TAE-UNG BAIK*

Nonjudicial Punishments of Political Offenses in North Korea—With a Focus on *Kwanriso*†

Torture, extrajudicial killings and disappearances, suppression of the freedom of expression and association, and other breaches of fundamental human rights are widespread and systematic in North Korea. The United Nations Human Rights Council established the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea in 2013, and the Commission's report confirmed that widespread and grave violations of human rights are being committed in the country. As an effort to analyze the origins of human rights violations in North Korea, this Article examines the country's penal system by cross-referencing North Korean statutes and defectors' testimonies. By comparing what the law stipulates with how the procedure is actually practiced, this Article attempts to illustrate how the North Korean penal law system is especially reliant on nonjudicial punishment of political offenses through kwanriso *camps, which admit a great number of political offenders and their families without going through the regular judicial process.*

Introduction

The Democratic People's Republic of Korea (hereinafter North Korea) has been portrayed in several different ways by the international community. First, the most common face of North Korea in the international community is that of a regional and global

* Associate Professor of Law, William S. Richardson School of Law, University of Hawai'i at Mānoa; J.S.D., LL.M. (Notre Dame Law School); LL.B. (Seoul National University); Expert, UN Human Rights Council Working Group on Enforced or Involuntary Disappearances. This work was supported by the Academy of Korean Studies Grant (AKS-2012-R-79). I am indebted to Professor In-sup Han, Seoul National University Law School, for his continuous support of this project. I am also grateful for the support of the Center for Korean Affairs, Seoul National University, in 2006. Special thanks go to the following individuals, organizations, and institutions: Human Rights Watch; Good Friends and Reverend Beop Ryun; Citizens' Alliance for North Korean Human Rights (NKHR); Yoon Hyun; Kim Youngja; NKNet; National Human Rights Commission of the Republic of Korea; NKDB; Seo Chang-rok; Kim Soo-am; Kay Kyung-hwa Seok; Anselmo Lee; and the University of Hawai'i Law School and its Dean, Aviam Soifer. My research assistants, Jung-wha Jin, Jiwoong Gabriel Lee, Yea-Jin Lee, David Scott Hutchison, David Klaponski, and Devon Catalan, were tremendously helpful in completing this project.

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security threat. North Korea's development of nuclear weapons and long-range missiles has been considered a serious danger in the region. Second, various humanitarian crises have drawn international attention to North Korea since the late 1990s, when the country suffered from serious famine. Pictures of starving, undernourished children, statistics reflecting the great number of refugees desperately hiding in China, reports confirming an astronomical number of deaths during the famine,[1] and the continuous suffering of the people from food shortages are vivid examples of the seriousness of this problem.[2] Finally, there is a human rights dimension to North Korea's problems. Because of the foregoing issues, the human rights aspect has often been viewed as less serious a concern by the international community, even if there is abundant evidence showing that human rights violations in the country are alarmingly grave and compelling.

Torture, extrajudicial killings and disappearances, suppression of the freedom of expression and association, and other breaches of fundamental human rights are widespread and systematic in North Korea.[3] Since 2004, the United Nations has appointed a Special Rapporteur on North Korean human rights,[4] and in March 2013, the United Nations Human Rights Council established the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea to investigate systematic, widespread, and grave violations of human rights.[5] The report of the Commission of Inquiry was submitted to the UN Human Rights Council on February 17, 2014, and recommended that the UN Security Council refer crimes against humanity in North Korea to the International Criminal Court.[6]

North Korea tends to respond to these international criticisms with a flat denial. To identify human rights violations in North Korea is challenging because there are several significant hurdles. First, due to the regime's lack of transparency, it is extremely difficult to obtain reliable information on political and legal issues. North Korea is a tightly sealed-off state, and it is hard to tell rumor from fact. Second, due to the tension between the two Koreas, it is hard to find an opportunity to discuss human rights conditions in the

1. *See* HUMAN RIGHTS WATCH, *The Invisible Exodus: North Koreans in the People's Republic of China*, 14 HUM. RTS. WATCH REP. no. 8(c), Nov. 2002, https://www.hrw.org/reports/2002/northkorea/norkor1102.pdf. This report was coauthored by Dinah Pokempner, Tae-Ung Baik, and Mike Jendrzejczyk.

2. HUMAN RIGHTS WATCH, WORLD REPORT 2012, at 356–57 (2012).

3. HUMAN RIGHTS WATCH, *supra* note 1.

4. Commission on Human Rights Res. 2004/13, U.N. Doc. E/CN.4/RES/2004/13 (Apr. 15, 2004).

5. Human Rights Council Res. 22/13, U.N. Doc. A/HRC/RES/22/13 (Apr. 9, 2013).

6. Rep. of the Detailed Findings of the Comm. of Inquiry on Hum. Rts. in the Democratic People's Republic of Korea, U.N. Doc. A/HRC/25/CRP.1, ¶ 1211 (2014) [hereinafter Rep. of the Comm.].

country,[7] and, consequently, it is extremely hard to verify factual information. Moreover, because of their politically sensitive nature, any statement or assertion regarding these issues may be easily misinterpreted as having been influenced by political views or political affiliation.

Despite the methodological difficulties in researching North Korean human rights systems, the research environment is improving. A great number of North Korean statutes and regulations that had not been disclosed in the past are now available (in Korean) in South Korea.[8] Moreover, a good number of firsthand accounts and testimonies from North Korean refugees living in South Korea or China have been made available.[9] Therefore, it is possible to analyze the North Korean penal system by cross-referencing North Korean statutes and the defectors' testimonies. By comparing what the law stipulates with how the procedure is actually practiced in North Korea, we can obtain a better understanding of the criminal process and the human rights situation.[10] It is especially important to understand the criminal litigation of political offenses in North Korea. This Article attempts to illustrate how the North Korean penal law system is functioning, especially relying on nonjudicial punishments of political offenses through *kwanriso* camps, which admit a great number of political offenders and their families without going through the regular judicial process.

I. Overview of the North Korean Penal Law System

The criminal justice system in North Korea was heavily influenced by the Soviet system, and shares some characteristics with the Chinese criminal justice system. The Criminal Act[11] enumerates

7. In South Korea, articles 3 and 7 of the *Gukkaboanbeob* [National Security Act], Act No. 5454, Dec. 13, 1997, and article 9 of the *Nambukgyoryuhyopryukbeob* [Inter-Korean Exchange and Cooperation Act], Act No. 10228, Apr. 5, 2010, prohibit unauthorized contact with people from North Korea or any acts benefiting North Korea. In North Korea, the Preamble to the *Joseonnodongdanggyuyak* [Rules of the Democratic People's Republic of Korea Workers' Party], amended April 11, 2012, demonstrates that North Korea still aims to "revolutionize" South Korea.

8. *See* 2015 Choesin Bukhan Beopryungjip [2015 Collection of Current Acts and Regulations of North Korea] (Myung-Bong Chang ed., 2015). Because there is no official English version of North Korean law available to date, the English translations of North Korean law given throughout this Article are by the author unless otherwise indicated.

9. I have collected approximately 150 testimonies that are relevant to my research through searching the literature and governmental documents, as well as through my personal interviews with North Korean refugees in South Korea.

10. There are relatively few publications on the North Korean legal system and most of those consist of reviews of North Korea's historical legal development. The actual implications of the law for human rights in the context of punishment is seldom explored, especially because of the lack of reliable data.

11. Hyongbeob [Criminal Act], *amended and supplemented by* Decree No. 2387 of the Presidium of the Supreme People's Assembly, May 14, 2012.

crimes in the legal system. According to the 2012 Criminal Act, a list of crimes is provided as follows:

- Crimes against the state and nation (Chapter 3),
- Crimes against the management of national defense (Chapter 4),
- Crimes against the socialist economy (Chapter 5),
- Crimes against the socialist culture (Chapter 6),
- Crimes against the state's general administrative management order (Chapter 7),
- Crimes against the socialist collective life order (Chapter 8), and
- Crimes against citizens' life and property (Chapter 9).

The Criminal Act demonstrates that the protection of the state has been highly emphasized over other crimes. For example, the anti-state and anti-nation crimes occupy three sections of the Act with fourteen provisions (from article 60 to article 73).[12] The list of crimes includes conspiracy to subvert the state (article 60), terrorism (article 61), anti-state propaganda and agitation (article 62), treason against the Fatherland (article 63), treason against the nation (article 68), harboring an individual who committed a crime against the state or the nation (article 71), and failure to report a crime against the state or the nation (article 72).

The punishments for these crimes are generally severe, ranging from years of reform through labor, to reform through labor for life, to the death penalty.[13] However, the constituent elements of the crimes against the state are overbroad and ambiguous. For example, article 60 provides:

> A person who, with anti-state purposes, participates in a coup d'état, riot, demonstration or assault, or takes part in a conspiracy to commit those acts shall be punished by reform through labor for more than five years. In cases where the person commits a grave offense, he or she shall be punished by reform through labor without term, or by the death penalty and confiscation of property.

This provision can serve to punish virtually any type of anti-state or anti-government activities, including activities that should be permitted as an exercise of the internationally guaranteed right to freedom of expression. Article 63, punishing the crime of treason against "the Fatherland," is equally overbroad and ambiguous. It punishes a citizen who commits "acts against the Fatherland by defection, surrender, betrayal, or disclosure of secrets" by reform through labor for

12. *Id.* arts. 60–73.
13. *See id.* art. 60.

more than five years.[14] It also adds that a grave offense shall be punished by a life sentence to reform through labor or the death penalty and confiscation of property.[15]

Official punishments for crimes in North Korea are enumerated in article 27 of the Criminal Act as follows:

- Death penalty,
- Reform through labor for life,
- Reform through labor with a limited term,
- Labor training,
- Deprivation of the right to vote,
- Confiscation of property,
- Fines,
- Forfeiture of a licence, and
- Suspension of a licence.

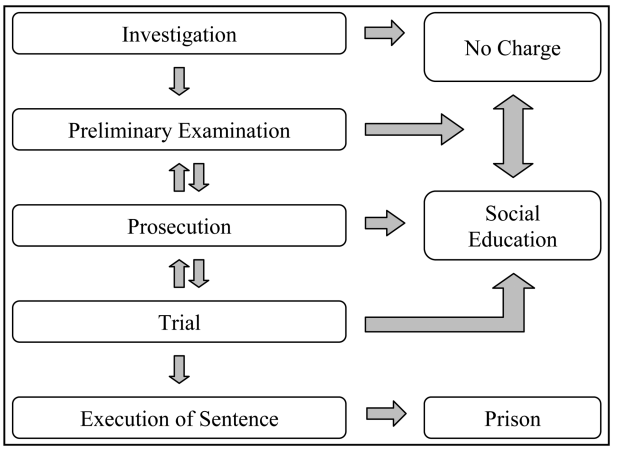
The latter five punishments are supplementary punishments applied in conjunction with the regular punishments.[16]

In 1999, North Korea abolished the practice of interpretation of the law by analogy,[17] which had been criticized for punishing acts not identified in any enumerated law through analogy to the constituent elements of a crime involving similar circumstances. The 1999 amendment significantly reduced the number of crimes punishable by the death penalty to only five, but a 2009 amendment increased the number to six by adding the crime of destruction and sabotage.[18] However, in addition to the crimes in the Criminal Act, a new Addendum to the Criminal Act was adopted in 2007, which introduced seventeen new crimes punishable by death.[19]

The process of punishment and criminal adjudication in North Korea is governed by the Criminal Procedure Act,[20] which covers investigation, preliminary examination, prosecution, trial, and the execution of the sentence (see Figure 1). The North Korean Criminal Procedure Act demonstrates a couple of serious legal flaws. First, there is no concept of a guaranteed right against self-incrimination

14. *Id.* art. 63.
15. *Id.*
16. *Id.* art. 28.
17. Hyongbeob [Criminal Act], *amended and supplemented by* Decree No. 953, Aug. 11, 1999, art. 10.
18. Hyongbeob [Criminal Act], *amended and supplemented by* Decree No. 27, Apr. 28, 2009, art. 64.
19. *See* Hyongbeob Buchick [Addendum to the Criminal Act], *adopted by* Decree No. No. 2483, Dec. 19, 2007, arts. 1–23, *available in* 2015 CHOESIN BUKHAN BEOPRYUNGJIP, *supra* note 8, at 254.
20. *See* Hyongsasosongbeob [Criminal Procedure Act], *amended and supplemented by* Decree No. 2387 of the Presidium of the Supreme People's Assembly, May 14, 2012.

FIGURE 1. NORTH KOREAN CRIMINAL PROCEDURE FLOW CHART.



in the North Korean criminal justice system. The Constitution does not have any provision guaranteeing the right to remain silent, and no such right is protected under the criminal law or criminal procedure.[21] On the contrary, each defendant is expected to speak to the investigators, preliminary examiners, prosecutors, and judges.[22] There is a strong expectation that the defendants should make self-incriminatory statements.[23] Second, in terms of the evidentiary standard, the exclusionary rule of evidence is acknowledged in very limited situations, such as in the case of testimonies obtained under duress or inducement[24] or when a confession is the only evidence.[25] However, there is no "fruit of the poisonous tree" doctrine or general prohibition against the use of hearsay evidence. Moreover, the right to counsel is also quite limited; an attorney can be retained only after a formal charge is laid by the preliminary examiners.[26]

II. THE PROCESS OF CRIMINAL PUNISHMENT

The actual process of criminal punishment can be explained by way of some exemplary cases. The following three examples offer

21. Article 166 of the Criminal Procedure Act, *id.*, only prohibits the use of leading questions to force admission of a crime or statement.

22. Article 283 of the Criminal Procedure Act, *id.*, provides: "At trial, the accused should answer questions when asked, and cannot leave the court without the judge's permission."

23. *Id.* art. 283.

24. *Id.* art 37.

25. *Id.*

26. *Id.* art. 62. *See also* BEOBWONHAENGJEONGCHEO [SUPREME COURT OF KOR., OFFICE OF COURT ADMIN.], BUKHAN SABEOBJEDO GAEGUAN [INTRODUCTION TO THE NORTH KOREAN JUDICIARY SYSTEM ch. 7 (*Bukhandeui Byeonghosajedo Gaeguan* [*Introduction to the Lawyer System in North Korea*]) (1996).

a clearer understanding of the nature of punishments of political offenses in North Korea.

A. *Three Illustrative Cases*

1. Kim Kwang-Soo[27]

Kim Kwang-Soo was born in China in 1963. He had lived in Hoiryong since he was seven years old. He was arrested in July 1999 by the North Korean Ministry of State Security[28] while he was sleeping at home. Kim was severely tortured by the agency during interrogations in an underground interrogation facility in Hoiryong until April 2000. He said that he was severely beaten and tortured in numerous ways, and that he lost most of his teeth during this process. Because of the torture and the cruel and inhumane treatment he endured during the investigation, his weight dropped from 165 pounds (seventy-five kilograms) to eighty-three pounds (thirty-eight kilograms). He was charged with espionage, considered an anti-state or anti-nation crime. Although he initially denied the crime, he eventually pleaded guilty to espionage due to the continuous torture. Despite Kim's confession, he was given no semblance of an ordinary trial process. He was only interviewed by the chief prosecutor from the Ministry of State Security, and this interview did not take place until the end of the preliminary examination.

In April 2000, he was sent to a *kwanriso* known as the 15th Yodok Administrative Camp.[29] Kim was later told by a guard at the camp that his life was saved because one of Kim's friends, who was working for the Ministry of State Security, worked behind the scenes to help him. He spent three years in Yodok. After being released from the camp in 2003, he crossed the border into China and eventually defected to South Korea in April 2004.

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27. This name (which, like those of many of the defectors, is a pseudonym) may also be romanized as "Kim Gwang-Soo." For the testimonial, see Kim Gwang-Soo, *Hoeryong Bouibu Jihagambanggua Yodeoksuyongsoehseo gyokeun Chamhokhan Gotong* [*Indescribable Pain that I Experienced in an Underground Cell of the Hoeryong Ministry of State Security and in Yodok Camp*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS, http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7623. An English translation of the original Korean version is available under the title *Unforgettable Misery in Hoeryeong Security Agency and Yodeok Political Prisoner Camp* on the English side of the Citizens' Alliance website at http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4420.

28. The translation of *Gukga Anjeon Bowibu* in this Article is the "Ministry of State Security," following the official usage in North Korea. The same government agency is often translated as the "National Security Agency" or the "State Security Agency."

29. In some other publications, the name Yodok is romanized as either "Yoduk" or "Yodeok."

2. Kim Eun-Chul[30]

Kim Eun-Chul was first arrested by Russian border guards in November 1999. His case became known to the Western world when he was arrested because he, along with six other escapees, were interviewed by UNHCR staff in 2000. In the interview, he requested to be sent to South Korea. However, Russian authorities refused to send him to South Korea and ordered that he be repatriated to China, which meant that he would eventually be sent back to North Korea. He managed to escape while in transit through China as he was about to be sent back to North Korea, but after several months, in January 2000, he was captured in the North Korean county of Musan.

After his capture, he was interrogated and tortured by an official in the Ministry of State Security. Kim Eun-Chul met a similar fate to Kim Kwang-Soo; he was not tried in court and he was eventually sent to the same camp in Yodok on June 30, 2000. Kim Eun-Chul was held at Yodok for three years until his release in July 2003.

After his release from Yodok, he engaged in activities that violated local regulations and was arrested for those activities in October 2004. This time, he was charged with bribery and imprisoned. Because bribery is considered a non-political crime, he was tried in a court and sentenced to short-term labor training at the Musan Labor Training Center. After he was released from the center, he crossed the border. He later defected to South Korea in 2006. Kim Eun-Chul's experiences clearly demonstrate that anti-state or anti-nation crimes are treated differently than ordinary crimes.

3. Kim Hyuk[31]

Kim Hyuk was born in 1982 in Chongjin and adopted by an orphanage in 1995. He was arrested for multiple counts of illegal border crossing and larceny in March 1999. Originally he was suspected of political crimes, but he successfully argued that he had not engaged in any political activities, and that he was only helping a starving woman and her children. He was sent to trial while detained in the Onsung *jibkyulso* (concentration center), and was sentenced to three years of reform through labor at a *kyohwaso*

30. *See* Kim Eun-Cheol, *Gangjesonghwanhu Yodoksuyongsoehseo 3nyeon* [*Three Years in Yodok After Being Repatriated from Russia*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS, http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7622. An English translation, *After Repatriation: I Spent Three Years in Yodok*, is available at http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4419.

31. *See* Kim Hyuk, *Joisudo Inganida* [*Prisoners Are Still Human Beings*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS. The Korean original is divided among several pages, beginning at http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7604. An English translation of part of the original testimony is available at http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4369.

(reform through labor center) for multiple counts of larceny and smuggling maize into China. He was sent to a regular prison called the Jeongeori *kyohwaso* in Hoiryong to serve his term after the trial. Fortunately, he survived the terrible life in prison and was released when a general amnesty was issued in 2000. He crossed the border to China on December 24, 2000, and eventually made his way into Mongolia. He was found by Mongolian authorities in July 2001, and they sent him to South Korea on September 20, 2001.

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These three cases demonstrate patterns of criminal process in North Korea. First, there are multiple actors involved. Judicial institutions such as prosecutors, judges, investigators, preliminary examiners, and attorneys play roles, but the way they function depends upon the nature of the crime. Security organizations such as the Ministry of State Security and the Ministry of People's Security[32] are extensively involved in the process of arrest, investigation, examination, and prosecution. Even the execution of sentences is overseen by these agencies. Several criminal enforcement institutions, such as reform through labor centers (*kyohwaso*), concentration centers (*jibkyolso*), and labor training centers (*nodongdanryundae*), are used for different purposes. Special institutions called *kwanriso*, which can literally be translated as "administrative camps," are also used for punishing political offenses and are the site of frequent human rights violations. *Kwanriso*, which are essentially specially controlled towns or villages that function as enormous prison complexes, are discussed in greater depth in Part III.B.

Administrative authorities such as the People's Assembly, the Workers' Party, working units of factories and farms, military units, and community organizations such as the Socialist Legal Life Supervision Committee and Comrade Judgment Council all play some role in the process. We cannot say that any one institution is solely responsible for all of the human rights violations. By reviewing the whole penal law system, we should be able to trace the origin of human rights violations at each procedural stage.

B. Investigation

The Criminal Procedure Act of North Korea divides criminal investigation into two stages: investigation and preliminary examination.[33] Investigation is the first stage of criminal procedure, and

32. This is the official translation of *Inmin boanbu*, which is the North Korean police service. The name of the institution was changed in 2010 from its previous name, *Inmin boanseong*.

33. The preliminary investigation system had been used under Japanese colonial rule (1910–1945), but South Korea abolished the system.

focuses on discovering criminal offenders.[34] Investigation is conducted by an investigator from either the Ministry of State Security or the Ministry of People's Security, depending upon the nature of the crime to be investigated.[35] If necessary, a prosecutor may directly investigate a crime.[36]

Under the Criminal Procedure Act, the role of an investigator is limited to discovering criminal offenders.[37] An investigator is not normally given the power to arrest and detain a criminal suspect. An investigator is not permitted to collect any more evidence once a criminal is discovered.[38] The Act stipulates that an arrest should normally be made after a decision to institute legal proceedings is made, and that it is justified to prevent the accused from evading the preliminary examination or trial, or from hindering the investigation of crimes.[39] Only in certain situations, such as a flagrant offense or where there is a likelihood that the person will flee, can an investigator arrest and conduct a search and seizure without obtaining permission from a prosecutor.[40] Even in those cases, the investigator must acquire a prosecutor's approval within forty-eight hours, and the suspect or criminal must be investigated and handed over for a preliminary examination within ten days.[41]

However, in reality, these provisions are not enforced. Arrest and search and seizure widely take place long before the preliminary examination by the Ministry of State Security and Ministry of People's Safety begins.[42] This is in part because of the obscure

34. The activities of the investigators should be limited to the discovery of criminals before handing them over to the preliminary examiners for the examination stage. *See* Hyongsasosongbeob [Criminal Procedure Act], May 14, 2012, art. 133.

35. *Id.* art. 10 (Person in Charge of Investigation). The Ministry of State Security investigates offenses against the state and the nation, while the Ministry of People's Security investigates general criminal cases. *Id.* art. 46 (Investigational Jurisdiction). In the same vein, special investigation authorities such as the Railway People's Security Bureau, the Railway Prosecution Bureau, and the Military Prosecution Bureau may have jurisdiction over specific crimes as assigned by the law. *Id.* art. 47 (Jurisdiction of Special Investigation Authorities). The prosecutorial authorities investigate general crimes arising in the course of monitoring administrative economic projects or the enforcement measures for legal compliance by law enforcement agencies. *Id.* art. 46.

36. *Id.* art. 10 (Person in Charge of Investigation).

37. *Id.* art. 133. The law provides, however, that in order to discover a criminal, an investigator is allowed to conduct verification, search and seizure, psychological examinations, identification, cross-examination, and appraisal. *Id.* art. 137.

38. *Id.* art. 140. There is an exception when evidence collection cannot be delayed.

39. *Id.* arts. 175, 177–78.

40. *Id.* art. 142.

41. If an investigator fails to obtain a prosecutor's approval for the arrest, the detained person should be released immediately. The person should also be released when the investigator cannot certify, within ten days from the day of the arrest, that the suspect is indeed a criminal. *Id.* art. 143.

42. When a person subject to a preliminary examination is seriously ill or an accused is in a state of temporary mental imbalance or falls seriously ill and cannot be subject to an inquiry into the case, the case shall be suspended. *Id.* art. 96. Defector testimony indicates that some arrestees have been released because

language of the Act's provisions. For example, article 145 of the Criminal Procedure Act states that if the criminal has fled, or if the criminal's place of residence is unclear at the time the decision is made to hand over the person for preliminary examination, the investigator must arrest the criminal and hand him or her over to the examiner.[43] This provision in fact gives the investigator broad power to arrest the accused.

C. Preliminary Examination

Following the investigation, the preliminary examination stage begins. Under the Criminal Procedure Act, the task of a preliminary examiner is to identify the person to be examined and to reveal all aspects of a criminal case.[44] The preliminary examiners are in charge of the activities of examination, arrest, and detention of suspects, as well as verification, appraisal, search, seizure, examination of a witness, cross-examination, identification, confiscation of criminally obtained property or securities, and so forth.[45] Much lawless interrogation and torture takes place at the preliminary examination stage.

The North Korean Criminal Procedure Act stipulates that crimes against the state and nation are under the jurisdiction of the preliminary examiners from the Ministry of State Security, and that ordinary criminal cases are dealt with by examiners from the Ministry of People's Security.[46] Defectors consistently attest in their testimonies that border-crossers are initially investigated by officers from the Ministry of State Security stationed near the border when they are arrested and extradited

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of serious illness after arrest and repatriation from China to North Korea. *See, e.g.*, Chung Mi-Ok, *Heemangeobneun Tangeul Duirohago* [*Leaving Behind the Hopeless Land*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS, http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7627. If the grounds for suspension of the criminal proceedings are no longer relevant or if the person who received the medical treatment measure violates legal provisions, the suspension of the criminal case shall be withdrawn or canceled. Criminal Procedure Act art. 105.

43. Criminal Procedure Act art. 145. The investigation should conclude when the investigator discovers the perpetrator of a criminal act and decides to hand over the case for preliminary examination.

44. *Id.* art. 147. Preliminary examiners should clarify the character of the offence, the motives for and aim of the offence, the means and methods of the crime, the degree of the action and its consequences, the role of the accused, and the degree of the offender's responsibility in committing the crime. *Id.* art 148.

45. *Id.* ch. 2.

46. Criminal cases arising in the course of monitoring administrative economic projects or in the process of supervising the enforcement measures of the law enforcement agency for legal compliance are examined by an examiner from the Prosecutors' Office. Examiners from special preliminary examination authorities, such as the Military Prosecution Bureau, the Railway People's Security Bureau, and the Railway Prosecution Bureau, may have jurisdiction over specific crimes, as prescribed by law. *Id.* art. 48.

from China to North Korea.[47] In the initial investigation, if the alleged offenses are political in nature, the offender will be sent to the Ministry of State Security for examination. For example, those who contact businessmen or missionary groups from South Korea are considered political offenders and interrogated by examiners from the Ministry of State Security. Those who have simply escaped from the country for food or other economic reasons are transferred to the Ministry of People's Security and subject to the ordinary penal process.

A decision to commence a preliminary examination is supposed to be made within forty-eight hours of transferring a criminal case from an investigation authority to preliminary examiners.[48] A preliminary examiner subsequently makes a decision whether to charge the person with criminal responsibility after gathering sufficient evidence, which is the point when the examiner must inform the accused of the commencement decision.[49] The accused must also be informed of the right to be assisted by counsel.[50] Attorneys are only hired at this late stage of the examination, and the accused can easily be subjected to illegal interrogation and torture.

The broad use of arrest and prolonged detention are also serious problems in the penal process. Arrest and detention are allowed for crimes punishable by reform through labor or the death penalty,[51] and only when it is "particularly necessary" for crimes punishable by labor training. However, it is problematic that most people who have allegedly committed minor offenses punishable by labor training or less are still interrogated and detained during the preliminary examination. The ambiguity of the language in the law—for example, "particularly necessary"—may be blamed for the abuse. Furthermore, there are cases of flat denial of the law. While

47. *See, e.g.*, Shin Jeong-Ai, *Ilbonehseo Bukjoseoneuro Bukjoseonehseo Hangukeuroeui Gil* [*From Japan to North Korea and Then to South Korea*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS, http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7588 (English version of the testimony available at http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4396); Kang Won Chul, *Woncheoliga Gyeoken Jibgyulso Saenghwal* [*The Horror of the North Korean Detention Center*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS, http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7548 (English version of the testimony available at http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4367); Jung Hak-Min, *Baega Gopa Talbukhangossi Jeoga Doieo* [*Crime of Defecting from North Korea Out of Hunger*], TALBUKJADONGJIHOI [ASSOCIATION OF NORTH KOREAN REFUGEES], Aug. 21, 2007, http://nkd.or.kr/news/story/view/688.

48. Criminal Procedure Act art. 156.

49. *Id.* art. 157. Within forty-eight hours of the decision, the accused shall be notified of the decision and of his or her right to obtain assistance from counsel. *Id.* art. 158.

50. Once the decision is made to lay a charge of criminal responsibility, the accused must be notified. A preliminary examiner must begin the examination within forty-eight hours of the decision. *Id.* art. 158.

51. *Id.* art. 177.

the Criminal Procedure Act prohibits the arrest and detention of pregnant women between their third and seventh months of pregnancy,[52] defector testimony attests that not only is arrest and detention widely exercised against pregnant women, but miscarriage is generally induced through intensive physical labor.[53] The provisions imposing limits on arrest and detention are thus not truly respected.

With respect to procedural due process, article 182 of the Criminal Procedure Act provides that, when a decision on arrest and detention is made, the examiners should notify the accused of the decision, and should also inform the family or his or her work unit within forty-eight hours of the reason for the detention and the place where the person is held.[54] However, this provision does not seem to be fully enforced either. In North Korea, enforced or involuntary disappearances are happening everywhere, and the fates and whereabouts of the arrestees are generally not known to their families and relatives, which serves as grounds for the widespread fear of the penal process.[55]

The law provides that the arrest of an offender requires a warrant.[56] However, as in China, warrants for arrest, search, or seizure are issued not by a judge but by a prosecutor.[57] This means that the court does not have a chance to oversee the process of examination and, because the prosecutor's supervision of the examination process is also minimal, the accused is subject solely to the discretion of the investigating and examining authorities. That explains why so many human rights violations are reported during this preliminary examination stage.

Prolonged detention during the preliminary examination can happen for multiple reasons. The conclusion of preliminary examinations must be attended by the prosecutor,[58] and the examiner should transfer the records and evidence to a prosecutor.[59] If grounds for dismissal are met,[60] a preliminary examiner may dismiss a case with prosecutorial approval.[61] The preliminary examination must be finished within two months of its commencement for ordinary crimes and within ten days for crimes punishable by labor training.[62] In

52. *Id.* art. 178.
53. *See* Seong-Ho Je, *Bukhan Yeoseongeui Inkwoneui Siltaewa Guaje* [*The Present Situation of North Korean Women's Human Rights and Tasks for Their Improvement*], 47 TONGIL MUNJE YEONGU [UNIFICATION RESEARCH] 177, 200 (2007).
54. Criminal Procedure Act art. 182.
55. Rep. of the Comm., *supra* note 6, ¶ 698.
56. Criminal Procedure Act art. 179.
57. *Id.* art. 180. *Cf.* Zhonghua Renmin Gongheguo Xingshi Susong Fa (中华人民共和国刑事诉讼法) [Criminal Procedure Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Mar. 14, 2012, effective Jan. 1, 2013), art. 87, 2012 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 143 (China).
58. Criminal Procedure Act art. 255.
59. *Id.* art. 257.
60. For the list of the grounds, see *id.* art. 106.
61. *Id.* art. 108.
62. *Id.* art. 150.

complex criminal cases, the county, district, or provincial preliminary examiners can receive an extension of one month tacked onto the detention period with the approval of the chief prosecutor of the District Prosecutors' Office. In particularly complex criminal cases requiring further time after the detention period, an extra two-month extension may be obtained through the approval of the chief prosecutor of the Supreme Prosecutors' Office.[63] If cases are sent back by the prosecutors or judges for additional examination, the detention may be extended for another twenty days.[64] In total, the maximum detention period for a preliminary examination must not be longer than five months and twenty days from the commencement date of the preliminary examination, and one month and fifteen days for crimes punishable by labor training. Shin Jeong-Ae was detained for five months for preliminary examination in 1999. Lee Baek-Yong and Kim Hyuk were also under preliminary examination for five to six months from December 1994 to April 1995, and in 1999, respectively.[65] However, Chang Young-gul testified that he was subject to preliminary examination for a year before he was sent to Yodok in 1997, which was much longer than the legally allowed period.[66] The law does not specify how many times there may be an extension based on the "particularly complex case" grounds. Similarly, while the law provides a limitation on the detention period for criminal cases returned by a court, there is no provision describing how many times a case may be returned.[67] Prolonged detention can easily happen in this process.

Detention takes place in three forms: custodial detention, house detention, and regional detention.[68] The law provides limits on the detention period only for custodial detention. It is uncertain whether the detention period specified for custodial detention also applies to house detention and regional detention, and whether the detention ends with the conclusion of the preliminary examination period.

D. Prosecution

The prosecutor should hand over an examinee to a court after a full review of the case records has determined that all aspects of the

63. *Id.* art. 187. The detention period for crimes punishable by labor training may be extended up to a month with prosecutorial approval. *Id.* arts. 150, 187.

64. *Id.* art. 186. Preliminary examinations of cases that have been returned by a court must be completed within ten days. However, there is no provision regarding a time limit for preliminary examination applicable to those cases returned by a prosecutor.

65. *See* Lee Baek-Yong, *Jiokeui Bukhan Jeongchibumsuyongso* [*Hell-Like North Korean Political Prison Camp*] (2004), *available at* TALBUKJADONGJIHOI [ASSOCIATION OF NORTH KOREAN REFUGEES], http://nkd.or.kr/news/story/view/401; Kim Hyuk, *supra* note 31.

66. *See* Chang Young-gul, *Chungseongeul Dahaettaneun Joi* [*A Crime to be Loyal to the Regime*], SAENGMYONGGUA INQWON [LIFE AND HUMAN RIGHTS], Spring 2012, at 40.

67. Criminal Procedure Act art. 267.

68. *Id.* art. 183.

crime have been completely and accurately discovered in the preliminary examination.[69] Only prosecutors can prosecute, and they must decide whether to do so within ten days of receiving case records from a preliminary examiner. The detention period allowed for the prosecution is ten days. Criminal cases punishable by labor training must be processed within three days[70] and the detention period for those crimes is limited to three days.[71]

The prosecution draws up a written indictment.[72] If indictment is not possible due to an inadequate preliminary examination, the prosecutor can send the case back to the preliminary examination stage with a written justification.[73] It is problematic that a prosecutor or judge may send the case back to preliminary examiners instead of dismissing it on the grounds that the preliminary examination is insufficient. A prosecutor can also suspend an indictment,[74] dismiss a criminal case,[75] or subject the accused to social education measures.[76]

E. Trial

The lowest court in North Korea is the People's Court, which hears most first-instance cases.[77] However, the Provincial Court, the high court of a province, is the court of first instance for cases related to crimes against the state and the nation.[78] If a case is indicted with the possibility of the death penalty or a life-term of reform through labor, the Provincial Court again has jurisdiction.[79] Otherwise, the People's Court is the first-instance court, while the Provincial Court hears appellate cases from the People's Court. However, if the Provincial Court finds it necessary, it may directly try a case falling under the jurisdiction of the People's Court.[80] There are also two special courts, namely the Military Court and the Railway Court.[81]

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69. *Id.* art. 260. In deciding whether or not to prosecute, a prosecutor must review the following: whether all aspects of the crime and all facts relevant to resolving the crime have been completely and accurately discovered; whether there is sufficient evidence; whether the preliminary examination was conducted in accordance with the requirements and procedure prescribed by the Criminal Procedure Act; and whether the provisions of the criminal law were properly applied to the crime. *See id.* art. 263.
70. *Id.* art. 261.
71. *Id.* art. 262.
72. *Id.* art. 264.
73. *Id.* art. 267.
74. *Id.* art. 97.
75. *Id.* art. 107.
76. *Id.* art. 116. For more information about social education, see *infra* Part III.
77. Criminal Procedure Act art. 50.
78. *Id.* art. 51.
79. *Id.*
80. *Id.*
81. The Military Court tries criminal cases committed by a member of the military or an agent of the Ministry of People's Security, while the Railway Court tries cases of criminal offenses that were committed by employees of the railway transportation industry or that disturb the railway transportation business. *Id.* art. 52.

The Supreme Court,[82] the highest court in North Korea, hears cases on appeal and cases contesting first-instance decisions by either the Provincial Court or the Railway Court. If necessary, and regardless of which court has jurisdiction, the Supreme Court can directly hear any first-instance case or transfer the case to any other court of the same level or type as the court of original jurisdiction.[83]

Even though there are three hierarchical levels of courts, the North Korean court system functions as a two-instance system, allowing for only one appeal. Moreover, because the Provincial Court (the second-highest level) and the Supreme Court (the highest level) have the power to hear first-instance cases without any appeal, the benefits of the two-instance system may be nullified at the will of the courts. Under the North Korean criminal law system, the accused has the duty to participate in the trial. If the accused refuses to participate, he or she will be detained during the trial.[84]

In memoirs written by defectors, statements related to trial procedure are rarely found, especially when compared to the abundance of statements about the detention and preliminary examination phases. This phenomenon seems related to the fact that the defectors seldom experience anything special in the trials, other than the confirmation of a factual relationship between the crime and the sentence.[85]

Regarding a trial timeline, the trial court proceedings should end within twenty-five days from the case filing date, or within ten days for those accused of crimes punishable by labor training. The time limit for a trial can be extended by five days for particularly complex cases.[86] Second-instance trials must be concluded within twenty-five days.[87] The allowable detention period is the same, only twenty-five days, which is reduced to fifteen days for crimes punishable by labor training.[88] With this extremely short trial period of twenty-five days, it is questionable whether defendants are fully guaranteed their due process rights.

When the court finds the accused innocent, waives the punishment, suspends the execution of the punishment, imposes a social education measure, or dismisses the case, the accused is released.[89]

82. The name of the Court was changed from Central Court to Supreme Court in 2010.

83. Criminal Procedure Act art. 53. Matthew Todd Miller was given a six-year sentence by the Supreme Court on September 14, 2014, for his alleged anti-state activities. Jang Song-Thaek was tried by the Special Military Tribunal and executed in December 2013. *See* Yeongjong Lee, *Buk, Miguggin Matthew Todd Miller eh Yuknyon Nodonggyohwahyeong Seongo* [*North Korea, Six Year Reform Through Labor Sentence for American Matthew Todd Miller*], JUNGANG ILBO DAILY (Sept. 14, 2014), http://news.joins.com/article/15802646.

84. Criminal Procedure Act art. 280.

85. *See, e.g.*, Kim Hyuk, *supra* note 31.

86. Criminal Procedure Act art. 286.

87. *Id.* art. 365.

88. *Id.* art. 281.

89. *Id.* art. 347.

Otherwise, the court's punishment is carried out in the name of the state. There are three ways to challenge the court's decision: appeal, emergency appeal, and retrial. The accused, defense counsel, and claimant for damages may appeal to a higher court.[90] In the same vein, the prosecutor may submit a protest.[91] In the appellate trial, the court cannot levy a heavier punishment than what was sentenced by the lower court.[92] An emergency appeal is an appeal filed by the Chief Justice of the Supreme Court or the Chief Prosecutor of the Supreme Prosecutors' Office to the Supreme Court[93] in order to correct a judgment that is contrary to the requirements of the law.[94] The Criminal Procedure Act generally allows an emergency appeal seeking a higher punishment, unless the limitation period for the higher punishment has expired.[95] Giving the higher court the power to mete out a greater punishment in emergency appeals is problematic and entails a negative influence on the accused. With the lack of a prescribed time limit for filing an emergency appeal, the accused can be put in an unstable position for a prolonged period of time.

A retrial is permitted on a limited basis as a means to correct any mistakes in the decision and ruling (*pangyeol* and *panjeong*),[96] but it can only be requested by the Chief Prosecutor of the Supreme Prosecutors' Office to the Supreme Court.[97] This could be disadvantageous to victims because the prosecution could disregard the victims' voices without a court review.

The Criminal Procedure Act also allows for the organization of an "on-site public trial" to raise public awareness and prevent crime.[98] In an on-site public trial, the representatives of institutions, enterprises, or organizations participate, and the public is mobilized to watch the proceedings.

Another problematic feature of the process is that a judge may refer a case back to the prosecutor, just as a prosecutor can return a case to the preliminary examiner. Judges can take this step if they determine that the crime was not sufficiently investigated in the preliminary examination to render a judgment or if procedural principles were seriously violated to the point that the judgment may be affected.[99] Because the case is not dismissed but rather sent back

90. *Id.* art. 356.
91. *Id.*
92. *Id.* art. 380.
93. *Id.* art. 388.
94. *Id.* art. 383.
95. The Criminal Procedure Act prohibits an emergency appeal seeking a higher punishment only when the statute of limitation period has already expired. *Id.* art. 391.
96. *Id.* art. 402.
97. *See id.* arts. 406, 408. A retrial is allowed when the evidence on which the judgment was based is found to be false or a new fact that could have influenced the judgment is later discovered.
98. *Id.* art. 285.
99. *Id.* art. 350.

to a prosecutor when there is insufficient evidence or a violation of legal procedure, the accused in such situations are put in serious jeopardy. This provision also discourages the accused from raising any serious challenges at trial.

F. Execution of Sentence

The execution of a sentence follows the judgment or decision,[100] and is governed by the Criminal Procedure Act and the Execution of Sentences and Decisions Act.[101] The death penalty is carried out upon the issuance of an execution order document by the Supreme Court.[102] It should be performed in the presence of a prosecutor[103] by the sentence-execution institution that received the death warrant and a copy of the judgement.[104]

Although public executions are performed in North Korea,[105] there is no provision governing public executions in the Criminal Procedure Act. There has been speculation that public execution happens after an on-the-spot trial.[106] However, it seems that, at executions, the judge only reads the list of offenses, while the administration ensures that people living in the nearby town come to observe the execution. The purpose of public executions is apparently to terrorize the people so that they will not attempt to commit similar crimes. Even though North Korean authorities try to justify this as a necessary measure to deter crime, the practice of public executions is blatantly against the standards of international human rights.[107]

Regarding sentences of imprisonment, there are two distinct types of facilities used. The first are regular prison facilities, i.e., prisons where those convicted under the criminal law are sent, such as (i) provincial concentration centers (*dojibkyeolso*), (ii) reform through labor centers (*kyohwaso*), and (iii) labor training centers (*nodongdanryeondae*). These regular prison facilities are for those

100. *See id.* art. 418.
101. *See id.* ch. 9; Pangyol Panjeong Jiphaengbeob [Execution of Sentences and Decisions Act], Nov. 19, 1998.
102. Criminal Procedure Act art. 421; Execution of Sentences and Decisions Act art. 32.
103. Criminal Procedure Act art. 420.
104. *Id.* art. 421.
105. Park Su-jong, advisor to the North Korean Supreme Court, acknowledged that public executions are used for extremely bad criminals after the court's review of petitions from the public. *See* No Gil-nam, *Gacha Ingwontaryeong Jinchareul Guchookhalsu Eopta: Choigo Jaepanso Tambang* [*Fake Human Rights Propaganda Cannot Deny the Truth: A Visit to the Supreme Court*], Minjoktongsin [Nat'l Comm'cns] (Sept. 16, 2014), https://archive.is/HdK19.
106. Changdong Choi, *Bukhaneui 2004 nyeon Hyongbeop Gaejeong mit Ingweon Sanghwangeui Beopjeok Munje* [*Legal Issues in the 2004 Amendment of the Criminal Act and the Human Rights Situation*], 155 Jeongchaekyeongu [Pol'y Stud.] 172 (2007).
107. *See* Caycie D. Bradford, *Waiting to Die, Dying to Live*, 5 Interdisc. J. Hum. Rts. L. 77, 90 (2010).

who commit ordinary crimes, and are also used for some serious political crimes. However, there is another type of facility housing offenders of political crimes labeled anti-state or anti-nation crimes, called a *kwanriso* ("administrative camp"). A *kwanriso* can hold offenders whose crimes are not specified under the criminal law, and is used to punish both political offenders and their families.[108]

G. Observations

There are several weaknesses in North Korean criminal procedure. First of all, as noted above, an investigator or examiner needs to obtain an arrest warrant. However, it is not issued by a judge, but by a prosecutor. The decision to conduct a search and seizure is also made by a prosecutor, or by a statement of the decision signed by a prosecutor. The detention of the accused is often prolonged, and there are no specified time limits for house detention or regional detention. Furthermore, the lack of prosecutorial supervision over the preliminary examination contributes to the human rights violations that occur during the early stages of preparation for trial. The right to counsel is enumerated in the Criminal Procedure Act,[109] but is only guaranteed after the point when the preliminary examiner reaches a decision to formally lay a charge of criminal responsibility in the case.[110] In other words, the examinees may be subject to serious abuses until the examiner makes a formal decision, without being given an opportunity to talk with a lawyer. The lack of court involvement during the whole pretrial process makes the system vulnerable, and the accused are often at the mercy of lawless investigators and examiners. Even in trials, the North Korean legal system, heavily reliant on an inquisitorial approach rather than an adversarial approach, demonstrates significant weakness in guaranteeing the rights of the accused.

III. Punishment of Political Offenses and *Kwanriso*

A. Measures to Punish Political Crimes

In North Korea, political crimes are generally understood to constitute anti-state and anti-nation crimes under the Criminal Act.[111] Although the law stipulates that different authorities have jurisdiction, depending on the nature of the crime, it is unclear what exact powers those authorities have at the investigation and preliminary

108. For more information, see *infra* Part III.
109. Criminal Procedure Act art. 158.
110. *Id*. art. 159.
111. North Korean refugees generally employ a very vague understanding of political crimes, broadly describing them as an offense against the state or regime. For example, criticizing Kim Il-Sung and Kim Jung-Il's family or revealing secrets of the Kim family are considered to be examples of the crime of harming the sovereign authority. Printing and distributing illegal publications, disseminating rumors, and spreading capitalist culture—which includes singing South Korean songs or listening

examination stages. North Korean citizens greatly fear being categorized as political criminals, because the Ministry of State Security is in charge of investigation of the crime.

Political offenses in North Korea are treated in two different ways. On the one hand, the North Korean criminal authorities may use the criminal procedure provided in the Criminal Procedure Act to punish political offenses such as crimes against the state and the nation. Several cases of alleged political offenses by non-Korean offenders known to the international community were tried according to North Korea's normal criminal process. For example, Laura Ling and Euna Lee, Kenneth Bae, and Matthew Todd Miller were tried by the Supreme Court in 2009, 2013, and 2014, respectively, for alleged political offenses.[112] In the case of the trial and execution of Jang Song-Thaek, the Special Military Tribunal tried him, and he was subsequently executed in December 2013.[113] Once they go through the official trial under the criminal law, offenders tend to serve their sentences in a regular prison (*kyohwaso*).

On the other hand, many North Korean citizens who have allegedly committed anti-state or anti-nation offenses, and/or who happen to be family members of political offenders, are sent to special facilities called *kwanriso*. Those political offenders who are not sent to a regular prison but to *kwanriso* are treated in two different ways. Some of the principal offenders who commit serious political crimes are believed to be sent to a "completely controlled area" (*wanjeontongjeguyok*), a closed area of a *kwanriso*.[114] On the other hand, those who commit minor political offenses, and

to South Korean broadcasting—are examples of political offenses. Praising the South Korean regime, drug offences, trafficking in cultural heritage or antiques, circulating fake money, trafficking gold, defecting from the country, committing repeated border crossings without permission, disappearing from one's place of residence, criticizing public policy, and making errors in the course of performing work duties related to Kim Il-Sung and Kim Jung-Il are also considered political crimes. *See* Aeran Lee, *Geomijulcheoreom Chayeojin Cheje Jikimi, Kuggabouibu: Kim Young-hee Daedam* [*Web of Regime Defenders—Ministry of State Security: An Interview with Kim Young-Hee*], 252 TONGILHANGUK 81 (2004). *See also* Kang Chol-hwan, *Duidorabon je 2eui gohyang Yodok* [*Memory of My Second Hometown, Yodok*] (Apr. 30, 2004), *available at* Yesunimeui Gyosil [Classroom of Jesus], http://cluster1.cafe.daum.net/_c21_/bbs_search_read?grpid=ltJ&fldid=3Zb4&datanum=340&openArticle=true&docid=ltJ3Zb434020040430143902; Lee Baek-Yong, *supra* note 65.

112. Choe Sang-Hun, *N. Korea Sentences 2 U.S. Journalists to 12 Years of Hard Labor*, N.Y. TIMES, June 8, 2009, at A7, http://www.nytimes.com/2009/06/08/world/asia/08north.html; Choe Sang-Hun, *North Korea Imposes Term of 15 Years on American*, N.Y. TIMES, May 2, 2013, at A8, http://www.nytimes.com/2013/05/02/world/asia/north-korea-sentences-american-to-15-years-of-hard-labor.html; Choe Sang-Hun, *Matthew Todd Miller Sentenced to 6 Years of Hard Labor in North Korea*, N.Y. TIMES, Sept. 15, 2014, at A4, https://www.nytimes.com/2014/09/15/world/asia/north-korea-sentences-american-to-6-years-of-hard-labor.html.

113. *North Korean TV Report on Trial and Execution of Jang Song Thaek* (posted by Martyn Williams, Dec. 13, 2013), YOUTUBE, https://youtu.be/2SCd49pkkwk.

114. It is not clear whether a formal trial takes place before the principal offender is sent to the completely controlled area of a *kwanriso*. There has thus far been no testimony obtained from a person sent to a *kwanriso* as a result of an actual criminal trial.

those who are family members of the serious political offenders are sent to an area called a "Special Dictatorship Area" (*teukbyeoldokjaedaesangguyeok*) or "Revolutionizing Area" (*hyukmyunghwaguyok*) of *kwanriso* without going through an actual criminal trial process.

Kim Kwang-Soo and Kim Eun-Chul, as stated in Part II, were interrogated for their alleged anti-state political crimes by preliminary examiners at the Ministry of State Security and then sent to the Yodok *kwanriso*, the 15th Camp. They were not tried in court for their crimes. Kang Chol-hwan and his family were sent, without any investigation or examination, to the Yodok *kwanriso* as well, ultimately staying there for ten years after Kang's grandfather was arrested in July 1977 for "a crime of high treason."[115]

Sending political offenders and sometimes their families to the *kwanriso* is a known method of punishment for political offenses in North Korea. It is clear that *kwanriso* are used as alternative penal facilities that directly or indirectly punish political offenders and their family members. The public's fear regarding *kwanriso* is extremely serious. They often describe these facilities as a place of death where unimaginable things, such as biomedical experiments, are freely conducted on living people.[116]

B. The Nature of Kwanriso

Strictly speaking, *kwanriso* are not prisons per se; they are completely different from regular prisons in terms of their size, shape, and function. Rather, they are specially controlled towns or villages in North Korea. Most *kwanriso* are under the control of the Seventh Bureau of the Ministry of State Security, Department of Farm Supervision.[117] The facilities are enormous, with several villages within them. *Kwanriso* contain schools, shops, factory units, and even detention centers, and each one can harbor tens of thousands of inhabitants. Nevertheless, they function as a type of facility that separates people from society. They are generally located in remote, mountainous locations far from Pyongyang, and their economic conditions are miserable. The fact that a person has been sent to a

115. *See* KANG CHOL-HWAN & PIERRE RIGOULOT, THE AQUARIUMS OF PYONGYANG: TEN YEARS IN THE NORTH KOREAN GULAG (2005).

116. *See* Ahn Myung Cheol, *Inganeui Joneomgua Kwonrireul Jikilsu Ittorok* [*To Retain Human Dignity and Human Rights*], CITIZENS' ALL. FOR N. KOREAN HUMAN RIGHTS, http://kor.nkhumanrights.or.kr/kor/datacenter/related_write.php?mode=view&bbs_idx=7579 (English version of the testimony, with the title *What Happened in the Valley of Death?*, available at http://eng.nkhumanrights.or.kr/eng/datacenter/related_write.php?mode=view&bbs_idx=4402).

117. SHIN EUIGI ET AL., TONGIL DAEBIBUKHAN BEOMJOIJA CHEORI BANGANEH KWANHAN YONGU [A STUDY OF THE MEASURES FOR NORTH KOREAN CRIMINALS AFTER UNIFICATION] 92 (2009). *See also* Chang Young-gul, *Ileul Neomu Jalhaeseo Japyeogada* [*I Was Arrested Because I Worked Too Hard*], FACEBOOK (Apr. 2, 2013), https://www.facebook.com/nkgulag/posts/551156338249834.

kwanriso is kept secret, and neighbors often believe that he or she has either been executed for espionage or permanently segregated from the outside world. Fearful rumors about the aftermath of the measure often follow.

The historical origins of the *kwanriso* system can be traced back to North Korean Cabinet Decision No. 149, adopted in 1958, which established a special zone to admit some members of the population with "bad family backgrounds" (*songbun*), such as Japanese collaborators, escapees to South Korea, and political opposition groups and their family members.[118] It was followed by a campaign in 1967–1970 for a new residency registration system, in which the whole population was classified into three groups—the core class, wavering class, and hostile class—with fifty-one sub-categories.[119] The new controlled zones, which were referred to as *kwanriso* (meaning simply "administrative camps"), were modeled after the Soviet *gulag*[120] and were gradually used to hold political criminals not punishable through normal court proceedings. Although they were not designated as prisons, *kwanriso* were and are effectively used as an alternative to prisons to deal with political offenders and their families.

According to the testimonies of people who have experienced *kwanriso*, there are still at least three currently used for political offenders and their families. The current status of known *kwanriso* is as follows:

(1) The 11th, 18th, and 22nd camps have been closed. Specifically, the 11th Kyongsung *kwanriso* was closed in 1989;[121] the 18th Bukchang *kwanriso*, which was under the supervision of the Ministry of People's Security, was closed in 2006; and the 22nd Hoeryong *kwanriso* was closed in 2012.[122]
(2) The 12th and the 13th *kwanriso* in Onsong were closed and moved to the 15th Yodok.[123]
(3) The 25th Chongjin is often referred to as a kwanriso, but it is more likely to be part of the Susong *kyohwaso* (a regular prison) rather than a *kwanriso*.[124]

118. *See* Geum-sun Lee, Su-am Kim & Gyuchang Lee, Bukhan Jeongchibeom Suyongso [North Korean Political Prison Camps] 17 (2013).
119. *Id.* at 18.
120. *Id.* at 12.
121. *See* Ahn Myung-Cheol, *supra* note 116.
122. *See* Jeon Su-Il, *Bukhan Minjuhua Undongbonbu An Myong-chul Samuchongjang* [*Secretary General of NK Democratization Movements Headquarter, An Myong-chul*], RFA (Mar. 18, 2013), http://www.rfa.org/korean/weekly_program/rfa_interview/rfainterview-03182013110327.html. *See also* Lee, Kim & Lee, *supra* note 118, at 31.
123. *See* Ahn Myung-Cheol, *supra* note 116; *see also* Interview by Human Rights Watch with Mr. Lee K.Y., Seoul, S. Kor. (July 14, 2001), *reported in* Human Rights Watch, *supra* note 1, at 25 & n.82.
124. There are reports that Susong was transformed into a *kwanriso* in the 1990s. *See* Lee, Kim & Lee, *supra* note 118, at 12. *See also* Joseph S. Bermudez Jr., Andy Dinville & Mike Eley, Comm. for Human Rights in N. Kor., North Korea Camp No. 25—Update 2, at 2 (2016), https://www.hrnk.org/uploads/pdfs/ASA_HRNK_Camp25_Update2.pdf.

(4) Currently, the 14th Kaechon, the 15th Yodok, and the 16th Hwasong *kwanriso* are still in operation.[125]

The 15th Yodok camp is well known through the testimonies of North Korean defectors who have had experiences there. People who have stayed in the 15th camp include Kim Kwang-Soo, Kim Eun-Cheol, Kang Chol-hwan, Kim Young-Sun, Shin Jeong-Ae, Bae Seung-Min, Kim Tae-Jin, Kim Myon-Suk, and Lee Baek-Yong. Kim Yong experienced the 14th Kaechon camp.[126] Shin Dong-Hyuk testified that he was born in the 14th camp, but he later revised his testimony, stating that he was not in the 14th camp, but in the 18th camp.[127] Ahn Myung-Cheol testified that he had experienced the 11th Kyongsung, the 13th Onsung, and the 22nd Hoiryong camps as a guard of the state security agency.[128]

Life in administrative camps is generally focused on work. The residents in a camp become members of a workers' unit. It is known that there are three different degrees of facilities (first, second, and third, in descending order of severity), "although all are labor facilities that do not allow people to move inside or outside freely."[129] The inhabitants in the first- and second-degree facilities are called "fixed inmates" (*kkochibeom*),[130] meaning that they cannot move out of the facilities. While labor is still hard in the third-degree camps, men and women can marry and live together, unmarried women and elderly people can stay home and cultivate gardens, and children can go to school.[131] The village facilities are divided into family units and single units. In family units, children are allowed to attend school. Not all family members are sent to the same unit. A principal offender who has committed serious political crimes might be sent to a *kwanriso* alone, separated from his or her family members. The family members might then be sent to a family unit in a different *kwanriso*. The family members may also be reunited after spending some time

125. *See* Ahn Myung-Cheol, *supra* note 116. The 16th Hwasong is also known as Myonggan. In 2013, David Hawk reported that the Hwasong *kwanriso* had been renamed "Myonggan." DAVID HAWK, COMM. FOR HUMAN RIGHTS IN N. KOR., NORTH KOREA'S HIDDEN GULAG: INTERPRETING REPORTS OF CHANGES IN THE PRISON CAMPS 21 (2013), https://www.hrnk.org/uploads/pdfs/NKHiddenGulag_DavidHawk.pdf. It is not clear whether the name of Hwasung-gun, which was renamed from Myonggan-gun in 1981, was again returned to its old name, Myonggan-gun.

126. *See* NAT'L HUMAN RIGHTS COMM'N OF KOR., 2012 COMPILATION OF NORTH KOREAN HUMAN RIGHTS VIOLATIONS (2012). *See also* LEE, KIM & LEE, *supra* note 118.

127. Anna Fifield, *Prominent N. Korean Defector Shin Dong-hyuk Admits Parts of Story Are Inaccurate*, WASH. POST (Jan. 17, 2015), http://wpo.st/9JJT2.

128. *See* Ahn Myung-Cheol, *supra* note 116.

129. Interview by Human Rights Watch with Mr. Lee M. in Seoul, S. Kor. (July 13, 2001), *reported in* HUMAN RIGHTS WATCH, *supra* note 1, at 25.

130. *Id.*

131. *Id.*

in a *kwanriso*.[132] They may be transferred to other facilities or set free to live in villages on the outskirts of these camps.

The reason *kwanriso* function as a sanctioning mechanism in lieu of prisons is because the working units, municipal governments, and administrative institutions work in close cooperation to sustain the social system. Under the North Korean social control system, food, housing, work, education, and medical services are closely tied to the locality of the residents, and thus the inmates of a *kwanriso* cannot but suffer from serious persecution, discrimination, and harsh treatment. Travel control systems, food rationing systems, and the production and distribution systems of society are coordinated with the goal of societal control. Food is distributed every other week; without a ration, nobody can survive in this system. A person in North Korea can survive only when he or she is fully incorporated into the party system and municipal administrative institutions, which provide food, accommodations, and other resources to live on. Education and medical services are fully controlled by the government and the party. The government decides where each person will live, and the place of residence is strictly controlled through state ID or certification of Pyongyang residency.[133] To make a trip beyond city limits, citizens are required to obtain travel permits.[134] Since the municipal government does not provide food for travelers, they must carry their own food. Travel without a permit is considered a criminal offense.[135] Once a Pyongyang citizen commits a serious crime, the person's Pyongyang citizenship certificate is revoked.[136] He or she will subsequently be expelled to a rural area designated by the party and the state. Because of the residency registration system, travel permit system, and other social control mechanisms, once the state orders a political offender and his or her family members to move from one place to another, this order must be followed. Thus, the notion of a right to freedom of movement and travel in North Korea is meaningless. Once a person is forced to move from Pyongyang, for example, to a mining village in the Hamkyung Province, his living standards may be as poor as if he were in prison, because he will lose all of the trappings of civilization previously enjoyed while living in

132. Kim Yong met his mother in the 18th Bukchang *kwanriso* after he was moved from the 14th Kaechon *kwanriso.* Interview with Kim Yong in Seoul, S. Kor. (July 23, 2001).

133. *See* Gongmindeungrokbeop [Citizen Registration Act], *amended and supplemented by* Decree No. 1676 of the Presidium of the Supreme People's Assembly, July 24, 2010, art. 7; Sudo Pyongayangsi Guanribeop [Capitol Pyongyang Control Act], *amended and supplemented by* Decree No. 743 of the Presidium of the Supreme People's Assembly, Mar. 30, 2010, art. 32.

134. *See* Geumsun Lee, Bukhanjumineui Geojuidong [Changes of Residency in North Korea] 37–39 (2007).

135. Inminboandansokbeob [People's Security Control Act], July 26, 2005, art. 30. *See* Lee, *supra* note 134, at 40.

136. Capitol Pyongyang Control Act art. 32.

Pyongyang and will likely struggle to survive as he is forced to go in search of food.

The way the accused are arrested and sent to a *kwanriso* is also a traumatic experience. Kang Chol-hwan, who was sent to the 15th Yodok camp, stated in his book, *The Aquariums of Pyongyang*, that he and his family members were abruptly arrested by the Ministry of State Security in 1977 without prior notification or appropriate procedure.[137] They were forcefully transferred to the *kwanriso* without being either interrogated or directly investigated, and were simply told that they were being sent to Yodok because Kang's grandfather, a former leader of the pro-Pyongyang Federation of Korean Residents in Japan, had committed a political crime. Kang's family lived there for ten years. Those people sent to a *kwanriso* either for their own crimes or for the wrongful political acts of their family are forced to believe that they should be blamed for the crimes or the acts. Their only hope is that they may be released or transferred to another place after serving some time, just as if they were serving a prison sentence.

People sent to a *kwanriso* are called "move-ins" (*ijumin*) to differentiate them from those who came to live in the town because of their "economic wrongdoing such as fraud or theft," who are referred to as "residents" (*daenaemin*).[138] Authorities discriminate against the move-ins by paying subsidies, called "money awards for residents" (*daenaegageupkeum*), only to the resident members.[139] Unlike the residents, the move-ins are required to call the Ministry of State Security officers in charge of the *kwanriso* administration "sir" (*sunsaengnim*). They also bow deeply to the officers when they meet them. In the camps, the move-ins are absolutely subordinate to all others within the camp's hierarchical system. Because of the camp's different way of treating them, the move-ins in the camps virtually live as if they are prisoners. Interestingly, in the now-closed 18th Bukchang *kwanriso*, which was under the control of the Ministry of People's Security, many of the move-ins chose not to leave the towns after they finished their terms. They settled in nearby places in the camp, and continued to live in the area, being known in these places as "the released" (*haejemin*).

It is obvious from all of the characteristics described above that the *kwanriso* are facilities that hold political offenders and their families as an alternative to prison. They are a unique way of controlling the people in North Korea that should be understood broadly, in conjunction with the limitations on mobility and the lack of freedom of movement.

137. *See* Kang & Rigoulot, *supra* note 115, at 32.
138. *See* HUMAN RIGHTS WATCH, *supra* note 1, at 27.
139. *Id.*

Moreover, many political offenders are sent to a *kwanriso* and subjected to harsh treatment under the control of the Ministry of State Security for a prolonged period of time.[140] This is as harsh as a criminal punishment—it is undoubtedly a serious violation of human rights. The Criminal Act and Criminal Procedure Act prioritize social education measures over criminal punishments, as if such measures do the offenders a favor. However, the practice of sending minor political offenders and even their families to a remote place where harsh treatment is guaranteed cannot be legally justified. It is in fact abusive because, under the name of social education measures, this nonjudicial punishment may be imposed on both the offender and his or her entire family. To make matters worse, the term of stay in a *kwanriso* is usually not predetermined. The criminals are completely isolated from the outside world and forced to perform intensive labor. Therefore, enforced stay in a *kwanriso* is a truly harsh extrajudicial punishment. Even when a person lives as "the released" (*haejemin*) in the camp after serving several years, relatives and friends still have no way of knowing where he or she is. In this way, the great chilling effects of the administrative camps have lasting effects.

C. The Procedure for Sending an Offender to a Kwanriso

A substantial number of people in *kwanriso* were sent there because they allegedly violated the provisions of anti-state or anti-nation laws under the Criminal Act.[141] Kim Kwang-Soo was sent to the 15th Yodok camp without trial. In fact, he admitted that he had committed a serious political crime that could be punishable by death or another serious sentence. However, he was told that he was given the lenient treatment of being sent to Yodok instead of prison because his friend worked in the Ministry of State Security.[142] Of course, there have been cases in which the family members of

140. North Korea considers time spent in a *kwanriso* as punishment. *See* BEOBTUJAENGBUMUN ILKKUNDEULELUIHAN CHAMGOSEO [MINISTRY OF PEOPLE'S SECURITY, MANUAL FOR LAW ENFORCEMENT OFFICERS] 375 (2009).

141. For example, the International Coalition to Stop Crimes Against Humanity in North Korea released a list of 254 Yodok inhabitants, whose offenses are as follows: attempted defections (64); espionage, anti-state activities, or leaking national secrets (47); infringement of the authority of the Party or attempted anti-state activities (47); guilt by family association (29); and anti-revolutionary expressions or criticisms of the regime (25). *See Buk Yodok suyongso Sugamja 254 myeong Myueogdan Gonggae* [*The List of the 254 Inmates in Yodok in North Korea*], NK CHOSUN (Jan. 26, 2010), http://nk.chosun.com/news/articleView.html?idxno=122561.

142. *See* Kim Gwang-Soo, *supra* note 27. They told Kim Kwang-Soo that he was sent to Yodok instead of prison thanks to the favorable consideration of the Dear Leader Kim Jong-Il. Similar testimony was given by Ahn Hyuk, who said that he was sent to the "Revolutionizing Area" of Yodok for three years after being told, "You have been sent to the Revolutionizing Area, being favored by the Dear Leader's decision even though you have committed a crime punishable by death." *See* KIM SOO-AM, BUKHANEUI HYUNGSABEOBJESANG HYUNGSACHEORIJEOLCHAWA JEOGYONGSILTAE [PENAL PROCESS AND ACTUAL PRACTICE UNDER THE NORTH KOREAN CRIMINAL LAW SYSTEM] 113 (2005); Heo Man-Ho, *Hyopryukjeok Jeokdaeguangyeehseoeui Bukhaninkwon:*

offenders were sent to a *kwanriso* based on guilt by association without even knowing the actual crimes of the principal offender.[143]

The legal grounds for sending somebody to a *kwanriso* are not at all transparent. Nor are they clear with regard to the role of prosecutors and other organs of the Ministry of State Security in the decision-making process before the accused is sent to a *kwanriso* without trial.

Testimonies of defectors suggest that a decision to send a political offender to *kwanriso* results from the broad collaboration of many state agencies. It is fair to say that the highest authority in making the decision to send a political offender to a *kwanriso* is the Korean Workers' Party.[144] In addition, there are two important bodies in the decision-making process: the Security Committee (*anjeonwiwonhoi*) and the Executive Committee (*jibhaengwiwonhoi*).[145]

Kim Yong, who worked for the predecessor of the current Ministry of State Security, asserted that Gye Eung-tae, the Secretary of the Central Committee of the Korean Workers' Party in charge of judiciary affairs, was the person responsible for endorsing decisions to send individuals to *kwanriso*.[146] He added that important matters could go up to Kim Jung-Il for approval.[147]

Even though there are no formal court proceedings, the potential political offenders go through a systematic decision-making process through the Security Committee and Executive Committee.[148] The process begins with the investigation and preliminary examination conducted by the Ministry of State Security. A suspect is first

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Gaeipgua Gyoyuk [*North Korean Human Rights in a Country with a Cooperative but Hostile Relationship: Interference and Education*], Je 9hoi Bukhaningwon, Nanmin Gukjehoieui [The 9th International Conference on North Korean Human Rights & Refugees, Mar. 20–21, 2009] 12–41, http://www.dailynk.com/korean//bbs/download.php?uid=2678&imgDate=20090320&bbs_code=bbsIdx2.

143. *See* Kang & Rigoulot, *supra* note 115.

144. *See* Interview with Kim Yong, *supra* note 132.

145. *See* Aeran Lee, *supra* note 111. *See also* Kim Yong, *supra* note 132.

146. Interview with Kim Yong, *supra* note 132.

147. *Id.*

148. According to the testimony of Kim Yong, who worked for the Ministry of State Security and spent time in the 14th Kaechon *kwanriso*, the procedure to send a person to an administrative camp is as follows:

> First, the Ministry of State Security prepares the documents. Then the Executive Committee—a group consisting of people in uniforms with "big stars"—deliberates and makes the decision. The Executive Committee members include the head of the Third Department of the Supreme Prosecutors' Office. Then the Secretary of Judicial Affairs of the Workers' Party observes and ratifies the decision.

See Interview with Kim Yong, *supra* note 132. Another defector, Kim Young-Hee, who also worked at the Ministry of State Security, testified that the Executive Committee consists of the prosecutor from the central office of the Ministry of State Security, the provincial or city chief of the Ministry of State Security, the chief of the Department of Counterespionage, the head of the Department of Intelligence Analysis, and the supervising agent of the case. *See* Aeran Lee, *supra* note 111. Both Kim Yong and Kim Young-Hee are referring to the same institution, and they both have a similar understanding of the makeup and functions of this decision-making body.

brought before the Department of Counterespionage (*bantamguk*) of the Ministry of State Security.[149] Then, he or she is investigated and examined by the investigators and preliminary examiners of the Ministry of State Security.[150] Under the Criminal Procedure Act, prosecutors should make a decision as to whether to prosecute the case for criminal punishment after concluding the preliminary examination. It has been widely testified by many defectors that, at the conclusion of the preliminary examination, they met a prosecutor from the prosecution department of the Ministry of State Security. Prosecutors are responsible for supervising the investigation and the preliminary examination, and they make the decision whether to indict a suspect through the regular judiciary process.

According to testimonies, when the preliminary examination of a case is being completed, behind the scenes a meeting of the Security Committee (*anjeonwiwonhoi*) is convened in the Ministry of State Security to make a decision as to whether to make a recommendation for the political offender to be sent to a *kwanriso* in lieu of criminal prosecution.[151] Then the Executive Committee (*jibhaengwiwonhoi*)—consisting of the prosecutor from the central office of the Ministry of State Security, the Provincial or City Chief of the Ministry of State Security, the Chief of the Department of Counterespionage, the head of the Department of Intelligence Analysis, and the supervising agent of the case—meet to set the degree of punishment and the measures to be taken.[152] The decision will be endorsed by the Secretary of the Central Committee of the Korean Workers' Party in charge of judiciary affairs.[153] In short, there is no formal judicial decision-making procedure to send a political offender to a *kwanriso*. Rather, they are mostly under the jurisdiction of the Ministry of State Security and are sent to such facilities by ad-hoc decision-making bodies: the Security Committee and the Executive Committee.

This decision-making mechanism to send a person to a *kwanriso* is quite different from the troika system of the *gulag* (Main Camp Administration) in Stalinist Russia[154] and the court-based Reeducation Through Labor system in China.[155] It is very troubling that a decision to subject a political offender to criminal punishment is made without going through any judicial process. The nonjudicial law enforcement agencies and political institutions make

149. *See* Interview with Kim Yong, *supra* note 132; Aeran Lee, *supra* note 111. *See also* SUPREME COURT OF KOR., OFFICE OF COURT ADMIN., *supra* note 26.
150. *See* Interview with Kim Yong, *supra* note 132; Aeran Lee, *supra* note 111.
151. *See* Interview with Kim Yong, *supra* note 132; Aeran Lee, *supra* note 111.
152. *See* Aeran Lee, *supra* note 111.
153. *See* Interview with Kim Yong, *supra* note 132.
154. *See* ANNE APPLEBAUM, GULAG: A HISTORY (2004).
155. *See* SARAH BIDDULPH, LEGAL REFORM AND ADMINISTRATIVE DETENTION POWERS IN CHINA (2007).

judicial-like decisions without guaranteeing the necessary substantive and procedural due process. It is also problematic that they decide the fates of families based on a guilt-by-association system.

If a person is charged with serious political crimes, a formal trial in court is probable, in which case a regular sentence may be rendered. However, for minor political offenses, the principal offenders and possibly their family members are subject to the decisions of the Security Committee and the Executive Committee. No case record or transcripts are made available for the affected party, and the terms of the detention or "revolutionizing" period are not clearly set out, nor are they properly communicated.[156] However, once individuals are sent to a *kwanriso*, the offenders and their family members are treated as political criminals or betrayers of the Fatherland.

D. Social Education and Criminal Punishment

It is especially frustrating that there is no provision in the Criminal Act and the Criminal Procedure Act justifying any criminal punishment of offenders by *kwanriso*. The Criminal Act of 1974 had a provision that the adult family members of military personnel who fled to a foreign country would be expelled to remote areas for up to five years, along with the forfeiture of their licenses.[157] This provision is good evidence that the North Korean criminal system used the segregation of offenders' families in places like *kwanriso* as a form of criminal punishment, based on guilt by association. However, the provision disappeared in the 1987 Criminal Act. Furthermore, there is no provision in the Criminal Act or Criminal Procedure Act regarding the use of the Security Committee and Executive Committee to determine punishments for minor political offenders.

It is natural for readers to ask whether there is any occasion when North Korean legal authority can stop following regular criminal procedure. Is there any legal avenue in the criminal law that allows the law enforcement agencies to pursue an alternative nonjudicial procedure in order to send offenders and their families to a *kwanriso* in lieu of going through the criminal procedure?

A clue is found in the criminal law provisions dealing with social education measures. Both the Criminal Act and the Criminal Procedure Act provide that the state should primarily rely on social

156. For example, Kim Eun-Cheol was told that his term was three years for crimes of betrayal against the Fatherland by the chief of the Political Department of the 15th Yodok camp only after he was sent to the facility. *See* Kim Eun-Cheol, *supra* note 30.

157. Hyongbeob [Criminal Act], *amended and supplemented by* Decision of the Standing Committee of the Supreme People's Assembly, Dec. 19, 1974, art. 70. *See* Dong-Hee Park, *Bukhan Hyeongbeop-Teukhi Inkwohnchimhae gyujeongeul jungsimeuro* [*The North Korean Criminal Act: Focusing on the Human-Rights Violating Provisions*], 4 BUKHANBEOBRYULHANDGJEONNONJIB [J. N. KOREAN L. & ADMIN.] 59 (1980).

education rather than legal sanctions in dealing with criminals. Article 3 of the 2012 Criminal Act and article 2 of the 2012 Criminal Procedure Act provide that the state should "primarily rely on social education, which can be combined with legal sanctions."[158] In other words, North Korean penal policy prefers social education measures rather than regular criminal procedure.

In fact, the 2004 amendments of the Criminal Act expanded the preexisting article 11 provision on social education into two provisions,[159] which were retained in the 2012 Criminal Act as articles 50 and 51.[160] The provisions allow adult offenders to be treated by social education measures if a prosecutor, judge, or court finds that such measures would work, having regard for the degree of repentance and the danger of the crime.[161] There is a catch, however, in that if an offender treated by social education measures commits another crime, the person will be punished by aggregated punishments for the old crime as well as the new crime.[162]

Also in 2004, the Criminal Procedure Act expanded the provisions regarding social education measures by creating a new chapter with eight new articles. The contents of these provisions survived several subsequent amendments, and the current Criminal Procedure Act (2012) still has them in chapter 10 (articles 115–122). The Criminal Procedure Act (2012) stipulates quite detailed information about the imposition of social education measures, such as the grounds for social education,[163] the procedure for social education measures to be applied,[164] the status of a person subject to such measures,[165] and the supervisor in charge of social education

158. Hyongbeob [Criminal Act], May 14, 2012, art. 3; Hyongsasosongbeob [Criminal Procedure Act], May 14, 2012, art. 2.

159. *See* Hyongbeob [Criminal Act], Apr. 29, 2004, arts. 49–50.

160. Hyongbeob [Criminal Act], May 14, 2012, arts. 50–51.

161. Article 50 (Social Education Measures) of the 2012 Criminal Act, *id.*, provides: "If a minor committed a crime, or even if an adult committed a crime, if it is determined, upon considering the degree of repentance and the danger of the crime, that he can be rehabilitated through social education, then a social education measure can be imposed."

162. *Id*. art. 51.

163. Criminal Procedure Act art. 115 (Grounds for Applying Social Education Measures): "Social education measures shall be imposed in the following circumstances: (1) when a person who has reached the age of 14 but has not reached the age of 17 committed a crime; [or] (2) when it is determined that a criminal can be reeducated without imposing criminal punishment."

164. *Id*. art. 116 (Procedure for Social Education Measures):

> A prosecutor, a judge, or a court shall, when the grounds set forth in article 115 of this Law is found, proceed as follows:
>
> (1) a prosecutor shall impose a social education measure upon the approval of a superior Prosecutors' Office;
>
> (2) a judge or a court shall decide and sentence the defendant to a social education measure.

165. *Id*. art. 119 (Status of a Person Subject to a Social Education Measure): "A person subject to a social education measure shall be considered as if he did not commit the crime."

measures.[166] It is unclear what triggered these changes to the provisions on social education, but it is certainly related to the efforts of the North Korean government to make its criminal law more regimented after receiving international criticism over human rights.

The principle of prioritizing social education over punishment indicates that North Korea wants to reduce criminalization by increasing the opportunity for criminals to return to society. However, the social education measures function as a way to punish crimes or socially deviant behaviors by circumventing criminal procedure. Local administration and law enforcement agencies continue to supervise those released after social education. As noted above, if they commit a crime during the period of prescription, they can be punished for both the past offenses and the new act.

It is noteworthy that the People's Security Control Act and the Administrative Punishment Act also have provisions emphasizing social education measures as the primary means to fight crime, either alone or in combination with legal sanctions.[167]

The People's Security Control Act deals with the activities of the Ministry of People's Security in regulating social security, and demonstrates the actual implementation of nonjudicial punishment. This Act includes a wide range of politically and socially deviant behaviors such as acts disrupting public order or threatening national political security in chapter 2 (articles 8 through 40), for which social education measures can be approved.[168] Article 54 of the People's Security Control Act emphasizes the need to take into consideration "the possibility of rehabilitation and the degree of risk of the crime" during the process of determining the appropriate adminstrative punishments.[169] In particular, article 57 of the Act provides that the Executive Council of the Ministry of People's Security (*inminboangiguan chaegimilgun hyeobeuihoi*) must review the offender's record of offences and can make decisions regarding his or her punishment, such as reform through labor, suspension of the offender's license, reduction of the offender's salary, revocation of the offender's license, suspension of operation, confiscation of the offender's property, or social education measures.[170] This is very similar to how political offenders are treated via the Security Committee and the Executive Committee.[171]

166. *Id*. art. 120 (Supervisor in Charge of the Social Education Measure): "An institution, enterprise, organization, or village (town, district, or neighborhood) in which the person subject to a social education measure resides shall take charge of the education."

167. Inminboandansogbeob [People's Security Control Act], July 26, 2005, art. 5; Hangjeongcheobeolbeob [Administrative Punishment Act], *amended and supplemented by* Decree No. 1902 of the Presidium of the Supreme People's Assembly, Oct. 16, 2011, art. 3.

168. People's Security Control Act arts. 8–40.

169. *Id.* art. 54.

170. *Id.* art. 57.

171. Decisions on the treatment of political offenders are made by the Security Committee and the Executive Committee. *See* Aeran Lee, *supra* note 111. *See also* Kim Yong, *supra* note 132.

The Administrative Punishment Act was first enacted in 2004, to authorize administrative sanctions against institutions and individuals when the offenses are not serious enough to be considered crimes.[172] Chapter 3 of the Act (as amended in 2011) designates 195 types of illegal acts as offenses punishable by administrative sanctions. They include not attending work sites for more than one month without justifiable reason (article 90) and listening to the broadcasting of enemy states (article 153). The list of crimes is enormous, and includes offenses against the defense management order (articles 34–48), offenses against the economic management order (articles 49–131), offenses against the cultural management order (articles 132–157), offenses against the general administrative order (articles 158–186), and offenses against community order (articles 187–228). Administrative sanctions and decisions provided for in the Act include punishments in the form of a warning or serious warning; unpaid labor or reform through labor; lowering of the offender's rank, dismissal of the offender from his or her position, or removal of the position; fines; suspension of operation; order for payment of damages; confiscation of property; and suspension of the offender's license, reduction of salary, or revocation of the offender's license.[173] Administrative punishments for offenses violating the Act can be imposed by the Socialist Legal Life Supervision Committee, the Cabinet, prosecutors, courts, mediation, a people's security institutions, a supervisory institution, or other relevant institutions, enterprises, and organizations.[174]

The People's Security Control Act, along with the Administrative Punishment Act, demonstrates that various crimes and offenses not punishable by regular criminal law and judicial process are alternatively punished through nonjudicial measures. These two Acts are used to punish relatively minor cases not through court proceedings, but based on the decisions of administrative agencies.[175] In contrast to regular criminal punishments under the Criminal Act, punishments implemented under the People's Security Act or other laws are nonjudicial criminal punishments.

While the list of punishments under the Administrative Punishment Act and the People's Security Act has expanded, there are still many areas in which the legal agencies can use social education measures. Even when a given offense is not punishable either

172. The purpose of the Administrative Punishment Act is stated in article 1 as follows: "This Act aims at preventing illegal activities by strictly setting up the institution and order for implementing administrative punishment, contributing to the establishment of a law-abiding socialist culture."

173. Hangjeongcheobeolbeob [Administrative Punishment Act], Oct. 16, 2011, art. 14.

174. *Id.* art. 229.

175. *See* Inminboandansokbeob [People's Security Control Act], July 26, 2005, art. 57. This provision provides that if an offense is serious enough to be punished under the Administrative Punishment Act, the case should be referred to the Socialist Legal Life Supervision Committee, and if the case needs to be criminally tried by legal proceedings, it should follow the Criminal Procedure Act.

by criminal sanctions under the Criminal Act or by sanctions provided for under the Administrative Punishment Act or the People's Security Act, the law enforcement agencies can still rely on social education measures.

Social education measures were originally designed to reduce harsh criminal punishments, but in reality they seem to function as an extension of nonjudicial punishment for minor offenses, even when criminal punishment or administrative punishment is not necessary. The law stipulates that social education measures are not considered criminal punishments. However, social education measures can be a trap, given that if the person commits a new crime within the prescription period, the punishment could be doubled. It is likely that a similar rationale is being used to punish political offenders by sending them to *kwanriso*.

Examining how social education measures are decided and implemented under the law is useful in understanding how political offenders are treated.[176] Article 120 of the Criminal Procedure Act provides that the institution, enterprise, or organization to which the criminal belongs or the county in which he resides may take charge of the execution of a social education measure. Article 36 of the Prosecution Supervision Act stipulates: "If a prosecutor intends to reeducate a person who has violated the law of the country, he may transfer the person to the Socialist Legal Life Supervision Committee (*sahoijueui beobmusaenghwal jidowiwonhoi*) or recommend that a relevant institution, enterprise, or organization initiate a public punishment movement."[177] The Execution of Sentence and Punishment Act provides that the execution of judgment for social education will be the responsibility of the institution, enterprise, or organization that receives the copy of the court's decision and notice of

176. The decision-making process is explained in the Criminal Procedure Act and People's Security Control Act. A prosecutor can impose social education measures upon the approval of a higher-level Prosecutors' Office in cases where the crime was committed by a minor who has reached the age of fourteen but has not yet reached the age of seventeen, or if it is determined that the accused may be reeducated and reformed without punishment. When prosecutors, judges, courts, or people's security agencies decide to impose a social education measure, the administrative institution, enterprise, or group to which the offender belongs or the county where the offender resides is responsible for taking charge of the social education of the offender. *See* Hyongsasosongbeob [Criminal Procedure Act], May 14, 2012, arts. 115–20. When the Ministry of People's Security takes measures against offenders, it must be done based on various depositions, evidence, and applicable certification documents, and the time limit for handling offenders is thirty days from the finding of the offense. Offenders may be transferred to the Ministry of People's Security in the region that they are from or to their place of work; in the case of minor offenses, the Ministry of People's Security may unilaterally direct the social education measure. The Ministry of People's Security can also achieve comprehensive cooperation by submitting "a general written or oral opinion to the institution, the enterprise or the organization." *See* People's Security Control Act arts. 41–53.

177. Geomchalgamsibeob [Prosecution Supervision Act], Nov. 19, 1998, art. 36.

conviction.[178] Since a *kwanriso* functions as a special work unit or institution, the administrative body of a *kwanriso* seems to have a similar responsibility and authority to impose social education measures, often called a process of "revolutionizing" political offenders.

One issue that is still unclear is whether a prosecutor or a judge has the power to make a decision to send a criminal to *kwanriso* on their own, just as they can decide to send an ordinary criminal to be reeducated under the name of social education.[179] As discussed above, the decision-making process seems far more complicated than an individual prosecutor or judge's decision, because the Security Committee and the Executive Committee are the actual decision-making bodies. Nevertheless, they are still influenced by the penal policy of North Korea that prioritizes social education measures over legal sanctions.

It is likely that in North Korea, when the state finds that normal judicial punishments are inappropriate, either because the offense in question is by nature a nonjusticiable political act or because it is so minor that it is not punishable by regular criminal adjudication, they use nonjudicial methods of punishment that could be viewed as other forms of social education. This is possible because the Criminal Act and Criminal Procedure Act allow prosecutors, judges, and courts to decide not to lay a criminal charge or issue a sentence but instead to send the offender to social education. This means that the Workers' Party and other governmental institutions, as well as the Ministry of State Security can take part in making a nonjudicial decision to punish offenders and their family members by sending them to a *kwanriso*. If the Security Committee and Executive Committee convene to make a decision, they can easily override the authority of a prosecutor to indict a case. Prosecutors will probably delegate their authority to supervise the social reeducation process to the administrative body of a *kwanriso* as they do in the case of ordinary crimes with the Socialist Legal Life Supervision Committee or the Comrade Judgment Commission.[180] In this way, the Ministry of State Security could technically be considered as overseeing the social reeducation process of the offenders. The Administrative Punishment Act and the People's Security Control Act also serve a similar function in providing the legal authority to send the political offender to alternative facilities. Once law enforcement agencies identify an anti-state or anti-nation offense, they may jointly work with the Ministry of State Security to determine how to deal with the principal offenders and their family members.

178. Pangyeolpanjeon Jibhaengbeob [Execution of Sentence and Punishment Act], Nov. 19, 1998, arts. 29–38.

179. Criminal Procedure Act, May 14, 2012, art. 120.

180. People's Security Control Act art. 57; Execution of Sentence and Punishment Act art. 2.

IV. Strategies for Changes

The practice of sending political offenders and their family members to *kwanriso* without appropriate judicial process is clearly in violation of international human rights law. For example, Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR) states: "No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."[181] Article 8(3)(a) provides: "No one shall be required to perform forced or compulsory labour."[182] The practice of punishing political offenders through nonjudicial means by sending them to a *kwanriso* is definitely in violation of the ICCPR. It is also in violation of the right to liberty of movement and to the freedom to choose one's residence in the same Covenant.[183] The treatment of the "move-ins" in a *kwanriso* also constitutes a serious human rights violation, which could amount to a crime of persecution.[184]

The UN Commission of Inquiry on Human Rights in North Korea (COI) submitted its findings to the Human Rights Council on February 7, 2014, asserting that "[s]ystematic, widespread and gross human rights violations have been, and are being, committed by the Democratic People's Republic of Korea, its institutions and officials."[185] The COI Report proposed that "[t]he United Nations must ensure that those most responsible for the crimes against humanity committed in the Democratic People's Republic of Korea are held accountable," and that the measures taken in that regard "should be combined with a reinforced human rights dialogue, the promotion of incremental change through more people-to-people contact and an inter-Korean agenda for reconciliation."[186] The COI Report seems to place the greatest emphasis on the accountability of the regime rather than on the promotion and protection of human rights, a fact which has prompted North Korea to strongly denounce the report.[187] The criticisms should definitely be combined with efforts to make actual and incremental changes in the country.

Some may question whether there is any hope for a shift to a legal system that protects human rights in North Korea under the

181. International Covenant on Civil and Political Rights art. 9(1), Dec. 16, 1966, S. Treaty Doc. No. 95-20, 999 U.N.T.S. 171.
182. *Id.* art. 8(3)(a).
183. *Id.* art. 12.
184. Under Article 7(1)(h) and 7(2)(g) of the Rome Statute of the International Criminal Court, July 17, 1998, 37 I.L.M. 1002 (1998), 2187 U.N.T.S. 3, persecution is a crime against humanity, and is defined as "the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity."
185. Rep. of the Comm., *supra* note 6, ¶ 1211.
186. *Id.* ¶ 1218.
187. *N. Korea Slams COI Report as Fabrication*, Yonhap News Agency (Apr. 22, 2014), http://english.yonhapnews.co.kr/northkorea/2014/04/22/3/0401000000AEN20140422003100315F.html.

current regime. It should be remembered that similar skepticism existed with regard to Russia and China. In fact, North Korea is following the example of China's legal changes, even if the speed is slow. Specifically, North Korea amended its Constitution in 2009 to incorporate an expression of respect for human rights, thus following the Chinese path. Article 8 of the amended Constitution now provides that "the State shall defend the interests of the workers, peasants and working intellectuals and respect and protect their human rights." In the same vein, in 2006, the Criminal Procedure Act of North Korea added article 5, which provides: "The State should thoroughly protect human rights in dealing with criminal cases."[188] In the Universal Periodic Review conducted by the UN Human Rights Council in May 2014, North Korea adopted a significant amount of the recommendations by the international community, in contrast to its previous flat rejection in 2009.[189]

In terms of normative development, it is not exceptional for North Korea to have begun introducing human rights in its legal system. Risse and Sikkink, using their "spiral model" argument, describe the process of human rights development as gradual. They explain that the development of human rights and democracy happens in gradual phases of repression, denial, tactical concession, prescriptive status, and rule-consistent behavior.[190] Apparently North Korea cannot continue its total repression and denial stages, and it will need to move toward a system of human rights protection.

What is the best way to promote and protect human rights in North Korea? It is difficult to identify a single effective way to promote human rights in the country. Marzuki Darusman, the former UN Special Rapporteur on North Korean human rights, prioritized humanitarian issues over civil and political rights violations when he was first appointed in 2007. This was a somewhat different approach from that of his predecessor, Vitit Muntarbhorn. Muntarbhorn's emphasis was on North Korea's violations of civil and political rights,[191] but Darusman initially tried to engage with North Korea, which seems to have resulted in a change in the approach to the COI Report.[192]

188. It is included as article 6 in the current Hyongsasosongbeob [Criminal Procedure Act], May 14, 2012.

189. North Korea has accepted nearly half of the 268 recommendations for change that arose in the review. *See* Louis Charbonneau, *U.N. Sees Signs of North Korea Softening in Human Rights Dialogue*, REUTERS (Oct. 28, 2014), http://www.reuters.com/article/us-northkorea-rights-un-idUSKBN0IH25M20141028.

190. *See* Thomas Risse & Kathryn Sikkink, *The Socialization of International Human Rights Norms into Domestic Practices: Introduction*, *in* THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE 1, 20–35 (Thomas Risse et al. eds., 1999).

191. *See* Vitit Muntarbhorn (Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea), *Report to the General Assembly*, U.N. Doc. A/60/306 (Aug. 29, 2005).

192. *See supra* note 6.

During the Kim Dae-Jung and Roh Moo-Hyun administrations in South Korea, the governments pursued an engagement policy. In particular, Kim Dae-Jung's so-called Sunshine Policy, which was an appeasement policy toward North Korea as a method for change, was internationally known.[193] However, it is true that, under their lenient policies, the Kim and Roh governments were less active with respect to human rights issues in North Korea: they refused to participate in the adoption of the UN resolutions on North Korean human rights, and it was only in 2006 that the Roh Moo-Hyun administration voted in favor of such a resolution for the first time at the UN General Assembly.[194] The reason for their hesitation in raising human rights issues in North Korea was because they worried that direct human rights criticism against the regime might restrict opportunities for the South to continue its engagement and cooperation with the North.[195] This approach was widely criticized by conservative groups in South Korea and the international community. In fact, the idea that human rights critiques of North Korea would jeopardize the South Korean government's cooperative relationship with the North has not been proven.

European states took a different approach when they normalized diplomatic relations with North Korea in 2000. The EU and some European nations demanded that human rights should be on the agenda in the dialogue on normalization,[196] and the North Korean government agreed to include it as a main agenda item in the negotiations with Europe.[197] The North Korean regime cannot disregard

193. *See* Chung-in Moon, *The Sunshine Policy and the Korean Summit: Assessments and Prospects*, *in* THE FUTURE OF NORTH KOREA 26 (Tsuneo Akaha ed., 2001).

194. Mincheol Kim & Hawon Lee, *Woigyobu, UN Bukhan Inkwon Gyeoleuian Chansung* [*Ministry of Foreign Affairs "Voted for UN Resolution for Human Rights in North Korea"*], CHOSUN ILBO (Nov. 17, 2006), http://news.chosun.com/site/data/html_dir/2006/11/17/2006111760068.html.

195. For example, Kim Dae-Jung tried to defend the Sunshine Policy as a form of human rights policy. When he and his North Korean policy aides were criticized by conservative blocs, he rebutted them by saying that offering food aid to North Korea was one of the most important human rights protection activities. *See Haetbyeot Jeongchaekeun Bukhaneui Inkwongua Minjuhua Silhyeoneui Gili Doieotta* [*Sunshine Policy Served as a Road to Realizing Human Rights and Democratization in North Korea*], PLUS KOREA TIMES (Nov. 24, 2006), http://www.pluskorea.net/sub_read.html?uid=1434.

196. *See* THE EC–DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (DPRK) COUNTRY STRATEGY PAPER 2001–2004, at 5, 18–19 (n.d.), *available at* EUROPEAN UNION EXTERNAL ACTION SERVICE, http://eeas.europa.eu/korea_north/docs/01_04_en.pdf.

197. North Korea knowingly made the concession to adopt human rights as a negotiation agenda item in order to proceed with the normalization of diplomatic relations. However, North Korea later suspended the efforts at a human rights dialogue, criticizing the EU for its participation in the adoption of the human rights resolution on North Korea by the United Nations in 2004. *See* Policy Briefing PE 491.441, Directorate-General for External Policies, European Parliament, Human Rights in North Korea (Sept. 2012), DG EXPO/B/PolDep/Note/2012_265, at 12, http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2012/491441/EXPO-DROI_SP(2012)491441_EN.pdf.

international criticisms of its human rights practices, particularly when the concerns are soundly based on verifiable facts. The North Korean government recognized human rights in a provision of its 2009 constitutional amendment.[198] The regime has demonstrated a tendency to take measures to mitigate the situation when international criticisms are made based on identifiable facts.[199] A clear illustration and analysis of human rights violations can thus function as a catalyst for the improvement of the situation.

In dealing with North Korean human rights issues, we often encounter conflicting approaches: whether to emphasize engagement or pursue complete isolation; whether to maintain an objective stance or engage in aggressive political campaigns; whether to promote dialogue and cooperation or initiate harsh criticism and pressure; and whether to propose cooperation or enhance confrontation. The optimal strategies for the promotion and protection of North Korean human rights will not be found in taking only one set of approaches from the above list. Rather, it is important to understand and carefully consider the complicated internal dynamics of the country so that we do not sacrifice the human rights of the people of North Korea for some other unrelated causes.

Conclusion

In the North Korean criminal justice system, we cannot but ask where the origins of human rights violations lie. Are they happening because of flaws in North Korea's criminal law and procedure? Are they happening because of non-compliance with existing law by law-enforcement agencies? Are they not a legal problem but something attributable to the general system? My conclusion is that human rights violations cannot be attributed to any one reason above, but are the result of interrelated problems in the whole penal system.

First, human rights violations in the criminal justice process in North Korea can be ascribed to flaws in the law. The Criminal Act and Criminal Procedure Act have provisions incompatible with international human rights standards. The overbreadth of the definitions of anti-nation crimes and the insufficient procedural safeguards in place to protect defendants' rights are clearly one of the significant sources of human rights violations. The fundamental penal principle of prioritizing social education over legal punishment seems to be another significant reason for human rights violations through extrajudicial punishment and administrative measures. In particular, nonjudicial punishment of political offenses accomplished by sending principal offenders and their family members to *kwanriso* clearly demonstrates the flaws of the North Korean legal system.

198. Chosonminjujuuiinminkonghwaguk Hunbeob [Hunbeob] [Constitution] art. 8.
199. A good example showing this tendency is the continuous amendments of the Criminal Act and Criminal Procedure Act over the years.

Second, notwithstanding that they are themselves far from sufficient, the existing procedural rights in the current legal framework are often neglected. For example, provisions in the Criminal Procedure Act aimed at protections such as the maximum period allowed for investigation, trial, and detention, the right not to be subjected to torture or coerced interrogation, and the right to be tried in front of a judge are not fully respected. Indeed, there are many occasions where human rights infringements happen in violation of the existing law. In the same vein, law enforcement agents are aware that torture, cruel treatment, and the abuse of power are not permitted, but they violate their own laws. This chain of impunity is another significant contributing factor to human rights violations.

Third, the government lacks a strong will to eliminate human rights violations in the penal process, especially in the treatment of political offenders. The government and the Korean Workers' Party should be blamed for not taking decisive measures to abolish wrongful practices, the abuse of power, and government sponsorship of illegal acts.

Given that there are complicated factors to consider with regard to human rights violations, any efforts to improve human rights conditions in North Korea should be very cautious and deliberate.[200] The most important consideration is to base all criticisms upon concrete facts, and the criticisms should be combined with feasible alternatives so that North Korea can be pushed to make real changes.

In the process of advocacy, I would like to propose that the following four principles be kept in mind. First, consistent efforts at engagement should be made without sacrificing high human rights standards. The security and humanitarian dimensions of North Korean issues may make it hard to focus on the problem of human rights, but we should never give up our efforts to promote human rights in the country. Human rights engagement does not exclude criticism or pressuring the country, and human rights standards should be openly maintained.

Second, more effort aimed at technical cooperation in the area of human rights protection should be exerted. For example, North Korean authorities would benefit from efforts at cooperation and consultation to promote reform of their judicial system, especially in criminal justice. Collecting evidence without relying on interrogation under torture is something North Korean law enforcement should learn about immediately. If North Korea initiates reforms in its criminal investigation, legal proceeding, and law enforcement

200. There are still areas that need more explanation concerning the mechanism of criminal justice in North Korea. There has been no North Korean defector who worked as a judge, prosecutor, or attorney. More research should follow this Article. A full understanding of the legal procedure at the stages of investigation, pretrial, trial, and execution of sentence demands more information and further analysis.

processes, this change would create good momentum to promote human rights in North Korea more generally.

Third, although human rights discourse inevitably entails some political implications, we should try to maintain political neutrality by preserving a human-centered approach. Wherever there is human suffering in violation of international human rights law, the government is under an obligation to take measures to alleviate the problem and there is no excuse that can justify human rights violations.

Finally, we should rely on the power of the moral values associated with human rights. We can and should convince the regime that human rights violations are, in fact, against their own belief system as well. No matter how slow the development of a human rights protection system may be, we can be optimistic because the accumulation of small changes will achieve better protection of the rights of the people of North Korea.