

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, Pannunjom, 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."<sup>\*\*\*</sup>

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. <sup>\*\*\*</sup>

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."<sup>\*</sup>

#### 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 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); terrorist 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

• 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

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).

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 vilification 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.

## 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 assassinate 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 Jangsan 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 Johannul Jomollil 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

\* 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 breathe.

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\* Interview with movie producer, December 1986. See also I U. Choe & S. Shin, *Jokuk-un Johanal 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

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.

\* 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. Ambrister, A Matter of Accountability: The True Story of the Pueblo Affair (1970).

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."<sup>+</sup>

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.<sup>\*\*</sup> The oppressive nature 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.<sup>\*\*\*</sup> As a result, Japanese legal traditions were discarded after Japanese rule ended in 1945.<sup>\*\*\*\*</sup>

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).<sup>+</sup> The DPRK Constitution of 9 September 1948 is almost a verbatim copy of the 1936

\* 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. + + +

• 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, infrin-

• 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 Justice in North Korea, Korean J. Comparative Law 123, 128 (1977); Koo-Chin Kang, Law in Communist Korea: An Analysis of Soviet-Chinese Influences Thereupon 59 (1968).

gements 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

• 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 prejudi-

cial 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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\* 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.

• Id., Art. 145.

• Law on Court Organization, Art. 27.

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 Sehwon, President of a Provincial Court Paek Sunghin, 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 As-

\* *Sec. 5&6*, 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.

sembly at the corresponding level, the members of which themselves serve two-year terms.\*

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 responsibility 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:

<u>Province</u>	<u>County</u>	<u>Village/Location</u>
Hamgyong-pukdo	Onsung	Changryung Li, Poongchun Li, Dong Po Li
Hamgyong-pukdo	Hwacrung	Kulsan Li; Raksaeng Li
Hamgyong-pukdo	Kyungsung	Joo Eul Li
Hamgyong-namdo	Yoduk	Yoduk Myon
Hamgyong-namdo	Jungpyong	not known
Pyongan-pukdo	Yongchun	Upper Paekma River, north of Yangsi
Pyongan-pukdo	Youngbyon	not known
Chagang-do	Hwacchun	not known
Hamgyong-namdo	Duksung	Rimangji Li (No. 23 Camp)
Hamgyong-namdo	Kaema Plain	"No. 5 Camp"
Pyongan-namdo	Pukchang	Suksan Li (Mine areas): No. 17 Camp
Pyongan-namdo	Kacchun	Middle of Pihoo 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 Poryngang, 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*.<sup>\*</sup> 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

\* 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

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\* 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.

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\* 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, Jangcong, 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, Chcolwon 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.

\* 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.

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

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