states: "The working day is eight hours. The State reduces the length of the working day for arduous trades and other special categories of work." And Article 56 provides that citizens "have the right to rest. This right is ensured by the eight-hour day, paid leave, accommodation at health resorts and holiday homes at State expense and by an ever-expanding network of cultural facilities."

Certain provisions of the DPRK Penal Code appear to violate the right to be free from compulsory labor. For example, Article 197 allows punishment by correctional labor of any person who "avoids performing labor conscription, public-service, or state tasks or filling their production quotas." Under Article 174, "refusal without valid reasons of a young specialist who has been graduated

from an educational institution to work as directed" can be punished by imprisonment for up to two years. Article 52 of the People's Provisional Committee Act #57 prevents workers from changing jobs without permission from the Public Security Ministry.

1. Working Conditions

Actual working conditions in the DPRK reflect the lack of labor freedom. Kim Jung Il is given credit for developing a new theory on the nature of work, known as "Speed Battle," which is described as the "basic battle formation for socialist construction." In practice it means that construction should be accomplished in the shortest possible time. The act of labor is to be regarded as an act of war. The terminology of this theory is couched in military language and the discipline of work is viewed as the same as the discipline of war.

The military makes up a large part of the labor force. More than half of a soldier's time is consumed by construction projects and other economic activities. Some academic sources in the United States contend that military duty is compulsory from the ages of 18 to 28. Other sources in the United Kingdom believe the compulsory military service ends at age 26 or earlier. It is most likely that the military determines the length of service according to the personnel needs of the army. All able-bodied males must serve. As a consequence, the domestic labor force of workers between the ages of 18-28 appears to consist primarily, if not exclusively, of women. Many sources state that women account for the overwhelming majority of the labor force in this age group. They are engaged in office work, light construction, industry, farming, education, health care, and sports.

The average work day of civilian workers is believed to be between 8 and 11 hours (including compulsory political meetings and athletic activities). The average work day for the soldier is reportedly about 16 hours. In the fall of 1986, a large media campaign

was orchestrated in conjunction with the transfer of 150,000 or more troops from the Demilitarized Zone to construction projects. Its aim was to encourage greater efforts by the soldiers and other workers. According to DPRK media, civilians at the border camps cheered the departing soldier-workers as if they were going to war. When the soldiers arrived at their work stations, the

> "people, students, and children of the province, including Sariwon, Unpa County and (Pongsan) County, came out along the roads of their home towns and villages and warmly greeted the Korean People's Army (KPA) soldiers, who have come to the peaceful construction sites after leaving the front and guardposts, offering them bouquets and leis."

According to DPRK newspaper reports in 1986, the soldier-workers live under military discipline and rules. They must obey their commander's orders "without delaying even a minute or a second." Super-human work efforts are encouraged and soldiers are constantly cajoled to complete construction ahead of schedule. According to North Korean press reports, they are urged to show their patriotism through their "stamina" and their commitment to "ceaselessly carry out one's revolutionary mission without minor stagnation and dullness in normal times."

In an article entitled "Our People's Army is a Mighty Contingent for Creation and Construction" in the *Rodong Sinmun* (Workers' Daily), 16 June 1986, the army was assigned the duty of participating "in the creation and construction struggle for the prosperity and development of the fatherland.... [It] defends and protects the party and the leader and fulfills the party's orders and directives to the end, unconcerned about fire or water ...." The soldier was exhorted to "be filled with the sense of unconditional obedience to orders." The article's rhetoric made no distinction between martial duties and work obligations in describing an ideal

soldier's willingness to sacrifice his life. Construction efforts were seen as part of the soldier's duty to protect the leader and the party. "The martial spirit of the People's Army is the indomitable spirit to defend and protect the party, the leader and the nation by making oneself a human bomb; it is the spirit of tenacious struggle to fight by rising again every time one falls."

The work pace can be grueling; according to testimony of former DPRK residents, workers at one digging site were permitted to rest only after they had fulfilled a quota of 1,000 shovelfulls. A "300-day fishing expedition" meant literally that the soldier-fishermen were required to spend 300 days at sea. Moreover, during a normal term of military service, soldiers have generally not been allowed to return home for eight years.

The North Korean press describes military service as seizing the "Six Hills," a slogan which relates to the six categories of production: grain harvest, textiles, fisheries, coal, housing, and steel. The slogan is used to exhort laborers to double and triple their energy and output. The *Rodong Sinmun* (Workers' Daily) extolled a female hero for her achievements in the "never empty-handed" campaign of the late 1960s. While carrying compost on her back in an A-frame carrier, she adapted a special apron to carry extra piles, and still managed to carry two bagfuls in each hand.

The effect of such intense labor on the physical and emotional health of the workers has been significant. *See* chapter XVII(F) on health. Defectors in the 1980s and others reported that the troops were "physically exhausted" by their construction work. Visitors who happened to observe workers on construction sites noticed that they looked wan, dishevelled, and unenergetic.

Apparently, military labor has generally been used in three types of projects: (1) building infrastructure such as roads, dams, tunnels, dikes, and vast military projects; (2) enhancing production in the Sunchon textile complex, potassium fertilizer plants, mines, farms and factories; and (3) constructing monuments to commemorate the leadership. Pyongyang is the most remarkable of these

projects. Often described by Kim Il Sung himself as his "dream city," his "own creation," and his "personal child," Pyongyang, as discussed in chapter II, was built to reflect his ideal communist city. Pyongyang contains a 40 kilometer subway built at a depth of 80 to 200 meters; an "Arc De Triomphe" commemorating Kim's seventieth birthday, with a stone for each day of his life; the largest gymnasium in the Orient, constructed in a record time of 10 months; and numerous museums and statues in Kim's honor. Visitors to Pyongyang have observed around-the-clock construction crews undertaken by thousands of laborers and supervised by army engineers. Some of these workers reportedly have already put in a full day's work, but dare not refuse further work. In 1979 visitors to Pyongyang observed 25 construction cranes from one hotel window alone.

A relatively recent example of such a construction project was the refurbishing of the Changwang Health Complex on the bank of the Potong River in Pyongyang. According to Pyongyang newspaper accounts, the engineers had originally planned to fill the baths with water from the river, but Kim Jung Il disapproved because he wanted fresh water. Kim thus ordered construction workers to lay pipeline under existing residential quarters, crowded with 10- to 20-story buildings, from the Taedong River several kilometers away. * According to recent visitors, this bath complex is not open to the general public but is used only by the elite and by foreign sports teams. Pyongyang workers have also recently built or are currently building several stadiums and a grandiose hotel.

In addition to military and forced civilian labor, students are required to perform "voluntary labor." Every high school and col-

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* DPRK media reports of 1986 compliment Kim Jung Il for his display of love for his people, as reflected in his willingness not to spare any expense to provide his countrymen with clean water. But for most Koreans a visit to a bath house is a luxury; only the privileged elite in Pyongyang can make regular use of the Changwang Health Complex.

lege student reportedly must donate one month of labor per year, usually night-time construction, low-skilled work, and farm labor such as harvesting and planting. In addition, students are reportedly required to work as "volunteers" on about 150 other days per year. According to a scholar on the DPRK, a typical schedule is as follows:

Days	Work Periods
30-45	Rice transplanting
15-20	Rice harvesting
10-15	Winter break
40-50	Summer vacation
15-20	Sundays
35-40	School afternoons
145-190	Total

Some students are said to regard the night construction work in Pyongyang as "fun." The work is co-educational; they can meet and socialize with their friends. The students' work is honored as an act of patriotism. Such student labor has helped build such projects as a children's palace, a museum, and an apartment complex. It is believed that much of their labor is wasted, however, because the fast pace results in shoddy work which must be redone. Many students resent the continual pressure to expend all of their energies, and harbor a particular dislike for the agricultural work.

For these "voluntary" student workers, Kim Jung Il created the "70-day combat" to compress the period for completing projects. "Speed Battle Youth Shock Brigades" engage in railroad, electrification, and other construction work. In 1988 the DPRK Government announced a "200-day battle" to complete economic objectives prior to the 40th anniversary of the founding of the DPRK.

2. Labor Unions

The function of labor unions in the DPRK is to ensure that workers achieve their production quotas and to indoctrinate them in Government ideology. Various metaphors are used to describe this indoctrination. For example, the North Korean press repeated a Government statement in 1986 that the workers are viewed as "various pieces of steel" that are to be "remolded into a specific shape." The intent of all of these metaphors is to represent the workers as clay to be molded by the Party. This view of the worker is embodied in the Constitution itself Article 39 states: "Raise the next generation into a new human dedicated to communism."

The role of unions is as a vehicle to implement the Party's orders. Su Hwi, head of the General Federation of Korean Trade Unions, one of North Korea's two major labor organizations, was purged in 1958 allegedly because he maintained that unions should have some autonomy from the Korean Workers' Party. Since then, there has been no evidence of union dissent. Strikes are not permitted.

C. Food

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or

out of wedlock, shall enjoy the same social protection.

"... all our people will soon eat rice, wear silk, and live in fine houses." Kim Il Sung.

"During the new long-range plan [1987-94], we must properly solve the people's food, clothing, and housing problems. By so doing we must improve the people's standard of living a step higher." *Rodong Sinmun*, 10 February 1987.

The DPRK Government determines grain rations, salaries, the prices of all goods and commodities, and the availability of all foods. As in all other spheres of life in the DPRK, the amount of food one can obtain by way of rations or purchases is determined by one's political status, classification, and occupation.

Except for the ruling class, the population's diet is closely monitored and tightly restricted. Although the DPRK has made substantial strides in land reform and agricultural production, recent reports indicate that major food shortages persist. Many different sources describe the people outside of Pyongyang as listless, unenergetic, pale, and thin. One Korean-American who recently visited his sister in the countryside was depressed because she looked wan and unhealthy. In the 1980s some Chinese citizens of Korean descent had to cut short family visits in the DPRK because they were consuming too much of their relatives' food rations, leaving their relatives without enough food to get through the month. Chinese-Korean visitors who are aware of this problem carry their own food on visits. Other Chinese visitors to the northern part of the DPRK have found many North Koreans so malnourished that they begged food from the visitors. When coupled with the exhaustion from over-work and too little sleep or rest, this inadequate nutrition appears to leave many North Koreans in very poor physical condition.

A North Korean's basic diet is his grain ration. What little variety that exists is among rice, corn, and wheat. Reports from academic experts and Korean-Chinese visitors suggest that during the last decade the food consumption per capita has not increased. Similar sources and even DPRK governmental sources suggest that grain rations have not increased since 1957.

Based on studies by academic experts and visitors, it has been possible to construct estimates of the percentage of income spent on the necessities of life by urban families of average means. For a family of five in Pyongyang, grain purchases seem to absorb 48-58% of the family income. Clothing seems to require about 24-28%. A small percentage is spent on heating and cooking fuels. The remainder of the income, 14-28%, can be spent on side dishes (when available), entertainment, etc.* Some meat, fruit, and fish are available for purchase at steep prices.** In Pyongyang, for example, 500 grams of pig heart cost about 4.7 won, 475 grams of beef cost about

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* Residents are reportedly charged a nominal amount for rent, i.e., 4-6 won per month. Some people apparently pay no rent for their housing.

** Diplomats in Pyongyang purchase their food at a separate store, but, even there, they report that the selection and quantities are very limited.

6 won.*

* It is quite difficult to assess the value of the DPRK won in terms which are meaningful to the DPRK economy or to foreign exchange. As of 18 November 1987 the DPRK won was quoted by the Bank of America in London as equal to US $.94. In July 1980 a commercial rate for foreign exchange between banks and for international trade was quoted as .86 won per US $1.00, while the noncommercial rate for tourists and noninternational trade was quoted as 1.86 won per US $1.00. During 1981 two entirely separate samplings were taken of salaries and prices in the DPRK: C. Kim & B. Koh, Journey to North Korea; Personal Perceptions (1983); W. Westby & M. Lindblad, Nordkorea - en utmaning (1982) (North Korea - a challenge). Wages and prices have apparently not changed appreciably since 1981. The normal range of salaries for a single worker varies from 90 to 140 won per month. Factory workers are paid at the bottom of this scale. The following is a list of prices for some commodities in Pyongyang found by these two studies:

accordion (small or large)	400 - 680 won
alarm clock	20 won
canned chicken (475 grams)	3.45 won
canned fish (per can)	1.9 won
canned pork (500 grams)	3.8 won
dress and blouse	11 - 16 won
electric phonograph	120 - 350 won
peas (500 grams)	1.4 won
plastic handbag	23 won
record	5 won
refrigerator	300 won
rice (kilogram)	.08 won = 8 chon
sewing machine	315 won
shoes, women's (depending on style)	3.6 - 15 won
shirt, men's	25 won
soap	2 won
suit, men's	116 - 122 won
television (black & white) -- 19 inches	500 won
television (color)	800 won
thermos bottle	15 won
wool cover for bed	85 - 250 won

These costs equal about one quarter of the monthly discretionary income available to an average family after other necessary expenses are deducted from the 150-200 wons/month average income range. In the cities outside of Pyongyang there is less variety and fewer canned items than in Pyongyang. In farm areas, by contrast, more food is available, particularly on special days* when families can slaughter an animal and eat the meat. As one ex-resident of the DPRK explained: "unless people were able to live in Pyongyang, they generally did not want to live in cities. They preferred rural areas to urban areas because in the rural areas people were able to farm vegetables and other crops to supplement their food rations ...."

The daily consumption of grain, which is the basic diet for a large part of the population, is allocated on the basis of one's political status and employment. The following is a partial schedule of the grain allocation for the groups below the Kim family and the ruling elite:**

900 grams:	Miners, specialized heavy-industrial workers, defense workers, industrial workers, ocean fishermen.
850 grams:	Military personnel serving with the Military Armistice Commission, other

* Such special days would include Kim Il Sung's birthday, independence day, and the anniversary of the founding of the Korean Workers' Party.

** This table has been derived by asking various former DPRK residents about their grain ration and the rations of their neighbors. Other sources include the Grain Rationing Regulation of 6 January 1947, which provided for four different grades, and another Grain Rationing Regulation of 27 March 1952, which provided for seven grades. South Korean academic sources in 1979 described a rationing system of 10 grades. See also 2 U. Choe & S. Shin, Jokuk-un Johanul Jomolli 314 (1988) (corroborating the ten-grade system in 1986).

high-ranking officers.

800 grams: Air force pilots and specialized military officers.

700 grams: All other military officers and light industrial workers, clerical workers, engineers, teachers, government officials, college students, most residents of Pyongyang.

Under 700 grams: Residents outside Pyongyang.

400 grams: High school students, disabled persons, females over 55 years of age, and males over 61 years of age.

200-300 grams: Preschool children.

200 grams: Prisoners.

Academic experts and former DPRK residents indicate that the grain ration is generally a mixture of rice with a corn and/or wheat blend. For most if not all people in Pyongyang, the ration of rice to the corn/wheat blend appears to have been 70:30 in the early 1970s. Outside the city of Pyongyang the ratio was reportedly 50:50. In the mid-1970s the ratio was reportedly changed in favor of the wheat and/or corn blend. Pyongyang is believed to have received a mixture of 50:50, and the outlying areas received a 30:70 mixture. Since the Koreans greatly prefer rice, many were dissatisfied with

the reduction in the ratio, which was apparently due to food shortages.

Even when people in Pyongyang have access to side dishes and dietary supplements, they suffer from some dietary deficiencies. Based on the estimates set forth above, a typical family receiving the average monthly income of 175 won might have approximately 21% of its monthly income available to purchase side dishes, that is, 36.75 won per month, or 1.2 won per day. In Pyongyang 36.75 won would equal the price of about 10 cans of chicken, 19 cans of fish, 9 cans of pork, 26 cans of peas, or 459 kilograms of rice. Put another way, the following purchases could be made in a single month, presuming such quantities were available:

4 cans of pork
3 cans of chicken
3 cans of fish
3 cans of peas
16 kilograms of rice

These supplemental dishes represent a market basket of food of relatively high nutritional value, but which ignores the unavailability of some of these food items. Even with these supplemental side dishes, males in a family of five (two parents, two children, and either a grandparent or the spouse of one child), would not receive sufficient caloric intake: an adult male should receive 3,000*

* The recommended nutrient intake levels are discussed in Whitney & Cataldo, Understanding Normal and Clinical Nutrition, appendix O (1983), citing FAO/WHO, Energy and Protein Requirements, WHO Technical Report Series no. 522, 25, 31, 35, 75 (1973); FAO/WHO, Calcium Requirements, WHO Technical Report Series no. 230 (1962); FAO/WHO, Requirements of Ascorbic Acid, Vitamin D, Vitamin B12, Folate, and Iron, FAO Nutirtion Meeting Report Series no. 47, 54 (1970); See also WHO, Handbook on Human Nutritional Requirements (1974).

calories daily, but would get only 2,895 calories;* an adolescent male of 16-19 should receive 3,070 calories, but would get 1,851; and an elderly male should get between 2,000-2,800 calories, but would receive 1,851. Adolescent females would also receive an inadequate amount of energy; they should receive 2,310 calories, but would only get 1,851 calories.**

With the supplemental side dishes everyone in this average family will receive more than enough protein. Everyone in the family, however, does not receive enough calcium. The adolescent children receive 1/3-2/5 the amount of recommended calcium intake, the parents 5/9 of the recommended intake, and the elderly 1/3 the recommended intake. With the supplemental dishes, some adult women probably will not receive a sufficient amount of iron; they ought to receive 14-28 milligrams, but actually receive roughly 16 milligrams.

For those North Koreans who have little or no access to side dishes or other dietary supplements, such as some members of the lower classes who live in urban areas outside of Pyongyang, these rations provide inadequate energy, protein, calcium, iron, other minerals, and vitamins. For example, the recommended level of energy intake for exceptionally active men weighing 60 kilograms

* The figures of nutrient levels provided by the rations are calculations based on figures of nutrient content for specific foods in Kirschmann, Nutrition Almanac, Section VII (1984); Cunningham, Introduction to Nutritional Physiology, Appendix 1a (1983); McHenry, Basic Nutrition, Table 22 (1957)

** For the purpose of these estimates, supplemental side dishes have been divided equally among family members.

(132 pounds), such as miners and other heavy industry workers, is 3,720 calories. The actual level of energy intake on a ration of 900 grams of rice and corn or wheat is approximately 3,000 calories for both a 50/50 ratio and a 70/30 ratio. For preschool children, ages one to six, the recommended level of energy intake is 1,400 to 1,800 calories. Instead, the actual level of energy intake from the ration for children in the DPRK is approximately 870 to 880 calories for both a 50/50 ratio and a 70/30 ratio.

The rice and corn or grain ration also fails to provide adequate levels of protein for several categories.* The safe level of protein intake on a diet of low quality protein (the kind that is obtained through the ration) for adult men and women is respectively 53 and 41 grams per day.** Rations of rice and corn or wheat generally meet that safe level for men and women. The minimum required level of protein intake for high school age students, however, is believed to be approximately 43 grams of protein per day, whereas the actual intake level ranges from 32 to 42 grams per day. Children between the ages of one and six should receive 23 to 29 grams of low quality protein each day. On a diet of approximately 250 grams of rice and corn or wheat, DPRK children outside of Pyongyang probably receive only 20 to 26 grams of protein depending on the grain ratio, which is below safe levels of protein intake.

The actual level of calcium and iron provided by the grain ration alone is also deficient. Adult men and women should receive a practical allowance of 400 to 500 milligrams of calcium per day. Yet, the calcium received from the highest ration level is 292 milligrams per day, which is obtained from a 900-gram ration of rice

* All protein figures are based on estimations of the protein quality calculated from the data given in Whitney & Cataldo, Understanding Normal & Clinical Nutrition, Appendix O (1983).

** A smaller amount is needed if the protein is from a high quality source, such as eggs.

and corn or wheat. High school age adolescents should receive 700 milligrams of calcium per day for females and 1000 milligrams of calcium per day for males. In fact, their 400-gram grain ration provides approximately 70 to 130 milligrams of calcium per day, depending on whether the ratio is 50/50 or 70/30. Preschool children ages 1 to 6 should receive 500 milligrams of calcium per day, and they actually receive only 43 to 81 milligrams per day.

The grain ration alone also often provides inadequate iron. Generally, men receiving a ration of rice and corn or wheat of more than 700 grams will obtain adequate iron. Women, however, are estimated to need at least 14 milligrams of iron per day; yet only the 50/50 rice/corn ration of 900 grams and the 50/50 rice/wheat rations above 700 grams meet this requirement (which itself may be inadequate for some women, as the estimated daily iron requirement is between 14 and 28 milligrams). While preschool children should receive 9 milligrams of iron per day, their actual intake ranges from 3 to 5 milligrams per day.

The plight of the Koreans who returned from Japan illustrates the difficulty of surviving on the rations of the lower classes. The following report, from a Korean-Japanese repatriate to the DPRK, is typical:

> "... the country which should be an earthly paradise, could not provide us with enough food. At first we were only given just enough food for our physical existence. This food consisted mostly of grains, such as corn, millet, rice, and wheat.... At first we were not used to this diet. We all suffered from diarrhea. Although we got used to living on poor food to the extent that we have no more diarrhea, hunger is more than we can bear. We cannot live on only rationed food. There was no answer from my family in Japan, even though I wrote to them asking to send us any kind of food. There has been a good deal of propaganda about North Korea as 'the country of the ensuring of food, clothing and housing for the whole

> population,' so widespread in Japan that my family could not believe in me.... I wandered about the forest like a beggar and ate various kinds of grass and bark of a tree...."

The Korean Workers' Party began a campaign in the 1970s to equate eating a watered down diet with loyalty to Kim Il Sung and the Party. Whereas large food output is hailed as a great achievement of Kim Il Sung's policies of self-sufficiency, food shortages remain severe. In his New Year policy statement of 14 April 1982, Kim Il Sung tried to rally the population and hail its sacrifices by invoking the slogan: "Rice is communism." He mobilized the population by declaring that "the pressing task to be settled in the construction of socialism is a food shortage."

For most of the population, reports suggest that food rations are distributed about every 15 days, but it appears that two days' rations may be deducted in the name of "patriotic rice." There are reports that in many cases the families run out of grain by the end of the month. They must then subsist on gruel or watered down rice soup.

Consumers are naturally quite dissatisfied with their diet. Because the choicest grain and other food is now often sold abroad, quality and quantity have suffered at home. The only improvement has been in the dietary supplement of 2 to 3 eggs per Week that seems to have been added in Pyongyang. The major available fruits -- apples, peaches, and pears -- tend to be sold in Pyongyang or exported to the USSR. Because refrigeration is often lacking, fish tends to be sold to those people who arrive first.

D. Clothing

Clothing, too, is allocated on the basis of one's classification. Kim Il Sung's family and relatives appear to have unlimited access to clothing. The elite and the core classes have the opportunity to

buy Western style-clothing, wool products, and even furs at specially designated stores.

For the wavering and hostile classes, clothing is inadequate. The major complaint is that there is a shortage of underwear, warm overcoats, gloves, and socks. The lower classes tend to wear rayon and nylon clothing of poor quality and little variety.

Clothing is both allocated by the State and can also be purchased. Former DPRK residents have reported that young students receive their uniforms free from Kim Il Sung twice yearly. Similarly, workers are reported to receive one or two free sets of clothing each year from the State. In the countryside, all clothing is provided by the State. Individuals in the upper classifications are said to receive one unit of Western cloth, apparently at a reduced price, every other year.

To buy clothing or any other consumer good reportedly requires an authorization card from an official office. The card may not be given or sold to another user. This requirement reinforces the view that all consumer purchases are a privilege bestowed by the Government. *

At least on one occasion involving a foreigner's visit to the DPRK during the early 1980s, model clothing was reportedly displayed especially for the visit and then removed. A Third World diplomat who visited Pyongyang in 1987 also reported that store windows had been filled only when foreign visitors were expected to pass. * Korean-American visitors report similar temporary "improvements" in Pyongyang.

* During his fall 1987 trip to Pyongyang, Selig Harrison observed that "members of a North Korean 'new class' who possess the 'red won,' a special form of currency with a red stamp, are allowed to purchase foreign food and expensive items at special stores." Harrison, The "Great Follower" Kim Il Sung promotes a Chinese-style open-door policy, Far Eastern Economic Review, 3 December 1987, at 37-38.

E. Housing

The DPRK Government expresses pride in the quality and quantity of the housing it provides. The actual distribution, quality, and quantity appear to belie these claims.

All housing allocations are controlled by the Korean Workers' Party or by Government offices, and allocations are said to depend on one's political status and social classification. According to former residents of the DPRK, the best housing is reserved for the elite groups, who live in detached houses or huge and comfortable deluxe apartments. A typical detached house is said to have one or two stories, a garden, cold- and warm-water systems, and a flush toilet. Typically, apartment buildings are reported to be from 8 to 15 stories high. Apartments tend to have two bedrooms, a private bath with flush toilet, as well as cold- and warm-water systems. Phones are provided for a select group of leaders. According to former residents of the DPRK, the higher ranking leaders live on the lower floors because, even when there are elevators, they often do not function. These preferred residents include deputy department chiefs, deputy ministers of the Party and the State Administration Council, college professors, and directors of various State enterprises.

According to visitors and former DPRK residents, whenever a new and more modern apartment building is finished, the highest

* This charade is repeated in other areas. According to a Chinese sailor, during his visit to a North Korean port he and his crew gave their hosts gifts and were offered cigarettes and other Korean gifts in exchange. After the reception, however, all of the gifts were collected by his hosts and never delivered to the Chinese sailors.

ranking individuals tend to be moved there with their work units, thereby ensuring access to each advance in technology. The family of one senior military official who was interviewed had moved nine times in sixteen years. This policy of moving work units keeps each unit isolated from other groups.

Although the quality of construction has improved in the last two decades, there are defects in housing even for the elite. Among the problems are a lack of elevators, occasional electrical blackouts, and luke-warm water. According to one source who lived in Pyongyang during the late 1970s: "[M]ost electric switches and outlets are defective. Rain soaks through many of the roofs. There are no screens on the windows."

Housing is provided for government workers, teachers, and low-level party officials, reportedly as part of a master plan for urban development. According to a former chief engineer in the City Planning Department who left the DPRK in the early 1980s:

> "The inhabitants' life is taken into account in city planning. One block of living quarters comprises 5-6,000 inhabitants, which is administered as a unit ('dong'). Each apartment consists of two rooms, a kitchen, and a store room. Shops supplying rice, vegetables, fish, and other foodstuffs are located within a range of 500 meters of all residents. In every 'dong' there is a barbershop, beauty parlor, tailoring shop, public bathhouse, shoe repair shop, noodle factory, fuel supply depot, a branch post office, a clinic, a children's nursery school, and a children's library."

Because residents are registered to shop only at their neighborhood stores, they cannot redeem their rice rations elsewhere.

Despite the great burst of construction in the 1970s, there still appears to be a housing shortage in Pyongyang. Recently, a newly wed actress and her husband of a high elite class had to live separately for one year while they waited for an apartment. Ap-

parently, they were fortunate. Most newlyweds are said to have to wait two to three years before receiving their housing allocation. Two Swedish visitors were told by DPRK residents in Pyongyang that newlyweds live indefinitely in the apartment of the boy's parents. *

The non-core residents of Pyongyang still have inferior housing. Some buildings in which they live have been described as "shacks." Outside Pyongyang, there are some special housing projects of greater quality, apartments with 3 to 4 stories located between Pyongyang and the Demilitarized Zone. Otherwise, housing conditions for non-core classes are generally of poor quality.

Rural housing often appears to consist of separate one- or two-room homes in which two households live. For most rural inhabitants water is drawn from a well, and the toilet is an outhouse.

F. Health

Article 48 of the DPRK Constitution provides: "The State consolidates and develops the system of universal free medical service and pursues a policy of preventive medical care so as to protect people's lives and promote the health of the working people." Article 58 also states:

> "Citizens are entitled to free medical care, and persons who have lost the ability to work because of old age, sickness or deformity, old people and children without support have the right to material assistance. This right is ensured by free medical care, a growing network of hospitals, sanatoria and other medical institutions and the State social insurance and security system."

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* W. Westby & M. Lindblad, North Korea - a challenge 157 (1982).

The DPRK proudly announces to the world that it has created an excellent medical system of universal coverage. Many observers have extolled the DPRK for its preventive medicine, hospitals, clinics, and support of medical personnel. Many housing complexes have their own clinic and nurse. Kim Il Sung is given credit for having eradicated diseases that plague other developing countries.

In practice, many of these claims are misleading, as the quality of medical services largely depends on one's rank in society. Kim Il Sung, his family, and close associates receive the best care -- a reflection, in part, of Kim's apparent fear of getting ill and his concern about germs and cleanliness. Some visitors from the United States who have interviewed Kim have been required to pass a medical check-up in advance. Koreans, too, confront a rigorous check-up before being admitted to Kim's inner office.

This concern with cleanliness may have had a role in fostering two programs: 1) Kim has built at great cost and sacrifice a separate large bath and swimming complex for the elite class and foreigners; and 2) four to five times per year the Government reportedly inspects people's bodies and homes for dirt. One former DPRK resident stated that persons have been fined for having lice and that DPRK travelers have been required to carry sanitation passes showing that they have had a bath within the last seven days. People who have been found to be dirty have been criticized for lacking ideological fervor.

In 1968 Kim ordered the construction of Ponghwa clinic, a secret hospital for Kim and selected members of the elite. According to academic experts and former DPRK residents, the clinic has the latest in medical equipment and medicines. Official limousines discharge ranking members of the leadership for examinations and treatment. No foreigner is known to have been allowed to visit it.

Most foreign visitors, however, are urged to tour the thirteen-story Pyongyang Maternity Hospital. The hospital is a showcase of North Korea's success in medical care. It contains the latest in Swedish, German, and Japanese medical equipment. It has

television monitors in the maternity ward so that a mother's family can observe her without entering her room. The hospital is pictured in many North Korean publications and is cited as illustrative of North Korea's advanced medical system.

A different picture appears to lie under the surface, suggesting that a major function of the hospital may be as a showcase and that its sophisticated medical facilities may be underutilized. For example, Swedish medical equipment at the hospital was not sold by the Swedish Government or by any Swedish medical organization. As a result, according to Swedish sources, there are no service contracts and there has been no training in the use of the technology. Similarly, a former resident of the DPRK who had elite status reported that while one of her friends (who also had elite status) had a baby delivered in the hospital, the hospital itself was an underused facility.

Even if the DPRK Government has exaggerated the quality of medical services in Pyongyang, the capital city has far better medical facilities than elsewhere in North Korea, where medical care is dispensed on a mass basis. Doctors are said to show little interest in patients. There reportedly is often no follow-up. Apparently the main purpose of medicine is to keep the individual healthy enough to work. For those people who are chronically ill, health care is often very inadequate. Hospital stays are reportedly unpleasant; hospital food is frequently very poor and, according to some accounts, rotten. Patients generally are not allowed visitors and may not leave their rooms. Reports from Korean-Japanese visitors indicate that patients often must clean their own rooms, including their bedpans.

One indication of the poor quality of medical care was given by a Japanese visitor, who described a 40-year-old worker who had slightly injured his left arm while working in a factory. The wound was one centimeter deep and three inches in length. The doctor thought it was a superficial wound that would heal in two weeks.

Unfortunately the condition deteriorated, but there was no follow-up. When the man returned, his arm had to be amputated.

According to Korean-Japanese visitors, medical care in general appears to have been divided into two classes. All citizens are said to be issued colored consultation cards which they must present upon entering a hospital: red for Party cadres and blue for the others. Those people with red cards are generally treated first, examined more carefully, and dispensed superior medicine. One Korean-Japanese visitor described a 51-year-old worker with a blue card who was brought to a hospital spitting up blood but was left lying on a stretcher for two hours while people with red cards were treated. His impression was that red card holders were given priority due to the color of their cards.

Although medical care is theoretically free to all, an ex-resident of the DPRK who recently left North Korea reported that one's daily pay is reduced 20% to 40% for each day the individual is in the hospital and cannot work. Medicines prescribed are often weak but expensive. As a result, there is a pervasive blackmarket in foreign medicines. Korean residents in Japan who visit or repatriate to Korea are frequently asked to bring medicine. Japanese businessmen are at times hounded by North Korean guides and hotel employees to send medicine.

Academic sources in the United States indicate that the main cause of mortality in the Democratic People's Republic of Korea is cancer (50%), heart disease, and high blood pressure. About 10% of the population is said by these academic sources to be suffering from tuberculosis -- a product of malnutrition and hard work. In addition, many people suffer from gastric ulcers, sterility, nervous disease, frostbite, and hemorrhoids -- all symptoms of tension, excessive labor, and malnutrition.

XVIII. EDUCATION

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 39 of the DPRK Constitution states: "The State carries into effect the principles of socialist pedagogy and brings up the rising generation to be steadfast revolutionaries who fight for society and the people, to be men of a new communist mould who are knowledgeable, virtuous and healthy." Article 41 provides: "The State introduces compulsory ten-year senior middle school education for all young people under working age. The State grants to all pupils and students education free of charge." Article 42 states: "The students of higher educational institutions and higher specialized schools are granted scholarships." And Article 43 provides: "The

State gives all children a compulsory one-year preschool education. The State brings up all chidren of preschool age in creches and kindergartens at State and public expense."*

Despite these constitutional guarantees, education is not provided equally to all, but depends on one's political and class status, as well as gender. The better schools are in Pyongyang and the large cities. Interviews with former DPRK residents suggest that only those students from the elite class may attend post-secondary education. Many students are believed to fail the political background check that is conducted before they may proceed to high school or university. Students are reportedly taught intolerance of foreigners, and the curriculum centers on Kim Il Sung's writings and ideology.

The DPRK claims that, through the creation of educational institutions, it has conquered illiteracy. The foundation of the educational system is an eleven-year system of universal compulsory education. Students may then move on to upper middle school -- primarily vocational institutions -- if they pass the entrance requirements. With the proper recommendation from the work unit, a student can then proceed to one of the 158 specialized schools (*e.g.*, normal school, engineering), or one of the 256 post-secondary educational institutions.

A. The Educational System at Work

In Kim Il Sung's 1979 article "On Socialist Pedagogy" he admits to many inadequacies in the school facilities, supplies, and teaching staff. Some visitors to the DPRK have been told by students that the schools even in Pyongyang are on a half-day system. Those visitors who attended classes observed a pedagogy that allows

*Article 59 also provides: "Citizens have the right to education. This right is ensured by an advanced educational system, free compulsory education and other State educational measures for the people."

for little interaction among students, relying instead on lecturing, rote-memory exercises, and the questioning of students. Foreign visitors who have attended classes and met students in Pyongyang report that North Korean students exhibit little spontaneity or individualism, and appear reluctant to talk with one another. Classrooms in Pyongyang were observed to have few educational displays, apart from materials prepared by individual teachers. The schools outside the capital were said to be in worse shape.

There is some evidence to suggest that the children of Koreans returning from Japan may face especially severe restrictions. For example, Japanese visitors reported a case of a young returnee, Kim Won Jo, who wrote directly to President Kim about an unjust decision made by the committee in charge of approving college entrance. In his view, the committee rejected his application because of his lack of Party connections and the perceived inadequacy of his family's financial contribution to the committee. As a result of his protest he was judged an anti-revolutionary element, arrested by the security forces, and disappeared. The Korean returnees tried unsuccessfully to trace his whereabouts. They believed that he had been detained in a compulsory labor center or executed at the Sankol prison.

The curriculum and the right to matriculate are rigidly controlled by the Korean Workers' Party. The study of the cult of Kim Il Sung plays a major role in the educational experience in both content and time. For example, instruction in introductory foreign languages is undertaken with texts that are translations of Kim's thought and personal background. One school text reportedly proclaimed: "All the gold and iron buried under the soil of our proud land are gifts from Kim Il Sung." A first-year social studies textbook contains chapters on "Marshal Kim Il Sung," "Thank you Marshal Kim Il Sung," and "Our Father, Marshal Kim Il Sung." Kim's name appears on average once per page.

In addition to their formal schooling, all Koreans are directed to study Kim's political thought throughout their lives. Mandatory

evening classes are seminars in political indoctrination. According to former DPRK residents, Korean Workers' Party cadres study on Saturdays and for longer periods in special schools. Deviation from these rigid schedules or from the prescribed curriculum may be cause for disciplinary action or punishment.

B. Intolerance

A large percentage of the curriculum appears to be devoted to war consciousness. The materials are replete with anti-American, anti-South Korean, and anti-capitalist messages. For example, a high school math text, reviewed for this study, contained the following problem:

> "For war preparation, the Yankee imperialist bastard robbers extorted $450 billion in taxes from the South Korean people in 1953. However, in 1963 the tax amount was $790 billion and in 1965 it was $850 billion. Compared with 1953, what are the tax growth rates for 1963 and 1965?"

The refrain from a song from the third grade included the lyrics: "Get out of Korea, you bastard Yankees!" A high school geography text read: "The Yankee imperialist bastards are forcing South Koreans to buy fuels, that can't be sold in their own country...."

The DPRK educational materials reviewed for this study include such common epithets as "bastard landowners," "club to death the enemy," and "hack to death the capitalist dogs." This intolerant, abusive, and belligerent language derives from the pedagogical theories of the Korean Workers' Party. Reflecting this pedagogy, one text recommended: "The best method of narrating a story successfully is to vividly convey one's experience, and by doing so one can effectively agitate in the listeners hatred and hostile feelings against the Japanese imperialists and bastard landlords who had

reigned over our society in the past."* Similarly, another text urged: "Whenever we refer to our enemies, we must use such words as 'gangly American bastards,' 'the noggin of the American bastard,' and so on." **

This formulaic representation of the enemy frightens many young North Koreans, making them fearful of Americans and South Koreans. A female ex-resident of the DPRK who arrived in South Korea reported that during her first few months in Seoul she hid in her room out of fear of being raped by the American soldiers and abused by the starving and depraved South Koreans. When it was suggested to another ex-resident of the DPRK that he seek asylum in South Korea, he responded by saying that he would rather commit suicide then live in such a bad place. Korean-American visitors to Pyongyang have reported that their presence frightened many North Koreans they met.

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* From a Korean language textbook for 7th graders, chapter entitled "Activities of the Language Research Team and the Method of Narrating a Story" at 65.

** DPRK textbook for 8th graders in a chapter on "Narration and Conversation Etiquette." It is unclear whether everyone in the DPRK accepts without question the Government's repetition of such themes as loyalty, commitment to Kim Il Sung and his ideology of Juche, accounts of Kim's popularity, and the accompanying vitriolic attacks on other countries. Official DPRK pronouncements and writings reflect the Government's current attitude and might change under different circumstances.

XIX. CULTURE

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

A remarkable feature of culture in the DPRK is that most publicly issued works of literature, art, and scientific achievements appear to be attributed to the inspiration and guidance of Kim Il Sung and Kim Jung Il.

Article 35 of the DPRK Constitution provides that "all people study and a socialist national culture flourishes and develops fully." Article 36 adds: "The Democratic People's Republic of Korea, by thoroughly carrying out the cultural revolution, trains all the working people to be builders of socialism and communism who are equipped with a profound knowledge of nature and society and a high level of culture and technology." Article 37 declares: "In building a socialist national culture, the State opposes the cultural infiltration of imperialism and the tendency to return to the past and protects the heritage of culture and takes over and develops it in keeping with socialist reality." Article 45 provides that the "State develops a Juche-oriented, revolutionary literature and art, national in form and socialist in content." And Article 60 states: "The State grants

benefits to innovators and inventors. Copyright and patent rights are protected by law."

This focus on the Kims -- and failure to emphasize individual achievement -- finds support in Article 49 of the DPRK Constitution: "the individual [exists] for the whole, the whole [exists] for the individual." Under Kim Il Sung's concept of socialism, individuality (at least other than his own and that of his son) is immoral and exploitative: "Bourgeois morality promotes man's extreme individualism and corruption."*

The prodigious literary production of Kim Il Sung and Kim Jung Il is primarily due to the work of ghost writers, called the "4.15 Creation Group." Information on this group derives from a number of sources, including academic experts and former DPRK residents.** The group has written and re-written the "Literary works of Kim Il Sung," or the so-called "Group Creation." The Party History/Theory Research Center is reportedly the institute responsible for writing the Kims' family history, developing the personality cult, and elaborating Kim's theories. The writers of the Center have also written works of literature and theater that are attributed to the Kims: for example, "The Sea of Blood," "The Fate of a Soldier," "The Girl Selling Flowers," and "An Jung Gun Shoots Ito Hirobumi."

This group of ghost writers consists of writers, composers, and dramatists. Apparently, they are not allowed to reveal their individual identities to the public. According to Lim Un, a former Korean Workers' Party official now in exile in Moscow, some members of this group have included Paek In Jun, Jon Se Bong, and Yi Jung Sun.

* "Nurturing Communist-type man and moral indoctrination," Rodong Sinmun, 8 March 1986.

** Most of the discussion below regarding the mechanics of artistic production is drawn from Lim Un and is largely consistent with other reports we have received. See generally, Lim Un, "The Founding of a Dynasty in North Korea: An Authentic Biography of Kim Il-sung (1982); Rodong Sinmun.

According to Lim Un, Government and Party musical and literary compositions have been carefully and repeatedly reviewed by the Government before publication, principally by the Ministry of Culture and Art and by the Korean Workers' Party (particularly its Propaganda and Agitation Department and the Culture and Arts Department of the Party's Central Committee). Kim Jung Il reportedly takes part in the editing and approving of movies.

Once a cultural product is approved, it is reportedly sent to the General Federation of Korean Literature, which controls the cultural activity of local literary and artistic organizations. Kim Jung Il and his writers are believed to set the tone and establish the content for literary, musical, and artistic work by these organizations. Artists in these organizations then replicate these models, often in massive quantities. According to a December 1985 radio commentary from Pyongyang:

> "Millions of people are embraced in the existing 20,000 odd literary and art circles in Korea. In the last year more than 130,000 pieces of literary and art works have been produced and upwards of 29,000 pieces of literary and art works presented to various art festivals held in celebration of the 40th anniversary of the founding of the Workers' Party of Korea."

Predictably, most of this artistic output is monotonously repetitive, due to the risk of sanction for taking an unorthodox stand. According to North Koreans now living in Japan, the smallest deviation could be met with a loss of one's artistic position and, at times, with a prison sentence.

The DPRK has attempted to create a new socialist culture. With very few exceptions, such as group folk dancing and singing, the past is considered reactionary. Socialist works are required to

venerate the leadership, promote revolutionary consciousness, encourage increased production, and promote greater loyalty to socialism, the Party, and Kim Il Sung.

An example of this formula of adulation are the films on the life of Kim Jung Il. In the Korea of the Kims, film is "the most powerful medium for educating the masses." The biographical documentaries on the two Kims form a major educational tool for creating the new communist man. In a 16 February 1987 report entitled, "Commentary Films Recording Imperishable Feats," the Korean Central News Agency in Pyongyang described the latest biographical movie on Kim Jung Il:

> "Documentary films on the undying feats, the leadership and noble virtues of dear Comrade Kim Jung Il are frequently screened in the cinema houses of the Democratic People's Republic of Korea.
>
> "The documentary film 'The Dear Leader Comrade Kim Jung Il Gives On-the-Spot Guidance to Main Fronts of Socialist Construction' shows his wise leadership in guiding socialist construction to victory in 1984.
>
> "That year, too, Comrade Kim Jung Il left immortal marks all over the country in carrying the noble intention of the great leader President Kim Il Sung into practice....
>
> "Documentary films recording the energetic external activities of Comrade Kim Jung Il have a great attraction.
>
> "Documentaries on his immortal feats are showing in many countries of the world."

Kim Il Sung and Kim Jung Il consider cultural production akin to other forms of production. The annual economic plan is reported to include a category for works of art, complete with quotas. Writers, like workers, are reportedly given awards for exceeding their quotas, and are admonished for failing to produce sufficient and timely material. Because there is no private property, there is apparently no need for patents, copyright, or royalties of any kind.

XX. RIGHT TO INTERNATIONAL ORDER

Article 28

> Everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized.

Most of this study has examined human rights within the DPRK. This chapter, however, looks briefly at some aspects of the "external" rights identified by Article 28 of the Universal Declaration of Human Rights, in particular, North Korean involvement in the killings and other acts against civilians abroad, and North Korean encouragement of violations of international human rights and humanitarian law.

Outside of Pyongyang there appear to be military training camps for foreigners. Evidently one such camp was unexpectedly observed by a Western businessman. He was en route to Pyongyang from his joint venture plant in the countryside when his vehicle broke down. Wandering down a road in search of help, he and his escort stumbled upon a camp in which Middle Eastern and other foreign military personnel appeared to be engaged in military training. The businessman was ushered out very swiftly.

South Korean Government sources claim that, by the 1980s, North Korea housed approximately ten guerrilla training camps. According to this report, approximately 5,000 foreign trainees from 35 countries undergo 6- or 18-month training sessions. Participants are reportedly trained in activities that include kidnapping, assassination, ambush, marksmanship, use of poison, sabotage, propaganda, and agititation.

One dramatic attack apparently attributable to the DPRK occurred on 9 October 1983 in Rangoon, Burma. Then South Korean

President Chun Doo Hwan, members of his cabinet, and other Korean officials were attending a ceremony at the Mausoleum of the Martyrs in Rangoon. A large explosion ripped through the structure, killing 21 persons, including four South Korean cabinet ministers. The Burmese police found on the basis of an apparently credible investigation into the gun powder used and confessions of the perpetrators that the North Koreans had attempted to assassinate President Chun. Several North Korean military personnel were charged with the killings. A former DPRK resident now living in the United States reported that Kim Jung Il had personally admitted to him that he had directed the bombings. Western sources generally agree that Kim Jung Il is closely involved in terrorist activities.

On many occasions the DPRK Government has threatened or otherwise warned persons against doing business with South Korea. In addition, former residents from the North who have sought residence in South Korea have been threatened by the Government in the North. The North Korean ambassador to Denmark is believed to have warned Danish Members of Parliament against participating in the parliamentarians' conference held in Seoul in 1983, suggesting that Danish politicians would not be safe in South Korea.

Before the Asian games of 1986, the DPRK made a number of unspecific warnings that internal violence and disruption could occur in South Korea. Then, just before the games, a bomb exploded in a trash can at Kimpo airport, killing and wounding dozens of people. There is apparently no conclusive evidence linking the DPRK to this attack, and there is considerable speculation as to who may have placed the bomb, with some reason to suspect Japanese radical groups. Nevertheless, South Korean and Burmese law enforcement officials have stated that the components of the bomb were the same that had been used in Rangoon and in another attack in Taegu, South Korea. These components, available from the USSR, are reportedly the common stock of North Korean ordnance. The DPRK media also warned of violence and disruption during the Seoul

Olympics in September-October 1988, but no significant disruption occurred.

The most recent major incident occurred on 29 November 1987, when a South Korean airline from Baghdad to Seoul crashed before a refueling stop in Bangkok, Thailand. Although the cause of the crash has not been determined, a lengthy debate in the UN Security Council and other material provided reason to suspect that a North Korean couple had hidden a bomb aboard the plane before leaving it in Bahrain. (*See* chapter VIII.D., above.)

DPRK diplomats have also been accused of misusing their diplomatic status. During the mid-1970s several European governments, including Belgium, Denmark, and Sweden, declared DPRK diplomats *persona non grata* because DPRK embassies were found regularly to be using their diplomatic privileges to import and sell drugs. *

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* The profits from these drug transactions were reportedly used to pay for full page advertisements extolling the virtues of Kim Il Sung in the New York Times and other publications. The published advertisements were then said to have been placed in the museums of the DPRK to demonstrate worldwide respect for Kim Il Sung.

XXI. LIMITATIONS ON RIGHTS

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Article 49 of the DPRK Constitution provides: "In Democratic People's Republic of Korea the rights and duties citizens are based on the collectivist principle of 'One for all and for one'."

The human rights abuses discussed in this study cannot be justified by reference to the limitations found in Articles 29 and 30 of the Universal Declaration, which, according to standard international practice, must be read restrictively so as not to undermine the rights secured by the remainder of the Declaration. Nor has the DPRK Government sought to justify its violations by citing these limitations. Indeed, while Article 29 justifies certain restrictions in the name of a "democratic society," the DPRK cannot be considered a "democratic society" because it does not comply with the basic requirement in Article 21 of the Universal Declaration which calls for "periodic and genuine elections."

In addition, the limitations in Articles 29 and 30 of the Universal Declaration should be read in the light of Article 4 of the International Covenant on Civil and Political Rights, which elaborates on when a country can derogate from certain rights. According to Article 4, certain rights cannot be the subject of derogation even in periods of public emergency, including the right not to be subjected to discrimination solely on the ground of race, color, sex, language, religion, or social origin; the right not to be arbitrarily deprived of life; the right to be free from torture and cruel, inhuman or degrading treatment or punishment; the right to be free from slavery, servitude, or imprisonment for inability to fulfill a contractual obligation; the right not to be punished for *ex post facto* offenses; the right to be recognized as a person before the law; and the right to freedom of thought, conscience, and religion. Unfortunately, the DPRK Government has violated many of these rights.

Article 4 of the Covenant does permit derogation from other human rights in periods of public emergency, so long as, among other requirements, the emergency is officially declared, based upon discernable facts showing a threat to the life of the nation. The DPRK Government has not officially declared such a public emergency, nor has it notified the United Nations Secretary-General as Article 4(3) of the Covenant would require. Accordingly, Articles 29 and 30 of the Universal Declaration cannot be cited by the

Democratic People's Republic of Korea to excuse its human rights abuses.