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Law “Of Our Own Style”: The Evolution and Challenges of the North Korean Legal System

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Abstract

In this Essay, I first briefly present theoretical contexts that may aid in defining the North Korean legal system. Next, I trace the evolution of the North Korean legal system by examining the North Korean reaction to various legal influences of the Japanese occupation, Soviet tutelage, and traditional Korean practices, and outline the current politico-legal structure. In the final section, I inquire whether the North Korean legal structure can accommodate a different legal system necessitating rule-of-law requirements, as applied to its foreign investment regime and, perhaps some day, nationwide. Although the main purpose of this Essay is to introduce the North Korean legal system to the unacquainted, I posit further that the legal system cannot inherently process rule-of-law syntax, so that any eventual interface will begin to corrode the North Korean legal system as we know it today.

ESSAYS

LAW “OF OUR OWN STYLE”: THE EVOLUTION AND CHALLENGES OF THE NORTH KOREAN LEGAL SYSTEM

*Patricia Goedde**

I. INTRODUCTION

Analyzing the North Korean legal system is no popular endeavor. Despite the occasional article addressing North Korean nuclear proliferation issues or the laws of North Korean special economic zones, there are few comprehensive research pieces on the North Korean legal system. This void can be attributed to both practical and theoretical considerations. Practically, researching legal aspects of North Korea (“Democratic People’s Republic of Korea” or “DPRK”) is tricky due to the lack of easy access to the country and to primary materials, thus inhibiting in-depth case studies. However, one can use North Korean legal texts, social science journal articles, history monographs, intelligence reports, eyewitness testimonies, personal visits, and even anecdotal evidence to obtain a fairly comprehensive picture of the North Korean legal systems. Once practical considerations are overcome, the fundamental theoretical question remains: Does law matter in North Korea?

The relative marginalization of law by the North Korean leadership is what discounts its value abroad. Thus, it would be tempting to say that employing a legal framework to deduce valuable information about North Korea would be futile. However, I contend that we can derive great utility by analyzing North Korea from a legal standpoint. First, our ignorance demands it. Most Americans’ knowledge of North Korea does not reach appreciably beyond news headlines, leaving us contemplating a car-

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icature (i.e., its leadership is willing to barter and develop weapons of mass destruction while its population starves). A legal analysis compels a more critical appraisal. This framework helps us to explore the historical rationale behind North Korean domestic and foreign policies and to investigate the workings of the current politico-legal structure. Second, North Korea is at a crossroads, presented with a collision of two legal paradigms, rule-by-law versus rule-of-law, on a number of fronts — political, economic, and social.

Rather than be satisfied with a “we’re right, they’re wrong” position, we must seek a communication between two fundamentally different approaches. For example, there is the question of how to reconcile a socialist legal system with a separate legal regime reserved for foreign investment in North Korea’s special economic zones. With tectonic shifts in North Korean economic policy underway, we must also anticipate where North Korea is headed in terms of a market economy and the legal changes and challenges accompanying such a transition.

In this Essay, I first briefly present theoretical contexts that may aid in defining the North Korean legal system. Next, I trace the evolution of the North Korean legal system by examining the North Korean reaction to various legal influences of the Japanese occupation, Soviet tutelage, and traditional Korean practices, and outline the current politico-legal structure. In the final section, I inquire whether the North Korean legal structure can accommodate a different legal system necessitating rule-of-law requirements, as applied to its foreign investment regime and, perhaps some day, nationwide. Although the main purpose of this Essay is to introduce the North Korean legal system to the unacquainted, I posit further that the legal system cannot inherently process rule-of-law syntax, so that any eventual interface will begin to corrode the North Korean legal system as we know it today.

II. *DEFINING THE DPRK LEGAL SYSTEM*

How does one define the North Korean legal system? Popular media portrays North Korea as a totalitarian State led by a bizarre, calculating dictator, Kim Jong Il. It would be easy to dismiss North Korea as having no law under the assumption that anything outside the conceptual construct of “rule-of-law” is sim-

ply not "real" law. However, this assumes that rule-of-law itself is an ideal archetype, when in fact its definition is very fluid. The core, basic elements of rule-of-law are commonly identified as accessibility, clarity, and equal applicability to citizens and government officials alike.¹ In the liberal democratic sense, the definition usually expands to include the right to a fair trial, an independent judiciary, and the presumption of innocence until proven guilty. It can extend further to include the right to trial by jury, separation of powers and a durable constitution. Essentially, rule-of-law is an accordion-like concept, but at this point it would be safe to say that the North Korean legal system does not have any of the above features.

For the classical comparative law scholar, perhaps the most convenient placement for North Korea would be within the family of socialist law. The rough definition would then be that the North Korean legal system lies squarely within the socialist legal tradition, and thus rule-by-law, not rule-of-law, would be the governing paradigm. Other legal comparativists have questioned, however, whether socialist law and rule-of-law automatically constitute an oxymoron. Government officials and scholars of the People's Republic of China and Vietnam also wrestle intensely with this issue, claiming movement towards a "socialist rule-of-law."

In his study on China, Randall Peerenboom provides a thin version of the rule-of-law, resting on procedural requirements like transparency, fairness, consistency, enforceability, and acceptability by the public.² Expanding on thick theories of rule-of-law circulating in China, he categorizes them into four types (Liberal Democratic, Communitarian, Neo-authoritarian, and Statist Socialist), while rule-by-law hangs in a category all by itself.³ Peerenboom does not address variations of rule-by-law in any detail, but under his criteria, North Korea would fall under the socialist rule-by-law heading owing to the following traits: totalitarianism, single party rule, no civil society, socialist conception of rights as bourgeois, emphasis on duties to State, law as a tool of State interest, party policy preceding laws, and lawyers as

1. See Thomas Carothers, *Rule of Law Revival*, 77(2) FOREIGN AFF. 2 (1998).

2. See RANDALL PEERENBOOM, CHINA'S LONG MARCH TOWARD RULE OF LAW 65 (2002).

3. See *id.* at 71-75, 103-09.

State workers. This is partially helpful in understanding the socialist legal tradition of the North Korean legal system, but it does little to enlighten us as to what is uniquely North Korean about the legal structure.

For another perspective, we turn to Ugo Mattei who argues for an altogether new taxonomy of law, recognizing that “[l]egal systems are the result of a layered complexity that stems from the accidents of legal history and from legal transplants.”⁴ Opposed to the increasingly outmoded Euro-American centric classification of legal families into civil, common, socialist, and “other” (accounting for variations among the former), Mattei proposes a new labeling of legal systems: rule of professional law (the Western legal tradition), rule of political law (the law of development and transition), and rule of traditional law (“Oriental View of the Law”). Allowing for sub-families and mixed systems, Mattei locates North Korea within the rule of traditional law with tendencies towards rule of political law, further ensconced in the “Chinese-style Far Eastern” sub-system.⁵ Although his taxonomy is helpful because it reminds us to take into account the various layers of native, colonial, and communist legal components in North Korean history, Mattei’s categorization of North Korea is debatable because it fails to identify what is novel about the North Korean legal system.

At its core, the North Korean legal system is based on socialist law. As we will see, law is a derivative of North Korean party policy, a means to implement State objectives, a party code that citizens should follow, and a ruthless mechanism by which to punish those that do not. At the same time, we should be sensitive to what is distinctively North Korean about the legal system and explore these intricacies next.

III. *EVOLUTION OF THE DPRK LEGAL SYSTEM*

Many forces shaped the legal character of the North Korean State before its birth in 1953: Japanese colonialism, Soviet auspices, and to some extent, the traditional Korean legal code. The Japanese dominated the legal structure in Korea during the colonial period of 1910-1945 primarily through laws, Japanese or

4. Ugo Mattei, *Three Patterns of Law: Taxonomy and Change in the World's Legal Systems*, 45 *AM. J. COMP. L.* 5, 13-14 (Winter 1997).

5. *Id.* at 42.

Japanese-trained jurists, and police surveillance. Although Japan was successful in exerting pervasive control over the Korean population via law and police power, it did not impose Japanese law completely. Much of the Korean legal system was still kept in place on matters that Japanese ordinances did not reach, especially concerning anything outside maintaining the public order (e.g., kinship or succession).⁶

Upon liberation of Korea in 1945, the North Korean leadership abrogated all existing Japanese laws but had to reinstate the same laws to maintain public order until new laws could be promulgated.⁷ Meanwhile, the North Korean regime was intent on purging Japanese colonial practices, including those implemented judicially, which meant removing most legal professionals. Because they were viewed as "pro-Japanese national traitors," judges, lawyers, and police officers had to be ousted.⁸ The newly established North Korean Justice Bureau, complete with a Soviet advisor, started offering two-week training courses to replace legal personnel. The Bureau prohibited Japanese or pro-Japanese personnel from participating while specifically encouraging farmers, laborers, and women to participate.⁹ This inevitably led to the hiring of individuals who lacked legal training, but it also meant the unavoidable retention of some Japanese-trained jurists for their legal expertise.¹⁰

The new law code of 1946 ended up being "a modified Japanese legal code combined with a Soviet-style judicial system, along with elements reflecting the nationalistic and mass-based policies of the emerging North Korean leadership under Kim Il Sung."¹¹ "Popular participation" and "democratic legal consciousness" were encouraged in the establishment of laws, a judicial system and police organization, reflecting the anti-imperialist platform of the emerging North Korean regime. In revamping the legal structure, the idea lay more with expelling pro-Japanese elements, since the existing laws were seen as a tool to

6. See Chulwoo Lee, *Modernity, Legality, and Power in Korea Under Japanese Rule*, in COLONIAL MODERNITY IN KOREA 27 (Gi-Wook Shin & Michael Robinson eds., 1999).

7. CHARLES K. ARMSTRONG, *THE NORTH KOREAN REVOLUTION 1945-1950*, at 197 (2003).

8. See *id.* at 198.

9. See *id.* at 199.

10. See *id.* at 198-99.

11. *Id.* at 197.

subjugate the Korean population. Ironically, the Japanese colonial practices which the North Korean leadership was so intent on purging, were, in fact, significantly retained. This was especially true with respect to the surveillance mechanism which North Korea developed to a far greater extent through social regulation, "thought" police, and mutual surveillance.¹²

Besides Japanese input, Soviet authority is visible in North Korea's legal architecture. Soviet advisors in North Korea had a heavy role in drafting the 1948 DPRK Constitution along with numerous reform laws and ordinances.¹³ As leaders in the Soviet Civil Administration in North Korea, these consultants were sensitive to North Korean aspirations, using a populist tone and emphasizing land reform in the Constitution.¹⁴ Although the advisors did not implant pure Soviet law in North Korea, North Korean judicial practice started to follow a Soviet pattern in terms of court structure and the procuracy. For example, the courts exercised not only punitive powers but also had the duty to educate criminals and the public about being faithful to the law and the party. Also, similar to other Communist States, ordinary citizens began to serve as people's assessors on the bench alongside the judge.¹⁵ As for the procuracy, it was streamlined to be accountable to the Procurator-General instead of to the local people's committees and the Justice Bureau.¹⁶ The North Korean Justice Bureau itself was abolished three years after the Soviet Union dismantled its own Ministry of Justice in 1956.¹⁷

Apart from Soviet legal practice, the more notable influence was in socialist theory. North Korea initially adopted Marxist-Leninist principles in the name of socialism. Briefly, Marxist-Leninist ideology claims that law is a tool of the ruling bourgeois class, and that socialist law, an altogether different species of law,

12. *Id.* at 191-92.

13. See ERIC VAN REE, *SOCIALISM IN ONE ZONE* 170 (1989); KATHRYN WEATHERSBY, *SOVIET AIMS IN KOREA AND THE ORIGINS OF THE KOREAN WAR, 1945-1950: NEW EVIDENCE FROM THE RUSSIAN ARCHIVES* 17 (Cold War Int'l History Project, Working Paper No. 8, Woodrow Wilson Int'l Ctr. for Scholars 1993).

14. See ARMSTRONG, *supra* note 7, at 201.

15. The North Korean Constitution and the Court Organization Law of 1950 require two people's assessors to work alongside a judge on a bench in cases of first instance. See Sung Yoon Cho, *The Judicial System of North Korea*, 11(2) *ASIAN SURVEY* 1171 (Dec. 1971).

16. See *id.* at 1172.

17. See ROBERT A. SCALAPINO & CHONG-SIK LEE, *COMMUNISM IN KOREA* 813 (1972).

is the instrument of the proletariat dictatorship. In Joseph Stalin's words:

. . . whereas the proletarian dictatorship is a dictatorship of the exploited majority over the exploiting minority . . . the dictatorship of the proletariat is the legally unlimited dominance of the proletariat over the bourgeoisie, resting on violence, and enjoying the sympathy and support of the toiling and exploited masses.¹⁸

Kim Il Sung liked this version of socialist legality and was loath to depart from it. A few years after the Soviet presence and the end of the Korean War in 1953, Kim Il Sung began to criticize domestic legal reformists who wanted to follow the de-Stalinization campaign of the Soviet Union in the late 1950s.¹⁹ Reformists wanted to prioritize equal application of the law, thereby subordinating party policy, but Kim Il Sung could not tolerate the idea and purged the rightists from the courts, procuracy and the Korean Workers' Party for being tainted with a bourgeois legal consciousness.²⁰ Expanding on the socialist version of the role of law, Kim Il Sung declared at a national conference for legal workers in 1958:

. . . the law of our country is an important weapon for implementing the policies of our [S]tate. The policies of our [S]tate are the policies of our Party. It is impossible to enforce the law without knowledge of the political line and policies of our Party. . . . Our judicial functionaries are political workers who implement the policies of our Party and all the policies of our state. Law cannot exist by itself without definite basis. Being a reflection of policies, law must be subordi-

18. Sergei Aleksandrovich Golunskii & Mikhail Solomonovich Strogovich, *The Theory of the State and Law*, in *SOVIET LEGAL PHILOSOPHY* 351, 359 (Hugh W. Babb trans., 1951) (emphasis added) (quoting JOSEPH STALIN, *QUESTIONS OF LENINISM* 29-30 (11th Russian ed. n.d.)).

19. See Cho, *supra* note 15, at 1179.

20. See Hiroshi Oda, *The Procuracy and the Regular Courts as Enforcers of the Constitutional Rule of Law: The Experience of East Asian States*, 61 *TUL. L. REV.* 1339, 1353-54 (1987). A similar eradication was taking place at the same time in the People's Republic of China. The Anti-Rightist Movement of 1957 called for a formal rejection of the concept of the rule of law as "bourgeois" and the leadership expelled advocates for trying to "use the law to resist the Party." See also Albert H.Y. Chen, *Toward a Legal Enlightenment: Discussion in Contemporary China on the Rule of Law*, 17 *UCLA PAC. BASIN L.J.* 125, 125-26 (Fall 1999/Spring 2000).

nated to policies and must not be divorced from them.²¹

Under socialist law, State coercion is legitimized.²² Soviet legal philosophers include this component in their definition of law as:

the aggregate of the rules of conduct (norms) established or approved (sanctioned) by [S]tate authority, expressing the will of the dominant class, as to which the *coercive force of the [S]tate* guarantees their begin put into operation to the end of safeguarding, making secure, and developing social relationships and arrangements *agreeable and advantageous to the dominant class*.²³

Furthermore, "law is not above the [S]tate but emanates from it, and socialist legality, likewise, is always the modus operandi of the socialist [S]tate and cannot become an impediment to its realization of its historical tasks."²⁴ Therefore, Kim Il Sung's statements of law as weapon and the primacy of policy over law both reflect Marxist-Leninist application of law where the State formulates law as an extension of party policy and is authorized to use coercive force in implementing policy. In some sense, the DPRK legal system may appear frozen in time, since it still embodies Stalinist-era and colonial practices of yesteryear. The socialist legal tradition has remained strong, but on the other hand, a distinct Koreanization²⁵ of Marxist-Leninist ideology has taken place.

Although Marxism-Leninism was the primary doctrine for North Korean State and society, this changed formally in 1972 when *Juche* philosophy, "a creative application of Marxist-Leninism to our own country's reality,"²⁶ was introduced in the Constitution. Already in the 1960s, North Korea talked of *juche* socialism as "socialism of our style" [*urisik sahoejuui*].²⁷ *Juche* cannot be overstated here due to its importance in North Korean society. It is often translated simply as self-reliance or self-determi-

21. Cho, *supra* note 15, at 1180 (1965) (quoting KIM IL SUNG, 1 *SELECTED WORKS* 384).

22. See Golunskii & Strogovich, *supra* note 18, at 361.

23. *Id.* at 370 (emphasis added).

24. *Id.* at 393.

25. I use this term in the same manner as "Sinification" is used to discuss Chinese absorption and adjustment of Soviet law.

26. SOCIALIST CONSTITUTION OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA art. 4 (1972) [hereinafter DPRK CONSTITUTION].

27. ARMSTRONG, *supra* note 7, at 190.

nation, but the definition is more complex. Kim Il Sung was credited with using the term frequently during his guerrilla days, but he progressively developed *juche* into a nationalist ideology, eventually resting it on three pillars: political sovereignty, an independent economy and military self-defense. Not limited to the political and economic spheres, *juche* philosophy pervades all aspects of North Korean society. Essentially, it is a nationalist, and, I dare say, spiritual creed that requires putting North Korea first in every respect.²⁸ Meanwhile, other unique modifications to the DPRK Constitution include references to native creations like the *Chongsanri* spirit, *Chollima* Movement, and the *Tae'an* work method.²⁹ Finally, in 1992, reference to Marxism-Leninism in the DPRK Constitution was abandoned altogether. The Constitution has addressed socialist legality consistently, but it has assumed a local character under *juche* principle. The current constitutional article related to law specifies:

The law of the DPRK reflects the wishes and interests of the working people and is a basic instrument for State administration.

Respect for the law and its strict adherence and execution is the duty of all institutions, enterprises, organizations and citizens.

The State shall perfect the system of socialist law and promote the socialist law-abiding life.³⁰

This provision expresses five major points with respect to the North Korean constitutional meaning of law. First, the law reflects the wishes and interests of the working people (the dominant class). Second, the law is a State instrument. Third, citi-

28. See BRUCE CUMINGS, *KOREA'S PLACE IN THE SUN: A MODERN HISTORY* 403-04 (1997). For an official exposition of *juche* ideology, see KIM, JONG IL, *ON PRESERVING THE JUCHE CHARACTER AND NATIONAL CHARACTER OF THE REVOLUTION AND CONSTRUCTION* (1997).

29. The *Chongsanri* spirit and method, as defined by Article 13 of the current DPRK Constitution, is that "by which superiors assist their subordinates, mix with the masses to find solutions to problems, and rouse them to conscious enthusiasm preferentially through political work with people." The *Chollima* [Flying Horse] Movement refers to the acceleration of socialist construction, while the *Tae'an* work method places all economic management under Party committee leadership, emphasizes greater politicization of work and promotes better communication between management and laborers. See Chin Kim, *Recent Developments in the Constitutions of Asian Marxist-Socialist States*, 13 CASE W. RES. J. INT'L L. 483, 492-93 (1981).

30. DPRK CONSTITUTION art. 18.

zens and all organizations have the duty to obey the law (as opposed to having legal rights against the State). Fourth, socialist law shall be perfected (eschewing bourgeois law), and, lastly, socialist law-abiding life shall be promoted (making the observance of law a moral obligation). The dominant theme is socialist, but Kim Il Sung invented the concept of "socialist law-abiding life," to be instilled in everyone via mass campaigns promoting respect for public authority and the duty to obey all the legal norms and rules issued by the State,³¹ effectively merging politics, law, and morality into one concept.

Besides the later reference points of *juche* and "Kimilsungism" (a take-off from "Stalinism"), strands of traditional Korean legal history underlie the North Korean legal system in subtle but enduring ways. Ancestral lineage and worship, as defined by patrilineal descent was a core concept of Neo-Confucian ideology during Choson Dynasty (1392-1910) and codified in the *Kyongguk Taejon* [Great Code of Governance] of 1471.³² This principle has remained in North Korean society in terms of dynastic succession and inheritance of family class status, where the distinction between the *yangban* [elite] and commoners was strong. However, the Korean Workers' Party ("KWP") replaced the *yangban* as the elite core of society and one's political status in or outside the KWP circle continues with the family name. Because this class ranking stays with a North Korean for life and passes to his or her descendants, those in a politically dangerous class inherit a lifetime of general or strict surveillance. Another example of patrilineal importance is Kim Jong Il's official assumption of power three years after his father's death. The exact reason for this is unconfirmed, but had Kim Jong Il assumed power hastily, it would have exhibited greed to rule, insecurity of his legitimacy, and most importantly, lack of respect for his (and the nation's) father. It is almost certainly no coincidence that the *Kyongguk Taejon* stipulates three years as the mourning period for the death of one's father.³³

Neo-Confucian impact on North Korean customary and legal practices is important but must not be overemphasized.

31. See SUNG YOON CHO, *LAW AND LEGAL LITERATURE OF NORTH KOREA: A GUIDE* 18 (1988).

32. See generally MARTINA DEUCHLER, *THE CONFUCIAN TRANSFORMATION OF KOREA: A STUDY OF SOCIETY AND IDEOLOGY* (1992).

33. See *id.* at 182-83.

Such traditional elements appear to place the DPRK in Mattei's "Chinese-style, Far Eastern" box, but no less important are the Japanese colonial and Soviet legal influences that came later, adjusted by more modern, revolutionary Korean Communist interpretation. Although familial themes of North Korean society are easily attributable to Confucianism, Bruce Cumings warns that familial references are not unique to Confucianism. He prefers calling North Korea a corporatist State, a less culture-specific term that explains much of the familial themes in North Korean society.³⁴ Cumings has a valid point considering the many Christian metaphors (e.g., Father-Son) also found in North Korea.³⁵ This discussion may seem a digression, but we come full circle to the latest revision of the DPRK Constitution in 1998, which immortalizes Kim Il Sung as the eternal leader of North Korea. The Constitution is a legal preservation of his sacredness, exemplifying another fusion of law and morality.

IV. POLITICO-LEGAL STRUCTURE OF THE DPRK

Before making further reference to the DPRK Constitution, it is imperative to differentiate this legal text from Western constitutions. While the latter function to regulate governmental power and guarantee individual rights, the DPRK Constitution does not have the same priority. Like its Chinese and Vietnamese counterparts, the DPRK Constitution is a dynamic, prescriptive document that outlines the institutional apparatus of the State and delineates the current policy objectives of the Party.³⁶ It marks turning points in the overall progression of the

34. See Bruce Cumings, *The Corporate State in North Korea*, in STATE AND SOCIETY IN CONTEMPORARY KOREA 197-230 (Hagen Koo ed., 1993).

35. Kim Il Sung had Protestant parents and a Christian upbringing. Some of the analogies to Kim Il Sung being seen as a "religious" figure are "giving thanks" to the Dear Leader before meals in orphanages, the sanctity of his family sites, and the mythical birth of Kim Jong Il on Mt. Baekdu, the tallest mountain in Korea.

36. For a sampling of literature on the significance of the PRC Constitution, see Jerome A. Cohen, *China's Changing Constitution*, CHINA Q., No. 76, at 794-841 (Dec. 1978); ANDREW J. NATHAN, POLITICAL RIGHTS IN THE CHINESE CONSTITUTIONAL TRADITION IN CHINESE DEMOCRACY 107-32 (1986); William C. Jones, *The Constitution of the People's Republic of China*, 63 WASH. U. L.Q. 707-35 (1985); Janet E. Ainsworth, *Interpreting Sacred Texts: Preliminary Reflections on Constitutional Discourse in China*, 43 HASTINGS L.J. 273-300 (1992). For a view on the Vietnamese Constitution, see Pip Nicholson, *Vietnamese Legal Institutions in Comparative Perspective: Contemporary Constitutions and Courts Considered*, in LAW, CAPITALISM AND POWER IN ASIA 300 (Kanishka Jayasuriya ed., 1999).

country's development. For example, since its inception in 1948, the Constitution was amended in 1972, 1992 and 1998, with five minor revisions between 1954 and 1962. We should bear in mind this purpose of the DPRK Constitution without juxtaposing it with the standard of constitutions in Western liberal democracies. The Constitution cannot be viewed as a permanent, protective covenant of individual rights, but it is a useful map in charting North Korean policy development.

The DPRK Constitution sets out the basic organization of the Party apparatus and reflects organizational changes throughout the years. For example, in 1992, the National Defense Commission was made the second highest State organ in a move to consolidate Kim Jong Il's power after his father's death. The political structure of the North Korean State, as reflected in the Constitution, is organized in the following order: the Supreme People's Assembly ("SPA"), the National Defense Commission ("NDC"), the SPA Presidium, the Cabinet, Local People's Assembly, Local People's Committee, and the Public Procurators' Office and Court. The KWP is the superstructure over all these institutions. Kim Jong Il is General Secretary of the KWP and also the Chair of the NDC, the *de facto* highest State organ in the DPRK since it prevails over the SPA.³⁷ With candidates pre-screened by the KWP before election, the SPA serves more or less as a rubber-stamping vehicle for the KWP.³⁸ The same applies to local people's committees whose candidates are also pre-approved by the KWP before election. The SPA Presidium actually holds more power than the SPA. Historically, Party officials of the SPA Presidium held higher ranks than SPA chairmen,³⁹ and a reading of the Constitution demonstrates that the SPA Presidium's prerogatives exceed those of the SPA. For example, the SPA Presidium convenes SPA sessions, interprets the Constitution and laws, issues decrees, and can create or liquidate Cabinet organizations.⁴⁰ Meanwhile, the Chair and Vice Chair of the SPA Presidium hold concurrent positions in the SPA.

The courts and procuracies are accountable to the SPA Presidium or to the SPA in session. The tri-level court system con-

37. See Dae-kyu Yoon, *North Korea*, in *LEGAL SYSTEMS OF THE WORLD* 1193 (Herbert M. Kritzer ed., 2000).

38. See *id.* No record of dissenting votes has been observed in SPA sessions.

39. See SCALAPINO & LEE, *supra* note 17, at 796-97.

40. DPRK CONSTITUTION art. 110.

sists of a Central Court, twelve provincial courts and approximately 100 people's courts.⁴¹ A separate special court consists of the military court which covers criminal cases under its jurisdiction. The courts mainly address criminal and divorce cases, while trials concerning administrative, constitutional, or election issues are not allowed.⁴² Lower courts usually have one judge and two people's assessors, while appeal courts have three judges. Although, in principle, regional people's assemblies elect the judges and people's assessors, the KWP appoints all candidates.⁴³ The procuracy structure resembles the court structure, with a Central Procuracy, provincial and county procuracies, and a separate military procuracy. Although procuracies investigate and prosecute crimes, procuracy offices also have the unique function of auditing other State organs and can try civil, divorce, and mediation cases uncovered in that administrative process.⁴⁴ These institutions are dependent on the KWP, since the SPA Presidium has the authority to elect or transfer Central Court judges and people's assessors, while the SPA can appoint or remove the Procurator-General and can elect or transfer the Chief Justice.⁴⁵ The same goes for North Korean lawyers. Numbering somewhere between 500 and 1,000,⁴⁶ these legal consultants and representatives receive State salaries and are assigned clients by the local lawyers' committee. Thus, they represent the interest of the State, rather than the client whom they are expected to educate and persuade to confess.⁴⁷

The courts, procuracy and lawyers do not alone assume the legal role of educating, disciplining and punishing citizens. Local people's committees, work units, and fellow compatriots have the same function. In particular, "socialist law-abiding" committees instituted in people's committees at all levels are more powerful legal actors since they oversee the procuracy, police, and

41. YONHAP NEWS AGENCY, NORTH KOREA HANDBOOK 151 (Monterey Interpretation and Translation Services trans., 2003) [hereinafter NORTH KOREA HANDBOOK].

42. *See id.*

43. *See id.*

44. *See id.* at 152.

45. DPRK CONSTITUTION arts. 91, 110.

46. The *North Korea Handbook* reports that there are 500 lawyers working full or part-time, while Yoon Daekyu approximates the number to be closer to 1,000. The exact figure is difficult to pinpoint, especially since non-lawyers can also aid clients. *See* NORTH KOREA HANDBOOK, *supra* note 41, at 152; Yoon, *supra* note 37, at 1196.

47. Yoon, *supra* note 37, at 1196.

State inspection agencies.⁴⁸ Specifically, they check officials' abuse of power, comment on laws, disseminate legal information, supervise work units and citizens in general, apply legal sanctions or delegate some of these functions to law-enforcement agencies at their discretion.⁴⁹ For those who want to file complaints and petitions against any State agency wrongdoings, an administrative process exists where the relevant socialist law-abiding committee can decide appropriate punitive actions against officials guilty of any transgression.⁵⁰ Furthermore, the concerned agency, enterprise or local party committee can organize a peer tribunal system to handle minor offenses and mete out punishments like fines, reprimands, or temporary suspensions of salary.⁵¹

A final comment about the DPRK Constitution concerns its irrelevance to an entire class of people. The Constitution lists rights for its citizens, but these rights are unavailable to those located outside its ideal socialist society. Constitutional rights extend only to those citizens who correctly abide by the socialist way of life. That is, rights are only granted to the extent citizens fulfill their duties to the State. For those who offend the State, intentionally or not, these rights do not apply and repercussions are severe. In the post-war period, reactionaries, pro-Japanese, and former landowners were systematically imprisoned in keeping with the revolutionary nature of the State and the constant aim of crushing the bourgeois classes. Descendants of these groups are unable to shed their class backgrounds to this day, and are constantly subjected to State and peer scrutiny for the smallest offenses. Labeled as hostile or potentially hostile to the State, these individuals are the bottom rung of the socialist hierarchy, if not completely outside of it, and thus are not granted the same privileged rights as the rest of the politically correct populace unless they can prove otherwise.⁵²

Because State force is legitimized under socialist law, arbitrary detention and imprisonment of State criminals, or *enemies*,

48. Sung Yoon Cho, *Democratic People's Republic of Korea (North Korea): The Socialist Constitution of the Democratic People's Republic of Korea*, in *CONSTITUTIONAL SYSTEMS IN LATE TWENTIETH CENTURY ASIA* 289-90 (Lawrence Beer ed., 1992).

49. *Id.*

50. See *NORTH KOREA HANDBOOK*, *supra* note 41, at 153.

51. *See id.*

52. *See generally* HELEN-LOUISE HUNTER, *KIM IL-SONG'S NORTH KOREA* 3-11 (1999).

are politically acceptable. The lack of both, the presumption of innocence and the right to a fair trial, is antithetical to constitutional democracies, but these notions would never apply to North Korean society in the first place, because the political status of the accused is obviously anti-State, usually pre-determined by the person's pre-revolutionary family background. Therefore, the DPRK government would deem what we call *arbitrary* as logical and justified. Even assuming the accused gets to present his or her case before a judicial panel, the trial would never be fully impartial given judicial deference to the KWP. The extreme lack of political rights in the criminal process, from accusation to imprisonment, has been the subject of international criticism by human rights organizations, but the DPRK government has repeatedly denied any human rights abuses,⁵³ consistent with its view that certain classes were never accorded rights in the first place.

V. LAW AND ECONOMIC DEVELOPMENT IN THE DPRK

The DPRK faces major legal challenges internationally with respect to such areas as human rights protection and compliance with nuclear nonproliferation standards, but the most salient challenge emerges from within, i.e., the economic development of North Korea. In the last decade, the DPRK has established a number of special economic zones in order to induce foreign capital. In the past two years, it has attempted wide-scale economic reform. This section addresses a number of questions that emerge in that context: Are the zones economically sustainable? What legal structures govern their operations? Do these legal regimes promote or inhibit the economic viability of the special economic zones? In pursuing nationwide economic reform, will the DPRK follow the examples of China or Vietnam by initiating a socialist-oriented market economy with concurrent legal reform?

A. *Foreign Investment in Special Economic Zones*

With a focus on heavy industry, North Korea had steady economic growth into the 1970s, but began to face difficulty in ser-

53. *Core Document Forming Part of the Reports of the State Parties: Democratic People's Republic of Korea, U.N. Office of the High Commissioner for Human Rights, U.N. Doc. HRI/CORE/1/Add.108/Rev.1 (2002).*

vicings its foreign debt in the late 1970s and early 1980s. Deteriorating economic conditions in the 1980s necessitated another legal transformation in North Korea. Making a number of visits to the People's Republic of China ("PRC"), Kim Il Sung studied Chinese experiments with foreign investment and special economic zones. Soon after, the DPRK Supreme People's Assembly promulgated the first Joint Venture Law in 1984, patterned after China's joint venture law, although not explicitly. However, the law alone failed to attract foreign investment, and in the wake of the collapse of the socialist bloc, which severed many trade relationships and cut access to the usual markets, Kim Il Sung had to initiate further changes. This led to the creation of the Rajin-Sunbong Free Economic and Trade Zone ("Rajin-Sunbong"), which was accompanied by a constitutional revision and the passing of foreign investment laws in the 1990s.

The flurry of legal activity surrounding foreign investment raises two fundamental questions. How can the inducement of foreign capital not violate *juche* principle, one of its chief pillars being economic self-reliance? How can the DPRK leadership justify this compromise? Furthermore, how can a socialist legal system accommodate small pocket economies that run on private law principles? Pyongyang leadership saw no specific ideological quandary in reconciling foreign capital input with *juche*, or at least it was not about to show that it did. Since economic survival was at stake, foreign investment was seen as a means to an end. Furthermore, the State was prepared to guard against unseemly capitalist influence, for example by exhorting the population to raise a "mosquito net" against polluting bourgeois thoughts⁵⁴ and by physically barricading special economic zones to prevent infiltration of capitalist methods into the rest of North Korean society (and to keep curious, unauthorized North Koreans out).

Meanwhile, North Korean legal instruments reflect State efforts to resuscitate the economy. Amendments to the Constitution in 1992 specify that foreign investments are permitted in special economic zones, while the SPA passed various foreign investment laws and regulations in the early and mid-1990s related to the Rajin-Sunbong Free Economic and Trade Zone (the word "Free" was later dropped). This raises the other issue of whether

54. NORTH KOREA HANDBOOK, *supra* note 41, at 370-71.

two different legal templates, one socialist-based and the other private law-based, can coexist. DPRK leadership believes that they can, based on China's experience with special economic zones. The laws on their face appear to provide a liberal foreign investment environment with incentives such as choice in enterprise type, tax holidays and discounts, guaranteed profit remittance and no customs duties on export and import materials.⁵⁵ A close reading of the laws and regulations, however, reveals heavy and intrusive State presence despite all references to national ideology being stripped. The extent of State involvement and requirements (e.g., State brokerage of labor recruitment, costs to develop leased land, mandatory pay raises, and free meals for workers) may have surprised those who invested, but these conditions were all stated as legal provisions from the outset.

Legal infrastructure aside, Rajin-Sunbong has not been particularly successful, attracting only about a fifth of the total of U.S.\$640 million in investments pledged at its much publicized United Nations-sponsored investment forum in 1996.⁵⁶ Investors point to its marginal location at the northeastern tip of the Korean peninsula, lack of transport infrastructure, border-crossing impediments, increasing hidden costs, and administrative intrusion.⁵⁷ Other special economic zones constructed later have not fared much better. The Mt. Geumgang Tourist Zone has been the best source of cash for the North Korean government since 1998, when the South Korean *Hyundai* conglomerate committed U.S.\$942 million over a period of five years to shuttle South Koreans visitors by ship.⁵⁸ However, the viability of this project is now in jeopardy because *Hyundai* is increasingly in the

55. For detailed treatment of these foreign investment laws, see Bryan Greyson et al., *Foreign Investment Laws and Regulations of the Democratic People's Republic of Korea*, 21 *FORDHAM INT'L L. J.* 1677 (1998); Haksoo Ko, *Foreign Investment in North Korea: An Assessment of Recent Laws and Regulations*, 38 *VA. J. INT'L L.* 221 (1998); Sang-Jick Yoon, *Critical Issues on the Foreign Investment Laws of North Korea for Foreign Investors*, 15 *WIS. INT'L L. J.* 325 (1998); Eric Yong-Joong Lee, *Developments of North Korea's Legal Regime Governing Foreign Business Cooperation: A Revisit Under the New Socialist Constitution of 1998*, 21 *NW. J. INT'L LAW & BUS.* 199 (2000).

56. Bradley Babson, *Economic Cooperation on the Korean Peninsula*, Northeast Asia Peace and Security Network Special Report (Mar. 6, 2003), at <http://www.nautilus.org/napsnet/sr/index.html> (last modified Mar. 30, 2004).

57. MARCUS NOLAND, *AVOIDING THE APOCALYPSE: THE FUTURE OF THE TWO KOREAS* 136 (2000).

58. *Id.* at 139.

red with this venture. Also negotiated between the DPRK and *Hyundai* (and the South Korean government) is the Gaesung Industrial Zone located close to the South Korean border. This industrial complex is currently under construction by *Hyundai Asan* and the Korea Land Corporation, and its future is still indeterminate. North Korea's latest attempt at yet another special zone was in 2002, when it designated Sinuiju, a city on its eastern Chinese border, as a special administrative region based on the Hong Kong model. Here, too, progress has stalled because Chinese authorities arrested the designated Dutch-Chinese governor for tax evasion. The DPRK has yet to find a comparable replacement to spearhead development for Sinuiju.

Each zone has a different legal personality (i.e., economic and trade zone, tourist zone, industrial complex, and special administrative region) and a different legal structure for foreign investment, which demonstrates that the DPRK does not have a cohesive foreign investment legal regime. For example, most of the foreign investment laws of the 1990s relate to Rajin-Sunbong and do not apply to the other zones. Both, the Mt. Geumgang Tourist Zone and the Gaesung Industrial Zone, were specially negotiated between the DPRK government and *Hyundai* with the consent of the South Korean government. Brief decrees governing the legal structures of Mt. Geumgang and Gaesung came in 2002 and refer to the legal authority of agreements reached between the North and South with respect to the zones.⁵⁹ Meanwhile, Sinuiju is designed to have a separate administrative and legal structure altogether, as laid out in the Basic Law of the Sinuiju Special Administrative Region ("Sinuiju Basic Law"). Although it is unknown what legal system will be imported, controls are in place to regulate all activities within the administrative region, such as ultimate accountability of the governor and legislative council to the central government, SPA Presidium powers to interpret and amend the Sinuiju Basic Law, the power

59. Decree of Mt. Geumgang Tourist Zone and related regulations. "Agreements reached between the North and South" presumably refers to the business contracts negotiated between both sides, as well as the inter-Korean Agreement on Commercial Dispute Resolution, signed at the ministerial talks in Pyongyang on December 16, 2000. An English translation of this agreement, as well as of the three bilateral agreements on investment protection, clearing settlement, and prevention of double taxation of income, can be found under Inter-Korea Relations, Inter-Korean Document, at the ROK Ministry of Unification website, at <http://www.unikorea.go.kr/en/>.

of the legislative council to interpret their own regulations, and the lack of judicial independence in interpreting laws.⁶⁰

Although the DPRK crafted legislation to promote foreign investment in special economic precincts, the success of a project depends more on political negotiations and long-term profitability than on a strict reading of the laws. Despite the absence of any reference to socialism and *juche* in the foreign investment laws and regulations, administrative and social controls are firmly entrenched. The current laws do more to exert control and provide social and capital benefits to North Korea than to provide protection and recourse for investors, thereby inhibiting investments. Perhaps realizing that, the State recently made the call for foreign lawyers and accountants to work in the DPRK to help draw foreign investment.⁶¹ The DPRK's struggles with piecemeal legislation for foreign investment zones in its territorial outskirts, raises the question of how it might standardize its domestic legal regime for national economic reform.

B. Nationwide economic reform

So far, the special economic zones have been largely unproductive vehicles to induce foreign investment and gain hard currency, thereby doing little to alleviate the real crises of poverty, famine and natural disasters continuously plaguing North Korea. As for the economy itself, World Bank consultant Bradley Babson writes that it is currently in "a fragile low growth mode, dependent on disbursements of foreign funded projects, humanitarian assistance programs, and Chinese aid and subsidies."⁶² With its economy at rock-bottom, the DPRK government finally initiated nationwide economic reforms in July 2002. Previous wariness of the term "reform" disappeared as the SPA (Presidium) Chair Kim Yong Nam proclaimed:

We are reactivating the whole field of the national economy
... We are directing our whole efforts to restructure our eco-

60. For a translation and explanation of *Basic Law of the Sinuiju Special Administrative Region*, see Patricia Goedde, *The Basic Law of the Sinuiju Special Administrative Region: A Happy Medium Between the DPRK Constitution and Hong Kong Basic Law?*, 3 J. OF KOREAN L. 77 (2003).

61. DPRK in Search of Foreign Lawyers, Accountants, Northeast Asia Peace And Security Network Daily Report, at <http://www.nautilus.org/napsnet/dr/0310/OCT29-03.html> (Oct. 29, 2003).

62. Babson, *supra* note 56.

conomic base to be in line with the information technology revolution . . . and as we have done since 1945 we are undertaking reforms in line with the prevailing situation, in the best interests of the people . . . we are reforming the economic system on the principle of profitability.⁶³

The DPRK government made major changes such as: (1) increasing the price of rice and other basic commodities purchased through the Public Distribution System to reflect informal market prices; (2) increasing wages; (3) charging higher rent of households and higher transport fees; (4) allowing State enterprises to determine their own production plans and engage in commercial transactions; and (5) devaluing the North Korean won, while removing the convertible won from the market (similar to China eliminating the Foreign Exchange Certificate in 1994). These actions partially resemble the *doi moi* (economic renovation) initiatives of the Vietnamese government in 1986, but thus far have not improved North Korea's overall economy.

It may be premature to compare North Korea with China and Vietnam because their economies are at very different stages of development, but China and Vietnam are North Korea's best models if it wants to gradually move toward accepting a market economy without sacrificing socialism. China and Vietnam are seminal examples of socialist, centrally-planned economies that have explicitly moved toward operating a socialist market economy with simultaneous moves toward being a law-based State. The important question is whether North Korea will emulate China or Vietnam in pursuing a socialist market economy along with legal reform.

In 1994, the DPRK accused China of being "traitors to the socialist cause" and probably lumped Vietnam in the same category considering that both formed formal political and economic ties with South Korea. The DPRK has since softened its language toward China given the latter's economic assistance, and has shown interest in Vietnam's *doi moi* policy. The DPRK is very cautious about limiting foreign investment to specially designated enclaves on its perimeter, but that is how China started out before implementing economic reforms nationwide. It is not far-fetched that the DPRK would also like to pursue its own particular path of economic reform. It probably fears, however,

63. *Id.*

that deeper economic reform will open the floodgates to uncontrollable external influences, undermining the *juche* ideology upon which the State is based.

China and Vietnam have made conscious policy shifts to embrace a socialist market economy as illustrated by their constitutional amendments. The 1993 PRC Constitution expressly stipulates, "[t]he State practices a socialist market economy," while the 1992 Vietnamese Constitution reads, "[t]he State promotes a multi-component commodity economy functioning in accordance with market mechanisms under the management of the State and following the socialist orientation" to reflect *doi moi* policy.⁶⁴ Both China and Vietnam also recognize the role of law in economic development. In 1999, China revised the Constitution to include the phrase "rule of law" (although it may not comport exactly with the Western liberal definition). The Vietnamese government significantly amended its Constitution in 1992 to promote *doi moi* and planned a ten year Legal Reform Strategy, acknowledging that legal reform is fundamental to economic reform.⁶⁵ While the DPRK has made constitutional modifications and enacted laws to accommodate more domestic economic activities and foreign investment, it is difficult to predict whether the State will opt whole-heartedly for a socialist market economy. The DPRK is still trying to resuscitate its failed economy under the counterproductive *juche* principle, and as long as it clings to a planned economy, it will not budge from its constitutional objective of "perfecting socialist law."

The DPRK will not move toward the rule-of-law, especially without a more serious economic reform. As it stands, North Korea cannot successfully implement its current reform package. To ensure its economic well-being, it will need outside help from neighbors like South Korea, Japan, China, the United States, and International Financial Institutions ("IFIs"). Although the DPRK has inquired about joining IFIs like the World Bank and the Asian Development Bank ("ADB") and sought assistance

64. PEOPLE'S REPUBLIC OF CHINA CONSTITUTION art. 15 (adopted Dec. 4, 1982, amended Apr. 12, 1988 and Mar. 29, 1993); SOCIALIST REPUBLIC OF VIETNAM CONSTITUTION (adopted Nov. 1946, amended Dec. 31, 1959, Dec. 18, 1980 and Apr. 18, 1992).

65. See Levien Do, *Vietnam's Revised Constitution: Impact on Foreign Investment*, in VIETNAM AND THE RULE OF LAW (Carlyle Thayer & David Marr eds., 1993). See also Comprehensive Needs Assessment of Vietnam's Legal System Development 2001-2010 (LNA), available at www.vnforum.org/docs/gov/ (last visited Feb. 10, 2004).

from the International Monetary Fund (“IMF”), it has not had any success to date. Its poor debt repayment history and antagonistic relations with the United States hinder North Korean participation. The United States has a crucial role in deciding whether the DPRK can acquire any economic assistance from institutions like the World Bank, ADB, or IMF. By law, the U.S. government cannot support IFI loan assistance to the DPRK or provide domestic assistance under the International Financial Institutions Act or the Foreign Assistance Act, respectively.⁶⁶ Unless North Korea can improve its human rights record and a constructive understanding is reached on the current nuclear impasse, the U.S. government will continue to withhold its support for financial assistance to the DPRK.

If the United States and the DPRK could negotiate a security package that includes IFI assistance, it would introduce a very plausible scenario that moves us beyond the conventional “regime change or status quo” attitude circulating in some American policy spheres. In carrying out their reform work, IFIs like the World Bank and the ADB (and many bilateral aid agencies) assume a causal connection between rule-of-law and economic sustainability.⁶⁷ IFI projects would not only include assistance in terms of money and technology, but also technical expertise in law and business management. I venture that, on the whole, the DPRK would be receptive to these types of assistance. Although accepting such aid might appear to go against *juche* principle, *juche* is an elastic concept. If North Korean theorists can rationalize *juche* to tolerate special economic zones and the latest nationwide economic reform, they can stretch it further. However, North Korea is unlikely to find the language of rule-of-law palatable. Ideological language notwithstanding, could the current North Korean legal system practically absorb what would still essentially be a rule-of-law transplant? As vehicles that export the rule-of-law, IFIs favor a comprehensive approach, targeting legal frameworks (substantive and procedural), legal institutions, legal education and legal information.⁶⁸ In reforming these sec-

66. See 22 U.S.C.S. § 262d (2004); 22 U.S.C.S. § 2151n (2004).

67. See Asian Development Bank, Law and Policy Reform, at <http://www.adb.org/Law/default.asp> (Mar. 8, 2004); The World Bank Group, *Legal and Judicial Reform*, at http://www4.worldbank.org/legal/leglr/index_english.html (last visited Feb. 10, 2004).

68. See, e.g., Developing Mongolia's Legal Framework: A Need Analysis, at <http://>

tors in North Korea, challenges would abound across the board for all parties. IFIs may have relative luck working on foreign investment-related matters, such as promoting transparency in accounting procedures, improving fair and consistent dispute resolution mechanisms, training judges and lawyers on commercial transactions, and disseminating legal information, but they would hit a wall in areas outside foreign investment.⁶⁹ Creating an independent judiciary, devolving power to the people, applying civil liberties fairly — these are all counterintuitive processes in the Party-conscious hierarchy of North Korea. Ultimately, ideologies would collide, and how much *juche* can yield is the question. We cannot get too ahead of ourselves in making predictions, but these potential problems must be flagged for what may come one day.

VI. CONCLUSION

North Korea has a multifaceted legal system that warrants more than ritual dismissal for not conveniently falling under a rule-of-law heading. Conceptual constructs such as socialist legality, rule-by-law, or even the "Chinese-style Far Eastern" subsystem are helpful in describing major tendencies of the North Korean legal structure but do little to define its novelties. Layers of traditional, colonial, and socialist legal influences have molded the North Korean legal system, but the most significant impact comes from the "Koreanization" of law under Kim Il Sung's *juche* ideology. Just as North Korea has called its socialism "of our own style," so too is this uniqueness extended to and reflected in the legal system. Law is but a policy tool of the Korean Workers' Party, by which dutiful citizens must abide. In addition, the law is imbued with *juche*, Kim Il Song's constitutionalized sacredness, and the Korean revolutionary experience.

The North Korean legal system faces challenges, one current and one forward-looking, mainly by the rule-of-law paradigm. The current predicament concerns the creation of a viable legal regime for foreign investors, one that is reliable, fair,

www.adb.org/Documents/Papers/Mongolia_Legal_Framework/default.asp (Oct. 1995).

69. For an argument against blanket transfer of a rule-of-law platform, see FRANK UPHAM, MYTHMAKING IN THE RULE OF LAW ORTHODOXY (Carnegie Endowment for Int'l Peace, Working Paper No. 30, Sept. 2002), at <http://www.ciaonet.org/wps/sites/ceip.html>.

and transparent, without intrusive State involvement. North Korea has not prioritized the development of an attractive foreign investment legal regime, calling into question how it may accommodate legal transition to a socialist market economy, should such a move be attempted in the future. The DPRK can continue to stimulate its economy under *juche* principles, which so far has proven unsustainable, or it can opt for gradual, broader-scale economic reform while still retaining socialism. Should it be the latter, North Korea will likely need assistance from the IFIs and bilateral aid agencies to pursue concurrent legal reform, and will benefit from studying the experiences of China and Vietnam. The rule-of-law agenda that many of these aid organizations champion, however, are at odds with the current North Korean legal system, i.e. they are more in the realm of civil liberties and less in the area of foreign investment. Rule-of-law (socialist or not) will not appear in the DPRK without a more significant economic transition, presumably toward a socialist market economy, and will not come from purely domestic initiative. The North Korean legal system will be affected by the demands of the rule-of-law paradigm, ultimately dooming North Korea's law "of our own style."