

# **Economic Crimes in North Korean Criminal Law: Changes and Continuities**

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# Economic Crimes in North Korean Criminal Law: Changes and Continuities

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This dissertation is the first to thoroughly investigate how North Korea's penal code—especially the parts on economic crimes—have changed throughout North Korean history and what the political and economic reasons for the changes and the implications of these changes are. The North Korean penal code is the first substantive law of North Korea other than its constitution and known to be the most frequently revised North Korean law. This suggests that the penal code has been one of the most important laws in the socialist country. By analyzing the provisions on economic crimes in the North Korean penal code, this dissertation establishes the following: First, the clear distinction between crimes against state property and private property and harsher punishment for the former has been maintained, unlike in the penal codes of Russia and China. Second, many non-property, economic crimes originate from ostensibly strict adherence to a socialist economic model, including a planned economy. Third, definitions of economic crimes are often vague and leave room for arbitrary interpretation and implementation of the penal code. These traits lead to huge discrepancies between the written penal code and the ongoing, but informal, marketization in North Korea, contributing to the growth of the black market.

This dissertation is also the first to examine the legal transplants in North Korea, centering on the amendments to the North Korean penal code since 1974. Although the North Korean penal code was initially modeled after the Russian penal code, the level of Soviet influence decreased, especially due to Russia's transition into a democracy and market economy. Although the Chinese influence on North Korea's penal code has surpassed that of Russia, its level of influence is still more limited regarding provisions on economic crimes as compared to non-economic crimes, mainly due to the fundamental differences in their approaches to the market economy.

This dissertation contributes to the literature by establishing how North Korea has tried to control its economy by its penal code and what such attempts imply for the future of the economy of the most secretive country in the world.

## **BIOGRAPHICAL SKETCH**

Dae Un Hong (洪大運) entered the LL.M. program and J.S.D. program at Cornell Law School in 2015 and 2016, respectively. At Cornell, he served as associate editor for the Cornell International Law Journal and as a research assistant to Professor Muna B. Ndulo.

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He received a Bachelor of Arts degree in international relations from Seoul National University, South Korea (his thesis, titled “The U.S. Congress and Free Trade Agreements: The Case of George W. Bush Administration,” was recognized as outstanding), before learning law at Northwestern University Pritzker School of Law, Hanyang University School of Law (South Korea), and Cornell Law School.

He is licensed to practice in Washington, D.C. and South Korea.

I dedicate my dissertation to my family, especially my wife Ju Yoen Lee (이주연: 李珠蓮).

Without her support, both academic and emotional, and endless inspiration,  
this dissertation would not have been possible.

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For financial support, I am deeply indebted to Professors Lasser and Ndulo, and Assistant Dean for Graduate Legal Studies Aimée Houghton for the generous funding that enabled me to continue my study and conduct research trips in many places within and outside of the United States.

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Moreover, this dissertation has benefited immensely from generous and illuminating conversations with North Korea experts including former South Korean Unification Minister Jeong Se-hyun, Kyu-Chang Lee, the head of research at Korea Institute for National Unification, and some others whose identities must remain confidential. Our interactions allowed me to observe and learn about my field in manifold ways.

Although I did not have the fortune to meet him, I also owe special gratitude to the late Professor Koo-Chin Kang at Seoul National University, who died prematurely of a traffic accident in 1984. His Harvard S.J.D. Dissertation on North Korean criminal law and procedure (1969) and other pioneering works were phenomenal achievements,

especially given the lack of sources at that time, and still resonate with many who study North Korean law. In tribute to him, this dissertation adopts some of his methodologies and includes updates to his research for the first time in half a century.

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## **LIST OF ABBREVIATIONS**

DPRK	Democratic People's Republic of Korea (North Korea)
KWP	Korean Worker's Party
ICCPR	International Covenant on Civil and Political Rights
PRC	People's Republic of China
ROK	Republic of Korea (South Korea)
RSFSR	Russian Soviet Federative Socialist Republic
USSR	Union of Soviet Socialist Republics
WIPO	World Intellectual Property Organization

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# CHAPTER 1

## INTRODUCTION

The main thesis of this dissertation is that North Korea, or the Democratic People's Republic of Korea (hereinafter "the DPRK"), has maintained a policy of utilizing its laws to create and control a socialist system ruled by a dictatorial regime. Among the DPRK laws, the penal code, and specifically the provisions on economic crimes therein, has functioned as a tool to maintain the socialist economic system—and ultimately the DPRK regime—and has thereby served as a significant impediment to the development of a market economy in the DPRK. To support this thesis and demonstrate the role that provisions on economic crimes have played in the DPRK economy, the aims of this dissertation are to examine (1) how the DPRK regime has sought to bolster and control the economy through laws and what the socio-political and economic dynamics have been behind the enactment of, and later amendments to, the economy-related laws and the penal code; (2) what kinds of provisions on economic crimes have been deleted, added, and amended, how such changes have reflected the DPRK regime's economic policy, and how they have impacted the DPRK economy; and (3) how legal transplantation—mostly from Russian and Chinese counterparts—has influenced the provisions on economic crimes of the DPRK penal code and what such foreign influences will be like in the foreseeable future. Not only will this research shed light on the history of DPRK laws—primarily the penal code—which has largely remained uninvestigated outside the DPRK, but it will also serve as a pedestal for future comparative studies on the laws of socialist countries.

## 1.1. OVERVIEW

Law is a window into a society because it does not stand alone outside of the social world but is deeply embedded in the society,<sup>1</sup> although the proposition is often debated according to the “legal transplant” theory.<sup>2</sup> As in the case of scholars who study Babylonian society with the Code of Hammurabi, studying the laws of a society can be an effective tool for examining the society, especially when undertaking field research in that society is not feasible. A notable example is the DPRK, which does not allow its citizens or foreigners free communication or movement inside the country and, consequently, largely remains a black box to the outside world.<sup>3</sup>

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<sup>1</sup> Lynn Mather, *Law and Society*, in THE OXFORD HANDBOOK OF POLITICAL SCIENCE 289 (Robert E. Goodin ed., 2011).

<sup>2</sup> Alan Watson coined this term in the 1970s in his seminal work, *Legal Transplants: An Approach to Comparative Law* (1974), to explain that the laws of a society often develop regardless of the local contexts because they are heavily borrowed from other societies more frequently than is generally assumed. In other words, law is not a mirror of society and legal transplantation is the primary mode of legal change. Andrew Harding, *The Legal Transplants Debate: Getting Beyond the Impasse?*, in LEGAL TRANSPLANTS IN EAST ASIA AND OCEANIA 13, 16(Vito Breda ed., 2019).

<sup>3</sup> Although many countries allow their citizens to travel to the DPRK, which is not prohibited under the current United Nations Security Council’s sanctions against the DPRK (S.C. Res. 1695 (2006); S.C. Res. 1718 (2006); S.C. Res. 1874 (2009); S.C. Res. 1928 (2010); S.C. Res. 1985 (2011); S.C. Res. 2087 (2013); S.C. Res. 2094 (2013); S.C. Res. 2270 (2016); S.C. Res. 2321 (2016); S.C. Res. 2371 (2017); S.C. Res. 2375(2017)), the DPRK does not allow foreign tourists to make free contact with ordinary local people or to deviate from the pre-designed itinerary. Most North Koreans do not have freedom to travel—either domestically or internationally—and those who are sent overseas, such as diplomats, are heavily monitored and are not permitted to speak freely with foreigners. Kim Jong-Il, the son of the first DPRK leader Kim Il-Sung, is quoted as saying, “We must envelop our environment in a dense fog to prevent our enemies from learning anything about us.” Roberta Cohen, *The UN High Commissioner for Human Rights and North Korea*, BROOKINGS, (Feb. 18, 2014), <https://www.brookings.edu/research/the-un-high-commissioner-for-human-rights-and-north-korea> (last visited Sept. 17, 2019).

Of all branches of law, criminal law historically has been the one most closely associated with sovereignty.<sup>4</sup> In their drafting of legislation, socialist states have tended to prioritize the penal code,<sup>5</sup> which primarily exists or functions to maintain social order and stability.<sup>6</sup> In the Russian Soviet Republic, or Russian Soviet Federative Socialist Republic (hereinafter “the RSFSR”), the 1922 penal code was one of the first major laws promulgated after the Russian Revolution of 1917. In China, or the People’s Republic of China (hereinafter “the PRC”),<sup>7</sup> the 1979 penal code was the first major law promulgated by the National People’s Congress after the Cultural Revolution.<sup>8</sup> The DPRK was no exception. Its 1950 penal code was the first substantive law enacted after the DPRK was founded and its constitution was promulgated in 1948,<sup>9</sup> and it was highly praised on the

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<sup>4</sup> MARKUS D. DUBBER, *Comparative Criminal Law*, in THE OXFORD HANDBOOK OF COMPARATIVE LAW 1288 (Mathias Reimann & Reinhard Zimmermann eds. 2006).

<sup>5</sup> The DPRK has used the term “criminal law” instead of “penal code” for English translation of the law (형법). Nevertheless, this dissertation adopted the latter for convenience—in order to make it more distinct from other laws. Likewise, while the DPRK has used the term “civil law” instead of “civil code” for English translation of the law (민법), it is translated in this dissertation as “civil code,” to prevent confusion with the term civil law, the legal system as opposed to common law. All other laws of the DPRK are translated as a “law.”

<sup>6</sup> MATTHEW LIPPMAN, *CONTEMPORARY CRIMINAL LAW: CONCEPTS, CASES, AND CONTROVERSIES 2* (4th ed. 2015).

<sup>7</sup> Hong Kong and Macao Special Administrative Regions were excluded from this study.

<sup>8</sup> Deng Xiaoping considered the enactment of criminal law to be the highest priority—before the enactment of any other laws, such as civil and economic laws and administrative laws—when he emerged as the Supreme Communist Party leader in 1978. A penal code and a criminal procedure law were promulgated within a year after Deng’s resumption of power. Carlos W. H. Lo, *Deng Xiaoping’s Ideas on Law: China on the Threshold of a Legal Order*, 32 *ASIAN SURVEY* 649, 655 (1992).

<sup>9</sup> The 1950 penal code and 1950 criminal procedure law were the first laws of the DPRK except its 1948 constitution and the 1950 court organization law, which were promulgated on September 8, 1948 and March 1, 1950, respectively.

grounds that the penal code under Japanese colonial rule (1910–1945) had been extremely brutal and undemocratic.<sup>10</sup>

Criminal law and procedure are at the heart of DPRK law.<sup>11</sup> Most defectors from the DPRK associate a court trial with a criminal trial.<sup>12</sup> Owing to the disapproval of the private property system, not to mention the market economy, there has been little room for the development of civil and economic laws in the DPRK.<sup>13</sup> Between April 2004 and July 2015, for example, the DPRK penal code was amended 24 times, whereas the constitution was amended four times and its major civil and economic laws were even less frequently amended during the same period<sup>14</sup> despite substantial changes in the economy observed by several outsiders over this period.<sup>15</sup> This suggests that in the DPRK, the penal code

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<sup>10</sup> MINJOK BOWISŎNG MUNHWA HULLYŎNGUK (민족보위성 문화훈련국: Cultural Training Bureau, Ministry of National Security), CHOSŎN MINJUJUŬI INMIN KONGHWAGUK HYŎNGPŎP ŬN CHOSŎN INMIN I CH'ŎUM ŬRO KAJINUŬN MINJUJUŬIJŎK PŎPCHOŬN IDA (조선민주주의 인민공화국 형법은 조선인민이 처음으로 가지는 민주주의적 법전이다—정치상학교재: The DPRK penal code is the first democratic law for the people of Korea—A teaching material on politics and commerce) 1–2 (1950) (in Korean).

<sup>11</sup> Ji-YUN JUN (전지연), JAE-BONG KIM (김재봉), BAEK-GYU LEE (이백규), TAE-YOUNG HA (하태영), BO-HACK SUH (서보학), *Foreword* (발간사) to PUKHAN HYŎNGPŎP CHUSŎK (북한형법 주석: A commentary on the DPRK penal code) (2014) (in Korean).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* In the DPRK, this applies not only to economic laws but also to private laws in general. Private law is usually defined as a law that deals with the rights and duties of individuals (including other private entities such as companies). JAN M. SMITS, *ADVANCED INTRODUCTION TO PRIVATE LAW 1* (2017). In this socialist country, private laws could not develop because the regime has generally disregarded the rights of individuals and suppressed development of the private sector beyond the regime's control.

<sup>14</sup> The DPRK's civil code and socialist labor law were each amended only once, and its socialist commercial law was amended three times during this period.

<sup>15</sup> Tariq Zaidi, *The Changing Face of North Korea*, FOREIGN POLICY, Feb. 26, 2019, <https://foreignpolicy.com/2019/02/26/the-changing-face-of-north-korea-photo-essay> (last visited

both reflects and impacts social dynamics and changes over time more than most, if not all, other laws do.

### **Why focus on economic crimes?**

This dissertation will focus on how the socioeconomic conditions have interacted with the laws in the DPRK, primarily by analyzing the changes and continuities in the provisions on economic crimes in the DPRK penal code for the following reasons.

First, the DPRK is still—at least officially—adhering to a highly traditional Marxist notion of law: law, a “superstructure,” has been understood in the country as interacting with, and thus reflecting, socioeconomic systems that constitute a “base” or infrastructure.<sup>1617</sup> According to DPRK legal scholars, law must reflect the socioeconomic system because the law serves as the basis of and protects the socioeconomic system

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July 14, 2019); Victor Cha & Lisa Collins, *The Markets: Private Economy and Capitalism in North Korea?* BEYOND PARALLEL, Aug. 26, 2018, <https://beyondparallel.csis.org/markets-private-economy-capitalism-north-korea/> (last visited July 18, 2019); ULV HANSEN & JI-WON SONG, MARKETIZATION IN NORTH KOREA: SCENARIOS FOR ECONOMIC, POLITICAL AND SOCIAL CHANGE 4–7 (2019), <https://www.ui.se/globalassets/ui.se-eng/publications/ui-publications/ui-paper-no.-1-2019.pdf> (last visited July 19, 2019).

<sup>16</sup> SAHOE KWAHAGWŎN PŎPHAK YŎN’GUSO (조선민주주의인민공화국 사회과학원 법학연구소: LEGAL RESEARCH DEPARTMENT, ACADEMY OF SOCIAL SCIENCES OF THE DPRK), PŎPHAK SAJŎN (법학사전: THE LAW DICTIONARY) 277 (1971) (in Korean); CHOSŎN PAEKKWA SAJŎN P’YŎNCH’AN WIWŎNHŎE (조선백과사전편찬위원회: COMMITTEE FOR COMPILATION OF THE ENCYCLOPEDIA OF THE DPRK) KWANGMYŎNG PAEKKWA SAJŎN 321 (광명백과사전: Illuminating Encyclopedia Ser. No. 3, 2009) (in Korean).

<sup>17</sup> For more on the base–superstructure paradigm, see Stephen C. Thaman, *Marxist and Soviet Law*, in THE OXFORD HANDBOOK OF CRIMINAL LAW (Markus D. Dubber & Tatjana Hörnle, eds., 2014), 295, 296.

that the ruling class advocates.<sup>18</sup> Thus, we will likely better understand DPRK society through the lens of law and society.

Second, the DPRK penal code is relatively more important than its counterparts overseas because it is the sole source of criminal punishment in the DPRK. Article 6 of the DPRK's 2015 penal code provides that "The state shall impose criminal liability only for offenses defined as offenses under the penal code."<sup>19</sup> In other words, all types of crime in the DPRK are stipulated in the code, which no longer allows the doctrine of analogy that makes it possible to exercise penal sanctions against someone who committed a dangerous act that is not rendered punishable by the penal code but is similar to a criminal act.<sup>20</sup> Therefore, all kinds of offenses that are classified as economic crimes in the DPRK can be found in the DPRK penal code, unlike in many other countries that have multiple laws that provide penal sanctions.

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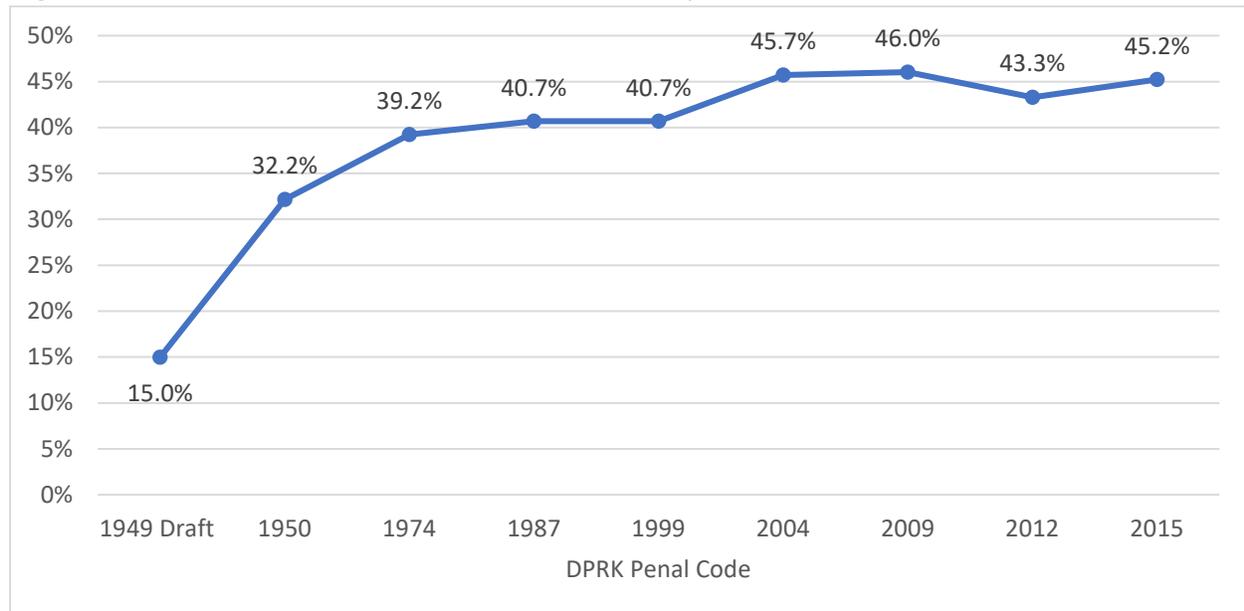
<sup>18</sup> *Id.*

<sup>19</sup> This provision was first added to the DPRK penal code in the 2004 Amendment. The current Russian penal code has a similar provision: Article 1 of the code provides that "The criminal law of the Russian Federation consists of the present Code. New laws providing for criminal liability are subject to inclusion in the present Code," although this does not mean that the code is either exhaustive or entirely self-contained. WILLIAM E. BUTLER, *CRIMINAL CODE OF THE RUSSIAN FEDERATION* 4 (1997).

<sup>20</sup> Thaman (2014), *supra* note 17, at 308. Before the amendment in 2004, the DPRK penal code had a provision on analogy that permitted applying the penal code to offenses that are not prescribed in the code. For example, Article 10 of the 1999 DPRK penal code provided that "Punishment for an offense not provided for in this criminal law shall be imposed in accordance with the article of the law providing for an act which is similar to it in nature and gravity. But if there is no article providing for an act which is similar to the offense in its nature and gravity, punishment shall not be imposed and inference shall not be drawn based on the object against which an offense is committed, social relations, subjective criteria, and the criteria for the offense provided for in the relevant article." For more on the doctrine of analogy, see Harold J. Berman, *Principles of Soviet Criminal Law*, 56 *YALE L.J.*, 803, 809–811 (1947).

Third, provisions on economic crimes have always accounted for a significant portion of the DPRK penal code, and their significance largely continues to grow. The figure below shows that provisions on economic crimes constituted 32.2% of the first penal code in the DPRK. After continual growth, this number has now surpassed 45%.<sup>21</sup>

Figure 1. Provisions on Economic Crimes in the Special Part of the DPRK Penal Code



(See Appendix 2. for more details)

Fourth, DPRK legal scholars have made it clear that the penal code plays a very important role in protecting the socialist economic system in the DPRK, which again shows the distinctive status of the penal code in the country. According to a DPRK legal

<sup>21</sup> In this dissertation, military crimes are generally excluded from statistics and will be only briefly mentioned, although both the 1950 and 1974 penal codes of the DPRK had a chapter on military crimes. A prominent DPRK legal scholar at that time also regarded military crimes as a disparate group of crimes and did not discuss them in his commentary on the entire Special Part of the DPRK penal code. See RAK-KYU HAN (한락규), CHOSŎN HYŎNGBOŬ HAESŎL: KAKCH'IK (조선 형법 해설: 각칙: A COMMENTARY ON THE DPRK PENAL CODE: THE SPECIAL PART) 22 (1955) (in Korean).

scholar, the DPRK penal code serves as a powerful means of fighting against all sorts of criminal phenomena that violate the socialist economic system through (1) sanctions, (2) mobilization,<sup>22</sup> and (3) deterrence.<sup>23</sup> In other words, the DPRK penal code is used as an instrument of regulating the economy.

Fifth, it appears that economic crime more distinctly reflects the change of the times in the DPRK—such as leadership transition and overall policy switch of a regime—than non-economic crime does. As the table below shows, the provisions on economic crimes have changed more frequently than those on non-economic crimes. On average, 11.2% of the provisions on economic crimes in the previous penal codes were deleted with each amendment, and new provisions account for 16.2% of the provisions on economic crimes in the new codes, whereas both numbers are lower—only 8.4% and 10.9%, respectively—for non-economic crimes. This means that the types of economic crimes have changed more frequently in the DPRK as compared to non-economic crimes, which suggests that economic crimes are more susceptible to the change of the times than non-economic crimes are, at least under certain circumstances. Therefore, studying the

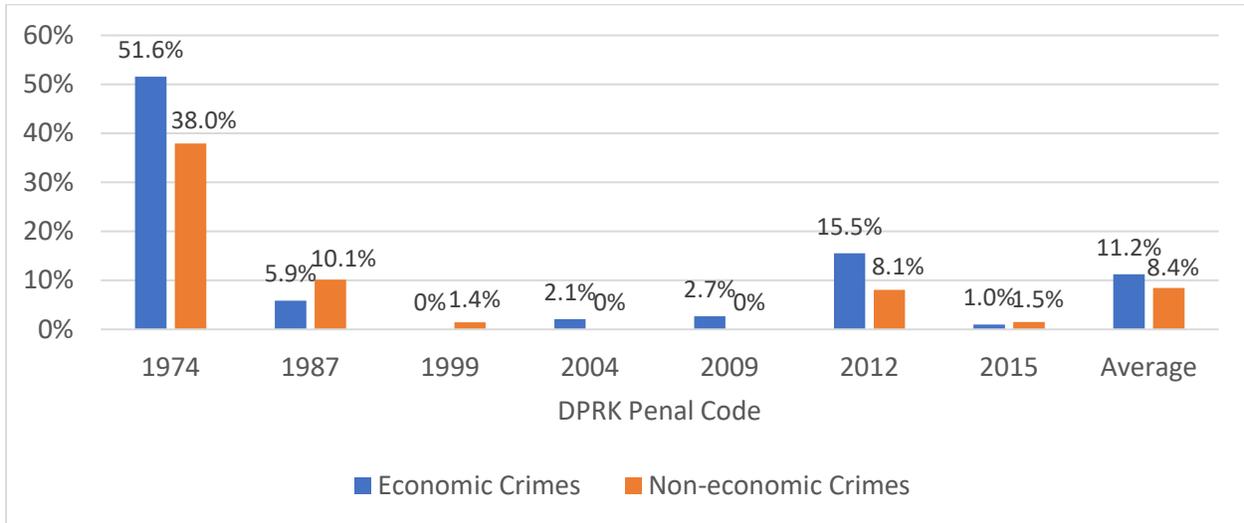
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<sup>22</sup> Here, “mobilization” means “giving strong impetus to participation of the mass of people in exposing criminals hiding among them, with the power and wisdom of them.” Joonseok Cho (조준석), *The role of the DPRK penal code in protection and advocacy of the socialist economic system* (사회주의경제제도를 옹호보위하는데서 공화국형법이 노는 역할), in PŎPHAK YOŎ'GU NONMUNJIP 12 (법학연구논문집: compilation of law articles Ser. No. 12) (Joseon Sahoegwahak Haksuljib (조선사회과학학술집: compilation of the DPRK social sciences academic papers) Ser. No. 167), 145, 164 (2010) (in Korean). This chapter was originally written in 1982, although the compilation was first published in 2010.

<sup>23</sup> *Id.* at 145.

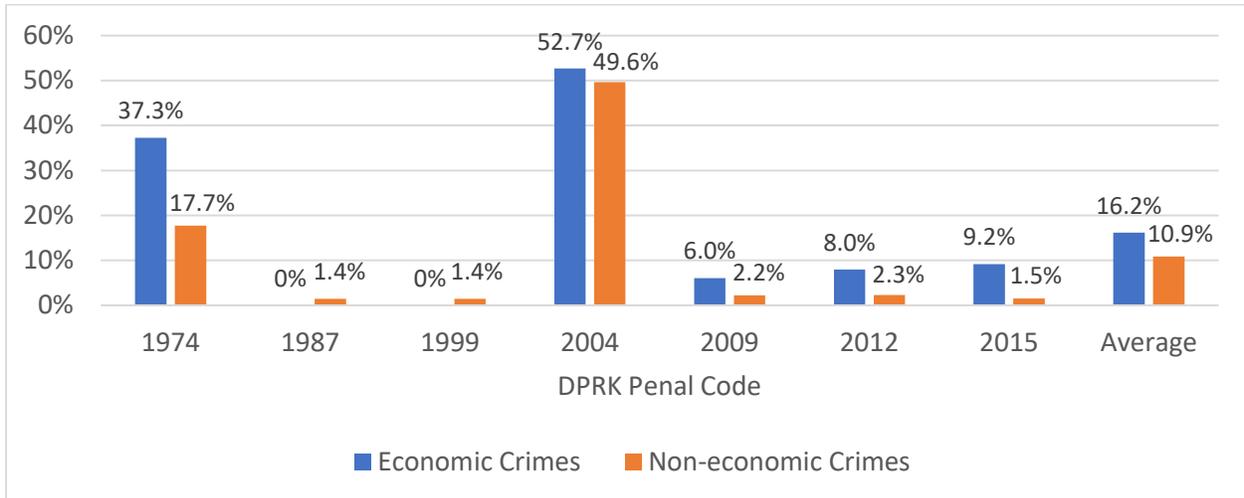
provisions on economic crimes can be an effective method for measuring the change of the times in certain societies, such as the DPRK.

Figure 2. Deleted Provisions in the Previous Code in Each Amendment to the DPRK Penal Code



(See Appendix 3. for more details)

Figure 3. Added Provisions in Each Amendment to the DPRK Penal Code



(See Appendix 3. for more details)

Sixth, economic crime as stipulated in the DPRK penal code may serve as a more precise barometer of socio-economic conditions in the DPRK than some other economy-related laws. Almost every country, for example, legislates foreign investment-related laws with the aim of attracting foreign investors and, thus, actively advertises them with a rosy picture of the economy and legal system. On the contrary, few, if any, countries are likely motivated to legislate their penal code in order to show the brightest aspects of their economy and legal system and thereby appeal to foreign investors and beyond.<sup>24</sup> This will be especially true in the DPRK where foreign investment still has extremely little presence and thus there is little room for application of its penal code to foreigners.

Lastly, given the importance of the penal code in the DPRK, an analysis of the provisions on economic crimes will likely shed light on how the DPRK intends to administer its economy and whether it will follow the trajectory of the PRC where its penal code has played—although often overlooked in academic research—a crucial role in the country's economic development.<sup>25</sup> DPRK leader Kim Jong-Un<sup>26</sup> has prioritized

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<sup>24</sup> Although the DPRK has published compilations of dozens of its economy-related laws as well as some other laws, such as civil procedure law, targeting foreign investors every few years since the 1990s, its penal code and criminal procedure law have never been included in these compilations.

<sup>25</sup> CHUAN FENG, LEYTON P. NELSON & THOMAS W. SIMON, CHINA'S CHANGING LEGAL SYSTEM 166 (2016). It has been even argued that the PRC government has used criminal law toward economic ends. Margaret K. Lewis, *Criminal Law Pays: Penal Law's Contribution to China's Economic Development*, 47 VAND. J. TRANSNAT'L L., 371, 392 (2014).

<sup>26</sup> Kim is a family name, not a given name. In Northeast Asia (China, Japan, and Korea), the family name precedes the given name. However, there is no established rule in the region for the sequence of names when they are written in English, which often causes confusion among readers from outside the region. This dissertation follows the existing style if the English name of a person from the region has been firmly established in many sources (e.g., Kim Il-Sung) and, thus, changing

economic development and expressed his will to build a “powerful economy,” at the expense of the DPRK’s nuclear program, multiple times.<sup>27</sup> Is Kim committed to economic development to the extent that Deng Xiaoping of the PRC was in the late 1970s and 1980s? Analyzing recent changes in the provisions on economic crimes in the DPRK penal code may allow for evaluating Kim Jong-Un’s commitment to economic development and determining whether his words are mere rhetoric. This is because liberalizing the DPRK economy will require liberalizing the penal code, given that the DPRK has adhered to the policy of controlling the economy through its penal code, which is discussed in detail in Chapter 3.

## 1.2. RESEARCH QUESTIONS

What is an economic crime and how is it defined in the DPRK? This question must first be examined to determine the scope of this research. Although the definition of economic crime varies widely from country to country and from scholar to scholar, this dissertation will employ the categorization in the DPRK’s 2015 penal code—the last known one—because such a categorization itself could provide clues as to the characteristics of the DPRK and its economy.

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the sequence would likely cause confusion. Otherwise, the individual’s given name precedes his or her family name in the English translation.

<sup>27</sup> Hong Dae-un & Lee Ju-yoen, *Trust Building between North Korea and South Korea and Its Implications*, HARVARD KENNEDY SCHOOL REVIEW, Oct. 15, 2018, <https://ksr.hkspublications.org/2018/10/15/trust-building-between-north-korea-and-south-korea-and-its-implications/> (last visited Sept. 13, 2019).

Subsequently, this dissertation will address two primary research questions: What has changed and has not changed in the provisions on economic crimes in the DPRK penal code since 1950? What has caused these changes (or lack thereof)?<sup>28</sup>

As discussed in the following summary of the chapters, major amendments were made to the DPRK penal code in 1974, 1987, 2004, 2009, 2012, and 2015. Which provisions were deleted from, and added to, the penal code through each amendment? How did the remaining provisions change? For example, did the punishment for the same crime become more severe or less severe on average? Most importantly, how did the

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<sup>28</sup> It should be noted that the DPRK has a quasi-penal code titled *Haengjǒng ch'ǒbǒlpǒp* (행정처벌법: Administrative Penalty Law, “APL”) that was first enacted in July 2004 and amended nine times until December 2015. This act prescribes both criminal and administrative punishments for conduct that is largely the same as that stipulated in penal code but the level of which is less serious than a crime. Both the PRC and Russia have laws that appear to be the models for APL: The PRC also enacted *Xing zheng chu fa fa* (行政处罚法: Administrative Penalty Law) in 1996 and Russia enacted *Kodeks Rossiyskoy Federatsii ob Administrativnykh Pravonarusheniakh* (Кодекс Российской Федерации об Административных Правонарушениях: Code of Administrative Offences) in 2001. APL, however, significantly diverges from its Chinese and Russian counterparts because APL prescribes unpaid labor in a difficult work environment—the most severe type of penalty in APL which appears to be a *de facto* imprisonment—for up to six months (Article 16 of the 2015 APL). The Soviet Union occasionally imposed corrective labor as an administrative sanction, but it was usually carried out at the offender’s workplace and its maximum term was two months. Hiroshi Oda, *the system of administrative sanctions in the USSR*, in *PERSPECTIVES ON SOVIET LAW FOR THE 1980s* (Feldbrugge, F. J. M.; Simons, William B., eds.), 181, 183 (1982). In addition, the PRC’s APL provides no more than a general procedure and guideline for administrative penalties and does not stipulate what specific conducts are punishable, whereas the last known version of APL, like its Russian counterpart, has an extensive list—195 provisions—of conducts that are punishable and what penalties shall be imposed thereupon. APL will be mentioned only where pertinent, not only because it is of less importance than the penal code but because (1) the analytical framework of this study is not very suitable for APL due to the relatively short history of APL and (2) its aforementioned uniqueness makes it difficult to draw comparisons with its counterparts in other countries.

changes in the DPRK penal code reflect and impact changes in the DPRK economy?  
What are the DPRK's economic prospects for the future?

This dissertation will also investigate foreign influences including “legal transplant” that have been instrumental in shaping the DPRK penal code. For example, a study conducted by a prominent South Korean scholar in the late 1960s revealed via an article-to-article comparison that the DPRK's 1950 penal code was modeled after the RSFSR penal code.<sup>29</sup> Is this still the case more than half a century after the research was conducted? Can we also find the influence of the PRC, often considered the most important ally of the DPRK, in the DPRK penal code? Which country has been more influential on the DPRK in the field of criminal law in recent years—Russia or the PRC? A careful analysis of such external factors will enable a more accurate examination of the changes in the DPRK penal code.

### 1.3. SCOPE AND METHODOLOGY

#### 1.3.1. Definition of Economic Crime

Defining economic crime is an arduous task.<sup>30</sup> *Black's Law Dictionary* (11th ed., 2019) defines economic crime as “a nonphysical crime committed to obtain a financial

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<sup>29</sup> Koo-Chin Kang, *Law in North Korea: an analysis of Soviet-Chinese influences thereupon* (Mar. 1969), (unpublished S.J.D. dissertation, Harvard Law School) (on file with the Harvard Law School Library).

<sup>30</sup> Laszlo Kohalmi & Kitti Mezei, *The Concept and Typical Forms of Economic Crime*, *J. Eastern-Eur. Crim. L.*, no. 2, 2015, at 33, 33.

gain or a professional advantage.” Some use the terms ‘economic crime’ and ‘white-collar crime’ or ‘financial crime’ interchangeably.<sup>31</sup> Some classify general property crime as economic crime, but others distinguish them. Some others even include underground economic activities, such as prostitution, in economic crime on the grounds that prostitution is an industry.<sup>32</sup>

Whether the same act constitutes an economic crime or a non-economic crime may differ from country to country depending on many factors, such as history, societal values, and cultural background,<sup>33</sup> or the level of economic development. Therefore, this dissertation will employ the DPRK’s categorization of economic crimes—crimes of encroaching on state property and the property of social or cooperative organizations (hereinafter “state property”<sup>34</sup> unless otherwise indicated), violating economic regulations, violating the regulations for land administration and environmental protection, violating the regulations for labor administration, encroaching on private property,<sup>35</sup> and the

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<sup>31</sup> Hartmut Berghoff & Uwe Spiekermann, *Shady Business: On the History of White-Collar Crime*, 60 *BUS. HIST.*, 289, 289 (2018); Europol, Economic Crime, <https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/economic-crime> (last visited Aug. 17, 2019).

<sup>32</sup> TODD CLEAR ET AL., *AMERICAN CORRECTIONS* 138 (8th ed. 2009).

<sup>33</sup> Susyan Jou, Bill Heberton & Lennon Chang, *Cultural Variation*, in *THE OXFORD HANDBOOK OF WHITE-COLLAR CRIME* 345–354 (Shanna R. Van Slyke, Michael L. Benson, and Francis T. Cullen eds., 2016), DOI: 10.1093/oxfordhb/9780199925513.013.16.

<sup>34</sup> The DPRK has used this term for state property and the property of social or cooperative organizations since 2004 in its penal code, which shows that social or cooperative organizations are regarded as public entities in the country.

<sup>35</sup> Although crimes of encroaching on private property is not included in the chapter on crimes of encroaching on the socialist economic system in the DPRK, they are classified as economic crimes in this research for a comparison with crimes of encroaching on State property.

recently added money laundering<sup>36 37 38</sup>—because such a category itself may have implications for the socio-economic conditions of the DPRK. As a result, crimes that are considered economic in some countries, but non-economic in the DPRK—i.e., bribery

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<sup>36</sup> Although the DPRK did not include the crimes of money laundering and terrorist financing in the existing chapters—including the chapter on crimes of encroaching on the socialist economic system—and created a separate chapter (See Table 1.), it will be appropriate to classify money laundering, a kind of financial crime, as an economic crime because it has been regarded as such in many countries including the PRC and Russia of which penal codes have most affected the DPRK penal code, as discussed throughout this dissertation. In the PRC penal code, money laundering, although partly related to terrorist financing in the PRC, is stipulated in Section 4. The Crimes of Undermining the Order of Financial Management in Chapter 3. Crimes of Undermining the Order of Socialist Market Economy: Article 191. (Money Laundering: 洗钱罪) provides that “Where anyone who obviously knows that any incomes are obtained from any ... terrorist crime (underline is mine) ... as well as the proceeds generated therefrom, yet commits any of the following acts for the purpose of disguising or concealing the origin or nature thereof, the incomes obtained from the commission of the aforementioned crimes as well as the proceeds generated therefrom shall be confiscated ...: (1) Providing any capital account; (2) Assisting the transfer of property into cash, financial instruments, or negotiable securities; (3) Assisting the transfer of capital by means of transfer accounts or any other means of settlement; (4) Assisting the remit of funds to overseas; (5) Disguising or concealing the origin or nature of any crime-related income or the proceeds generated therefrom by any other means ...” In Russian penal code, Article 174. (Legalization (Laundering) of Money and Other Property Illegally Acquired by Other Persons: Легализация (отмывание) денежных средств или иного имущества, приобретенных другими лицами преступным путем) and Article 174.1. (Legalization (Laundering) of Money or Other Property Acquired by a Person as a Result of a Crime: Легализация (отмывание) денежных средств или иного имущества, приобретенных лицом в результате совершения им преступления) are included in Section 22. Crimes in the Sphere of Economic Activity, in Chapter 8. Crimes in the Sphere of Economics.

<sup>37</sup> Terrorist financing which is provided together with money laundering in the same chapter in the DPRK penal code is classified as a non-economic crime in both the PRC and Russia. In the PRC penal code, Article 120.1. (Support of Terrorist Activities: 帮助恐怖活动罪) which provides that “Any individual who provides financial support to a terrorist organization or conducts terrorist activities, or provides training on terrorist activities shall be sentenced to imprisonment of not more than five years ...” is included in Chapter 2. Crimes of Endangering Public Security. In Russian penal code, Article 205.1. (Contributing to Terrorist Activity: Содействие террористической деятельности) is included in Section 24. Crimes Against Public Security in Chapter 9. Crimes Against Public Security and Public Order.

<sup>38</sup> Articles 297 to 300 in the 2015 DPRK penal code regulate both money laundering and terrorist financing but are classified as provisions on economic crimes in this dissertation.

and corruption, copyright infringement, drug dealing, gambling, prostitution, sale of counterfeit food/drugs, and sale or receipt of stolen property—will remain out of the primary focus of this study and, thus, will be briefly discussed only when necessary.<sup>39</sup> It should be noted also that classification of crimes in the DPRK was somewhat different in the past, especially in the 1950 Penal Code,<sup>40</sup> as discussed in Chapter 3.

Table 1. The Structure of the 2015 Penal Code of the DPRK

	Chapter	Section	Articles
General Part	1. The Fundamental Principles of Criminal Law		1–9
	2. General Regulations for Offenses and Punishment	1. Offenses	10–26
		2. Punishments	27–59
Special Part	3. Crimes Against the State and The Nation	1. Crimes Against the State	60–67
		2. Crimes Against the Nation	68–70
		3. Crimes of Harboring, Failing to Report and Neglecting of a Crime Against the State or the Nation	71–73
	4. Crimes of Violating the Regulations for Administration of National Defense		74–90
	<b>5. Crimes of Encroaching on the Socialist Economic System</b>	<b>1. Crimes of Encroaching on State Property and the Property of Social or Cooperative Organizations</b>	<b>91–100</b>
		<b>2. Crimes of Violating Economic Regulations</b>	<b>101–163</b>
<b>3. Crimes of Violating the Regulations for Land Administration and Environmental Protection</b>		<b>164–175</b>	

<sup>39</sup> In the mid-1950s, a prominent DPRK legal scholar partly objected to this classification and claimed that the sale or receipt of stolen property is an economic crime and copyright infringement has traits of both economic crime and non-economic crime, which suggests that there was a growing awareness in the DPRK that some transplanted provisions in their penal code do not operate well in local contexts. See RAK-KYU HAN (1955), *supra* note 21, at 247–248.

<sup>40</sup> See Appendix 2.

	<b>4. Crimes of Violating the Regulations for Labor Administration</b>	<b>176–182</b>
6. Crimes of Impairing the socialist Culture		183–208
7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State	209–234
	2. Crimes Committed in Course of Official Duty by Management Personnel	235–245
8. Crimes of Violating the Regulations for Socialist Collective Life		246–265
<b>9. Crimes of Impairing the Life and Property of Citizens</b>	1. Crimes of Impairing Life, Health and Character	266–282
	<b>2. Crimes of Encroaching on Private Property</b>	<b>283–290</b>
<b>10. Crimes of Money Laundering and Terrorist Financing<sup>41</sup></b>	<b>(Money Laundering)</b>	<b>291–295, 297–300</b>
	(Terrorist Financing)	296

(See Appendix 1 for more details)

### 1.3.2. Methodology

This dissertation mostly centers on an analysis of provisions in the DPRK penal code and other primary sources from the DPRK, such as criminal law textbooks and law journal articles. My primary interest lies in the provisions on economic crimes; thus, other provisions in the same code or other laws of the DPRK are briefly discussed only where pertinent.

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<sup>41</sup> Although the DPRK created a separate chapter on crimes of money laundering and terrorist financing and did not include the crimes in the existing chapters, it will be appropriate to classify money laundering, a kind of financial crime, as an economic crime because it has been regarded as such in many countries including the PRC and Russia, as discussed above.

The DPRK penal code is known to have been amended 29 times until July 2015. Only the codes promulgated in 1950, 1974, 1987, 1999, 2004, July 2009, May 2012, and July 2015—mostly significant ones—are utilized for statistical purposes in this dissertation to show changes (or lack thereof) in the DPRK penal code over time and how such changes have reflected and impacted the socio-economic conditions of the DPRK. This method should also make it easier to verify how the political landscape of the DPRK has shaped the country's penal code because the first three (1950, 1974, and 1987), the next three (1999, 2004, and July 2009), and the last two (May 2012 and July 2015) codes were promulgated during the reign of Kim Il-Sung, Kim Jong-Il, and Kim Jong-Un, respectively.

A significant portion of this research is devoted to quantitative analysis, which has seldom been done in the study of DPRK laws. Utilizing quantitative data is helpful for clarifying how the DPRK penal code has changed over its history and what the differences are between the penal codes of the DPRK and the PRC or the DPRK and Russia.

As for supplementary materials, I relied on primary sources, such as criminal law textbooks used at Kim Il-Sung University<sup>42</sup> and reference books published in the DPRK and academic journals of the DPRK, including *Journal of KIM IL-SUNG University: History, Legal Studies* (김일성종합대학 학보: 역사·법학)<sup>43</sup>, *Jongchi Popryul Yongoo* (정치법률연구:

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<sup>42</sup> Kim Il-Sung University is by far the most prestigious university and one of the few universities that has a law degree program in the DPRK.

<sup>43</sup> Kim Il-Sung University started to publish *Journal of Kim Il-Sung University* in 1956. Although it is not clear when the journal's social sciences part and natural sciences part were divided, articles on humanities and social sciences were published in *Journal of Kim Il-Sung University: Social Sciences* (김일성종합대학 학보: 사회과학) in the 1980s. The journal's social sciences part was divided again in the 1990s into *Journal of Kim Il-Sung University: History, Legal Studies* (김일성종합대학 학보: 역사, 법학); *Journal of Kim Il-Sung University: Philosophy, Economics*

*Journal of Political Science and Law*),<sup>44</sup> *Sahoe Kwahagwŏn Hakpo* (사회과학원 학보: *Journal of the Academy of Social Sciences*),<sup>45</sup> and *Pŏphak Yŏn'gu* (법학연구: *Law Journal*)<sup>46</sup>. I also referred to DPRK media, including *Rodong Sinmun* (로동신문: *Workers' Daily*)<sup>47</sup> and *Minju Chosŏn* (민주조선: *Democratic Korea*),<sup>48</sup> to investigate changes in the laws and economy of the DPRK. Parts of these primary sources are accessible through [dprkmedia.com](http://dprkmedia.com),<sup>49</sup> the only North Korean database accessible online, which contains articles from dozens of newspapers and academic journals from various fields, including

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(김일성종합대학 학보: 철학, 경제학); and *Journal of Kim Il-Sung University: Languages, Literature* (김일성종합대학 학보: 어문학). *Journal of Kim Il-Sung University: History, Legal Studies* was renamed as *Journal of Kim Il-Sung University: History, Law* (김일성종합대학 학보: 력사, 법률) in 2011. *Journal of Kim Il-Sung University: History, Law* was divided again in 2019 into *Journal of Kim Il-Sung University: Law* (김일성종합대학 학보: 법률학) and *Journal of Kim Il-Sung University: History* (김일성종합대학 학보: 력사학).

<sup>44</sup> This journal has been published since 2003 by Kwahak Paek kwa Sajŏn Ch'ulp'ansa (과학백과사전출판사: Science Encyclopedia Publishing Company). All publishing houses in the DPRK are state run.

<sup>45</sup> This journal has been published since the mid-1990s—possibly in 1994—by Sahoe Kwahagwŏn (사회과학원: the Academy of Social Sciences). All the research institutes in the DPRK are state run.

<sup>46</sup> This journal appears to have been published on an irregular basis since the late 1990s—possibly starting with the elevation of the status of the law department to the college of law in 1999—by Kim Il-Sung University. Volumes 7 and 8 of this journal were published in 2002 and volume 23 was published in 2015.

<sup>47</sup> This is the official state newspaper—and by far the most influential daily newspaper widely read by the general public—published by the Central Committee of the KWP.

<sup>48</sup> This is the principal newspaper of the cabinet of North Korea.

<sup>49</sup> In the United States, only five institutions (Columbia University, Duke University, Harvard University, Stanford University, and the University of Michigan) are known to subscribe to this database, which is blocked in the ROK. Through research trips to the PRC and the ROK, I have collected articles that are neither contained in the database nor available in the United States.

the social and natural sciences. This database is available despite the DPRK's isolation on the Internet<sup>50</sup> and UN sanctions against the DPRK.<sup>51</sup>

I have conducted interviews with those who have long-term experience with North Koreans, including some law professors in the PRC and Russia. I also utilized surveys of defectors from the DPRK. At the same time, I relied on materials that examine the history of the DPRK economy to help explain changes in the provisions on economic crimes.

Lastly, this dissertation will quote passages from North Korean legal materials extensively because they have almost never been available in English and this is a very rare chance to introduce those sources at length.

### 1.3.3. Limitations of This Study

Peculiar difficulties arise when researching laws under authoritarian regimes.<sup>52</sup> Ideally, for example, a research design for investigating enactment would include primary documents and interviews with key lawmakers and interest groups, while research on

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<sup>50</sup> Charlotte Alfred, *How North Korea Became So Isolated*, HUFFINGTON POST, Dec. 1, 2014, [http://www.huffingtonpost.com/2014/10/17/north-korea-history-isolation\\_n\\_5991000.html](http://www.huffingtonpost.com/2014/10/17/north-korea-history-isolation_n_5991000.html) (last visited July 15, 2019); Stephen Evans, *North Korea: Surfing the Net in the World's Most Isolated Nation*, BBC NEWS, July 6, 2014, <http://www.bbc.com/news/technology-29877625> (last visited July 15, 2019).

<sup>51</sup> While the UN Security Council's sanctions against the DPRK have been aimed at preventing the country from advancing its nuclear weapons and ballistic missile programs, they do not prohibit all transactions with the DPRK.

<sup>52</sup> Sida Liu & Terence C. Halliday, *Recursivity in Legal Change: Lawyers and Reforms of China's Criminal Procedure Law*, 34 L. & SOC. INQUIRY, 911, 915 (2009).

implementation would require data from practitioners and on-site visits.<sup>53</sup> In regimes where secrecy pervades the entire society and state authorities are wary of investigators, researchers must find proxies.<sup>54</sup> The DPRK seems to be the most extreme case, not only because it is practically impossible to take a research trip to the country<sup>55</sup>, but because almost all the criminal cases—regardless of whether the case proceeded to the court—remain a secret and inaccessible even to its own people. Moreover, it is practically impossible to find information—official or unofficial—on the legislative background or history of not only the penal code but any other laws of the DPRK. Although the DPRK’s legislative process is very similar to that of the PRC, as the DPRK almost copied exactly the PRC’s Legislation Law, as discussed in Chapter 2, any information on what really happens in the DPRK during this process is nonexistent or extremely limited due to the nearly complete lack of freedom of information within the country.

This study was an expedition in gathering materials and trying to find sources, mostly from the DPRK. However, it was extremely difficult, and sometimes frustrating, to interpret the data obtained through analyzing those materials and sources because of the virtual impossibility of verifying the interpretations. I attempted to explain the reasons for

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<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Citizens of the ROK require special permission from both governments to enter the DPRK and are typically not granted such permission even for regular tourism. For 10 years, starting in 1998, it was possible for South Koreans to visit very limited, specially designated areas in the DPRK for tourism, but even the tourists in those tour programs were heavily monitored and controlled by the DPRK government. These programs were suspended after a South Korean tourist was shot and killed by the DPRK army in 2008. See JONATHAN WATTS, SOUTH KOREAN TOURIST SHOT DEAD IN NORTH KOREA, THE GUARDIAN, JULY 11, 2008, <https://www.theguardian.com/world/2008/jul/11/korea> (last visited Oct. 30, 2019).

changes in the DPRK penal code in various ways. At times, it was legal transplant; at times, it was political economy or foreign relations of the DPRK. At the moment, this is the best effort that I can make. Although the connections between those changes and the reasons that I have presented cannot be verified at present, many assumptions and interpretations in this dissertation may become verifiable in the future if we can obtain information from more direct sources, such as interviews with DPRK legal scholars or lawmakers.

## 1.4. LITERATURE REVIEW

Although the role of criminal law has been almost completely ignored in the existing law and development literature,<sup>56</sup> it is still helpful to refer to the literature on the DPRK criminal law and socialist criminal law in general.

### 1.4.1. Literature on the DPRK Criminal Law

Despite the important status of criminal law in the DPRK, researches on the subject has been relatively scant, both inside and outside the Korean Peninsula. Much less scholarly materials on criminal law of the DPRK including its penal code are available in English. Although there has been a growing interest in criminal law of the DPRK over the recent years, much of the interest has been directed toward human rights—mostly civil and political rights rather than economic and social rights such as such as the right to

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<sup>56</sup> Lewis, *supra* note 25, at 374–375.

housing and adequate standard of living—violations in the DPRK and policy recommendations such as how the international community should cope with abuse of human rights.<sup>57</sup>

As for English materials on the DPRK criminal law, we must look to outside the DPRK because it appears that no DPRK legal scholar has ever written on their criminal law in English. South Korean academics Dai-kwon Choi (1968),<sup>58</sup> Pyong Choon Hahm (1969),<sup>59</sup> Koo-Chin Kang (1969; 1973)<sup>60</sup> were among the first pioneers on the subject. They all discussed the influence of the RSFSR and, to a much lesser degree, the PRC on the legal system of the DPRK, showing unusually high level of similarities between the penal codes of the DPRK and the RSFSR. Sung Yoon Cho (1988) surveyed a group of

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<sup>57</sup> Notable examples are Korean Bar Association and KBA Human Rights Foundation, (translated and edited by the International Bar Association), the Report on Human Rights in North Korea (2014), <https://www.ibanet.org/HumanrightsNorthKoreareport.aspx> (last visited July 19, 2019); United States Department of State, 2018 Country Reports on Human Rights Practices: Democratic People's Republic of Korea, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/democratic-peoples-republic-of-korea> (last visited July 19, 2019). A recent United Nations report briefly discusses the role of the DPRK penal code in the DPRK economy, with a focus on the economic and social rights. UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, THE PRICE IS RIGHTS: THE VIOLATION OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (2019), [https://www.ohchr.org/Documents/Countries/KP/ThePricelsRights\\_EN.pdf](https://www.ohchr.org/Documents/Countries/KP/ThePricelsRights_EN.pdf) (last visited Aug. 16, 2019).

<sup>58</sup> Dai-kwon Choi, Criminal law in North Korea: in comparison with criminal law of Soviet Russia and Communist China (Aug. 1968) (unpublished LL.M. Thesis, The University of California, Berkeley, School of Law) (on file with The University of California, Berkeley Law Library).

<sup>59</sup> Pyong Choon Hahm, *Ideology and Criminal Law in North Korea*, 17 THE AM. J. COMP. L., 77, 77–93 (1969), <https://doi-org.eres.qnl.ga/10.2307/838315> (last visited July 19, 2019).

<sup>60</sup> Koo-Chin Kang (1969), *supra* note 29; Koo-Chin Kang, *An Analytical Study of Criminal Law in North Korea*, 4 LAWASIA (Journal of the Law Association for Asia and the Western Pacific) 1, 1–53 (1973).

scholarly materials on criminal law of the DPRK that are available in South Korea, or the Republic of Korea (hereinafter “the ROK”), Japan, and the United States,<sup>61</sup> with a brief introduction of criminal law of the DPRK. More recent materials, albeit still scant, have been written by In-Sup Han (2004)<sup>62</sup>, Soo-Am Kim (2006)<sup>63</sup>, and Stephan Haggard and Marcus Noland (2012), among others.<sup>64</sup>

Although there are more academic materials on the DPRK criminal law available in Korean, one of their primary research focuses—in the DPRK and the ROK alike—has been the General Part<sup>65</sup> of the DPRK Code. Outside the DPRK, another primary research focus has been crimes of which punishment will likely lead to violation of civil and political rights.

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<sup>61</sup> Sung Yoon Cho, LAW AND LEGAL LITERATURE OF NORTH KOREA : A GUIDE 111–128 (1988).

<sup>62</sup> In-Sup Han, *The 2004 Revision of Criminal Law in North Korea: - a take-off?*, 5 SANTA CLARA J. INT’L L. 122, 122–133 (2006), <http://digitalcommons.law.scu.edu/scujil/vol5/iss1/7> (last visited July 29, 2019).

<sup>63</sup> SOO-AM KIM, KOREA INSTITUTE FOR NATIONAL UNIFICATION, THE NORTH KOREAN PENAL CODE, CRIMINAL PROCEDURES, AND THEIR ACTUAL APPLICATIONS (2006).

<sup>64</sup> Stephan Haggard & Marcus Noland, *Economic Crime and Punishment in North Korea*, 127 POL. SCI. Q., 659, 659–683 (Winter 2012–13).

<sup>65</sup> In the continental legal system, penal codes typically are divided into two parts: the General Part (provisions on the general principles and norms that apply to the code as a whole: e.g. criminal act, *Mens Rea*, culpability, inchoate offenses, accomplice liability, exemption from liability, and classification of punishments) and the Special Part that defines each specific crime and stipulates how the crime shall be punished.

### 1.4.2. Literature on Socialist Criminal Law

As discussed in later chapters, laws and political system of the DPRK have been distinct from that of other socialist states for decades. It is still useful, however, to understand socialist—Russian (RSFSR) and Chinese in this study—criminal law because the DPRK has borrowed a significant portion of its Code from the two countries.

During the Cold War period, a group of Sovietologists studied criminal law of the RSFSR. A notable example is Harold J. Berman. Berman published materials on the basic principles of Soviet criminal law in the 1940s, later amendments to the penal codes, and a comparison of the penal codes of China and the RSFSR.<sup>66</sup> Since the 1980s, William B. Butler has continuously published on the Russian criminal law.<sup>67</sup> Stephen C. Thaman has also given an overview of Marxist and Soviet criminal law, with brief references to criminal law in other socialist countries such as the PRC and Cuba.<sup>68</sup> Many have written on the PRC's criminal law in English, including Jianfu Chen and Jerome Cohen. Jianfu Chen elaborated the development of the criminal law in the PRC in his book, *Criminal Law and Criminal Procedure Law in the People's Republic of China*

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<sup>66</sup> Berman's works on Soviet criminal law include, but are not limited to: *Principles of Soviet Criminal Law*, 56 YALE L.J. (1947); *Criminal Law and Psychiatry: The Soviet Solution*, 2 STAN. L. R. (1950), at 635–663; SOVIET CRIMINAL LAW AND PROCEDURE: THE RSFSR CODES (1966; 2d ed., 1972); *A Comparison of the Chinese and Soviet Codes of Criminal Law and Procedure*, 73 J. CRIM. L. & CRIMINOLOGY 238 (1982).

<sup>67</sup> Butler's publications on Russian criminal law include W. E. BUTLER (1997), *supra* note 17, W. E. BUTLER, CRIMINAL LEGISLATION: CRIMINAL CODE OF THE RUSSIAN FEDERATION (4th ed. 2004), and W. E. BUTLER, RUSSIAN CRIMINAL LAW AND PROCEDURE (2011).

<sup>68</sup> Thaman (2014), *supra* note 17, at 295–325; Stephen C. Thaman, *Comparative Criminal Law and Enforcement: Russia*, in ENCYCLOPEDIA OF CRIME AND JUSTICE 207, 207–218 (Joshua Dressler ed., 2nd ed. 2002).

(2013)<sup>69</sup>. Jerome Cohen wrote extensively on the early PRC criminal procedural law and criminal law, including his book, *The Criminal Process in the People's Republic of China, 1949–1963* (1968).

## 1.5. CHAPTER OUTLINE

**Chapter 2** provides a historical overview of the socio-political and economic contexts of developments in the DPRK's penal code and economy-related laws. The history of the DPRK is divided into three periods according to the reign of each leader—the Kim Il-Sung era (1945–1994), the Kim Jong-Il era (1994–2011), and the Kim Jong-Un era (2011–present). These three periods are further divided into eight subsections according to the major amendments to the country's penal code, which are examined in detail in the dissertation.

In each subsection of Chapter 2, I first briefly overview the socio-political and economic dynamics of the enactment and each major revision of the DPRK penal code and subsequently investigate the developments of economy-related laws that have accompanied changes in the provisions on economic crimes in the penal code. From its liberation from Japanese occupation in August 1945 to the enactment of its first penal code in March 1950, North Korean history can be characterized by heavy Soviet influence. Although, under Kim Il-Sung, the DPRK aimed at building a socialist state modeled after

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<sup>69</sup> JIANFU CHEN, *CRIMINAL LAW AND CRIMINAL PROCEDURE LAW IN THE PEOPLE'S REPUBLIC OF CHINA: COMMENTARY AND LEGISLATION* (2013).

the Union of Soviet Socialist Republics (hereinafter “the USSR”), the newborn socialist country had to compromise by partially acknowledging private economy in its constitution. However, with the death of Stalin in 1953 and the following de-Stalinization in the USSR, the DPRK regime continued to break away from the Soviet influence. In the 1950s and 1960s—before the 1950 penal code was amended in 1974—law was increasingly perceived as dependent on politics, which became even more evident when the Ministry of Justice was abolished in 1959. Subsequently, the legal profession was marginalized and Kim Il-Sung’s concentration of power continued during the 1960s. This culminated in the 1972 constitutional amendment, which established Kim Il-Sung’s autocracy and complete transformation of the DPRK’s economy into a socialist economy. From the mid-1970s to the mid-1980s—before the penal code was amended again in 1987—the DPRK remained politically stable, but its economy gradually fell into depression. The first foreign investment law was enacted in 1984, stimulated by the PRC’s economic success in attracting foreign capital, but it failed to meet the expectations of the DPRK regime.

The Kim Jong-Il era began with a serious economic crisis that emerged in the late-1980s and peaked in the mid-1990s—before the DPRK penal code was amended in 1999—with the collapse of the Soviet Bloc. The DPRK sought to address the economic crisis by amending its constitution and legislating many economy-related laws in an effort to reform its socialist economy. This policy line was generally maintained until April 2004, when the 1999 DPRK penal code was amended and the regime, in practice, partially acknowledged the private economy represented by markets. As in the mid-to-late 1990s, many economy-related laws were either enacted or amended during this period. However, the DPRK regime implemented a total market suppression policy in the late 2000s

following the failure of its policy aimed at the partial liberalization of the economy. Although the DPRK continued to legislate or amend many economy-related laws until the mid-2000s, it made only one minor change to the economic clauses of its constitution in April 2009—three months before the July 2009 amendment to the DPRK penal code.

Kim Jong-Un generally relaxed the market suppression policy of the last years of his father's regime before the penal code was amended in May 2012. In line with the policy switch, the DPRK continued to enact or amend many laws to bolster its economy until the penal code was amended in July 2015.

**Chapter 3**, the lengthiest chapter of this dissertation, begins with an overview of the legal history of Korea before the establishment of the DPRK and explores why the legacy of Korean penal codes during the pre-DPRK periods were generally not inherited by the DPRK: It was primarily because of the Japanese occupation of the Korean Peninsula, which endured for most of the first half of the 20th century, and the subsequent strong Soviet influence after liberation from Japanese colonial rule.

This chapter subsequently discusses the evolution of provisions on economic crimes in the DPRK penal code since 1950. As in Chapter 2, in this chapter, DPRK history is divided into three periods according to each leader's reign, and those three periods are further divided into eight subsections according to the major changes to the penal code. Then the chapter discusses what provisions on economic crimes were added or deleted with each amendment, whether punishment for economic crimes became more or less severe through each amendment, and what the implications of such changes have been for the DPRK economy. Each amendment is explained with tables and statistics.

Comparisons of provisions in the penal codes of the DPRK are also made with those of Russia or the PRC to discuss the legal transplant factor where pertinent.

The provisions in the 1950 DPRK penal code were primarily transplanted from their RSFSR counterparts and some of them did not match the local context despite efforts to localize them. The provisions on economic crimes in the 1950 penal code also reflected the transitional state of the DPRK economy—from a non-socialist economy to a socialist one—at that time, just as private economy was recognized in the economic clauses of the 1948 DPRK constitution as a compromise.

With the 1974 amendment to the penal code, the protection of Kim Il-Sung became the primary objective of the code. More than half the provisions on economic crimes in the 1950 DPRK penal code were abrogated through the 1974 amendment, reflecting the completion of a socialist economy in the country. However, the massive abrogation disparately impacted the economic crimes stipulated in the penal code. Whereas the provisions punishing encroachment on State property largely remained unaffected, all the provisions on labor crimes premised on employment in the private sector and the majority of those on crimes against private property and were abrogated.

The provisions on economic crimes did not undergo significant changes in the 1987 amendment to the DPRK penal code, although the draconian punishment of economic crimes stipulated in the 1974 penal code mostly disappeared with the significant decrease in the level of maximum penalties. Up to 1999, the provisions on economic crimes remained largely unchanged, despite the economic crisis in the 1990s and the

subsequent fundamental changes—the proliferation of market activities for survival despite the DPRK government’s crackdown—in the DPRK economy.

Unlike in the 1987 and 1999 penal codes, in the 2004 penal code, the number of provisions on economic crimes more than doubled, similar to what happened with the PRC penal code in 1997. However, many of the added provisions on economic crimes were not focused on economic crimes that would likely accompany transitioning into a market economy. Rather, they were aimed at strengthening control of the economy and thereby maintaining a traditional type of socialist economy.

Reflecting the DPRK’s intensified market suppression policy in the last half of the 2000s, the provisions on economic crimes in the penal code were, up to July 2009, amended to stipulate heavy punishment for economic crimes. Consequently, the average maximum punishment in the July 2009 penal code surpassed even that of the 1974 penal code.

The provisions on economic crimes in the May 2012 penal code underwent significant changes. The average maximum penalty considerably decreased, seemingly in line with Kim Jong-Un’s stronger emphasis on economic development than ideological orientation. Several provisions criminalizing private economic activities were abrogated, while a few provisions were added to the penal code to absorb money circulating in the unofficial private economy into the official economy controlled by the State.

The most noticeable change in the July 2015 penal code is that an entirely new chapter on crimes of money laundering was added to the penal code to address

international financial sanctions against the DPRK. This suggests willingness on the part of the DPRK regime to take drastic measures for economic development—including revising its penal code according to international norms.

Chapter 3 concludes with a discussion of possible amendments to the DPRK penal code since July 2015 that have not yet been disclosed outside the country.

**Chapter 4** deals with legal transplants and other external factors influencing changes in the DPRK penal code. This chapter mostly takes stock of how much Russian and Chinese influence shaped the DPRK penal code, with a macro-level analysis focusing on statistics of the corresponding provisions in the penal codes of the DPRK and Russia or the PRC, in contrast to Chapter 3's discussion of the influences on a provision-by-provision analysis.

My research outcome establishes that legal transplants from the RSFSR were evident in the 1950 DPRK penal code. Among the eight penal codes that are examined in detail in this dissertation, the first four (1950, 1974, 1987, and 1999) are marked by strong and enduring Russian (RSFSR) influence. However, the Russian influence gradually decreased during this period, which can be explained by the DPRK's political deviation from the USSR and its growing awareness that at least some of the transplanted provisions did not work in the local context.

Whereas Russian influence significantly diminished in the next four (2004, July 2009, May 2012, and July 2015) DPRK penal codes, Chinese influence continued to increase. Such legal transplant from the PRC is also suggested by DPRK legal scholars' heavy

reliance on Chinese legal materials. However, the corresponding rate of provisions on economic crimes in the penal codes of the DPRK and the PRC has always been considerably lower than that of provisions on non-economic crimes of the same codes. This means that the DPRK has criminalized very different types of conduct through its provisions on economic crimes. Moreover, this suggests that the DPRK more strongly adheres to its own policy line—maintaining a traditional type of socialist economy—in the administration of its economy than in other parts of its society. Thus, legal transplants from the PRC penal code, and particularly its provisions on economic crimes, will likely remain subtle and indirect until the DPRK regime fundamentally changes its economic policy line.

**Chapter 5** concludes the dissertation with a discussion on how the DPRK has attempted to control its economy through the provisions on economic crimes and how such attempts have affected the economy. The chapter outlines the dissertation's main findings and their implications for the future of the DPRK economy and evaluates the current North Korean leader Kim Jong-Un's economic initiatives during the early years of his reign from a criminal law perspective, which appears to have never been attempted before.

## CHAPTER 2

# SOCIO-POLITICAL AND ECONOMIC CONTEXTS OF DEVELOPMENTS OF THE PENAL CODE AND ECONOMY-RELATED LAWS IN THE DPRK

This chapter analyzes the socio-political and economic contexts of the developments of the DPRK penal code and economy-related laws that have accompanied major amendments to the penal code. Such analysis is necessary to better understand the significance of the provisions on economic crimes and changes thereof. Many economy-related laws of the DPRK—including economic clauses in its constitution—are discussed in this chapter for the following reasons: First, provisions on economic crimes are often closely connected with economy-related laws. In many cases, the definition of economic crimes in the DPRK penal code is either very simple or nonexistent, which requires reference to the relevant laws to understand what kind of conduct is subject to penal sanctions. For example, knowledge of People’s Economic Planning Law (인민경제계획법)<sup>70</sup> is required to interpret Article 127 (Violation of the People’s Economic Plan Regulations)<sup>71</sup> of the July 2015 DPRK penal code that is difficult to understand just by reading the

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<sup>70</sup> This law aims to “contribute to the development of the people’s economy as planned by strict system and order in the preparation, approval, instruction, implementation and review of people’s economic plans.” (Article 1).

<sup>71</sup> Article 127.

A person who hinders or modifies the planned and balanced development of the people’s economy by drawing up a plan for a local economy or an enterprise, in a haphazard manner, changing the plan, filing false reports on the implementation of the plan, or failing to implement the plan as specified shall be sentenced to training through labor for not more than one year.

If the plan as provided in the preceding paragraph is for the national economy, he or she shall be sentenced to reform through labor for not more than three years.

provision. Second, without understanding economy-related laws, it is often difficult to fully appreciate the significance of the changes in the provisions on economic crimes in the DPRK penal code. For example, infringement of patent rights was stipulated in the DPRK penal code through its July 2005 amendment to the code. However, it is difficult to recognize its significance without understanding how patent rights have been perceived in the DPRK and when and how these rights came to be recognized in DPRK laws. Lastly, knowledge of laws enacted for economic development that tend to accompany some level of liberalization of the economy—which are in conflict with the penal code and other laws that are aimed at control of the economy—enables a comprehensive understanding of the economic policy line of the DPRK regime.

## 2.1. SOCIO-POLITICAL AND ECONOMIC CONTEXTS OF DEVELOPMENTS OF ECONOMY-RELATED LAWS OF THE DPRK DURING THE KIM IL-SUNG ERA (1945–1994)<sup>72</sup>

Under Kim Il-Sung (1912–1994), the DPRK regime initially aimed to create a society resembling that of the USSR—the most powerful and highly sophisticated socialist state that had a direct, strong influence on the DPRK—both politically and economically, in terms of not only the socialist economic system but Stalin’s dictatorship. However, after Stalin died and reforms based on so-called revisionism emerged in the USSR in the mid-

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<sup>72</sup> Although Kim Il-Sung did not officially become the leader of the DPRK until 1948, he had quickly become the most prominent leader of North Korea as early as February 1946 with strong support from the Soviet Union. FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, NORTH KOREA: A COUNTRY STUDY 40 (Robert L. Worden ed., 5th ed. 2008).

1950s, the DPRK regime opted to deviate from the Soviet influence and often relied on Mao Zedong-style mass mobilization to build a socialist system with North Korean characteristics, including the dynasty-style rule of the Kim family. In the process of consolidating Kim Il-Sung's power base, those who advocated the rule of law were purged and, accordingly, the status of law in the DPRK society significantly declined.

### 2.1.1. Before the Enactment of the Penal Code (August 1945–March 1950)

Heavy Soviet influence is one of the most distinctive features of DPRK history in the 1940s and early 1950s. It is not surprising in light of the Soviet occupation from 1945 to 1948, during the formative years of the DPRK. Upon the surrender of Imperial Japan in World War II in August 1945, Korea was divided and occupied by the Soviets in the North and the United States in the South. In October 1945, the Soviets presented to the Koreans Kim Il-Sung—who had connections with the Soviet army but was not well-known to Koreans—as a guerilla hero who had fought the Japanese<sup>73</sup> and began to support him as a leader in the North. Subsequently, Kim organized the Korean Workers' Party (hereinafter “the KWP”), strengthened his power base by ousting anyone who resisted communists, and became the premier of the DPRK upon its establishment on September 9, 1948.<sup>74</sup>

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<sup>73</sup> *Id.* at 38.

<sup>74</sup> *Id.* at 40–42.

Although North Korea was more industrialized—with far more power plants and mineral resources—than South Korea during the Japanese occupation, the new country was faced with the difficult task of restructuring its economy because it could no longer rely on South Korea for food and consumer goods as it had done during the colonial period.<sup>75</sup> The USSR and other socialist states aided Kim Il-Sung not only politically but economically in building a socialist state.<sup>76</sup> In 1946, major industrial enterprises were nationalized and land reform was carried out.<sup>77</sup> Two successive one-year economic plans ensued in 1947 and 1948, respectively, followed by the Two-Year Plan (1949–50).<sup>78</sup> During this period, the application of a piece-rate wage system and an independent accounting system began, and the commercial network increasingly came under state and cooperative ownership.<sup>79</sup>

#### 2.1.1.1. Developments of Economy-Related Laws

In preparation for establishing the DPRK, laws and decrees were promulgated to lay the groundwork for Kim Il-Sung and the KWP's project to transform the North Korean economy into a socialist economy. On February 9, 1946, the Interim People's Committee of North Korea, led by Kim Il-sung, became the first central government in North Korea<sup>80</sup>

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<sup>75</sup> *Id.* at 136; BYUNG-YEON KIM, UNVEILING THE NORTH KOREAN ECONOMY: COLLAPSE AND TRANSITION 41–42 (2017).

<sup>76</sup> BYUNG-YEON KIM, *supra* note 75, at 42.

<sup>77</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 137.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 40.

and initiated a series of laws and ordinances,<sup>81</sup> including “Law on land reform in North Korea (북조선토지개혁에 대한 법령),” enacted in March 1946, which dispossessed landlords of land without compensation and distributed the land to farmers free of charge, and “Labor law on laborers and office workers in North Korea (북조선 노동자, 사무원에 대한 노동법령),” promulgated on June 24, 1946.

Under the heavy Soviet influence during this period, it was natural that the first constitution of the DPRK, “People’s Democratic Constitution,” inaugurated in 1948, was modeled after the 1936 Stalinist Constitution of the USSR.<sup>82</sup> In fact, the constitution was reviewed, edited, and even rewritten by the Soviet authorities, including Stalin,<sup>83 84</sup> although the DPRK was a relatively unimportant country in the Communist Bloc at that time.<sup>85</sup> Despite its drastic amendments in 1972, 1998, 2009, and 2019 and many more smaller-scale amendments, the basic principles and characteristics of the DPRK constitution, largely, have been maintained to date.<sup>86</sup>

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<sup>81</sup> THE DEVELOPMENT OF LAWS IN NORTH KOREA (U.S. Department of Commerce and Office of Technical Services trans.) 32–40 (1962).

<sup>82</sup> Dae-Kyu Yoon, *The Constitution of North Korea: Its Changes and Implications*, 27 FORDHAM INT’L L. J., 1289, 1292 (2003).

<sup>83</sup> Andrei Lankov, *Terenti Shtykov: The Other Ruler of Nascent N. Korea*, KOREA TIMES, Jan. 25, 2012, [https://www.koreatimes.co.kr/www/news/nation/2012/01/363\\_103451.html](https://www.koreatimes.co.kr/www/news/nation/2012/01/363_103451.html) (last visited Sept. 14, 2019).

<sup>84</sup> The 1950 penal code may have gone through a similar process.

<sup>85</sup> Fyodor Tertitskiy, *How Kim Il Sung broke free from the Soviet Union: Pyongyang deftly exploited Moscow’s weakness in securing its independence*, NK NEWS, Mar. 19, 2019, <https://www.nknews.org/2019/03/how-kim-il-sung-broke-free-from-the-soviet-union> (last visited Aug. 17, 2019).

<sup>86</sup> *Id.*

Although based on the Soviet constitution, the DPRK had to make compromises in drafting its first constitution, especially in economy-related clauses:<sup>87</sup> a period of less than three years was likely too short for the DPRK to fully transform into a socialist economy, despite having introduced “A law on nationalization of industry, transportation, postal service, bank, etc.” in August 1946, which nationalized 1,034 major industrial facilities, accounting for 72.4% of the total industrial output in the DPRK as of 1946.<sup>88</sup> For example, the 1948 constitution allowed a mixed economic system by recognizing private ownership.<sup>89</sup> Article 5 provided that “In the DPRK, the ownership of the means of production takes the following forms: state ownership; cooperative ownership; ownership by private natural or by private juridical person.”<sup>90</sup> While the DPRK aimed at building a socialist economy, its first constitution did not completely exclude private economy and North Koreans had the freedom to run a business: “The private ownership prescribed by law of land ... and other means of production, medium and small industrial enterprises, medium and small trade ... is protected by law ... Creative initiative in private economy is encouraged (Article 8)”; “The state carries out the national economic plan on the basis of state and cooperative ownership and allows private economy to participate in it (Article

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<sup>87</sup> *Id.* at 1294.

<sup>88</sup> THE KOREAN CENTRAL NEWS AGENCY, CHOSŎN CHUNGANG YOŔ'GAM 1949 (조선중앙년감 1949: The 1949 Almanac of the DPRK) 73 (1950) (in Korean).

<sup>89</sup> In-Ho Song, Hye-Shin Cho, & Euna Lee, *The Past, Present, and Future of North Korean Economy: An In-depth Study on the North Korean Constitution's Economic Clauses and the Economic Reality*, 25 INT'L J. KOREAN UNIFICATION STUD., no. 1, 2016, at 199, 205.

<sup>90</sup> In contrast, Article 5 in the Soviet constitution as amended on February 25, 1947 provided that “Socialist property in the USSR exists either in the form of state property (belonging to the whole people) or in the form of cooperative and collective farm property (property of collective farms, property of cooperative societies).”

10)”; “Citizens of the DPRK have freedom of running medium and small industrial enterprises and engaging in commerce (Article 19).”

### 2.1.2. Before the 1974 Amendment to the Penal Code (April 1950–December 1974)

After Stalin’s death and the subsequent end of the Korean War in 1953, Kim Il-Sung sought to consolidate his power base and be more independent from both the USSR and the PRC. That power base was further solidified in 1956 when pro-China and pro-Soviet factions in the DPRK failed to oust Kim Il-Sung, and Kim purged them without consulting the USSR or the PRC.<sup>91</sup> The PRC subsequently withdrew its troops, which was completed in 1958, and thereby had less political leverage over the DPRK.<sup>92</sup> The DPRK did not conform to the de-Stalinization or revisionism—the reforms of Soviet leader Nikita Khrushchev—that began in the USSR in 1956; rather, it adopted Mao Zedong-style mass mobilization.<sup>93</sup> Another keyword in this period of the DPRK history is “Juche (self-reliance)” ideology—long enshrined in the DPRK constitution since 1972 as the guiding ideology and often advertised as (one of) the greatest achievements of Kim Il-Sung—that can be interpreted as socialism or communism with North Korean characteristics.<sup>94</sup> Juche has

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<sup>91</sup> ANDREI LANKOV, *THE REAL NORTH KOREA: LIFE AND POLITICS IN THE FAILED STALINIST UTOPIA* 14, 16–17 (2014).

<sup>92</sup> The Soviet Union had withdrawn its troops by the end of 1948 and provided limited military assistance to the DPRK during the Korean War.

<sup>93</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 49.

<sup>94</sup> Sergei O. Kurbanov, *North Korea’s juche ideology: indigenous communism or traditional thought?*, 51 *CRITICAL ASIAN STUD.*, 296, 297 (2019).

served as a convenient tool to justify a variety of the DPRK policies, including the DPRK's defiance of any external pressure or interference even by—at least nominally—the closest allies such as the USSR and the PRC since the 1960s, active participation in the non-align movement in the 1970s and 80s as mentioned below in the discussion of the socio-political and economic contexts of the 1987 amendment to the penal code, and relative isolationism since the dissolution of the communist bloc in the 1990s coupled with strong denunciation of the “betrayers of socialism.”

In addition, the DPRK economy was fundamentally transformed into a socialist economy via nationalization during this period. During the Korean War (1950–1953), many production facilities, including privately owned ones, were destroyed, which made it easier for the DPRK to nationalize all production facilities during the post-war reconstruction period.<sup>95</sup> The level of nationalization finally reached 100% in the agricultural sector and 99.9% in the commercial and industrial sectors by August 1958.<sup>96</sup>

Although the DPRK opted for a Soviet-type economic system and reforms prior to the collapse of the Soviet Bloc that began in 1989,<sup>97</sup> it also had distinct features. Rationing was more common than in the traditional Soviet-type economic system.<sup>98</sup> Mao Zedong-

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<sup>95</sup> Yeo-Lyeong Yoon (윤여령), *(A) Study on the Industrial Management System in North Korea* (북한의 공업관리체계에 관한 연구) 17 (1994) (unpublished master's thesis, Seoul National University) (on file with Seoul National University Library) (in Korean).

<sup>96</sup> SUŬNG-HYO KO (고승효), *HYŬNDŬAE PUKHAN KYŬNGJE IMMUN* (현대북한경제입문: A Contemporary Introduction to the Economy of the DPRK), (T'ae-sŏp. Yi (이태섭) trans.) 112 (1993).

<sup>97</sup> IAN JEFFRIES, *NORTH KOREA: A GUIDE TO ECONOMIC AND POLITICAL DEVELOPMENTS* 46 (2006).

<sup>98</sup> *Id.*

style mass mobilization also applied to the DPRK economy, although it was a constant feature, unlike in the PRC<sup>99</sup>: Article 30 of the 1972 DPRK constitution stated that *Dae-an* (formerly spelled as *Tae-an*) Work System was the principle of socialist economic management,<sup>100</sup> which was maintained for about half a century until the constitution was amended in April 2019. This principle implied that industrial management must be based on collective leadership and the “line of the masses” and aimed at intensifying the political and ideological mobilization of people under a socialist ownership system.<sup>101</sup>

#### 2.1.2.1. Developments of Economy-Related Laws

The establishment of Kim Il-Sung’s dictatorship accompanied a collapse of the rule of law in the DPRK. One of the most notable changes in the legal field was the abolition of the Ministry of Justice (사법성) in August 1959, which was responsible for supervising the government on legal matters and administration of the courts in the DPRK. This appears to have been inspired by the abolition in April 1959 of the PRC Ministry of Justice

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<sup>99</sup> “North Korean university students and soldiers have frequently been mobilized in economic programs such as rice planting, harvests and construction projects.” BYUNG-YEON KIM, *supra* note 75, at 58.

<sup>100</sup> *Dae-an* was the name of the factory where Kim Il-Sung offered on-the-spot guidance in 1961. Myung-kyu Kang, *Industrial Management and Reforms in North Korea*, in *ECONOMIC REFORMS IN THE SOCIALIST WORLD* 200, 204 (Stanislaw Gomulka et al. eds., 1989).

<sup>101</sup> Koo-Chin Kang (1973), *supra* note 60, at 189.

(司法部) whose function was similar to that of its counterpart in the DPRK,<sup>102103</sup> which resulted from the Anti-Rightist Movement (反右运动) initiated by Mao Zedong in 1957 following the Hundred Flowers Campaign (百花齐放) in 1956.<sup>104105</sup> The abolition of the Ministry of Justice is an important event in the history of DPRK law in the late 1950s because it happened after Kim Il-Sung's successful purge of a group in the field of law, which remained an obstacle to strengthening his dictatorship.

Until the late 1950s, the atmosphere in the DPRK's field of law was considerably different from what we observe today. A group of people in the Ministry of Justice, Judiciary, and Procuracy supported the rule of law, represented by the independence of the legal system from the KWP. However, on April 29, 1958, before the National Conference of Judiciary Personnel and Procurators, Kim Il-Sung instructed to purge anti-party, counter-revolutionary factionists who had infiltrated the Judiciary and Procuracy.

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<sup>102</sup> KLAUS MÜHLHAHN, *CRIMINAL JUSTICE IN CHINA: A HISTORY* 337 (2009); Jerome Alan Cohen, *Courts with Chinese Characteristics: Why Beijing's Flourishing Legal System Still Has a Ways to Go*, FOREIGN AFFAIRS, Oct. 11, 2012. The Ministry of Justice was re-established in 1979 in the PRC.

<sup>103</sup> The Ministries of Justice in the DPRK and the PRC had similar functions probably because the PRC's legal system, like that of the DPRK, was modeled after that of the Soviet Union. Jerome Alan Cohen, *supra* note 102.

<sup>104</sup> During this period, the Communist Party of the PRC promoted freedom of expression and open criticism of the party, in line with the expression by its Chairman Mao Zedong that compared diversity of views to the "blooming of a hundred flowers." Dayton Lekner, *A Chill in Spring: Literary Exchange and Political Struggle in the Hundred Flowers and Anti-Rightist Campaigns of 1956–1958*, 45 MODERN CHINA, 37, 39 (2019).

<sup>105</sup> Although the Ministry of Justice was also abolished in the Soviet Union in 1956, it was not intended to centralize but to decentralize power. The Ministry of Justice was re-established in 1970 in the Soviet Union. Wikipedia, Ministry of Justice (Soviet Union), [https://en.wikipedia.org/wiki/Ministry\\_of\\_Justice\\_\(Soviet\\_Union\)](https://en.wikipedia.org/wiki/Ministry_of_Justice_(Soviet_Union)) (last visited Aug. 30, 2019).

Subsequently, those in the legal profession who supported the rule of law and resisted complete domination of this field by the KWP were purged:<sup>106</sup>

The anti-party sects who have infiltrated our judicial, procurators' organs in recent years have tried to weaken the dictatorship of our judicial, procurators' organs over our enemies with various rightist and defeatist slogans in order to achieve their hideous anti-party, anti-state opposition. These people insanely attempted to distort and weaken the revolutionary legal order established in the DPRK, distorting the implementation of revolutionary compliance with the law as "violation" of compliance with the law ... Kim Il-Sung pointed out that those factionists failed to break from unsound ideas and thus came under the influence of international revisionism that infiltrated from the outside world ... Pawns of those factionists who sneaked into our judicial, procurators' organs pursued hegemony in the field and attempted to preclude the leadership of the KWP by placing judicial, procurators' organs over the party with the catchphrases such as "independence of judges," "equality of people before law," "protection of human rights," and "compliance with the law ... Thus, judges of the DPRK must be fighters who stand on firm ground on dictatorship of the proletariat, being communists to the bone, have infinite loyalties to the KWP and the people, and accomplish the judicial policy of the party for the party and revolution ... factionists conspired to preclude the leadership of the KWP in our judicial, procurators' organs. However, such a maneuver was disclosed and smashed at the right moment.<sup>107</sup>

It is noteworthy that even after the "anti-party sects" were cracked down on in 1958, it appears that the field of law was not as uniform as it is today. The most notable example

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<sup>106</sup> Bong-geol Lee (리봉걸), *Necessity and Significance of Unifying Trial and Judicial Administration* (재판과 사법 행정의 통일의 필요성과 그 의의), MINJU SABOP, no. 10, (Oct. 1959), at 4, 5–6 (translation available in JOINT PUBLICATIONS RESEARCH SERVICE, SELECTED ARTICLES FROM MINJU SABOP (DEMOCRATIC JUDICATURE) - NORTH KOREA (1960)), <http://www.dtic.mil/docs/citations/ADA371831> (last visited Aug. 30, 2019).

<sup>107</sup> Shim Hyon-sang (심현상), *Measures to Realize the Judicial Policy of the Party in Criminal Law and Procedure* (당의 사법 정책의 관철을 위한 형사법적 제 문제), 5 J. KIM IL-SUNG U., (Sept. 1958), at 77, 77–78, 81–82 (in Korean).

is *Minju Sabop* (민주사법: The Democratic Administration of Justice), a monthly magazine published by the Ministry of Justice (and by the *Minju Sabop* after the Ministry of Justice was abolished in August 1959) from July 1958 to December 1959. This law magazine contained lively debates—often involving criticism—over drafts of laws, court judgments, and interpretations of laws, as well as recent developments in the field of law in other communist states, such as the USSR, Eastern European countries, and the PRC. Since the 1960s, no such debate has been found in the DPRK, where freedom of expression does not exist and, thus, voices that differ from the policy of the KWP are not allowed.

Although intellectuals in the DPRK were not repressed like their counterparts in the PRC,<sup>108</sup> especially during the Cultural Revolution, it seems that the legal scholarship in the DPRK declined from the mid-1960s to the mid-1970s because the number of legal materials acquired from outside the country greatly reduced. Thus, this period may be called “the Legal Dark Ages of the DPRK.” Indeed, in a law dictionary published in 1970—a very rare DPRK legal document published at that time and acquired outside the DPRK—it was stipulated that law is dependent on politics,<sup>109</sup> which suggests the marginalization of law and legal professionals at that time.

Politics is inseparable from the state and law. The state and law are the weapons for class dictatorship in control of the ruling class ... Politics plays the leading role in law and directly determines the content and role of law ... Law is an expression of politics and serves for the substructure through serving for politics.<sup>110</sup>

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<sup>108</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 49–50.

<sup>109</sup> SAHOE KWAHAGWŎN PŎPHAK YOŬ’GUSO (1971), *supra* note 16, at 277.

<sup>110</sup> *Id.* at 432.

The DPRK made a thorough amendment to its constitution on December 27, 1972, after a profound transformation of North Korean society took place, represented by Kim Il-Sung's unparalleled leadership and total elimination of private ownership<sup>111</sup> besides private property for personal consumption.<sup>112 113</sup> In contrast to the 1948 constitution, referred to as the "People's Democratic Constitution," the 1972 DPRK constitution was titled "Socialist Constitution," symbolizing the completion of building a socialist state.

For example, ownership of the means of production by natural persons or corporations was no longer acknowledged.<sup>114</sup> While the 1948 constitution had included

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<sup>111</sup> Dae-Kyu Yoon, *supra* note 82, at 1295.

<sup>112</sup> Article 22.

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

<sup>113</sup> For the background of this clause, see Song et al., *supra* note 89, at 208.

<sup>114</sup> Article 18.

In the DPRK, the means of production are owned only by the State and social cooperative organizations;

Article 19.

There is no limit to the property which the State can own;

Article 21.

The State strengthens and develops the socialist cooperative economic system and gradually transforms the property of cooperative organizations into the property of all the people on the basis of the voluntary will of the entire membership.

the duty to pay taxes,<sup>115</sup> the 1972 constitution declared that all taxes were abolished<sup>116</sup> and a law abolishing all taxes was enacted in March 1974.<sup>117</sup>

In capitalist countries, taxes exacted from the working people hold an overwhelming proportion in the state budgetary revenue. In contrast, in the DPRK the working people's burden of taxes has been systematically lightened and the agricultural tax-in-kind was completely abolished long ago, with the development of the socialist state-owned industry and the consolidation of the independent foundation of the national economy. Taxes from the factory and office workers hold very negligible proportion in the state budgetary revenue.

The new constitution stipulates for the complete abolition of the taxation system. Thus, the Republic will become the first state in world history which is completely freed from taxes, a legacy of the old society.<sup>118</sup>

As the means of production were nationalized and private property was acknowledged in a very limited way, it was logical that taxation was no longer necessary.<sup>119</sup> Another noteworthy change is that the 1972 DPRK constitution stipulated

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<sup>115</sup> Article 29.

It is the duty of every citizen of the DPRK to pay taxes according to his economic status.

<sup>116</sup> Article 33.

The State abolishes taxation, a hangover of the old society.

<sup>117</sup> Law on Complete Abolition of Taxes (entered into force on April 1, 1974). In the DPRK, where all production facilities are state-owned, the government budget is composed of profits earned by state-owned enterprises, collected by including the profit in the selling price. This is similar to a value-added tax paid by consumers in many other countries. Thus, although it is not technically labeled as a "tax," taxation still exists in the DPRK, contrary to what the government has asserted. Changnam Ahn (안창남), *A Study on Taxation in North Korea – Tax Treaties and Tax Regulations in the Gaesung Industrial Zone* (북한세법 연구 – 조세조약과 개성공업지구 세금규정을 중심으로), 16 SEOUL TAX L. REV. (租稅法研究/조세법 연구), no. 3, Dec. 2010, at 163, 163 (in Korean).

<sup>118</sup> FOREIGN LANGUAGES PUBLISHING HOUSE, ON THE SOCIALIST CONSTITUTION OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA 221 (1975).

<sup>119</sup> Ahn, *supra* note 117, at 171.

that State property is “sacred and inviolable” and emphasized its protection.<sup>120</sup><sup>121</sup> This was a resurrection of a USSR law written by Stalin—the Law of August 7, 1932 “On the Protection of the Property of State Enterprises, Collective Farms and Cooperatives, and Institutions of Public (Socialist) Property” that fell into disuse in the 1940s<sup>122</sup>—which affected the 1974 amendment to the DPRK penal code, as discussed later.

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<sup>120</sup> Article 70.

Citizens must take good care of State and communal property, combat all forms of misappropriation and wastage and run the nation’s economy assiduously with the attitude of masters. The property of the State and social cooperative organizations is sacred and inviolable.

<sup>121</sup> Although the 1979 PRC penal code rejected differentiation between State property and private property in property crimes and imposition of heavier punishment on the former, this notion remained intact in the PRC even in 1986, almost ten years into the post-Mao era and seven years after the 1979 penal code was enacted. Article 73 in the General Provisions of Civil Law of the PRC (中华人民共和国民法通则) enacted on April 12, 1986 provided that “State property is owned by the world people. State property is sacred and inviolable. Every organization and individual is forbidden to seize it, loot it, privately appropriate it, withhold it, or destroy it.” DOMESTIC LAW REFORMS IN POST-MAO CHINA 210 (Pitman B. Potter ed., 1994). This provision survived the first—and minor—revision of the law in August 2009 and was not abrogated until the second—and major—revision of the law in March 2017.

<sup>122</sup> This law—enacted in accordance with the collectivization of the agricultural sector of the Soviet Union between 1928 and 1940 and industrialization between 1929 and 1941 but became dead letters after collectivization—referred to socialist property as “holy and untouchable.” Thaman (2014), *supra* note 17, at 320. Although this law was not included in the penal codes of the constituent republics, it prevailed over the provisions in the RSFSR penal code and was applied as an independent act in the whole territory of the U.S.S.R. BERMAN, *supra* note 20, at 807 n. 26. 3. By this law, crimes against state property, rail and water transport, and the property of collective farms and cooperatives were made punishable by death by shooting, with confiscation of all property, although this law in principle did not apply to individual cases of insignificant squandering and robbery, but to cases of heavy, malicious and organized robbery and squandering. Where there were extenuating circumstances, the punishment may be reduced to confinement for not less than 10 years with confiscation of property. *Id.* at 825–826. Many of those prosecuted for violating this law were actually peasants who stole grain during the manmade great famine (Holodomor) of 1932–33 caused by the forced collectivization for industrialization. Thaman (2014), *supra* note 17, at 320 (citing Ulrike Schittenhelm, *Strafe und Stanktionensystem im sowjetischen Recht* (1994), at 160).

It appears that very few economy-related laws were enacted in the DPRK from the early 1960s to the early 1970s, as suggested by the fact that no such law has been found in the compilations of laws of the DPRK published in the 2000s.<sup>123</sup> This is possibly because the DPRK regime assumed that laws would not be necessary to regulate a fully functioning socialist economy. In addition, the Marxist notion that law would gradually “wither away” under communism<sup>124</sup> might have also affected the inactivity of legislation in this period.

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<sup>123</sup> PŎMNYUL CH’ULP’ANSA (법률출판사: Law Press), CHOSŎN MINJUJUŬI INMIN KONGHWAGUK PŎPCHOŬ (조선민주주의인민공화국법전: Compilation of the Laws of the DPRK) (2004, 2012, and 2016). These compilations were published in the DPRK for the general public in 2004, 2012, and 2016. It should be noted that some of the laws enacted before 2004—especially from the 1960s to the 1980s—appear to be missing in these compilations, although it is extremely difficult to determine the missing laws because the DPRK has not disclosed all of its laws. For example, 15 laws were enacted in the DPRK from 1946 to July 1961, including the constitution and penal code, but none of them is included in the aforementioned compilations of DPRK laws. See CHOSŎN MINJUJUŬI INMIN KONGHWAGUK, NAEGAK PŎPKYU CHOŬNGNI WIWŎNHŎE (조선민주주의인민공화국 내각법규정리위원회: The Committee for Organizing Laws of the DPRK Cabinet), CHOSŎN MINJUJUŬI INMIN KONGHWAGUK PŎPKYUJIP (조선민주주의인민공화국법규집: Laws of the DPRK) (1961). Moreover, some DPRK laws enacted since 2000 are also missing in the compilations, perhaps because the DPRK does not want to disclose them to the general public or the outside world. Notable examples are the aforementioned administrative penalty law, procuratory supervision law, and addenda to the penal code, which is discussed below with the 2009 DPRK penal code.

<sup>124</sup> Thaman (2014), *supra* note 17, at 296.

### 2.1.3. Before the 1987 Amendment to the Penal Code (January 1975–February 1987)

From 1975 to 1987, Kim Il-Sung's leadership remained politically stable.<sup>125</sup> In contrast, the DPRK economy stagnated, unlike the ROK economy, which rapidly industrialized.<sup>126</sup> The ROK was able to save part of its defense budget because of the U.S. troops stationed there; however, the DPRK had to spend a higher percentage of its budget on defense to compete with the ROK.<sup>127</sup> Consequently, food distribution was cut down in the DPRK as early as the 1970s.<sup>128</sup>

Nevertheless, the DPRK economy was not yet in the appalling condition to which it would sink in the 1990s:

Up until the late 1980s, North Korea claimed to have the highest per hectare rice output in the world; although that claim cannot be proved, experts did not question the North's general agricultural success, and published CIA figures put North Korea's per capita grain output among the highest in the world in around 1980.<sup>129</sup>

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<sup>125</sup> KBS World Radio, *Brief History of North Korea*, [http://world.kbs.co.kr/special/northkorea/contents/archives/outline/outline\\_1970.htm?lang=e](http://world.kbs.co.kr/special/northkorea/contents/archives/outline/outline_1970.htm?lang=e) (last visited Aug. 19, 2019).

<sup>126</sup> Motoko Rich, Choe Sang-Hun, Audrey Carlsen, & Megan Specia, *How South Korea Left the North Behind*, N.Y. TIMES, Feb. 6, 2018, <https://www.nytimes.com/interactive/2018/02/06/world/asia/korea-history.html> (last visited Aug. 19, 2019).

<sup>127</sup> Song et al., *supra* note 89, at 209.

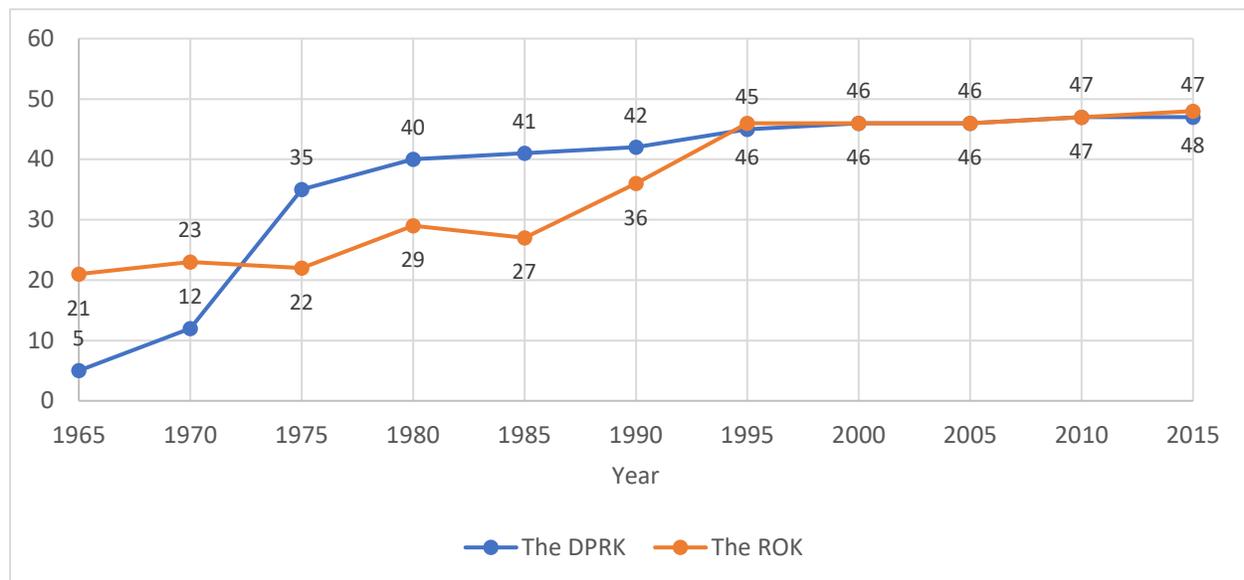
<sup>128</sup> *Id.*

<sup>129</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 47.

According to some reports, in the 1960s, 1970s, and into the 1980s, the public distribution system was relatively successful in providing citizens with adequate food, clothing, and other necessities.<sup>130</sup>

Regarding foreign relations, the DPRK was not isolated in this period as it is today. It actively sought to expand and strengthen its relations with not only socialist states but the third world countries, leading to a diplomatic rivalry between the two Koreas.<sup>131</sup> For example, as in the figure below, the DPRK surpassed the ROK in the 1970s in terms of its presence in the African continent and maintained its lead during the Kim Il-Sung era.<sup>132</sup>

Figure 4. Sub-Saharan African Countries that Built Diplomatic Relations with the Two Koreas



(See Appendix 14. for more details)

<sup>130</sup> UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, *supra* note 57, at 9.

<sup>131</sup> Ministry of Foreign Affairs of the ROK, *the ROK-Africa Relations*, [http://www.mofa.go.kr/eng/wpge/m\\_4910/contents.do](http://www.mofa.go.kr/eng/wpge/m_4910/contents.do) (last visited Sept. 15, 2019).

<sup>132</sup> See Appendix 14.

The DPRK also became a state party to the International Covenant on Civil and Political Rights (hereinafter “ICCPR”) on September 14, 1981. This notable development in the foreign relations of the DPRK in this period seems to have affected the amendment to the DRPK penal code in 1987, which is discussed in Chapter 3.

#### 2.1.3.1. Developments of Economy-Related Laws

The DPRK constitution was not amended during this period, which suggests that there were relatively stable conditions in the DPRK then. Only several economy-related DPRK laws were enacted or amended.<sup>133</sup> Of note, stimulated by the economic success of the PRC, the DPRK in 1984 first enacted the Law on Equity Joint Venture (합영법), which was modeled after the PRC’s 1979 Law on Chinese–Foreign Contractual Joint Ventures (中外合资经营企业法).<sup>134</sup> However, the DPRK did not take sufficient measures to fully implement this law and thereby attract foreign capital.<sup>135</sup> Therefore, the DPRK failed

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<sup>133</sup> Only seven economy-related laws were identified as enacted between 1975 and 1987: Land Law (토지법, 1977); Socialist Labor Law (사회주의로동법, 1978); Marine Transportation Law (해운법, 1980); Customs Law (세관법, 1983); Law on Equity Joint Venture (합영법, 1984); Harbor Law (항만법, 1986); Law on the Protection of the Environment (환경보호법, 1986). Of these, only the Socialist Labor Law was amended, once in 1986.

<sup>134</sup> See Stephen M. Soble, *Democratic People’s Republic of Korea: Joint Venture Law Announced*, 24 INT’L LEGAL MATERIALS, 806, 808 (1985).

<sup>135</sup> For example, it was not until 1991 that the DPRK designated a special economic zone for foreign investors, similar to what the PRC began doing in 1980, in Shenzhen, Zhuhai, Xiamen, and other areas.

in its attempt to obtain a large sum of foreign direct investment from a wide group of foreign investors.<sup>136</sup>

## 2.2. SOCIO-POLITICAL AND ECONOMIC CONTEXTS OF DEVELOPMENTS OF ECONOMY-RELATED LAWS OF THE DPRK DURING THE KIM JONG-IL ERA (1994–2011)

Kim Jong-Il (1941 or 1942–2011) succeeded his father Kim Il-Sung, who died on July 8, 1994. The DPRK's economic crisis in the 1990s and the resulting disruption of its traditional socialist system were not fully addressed and remained a threat to the stability of the DPRK regime throughout Kim Jong-Il's reign. Under Kim Jong-Il, the DPRK penal code, along with other laws, was amended more frequently than during his father's reign. This suggests not only that drastic changes in many parts of the society, including the economy, compelled the DPRK regime to amend the penal code more often to maintain control over the society but that the pace of such changes accelerated. This confirms that (1) the DPRK underwent more drastic changes than before in many parts of the society, including its economy, and (2) the DPRK regime sought to address threats to it partly by enacting or amending laws that were aimed at either fostering economic development (e.g., laws on foreign investment and intellectual property) or controlling the economy (e.g., the penal code and administrative penalty law).

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<sup>136</sup> BYUNG-YEON KIM, *supra* note 75, at 46.

### 2.2.1. Before the 1999 Amendment to the Penal Code (March 1987–August 1999)

Although the decline of the DPRK economy has its roots in the 1970s,<sup>137</sup> its economic crisis did not come to the fore until August 1987, when the DPRK became the first country to formally default on its loans since the international debt crisis began in 1982.<sup>138</sup>

In the 1980s, the DPRK adopted the PRC strategy of gradual/partial market-oriented economic reforms and of a greater role for the private sector in the context of a Communist Party,<sup>139</sup> although the DPRK was far more cautious about the spread of a capitalistic way of thinking within the country. After a series of reforms in the 1970s and 1980s failed, the DPRK began to acknowledge its economic difficulties in the early 1990s.<sup>140</sup>

The DPRK has been very isolated internationally since the late 1980s, especially with the collapse of the Communist Bloc, as suggested by the number of international treaties and agreements the country entered into.<sup>141</sup> The difference between the DPRK and other Asian socialist countries is large, even given that the PRC, Viet Nam, and

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<sup>137</sup> Song et al., *supra* note 89, at 209.

<sup>138</sup> Nicholas D. Kristof, *North Korea Is Told of Loan Default*, N.Y. TIMES, Aug. 23, 1987, <https://www.nytimes.com/1987/08/23/world/north-korea-is-told-of-loan-default.html> (last visited Aug. 19, 2019).

<sup>139</sup> JEFFRIES, *supra* note 97, at 46.

<sup>140</sup> *Id.* at 47.

<sup>141</sup> See Appendix 10.

Mongolia opened up their markets in 1979, 1986, and the early 1990s, respectively. Until 1991, the USSR and the PRC had provided the DPRK with oil and many other resources, competing for influence.<sup>142</sup> The DPRK had long relied on heavy manufacturing, and such an industrial structure required the import of oil, which stopped in 1991 with the dissolution of the USSR, which provided oil to the DPRK in the form of barter-type assistance.<sup>143</sup> Consequently, the DPRK was unable to generate enough electricity through its power plants, which seriously affected the output of the extractive industry and other industries heavily dependent on natural resources.<sup>144</sup> The PRC became the only country to provide economic assistance to the DPRK, but its assistance significantly declined in 1993 after the PRC established diplomatic relations with the ROK.

An extreme food crisis ensued from 1995 to 1998.<sup>145</sup> The rationing system collapsed during the famine in this period, which resulted in the deaths of 500,000 to 600,000 people—approximately 2–2.5% of the total DPRK population at the time.<sup>146</sup><sup>147</sup> Even Kim Jong-Il had to acknowledge the failure of the communist economy.<sup>148</sup> People were forced to trade food, consumer goods, and other necessities in markets for simple survival during

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<sup>142</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 47.

<sup>143</sup> BYUNG-YEON KIM, *supra* note 75, at 47. Russia demanded hard currency in exchange for its oil exports. *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.* at 48.

<sup>147</sup> Others have often estimated that the number was around one million or more. See STEPHAN HAGGARD & MARCUS NOLAND, *FAMINE IN NORTH KOREA: MARKETS, AID, AND REFORM* 73–76 (2007); HAZEL SMITH, *NORTH KOREA – MARKETS AND MILITARY RULE* 148 (2015).

<sup>148</sup> JEFFRIES, *supra* note 97, at 48.

the “Arduous March” from the mid-1990s to the late 1990s.<sup>149</sup> The DPRK authorities were compelled to tacitly allow trading in markets that had long been far more heavily repressed than in the USSR, perhaps due to widespread public anger and the fear of a strong backlash.<sup>150</sup>

Having realized that they could not address its economic crisis by self-reliance that had been one of the most important principles in the DPRK economic policy since the 1980s,<sup>151</sup> the DPRK authorities partially opened the economy up to the outside world and announced establishment of special economic zones—the Rason (formerly Rajin-Sŏnbong) Region bordering with both Russia and the PRC and the Mount Kumgang Tourist Region<sup>152</sup>—in the 1990s.<sup>153</sup>

#### 2.2.1.1. Developments of Economy-Related Laws

As mentioned above, the final years of Kim Il-Sung’s reign and the initial years of Kim Jong-Il’s reign were collectively one of the most tumultuous times in the economic history of the DPRK. The severe economic crisis in the 1990s compelled the DPRK to partially reform its system, including its economy-related laws, although Kim Jong-Il’s reforms were focused on the external sector—as illustrated by the enactment of several

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<sup>149</sup> BYUNG-YEON KIM, *supra* note 75, at 49.

<sup>150</sup> *Id.*

<sup>151</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 139–140.

<sup>152</sup> This region was created based on an agreement between the DPRK and the South Korean conglomerate Hyundai.

<sup>153</sup> BYUNG-YEON KIM, *supra* note 75, at 50.

foreign investment laws including Law on Foreign Enterprises (외국인기업법)<sup>154</sup>, Law on Foreign Investment-Business Enterprise and Foreign Individual Tax (외국투자기업 및 외국인 세금법)<sup>155</sup>, and Law on External Economic Arbitration (대외경제중재법)<sup>156</sup>—and did not address profound structural problems in the domestic sector.<sup>157</sup>

From 1987 to 1999, the DPRK constitution was amended twice, on April 9, 1992 and September 5, 1998. The 1992 constitution, reflecting the first major amendment to the 1972 Socialist Constitution in 20 years, is referred to as the “Socialism of Our Own Style Constitution” and is understood as a reaction to various international crises, including the collapse of the Soviet bloc.<sup>158</sup> The 1992 constitution adopted clauses that highly prioritized technological development,<sup>159</sup> which was in line with the enactment on

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<sup>154</sup> This law was enacted on December 11, 1992.

<sup>155</sup> This law was enacted on April 8, 1993.

<sup>156</sup> This law was enacted on July 21, 1999. Enactment of this law is a significant legal development in the DPRK that has regarded its sovereignty as the top priority because international arbitration can be used as a way to circumvent the judicial system of the DPRK. However, the law’s significant is limited due to the fact that the DPRK is not yet a member to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, although the law amended in 2008 establishes similar grounds for refusing recognition or enforcement of foreign awards as set forth in Art. 36 of the UNCITRAL Model Law on International Commercial Arbitration adopted in 1985 and amended in 2006. Un Nam Kim, *On the Development of Commercial Arbitration in the DPRK*, SCHIEDSVZ, Heft 2, 95, 98–99 (2017).

<sup>157</sup> JEFFRIES, *supra* note 97, at 48.

<sup>158</sup> Song et al., *supra* note 89, at 210–211.

<sup>159</sup> Article 27.

The technological revolution is vital to the development of the socialist economy. The State shall perform all economic activities by giving top priority to solving the problem of technological development, push vigorously ahead with a mass technological revolution movement by accelerating scientific and technological development and the technological innovation of the national economy ...

December 5, 1988 of the law on science and technology and foreign investment,<sup>160</sup> which was followed by the enactment of laws on October 5, 1992 on foreign investment, contractual joint venture, and wholly foreign-owned enterprises.<sup>161</sup> The clauses on foreign investment emulated a similar clause<sup>162</sup> in the 1982 PRC constitution.<sup>163</sup>

As the DPRK began to recover from the economic crisis in the 1990s, it amended its constitution again in 1998 to provide a basis for partial economic reform. First, the scope of the subject of ownership of the means of production was enlarged. By adding

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<sup>160</sup> Article 16.

The DPRK shall guarantee the legal rights and interests of foreigners in its region;

Article 37.

The State shall encourage institutions, enterprises or associations of the DPRK to establish and operate equity and contractual joint venture enterprises with corporations or individuals of foreign countries within a special economic zone.

<sup>161</sup> Law on Foreign Investment; Law on Contractual Joint Ventures; and Law on Wholly Foreign-Owned Enterprises.

<sup>162</sup> Article 18 of the 1982 PRC constitution provided that “The PRC permits foreign enterprises, other foreign economic organizations, and individual foreigners to invest in the PRC and to enter into various forms of economic cooperation with Chinese enterprises and other economic organizations in accordance with the law of the PRC.

All foreign enterprises and other foreign economic organizations located in the PRC, as well as joint ventures with Chinese and foreign investment located in the PRC, shall abide by the law of the PRC. Their lawful rights and interests are protected by the law of the PRC.”

<sup>163</sup> Song et al., *supra* note 89, at 211–212.

“social organizations”<sup>164</sup> to the State and cooperative organizations in Article 20,<sup>165</sup> enterprises and companies engaged in international trade were allowed to own the means of production, which promoted foreign economic activity.<sup>166</sup> Second, the scope of private property was considerably expanded by including “income from other legal economic activities” in Article 24,<sup>167</sup> thereby acknowledging that income may be earned outside the planned economy. This was clearly an advancement in light of the total disapproval of

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<sup>164</sup> “Social organization corporation” is defined in the DPRK as a social organization established with the approval of a competent state authority and capable of being a party in civil legal matters. SAHOE KWAHAGWOŬ PŎPHAK YŎN’GUSO (사회과학원 법학연구소: LEGAL RESEARCH DEPARTMENT, ACADEMY OF SOCIAL SCIENCES OF THE DPRK), MINSAPŎP SAJŎN (민사법사전: CIVIL AND COMMERCIAL LAW DICTIONARY) 339 (1997) (in Korean). Examples of a social organization corporation in the DPRK include the General Federation of Trade Unions of Korea (조선직업총동맹), the Union of Agricultural Working People of Korea (조선농업근로자동맹), the League of Socialist Working Youth of Korea (김일성사회주의청년동맹), the Korean Journalists Union (조선기자동맹), and the Red Cross Society of the DPRK (조선적십자회). *Id.* “Social organizations” in Article 20 should be interpreted as social organization corporations because foreign trade is also a civil legal matter. However, “cooperative organization” in Article 20 is defined in the DPRK as a form of joint management that is capable of being a party in civil legal matters, in which a group of members manages and operates on the basis of joint ownership of the means of production and collaborative labor. *Id.* at 690. Once a cooperative organization is registered with the State, it becomes a “cooperative organization corporation.” Some examples are cooperative farms, production cooperatives, fisheries cooperatives, home-based cooperatives. *Id.* at 691.

<sup>165</sup> Article 20.

In the DPRK, the means of production are owned by the State and social, cooperative organizations.

<sup>166</sup> Song et al., *supra* note 89, at 214–215.

<sup>167</sup> Article 24.

... Private property consists of socialist distributions of the result of labor and additional benefits of the State and society. The products of individual sideline activities including those from the kitchen gardens of cooperative farmers and income from other legal economic activities shall also belong to private property ...

private property in the early 1990s<sup>168</sup> and the then rapidly expanding black market.<sup>169</sup> Third, the principle of planned economy was revised slightly: concepts such as “a self-supporting accounting system” as well as “cost,” “price,” and “profits” were added to Article 33,<sup>170</sup> which allowed some flexibility for corporations.<sup>171</sup> Fourth, the scope of the actors engaged in foreign economic activities was expanded. Article 36 stipulated that social and cooperative organizations were capable of international trade<sup>172</sup> for trade diversification<sup>173</sup> and the limitation on the forms of corporations within a special economic zone was removed in Article 37,<sup>174</sup> which implicitly approved the establishment of wholly

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<sup>168</sup> “Under the Civil Code of the DPRK, individual citizens cannot own the means of production and may possess, use, and dispose of consumables only for consumption purposes, which prevents the occurrence of private economy. In particular, by preventing individuals from conducting business and commercial activities with their own consumables, the conditions for all kinds of exploitative factors were eliminated. Thus, in order to adhere to the socialist economic system, the Civil Code of the DPRK prevents creation of private economies that deny socialist ownership ...” Yoon Jong-cheol (윤종철), *Characteristics of the Civil Code of the DPRK and the Significance of its Enactment* (조선민주주의인민공화국 민법의 특성과 그 제정이 가지는 의의), 38 J. KIM IL-SUNG U.: SOC. SCI.: HIST., LEGAL STUD. (김일성종합대학 학보: 력사, 법학), no. 3, Mar. 1992, at 58, 59 (in Korean).

<sup>169</sup> Song et al., *supra* note 89, at 215.

<sup>170</sup> “The State shall introduce a self-supporting accounting system in the economic management according to the demand of the *Daean* work system, and utilize such economic levers as prime costs, prices and profits,” was added at the end of Article 33 of the 1992 constitution, which stated that “The State shall guide and manage the national economy according to the *Daean* Work System, which is a socialist economic management form whereby the economy is operated and managed in a scientific and rational way depending on the collective power of the producing masses, and according to the agricultural guidance system whereby agricultural management is conducted by industrial methods.”

<sup>171</sup> Song et al., *supra* note 89, at 216–217.

<sup>172</sup> “Foreign trade activities shall be conducted by the State or under the supervision of the State ...” in Article 36 in the 1992 constitution was amended as “the State and social cooperative organizations shall conduct foreign trade activities ...” in the 1998 constitution.

<sup>173</sup> Song et al., *supra* note 89, at 217.

<sup>174</sup> Article 37.

foreign-owned enterprises.<sup>175</sup><sup>176</sup> Fifth, patent rights were added to Article 74 and thereby came under constitutional protection,<sup>177</sup> which is a significant development, as discussed below. On the same trajectory, several intellectual property laws were enacted in the same year: Invention Law,<sup>178</sup> Trademark Law,<sup>179</sup> and Law on Industrial Designs.<sup>180</sup> In the 1990s, the DPRK also joined four intellectual property treaties administered by the World Intellectual Property Organization (hereinafter “WIPO”).<sup>181</sup>

The development of intellectual property law deserves special mention here because it is one of the few laws that have originated in capitalist states that the DPRK has most fervently attempted to introduce to its legal system, starting in the 1970s, long before the DPRK enacted its first foreign investment law in 1984 and even before the

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The State shall encourage institutions, enterprises or associations of the DPRK to establish and operate ... other forms of corporations within a special economic zone with corporations or individuals of foreign countries.

<sup>175</sup> Song et al., *supra* note 89, at 217.

<sup>176</sup> The DPRK trade law also was amended in 1998 and major revisions were made to many foreign investment laws on February 26, 1999. *Id.* at 217–218.

<sup>177</sup> Article 74.

... The State shall grant benefits to inventors and innovators. Copyright and patent rights shall be protected by law.

<sup>178</sup> This law, enacted on May 13, 1998, provides both inventor’s rights and patent rights.

<sup>179</sup> This law was enacted on January 14, 1998.

<sup>180</sup> This law was enacted on June 3, 1998.

<sup>181</sup> The Hague Agreement Concerning the International Registration of Industrial Designs. (Entry into force on May 27, 1992); The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks. (Entry into force on October 3, 1996); The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. (Entry into force on June 6, 1997); The Locarno Agreement Establishing an International Classification for Industrial Designs. (Entry into force on June 6, 1997).

PRC began opening up its economy. It is a little known fact that the DPRK—not Japan, Singapore, the ROK, or Taiwan—was the first Asian economy<sup>182</sup> to join the WIPO in 1974. Since then, the DPRK has joined many other WIPO-administered treaties—much earlier than other Asian socialist states<sup>183</sup>—maintained a close relationship with the WIPO, and has highly praised those who received WIPO awards and medals.

Table 2. Provisions on Intellectual Property in the DPRK Constitution

Constitution	Article
1948	Article 20. Citizens have freedom of scientific, literary, and artistic pursuits. Copyright and inventor's rights shall be protected by law.
1972	Article 60. Citizens have freedom of scientific, literary, and artistic pursuits. The State shall grant benefits to innovators and inventors. Copyright and inventor's rights shall be protected by law.
1992	Article 74. Same as above
1998 / 2009 / 2012 / 2016 / April 2019	Article 74. Citizens have freedom of scientific, literary, and artistic pursuits. The State shall grant benefits to innovators and inventors. Copyright, inventor's rights, and patent rights shall be protected by law.

The DPRK regime has long favored scientists and engineers<sup>184</sup>—since long before the DPRK joined the WIPO—which has been reflected in the country's constitution, as shown in the table above. Thus, the DPRK has always held a favorable view of intellectual property rights, such as inventor's rights—that are largely mere honorary rights in that the rights to use an invention belong to the State, unlike patent rights that enable the

<sup>182</sup> Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan), which was part of the Soviet Union at that time, and the Middle East are excluded.

<sup>183</sup> See Appendix 12.

<sup>184</sup> HO-JE KANG (강호제), PUKHAN KWAHAK KISUL HYÖNGSÖNGSA I (북한과학기술형성사 I : HISTORY OF SCIENCE AND TECHNOLOGY IN NORTH KOREA I) 321 (2007) (in Korean).

rightsholder to exclusively use an invention for a fixed term—and copyright. Nevertheless, it strongly disapproved of patent rights because they guarantee exclusive profit for the rightsholder and, thus, are incompatible with a socialist economy.

Patent is a legal system that was first established in a capitalist society, reflecting the capitalist private ownership of means of production. Patent allows only the patentholder, not anyone else, to use an invention. Using such a monopolistic right, capitalists prevent the wide spread of an invention and make gains. In our country, it is a principle to introduce and disseminate all creative ideas including inventions in various fields of the people's economy. Therefore, any enterprise, institution, or citizen is not allowed to monopolize the right to use the invention.<sup>185</sup>

This hostile attitude toward patent rights remained unchanged throughout the 1970s:

In a capitalist society, patents not only prevent inventions from being used for working people and the general public but also have a negative effect on development of science and technology. This phenomenon cannot be tolerated under the socialist system. In our society, all technical developments, including inventions, are used by the State and the people. In our country, the principle is to introduce inventions and technical developments into production quickly and widely, and we do not allow any citizen, institution, or enterprise to monopolize it. The rights to use the invention belong to the State, and institutions have an obligation to quickly accept the invention for production.<sup>186</sup>

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<sup>185</sup> SAHOE KWAHAGWŎN PŎPHAK YOŎ'GUSO (1971), *supra* note 16, at 648.

<sup>186</sup> KWAHAK, PAEKKWA SAJŎN CH'ULP'ANSA (과학, 백과사전출판사: Science and Encyclopedia Publishing House), PAEKKWA CHŎNSŎ (백과전서: Encyclopedia Ser. No. 5) 323 (1984) (in Korean). Although this encyclopedia was published in 1984, it appears that the part on patent rights was written before the DPRK became a state party to the Paris Convention in 1980, which is understandable given that editing and publishing an encyclopedia—often utilizing existing articles rather than creating whole new information—likely takes a long time.

However, this perspective has fundamentally changed since the 1980s, as the DPRK joined the Paris Convention for the Protection of Industrial Property in 1980.<sup>187</sup> Although the DPRK began viewing patent rights more positively than before, the country clearly prioritized inventor's rights over patent rights:<sup>188</sup>

Since the end of World War II, socialist countries have recognized patent rights for national development of science and technology. In our country, we have implemented a patent rights system that organically combines the interests of society, groups, and individuals while prioritizing inventor's rights over patent rights, which is in line with the natural needs of our socialist system.<sup>189</sup>

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<sup>187</sup> This convention applies to patents, trademarks, industrial designs, geographical indications, and so forth.

<sup>188</sup> Such an attitude is also confirmed by the following excerpt: "The inventor's rights and patent rights are both legal protections for invention. The contents and scope of the application thereof are generally the same as regards recognition of the inventor, contents of the invention, priority of the invention, and protection of the rights over the invention. Moreover, the procedures and methods of application, the format of documents, and the procedures and standards for deliberation are almost the same. However, there are fundamental differences between the inventor's rights and patent rights. ... The inventor's rights belong to the inventor, but the rights to use the invention belong to the State. Therefore, the State reserves the right to introduce or sell registered inventions at will without the approval of, or agreement or contract with, the inventors. ... The person who holds inventor's rights may not revoke or give up the rights at will or transfer them to others. ... Political and moral privileges granted to inventors by inventor's rights generally include national commendation, honorary titles, national decorations, technical qualification upgrades, award certificates, and insignia. Material benefits are usually given in the form of gifts and prize money. The amount of prize money is determined by the magnitude of the technical and economic effects obtained by the invention. **In the socialist system of the DPRK, where the means of production are socially owned, individual citizens' corporate management activities are not allowed. Therefore, a patent owner in the DPRK may not establish or operate a private enterprise by introducing his invention protected by patent right into production or construction.**" (emphasis is mine) Jeong-Hee Choi (최정희), *An Overview of Industrial Property Rights and Their Protection System* (공업소유권과 공업소유권보호제도에 대한 일반적리해), 46 J. KIM IL-SUNG U.: HIST., LEGAL STUD., no. 2, May 2000, at 61, 62–63 (in Korean).

<sup>189</sup> SAHOE KWAHAGWŎN PŎPHAK YOŬ'GUSO (1997), *supra* note 164, at 654.

Moreover, patent rights were still considered in foreign economic relations with other countries, not as rights that were domestically recognized by DPRK law.

Patents occupy the most important place in industrial ownership, and their practice serves to protect the inventors and to make new inventions widely available to society. In the DPRK, all technical creations, including inventions, are made by the state and the people, and technical inventions and creative ideas are applied as patent rights in our relations with other countries.<sup>190</sup>

Even though patent rights became enshrined in the 1998 DPRK constitution and Invention Law enacted in the same year,<sup>191</sup> the DPRK continued to give advantages to those opting for inventor's rights over those applying for patent rights by exempting the registration fee<sup>192</sup> in the case of the former. Moreover, the DPRK left large room in its Invention Law for its acquisition of patented inventions.<sup>193</sup>

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<sup>190</sup> PAEKKWA SAJOŇ CH'ULP'ANSA (백과사전출판사: ENCYCLOPEDIA PUBLISHING HOUSE), CHOSŎN TAEBAEKKWA SAJOŇ 359–360 (조선대백과사전: THE GRAND ENCYCLOPEDIA OF THE DPRK Ser. No. 22) (2001) (in Korean). Although this encyclopedia was published in 2001, it appears that the part on patent rights was written before the legislation of Invention Law in 1998.

<sup>191</sup> As mentioned above, patent rights were recognized in the DPRK constitution for the first time in September 1998 and were also prescribed in Invention Law, enacted on May 13, 1998.

<sup>192</sup> Article 13 (Fees).

Institutions, enterprises, organizations and citizens that wish to obtain a patent for their new scientific and technological achievement shall pay fees.

<sup>193</sup> Article 31 (Transfer of Patent to the State).

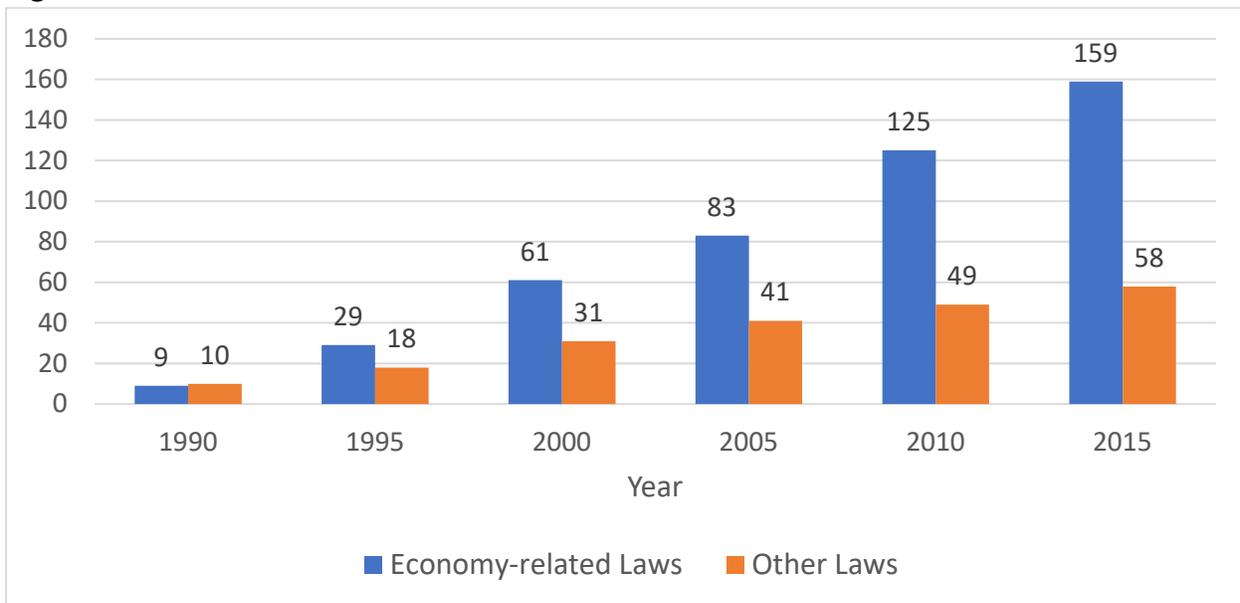
Where the patented science and technology is to be used for public interest, the State may take over the patent or the right to use the science and technology thereof. In this case, due reimbursement shall be made to the patent owner;

Article 32 (Possibility of Change).

A patent right may be changed into an invention right if the owner so wishes. An invention right, however, shall not be changed into a patent right.

Another noticeable legal development during the 1990s is that the number of DPRK laws greatly increased, especially in the latter part of this decade. The increase is more remarkable among economy-related laws such as Law on Foreign-Invested Banks (외국투자은행법)<sup>194</sup>, Law on External Economic Contracts (대외경제계약법)<sup>195</sup>, Foreign Trade Law (무역법)<sup>196</sup>, and Law on External Economic Arbitration. While the DPRK had nine economy-related laws and 10 other laws at the end of 1990, the numbers increased to 61 and 31, respectively, by the end of 2000 (see the figure below).

Figure 5. Number of DPRK Laws<sup>197</sup>



<sup>194</sup> Enacted on November 24, 1993.

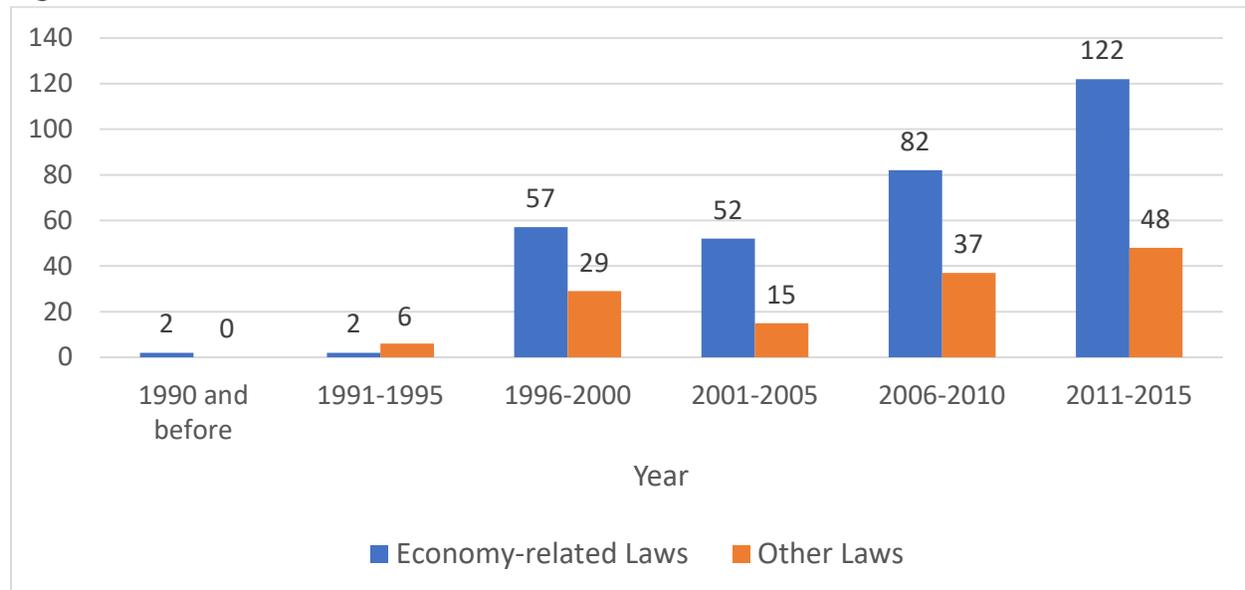
<sup>195</sup> Enacted on February 22, 1995.

<sup>196</sup> Enacted on December 10, 1997.

<sup>197</sup> These numbers are based on compilations of laws of the DPRK published in 2004, 2012, and 2016. See POŬNYUL CH'ULP'ANSA, *supra* note 123.

In addition, the existing laws of the DPRK were amended in the 1990s much more frequently than before (see the figure below).

Figure 6. Amendments to the DPRK Law<sup>198</sup>



With this rapid increase in the number of laws and their amendments, it appears that the DPRK recognized a need for more legal experts.<sup>199</sup> The status of the law department at Kim Il-Sung University was elevated to College of Law in 1999 with two more departments, while there had been only departments and no college in the university for

<sup>198</sup> These numbers are also based on the compilations of laws of the DPRK published in 2004, 2012, and 2016. See PŎMNYUL CH'ULP'ANSA, *supra* note 123. Many of the laws were amended more than once in a year, although they might have been more frequently amended because the DPRK sometimes omitted parts of the record of amendment to a law in those compilations for unknown reasons.

<sup>199</sup> The unpopularity of law in socialist states before opening up their markets seems to be nearly universal. Law was not a well-regarded subject in the Soviet Union around 1950. ZHORES MEDVEDEV, GORBACHEV 35 (1986).

decades.<sup>200</sup> Around that time, the College of Law seems to have started to publish the aforementioned *Pŏphak Yŏn'gu* (법학연구: *Law Journal*), which appears to be the first DPRK law journal since the mid-1960s to carry law articles exclusively.<sup>201</sup>

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<sup>200</sup> In the DPRK, few universities are known to have a law education program because science and technology education has long been the highest priority for the regime, and it appears that there was little demand for those who studied law after the rule of law collapsed in the DPRK in the 1950s. Chan-II Ahn (안찬일), *Demands for University Graduates and University Education* (북한에서 인재의 수요와 대학교육), RADIO FREE ASIA, 2004 (in Korean), <https://www.rfa.org/korean/commentary/51477-20010228.html> (last visited Sept. 5, 2019). The current annual student intake of the College of Law at Kim Il-Sung University is known to be around 100–200, while the annual student intake in the law department at the same university was set at 50 in 1946 when the university was founded. HO-JE KANG, *supra* note 184, at 83.

<sup>201</sup> It has been found that a few special educational institutions, besides Kim Il-Sung University, had a law degree program in the 1990s, which may still exist today. (1) The University of National Economy (인민경제대학), located in Pyongyang, offers education exclusively for those who have worked for not less than three years in administrative organs to train as entry-level and mid-level cadres in the field of national economic administration. This university was established on July 1, 1949 as the Advanced School for Leading Cadres under the North Korean Cabinet and was given its current name upon integration with the University of Politics and Economy. This university has a department of procuracy studies that appears to teach criminal law. An administrative law textbook and a criminal law textbook published by the university in 1955 and 1992, respectively, were obtained outside the DPRK. (2) The University of International Affairs (국제관계대학), established on September 1, 1960, is an educational institution located in Pyongyang that trains professional diplomats. This college is known to have a department of international law. (3) The Academy of Social Sciences (사회과학원) is an advisory body for ideology and theories of the KWP and the State. In the early 1990s, Kim Jong-Il ordered the establishment of a university-level education program in the academy called the College of Social Sciences of the DPRK, which seems to have a law major because the academy has a legal research institute. Kim Seon-Ryeo (김선려), *Immortal Achievements of the Greatest Men of History in the Human Resource Development Project at the College of Social Sciences* (사회과학대학에서의 인재육성사업에 쌓아올린 선철세위인들의 불멸의 업적), J. THE ACAD. OF SOC. SCI. (사회과학원 학보), no. 2, May 2013, at 34. In addition, Pyongyang College of Law (평양법률대학) existed in late 1959. *A Commentary on Crimes of Violation of Labor Regulations* (로동 법령 위반에 관한 죄의 해설), MINJU SABOP, no. 10, Oct. 1959, at 24; *A Commentary on Crimes Related to the Performance of Official Duties* (공무상 범죄에 대한 해설), MINJU SABOP, no. 11, Nov. 1959, at 26; *A Commentary on Economic Crimes* (경제범죄에 대한 해설), MINJU SABOP, no. 12, Dec. 1959, at 27. Although it is unclear what kind of institution it was and when the college was established, it was merged into Kim Il-Sung University Department of Law in 1968. KIM IL-SUNG UNIVERSITY, HISTORY OF KIM IL-SUNG UNIVERSITY (김일성종합대학 연혁) (in Korean), [www.ryongnamsan.edu.kp/univ/intro/history/develop](http://www.ryongnamsan.edu.kp/univ/intro/history/develop) (last

The DPRK had a rigid planned economy until the 1990s with economic plans containing very detailed output targets for each industrial enterprise.<sup>202</sup> Incapacity of the DPRK government to provide inputs to all enterprises and regions, however, prompted decentralization and relaxation of the planning process, which was related to both the marketization and external liberalization of the DPRK economy.<sup>203</sup> This is confirmed by the “People’s Economic Planning Law (인민경제계획법),” which was enacted in April 1999 to mitigate the crisis of the DPRK economy getting out of the regime’s control and was aimed at restoring the regime’s stability through the unified administration of the economy.<sup>204</sup> While this law emphasizes the principles of a planned economy,<sup>205</sup> puts people’s economic plans at the center of the DPRK economy,<sup>206</sup> and prohibits the unplanned production of goods and construction,<sup>207</sup> the law adopted a bottom-up

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visited Oct. 1, 2019). No other institution that offered a law education program is found on a list of 86 post-secondary education institutions in the DPRK (including 77 universities and colleges) in a dictionary published in the DPRK in May 1991. RIM SUNŬNG (림순응) et al., CHO-YŎNG SAJŎN (조영사전: Korean-English Dictionary) 1918–1920 (1991) (in Korean).

<sup>202</sup> JEFFRIES, *supra* note 97, at 46.

<sup>203</sup> BYUNG-YEON KIM, *supra* note 75, at 50.

<sup>204</sup> Korea Rural Economic Institute (KREI), *A Commentary on Major Agricultural Laws in the DPRK* (북한의 주요 농업 관련 법령 해설), 13 KREI QUARTERLY AGRICULTURAL TRENDS IN NORTH KOREA (북한농업동향), no. 2, 2011, at 29, 42–44 (in Korean), <http://library.krei.re.kr/pyxis-api/1/digital-files/605ba745-ade4-2a94-e054-b09928988b3c> (last visited Sept. 5, 2019).

<sup>205</sup> Article 2 (Principles of Planned Development of the People’s Economy).

The economy of the DPRK is a planned economy based on socialist ownership of the means of production. The state develops the people’s economy as planned, to strengthen the independence of national economic foundation and to constantly improve people’s life.

<sup>206</sup> Article 4 (Principle of High Growth Rate of the People’s Economy).

The people’s economic plan is the basic means for realization of the management of the socialist economy as planned ...

<sup>207</sup> Article 36 (Prohibition of Production and Construction Not in People’s Economic Plan).

approach, rather than the conventional top-down approach, to planning in the DPRK: while state owned enterprises had been responsible previously for production and did not have the authority to participate in planning, the law mandated that they report to higher authorities what and how much they could produce.<sup>208</sup>

Despite all of the positive legal developments mentioned above, the DPRK did not intend to opt for a market economy, as shown in the economic clauses of its 1998 constitution and People's Economic Planning Law. The DPRK still adhered to a planned economy model and sought only partial amelioration of the existing system, not a fundamental reform like the PRC had been undertaking since 1978. Moreover, the DPRK

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Production of goods and construction that are not in the people's economic plan are prohibited.

<sup>208</sup> Haeng-Sŏn Son (손행선), *Pukhan ui kyŏngje pŏmjoe wa ch'ŏbbŏl* (북한의 경제범죄와 처벌: Economic Crimes and Punishment in the DPRK) 103 (2011) (in Korean).

attempted to tighten its control over the society by strengthening the procuracy<sup>209</sup> through the 1998 amendment to its constitution.<sup>210</sup>

### 2.2.2. Before the 2004 Amendment to the Penal Code (September 1999–April 2004)

During the period 1999–2004, although the DPRK was no longer in the severe economic crisis that it had experienced in the mid-to-late 1990s, it continued to open its economy, albeit cautiously, to the outside world including the ROK. During the liberal

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<sup>209</sup> The role of the DPRK Procurator's Office—considered “a weapon of the dictatorship of the proletariat”—is distinct from their counterparts in many other countries. It is in charge of not only investigation and prosecution but general surveillance of the entire society including the courts, as illustrated in the excerpt below:

Through its control and supervision of the accurate observance and execution of law under the guidance of the KWP, it ensures the thorough implementation of Party policies, safeguards the gains of socialism from the encroachment of the class enemies and all the other offenders and protects the rights of people as guaranteed by the constitution and their lives and Property. In other words, the important mission of the Procurator's Office is to thoroughly implement Party policies by controlling supervising the correct observance of the socialist law and the execution of laws and ordinances and struggling against the criminal cases by disclosing criminal acts and taking appropriate legal sanctions against criminals.

In order to fulfill this basic mission, the Procurator's Office performs the following functions:  
General surveillance ...

FOREIGN LANGUAGES PUBLISHING HOUSE, *supra* note 118, at 273.

<sup>210</sup> The Central Court is one of the two main components of the judicial system of the DPRK, along with the Central Procurator's Office. Although the provisions on the Central Court and lower courts preceded that of the Central Procurator's Office until the 1992 constitution, the provisions on the Central Procurator's Office and lower offices have preceded that of the Central Court and lower courts in the 1998 constitution and later amended constitutions and the chapter on court and procurator's office has been renamed as the chapter on procurator's office and court accordingly, which was never the case in the history of constitutions of the PRC and Russia (and the Soviet Union). This suggests that the DPRK deliberately downgraded the status of the courts and prioritized a tight control of its society through criminal sanctions. The procuracy of the DPRK exercises the legal supervision over the courts, like its counterpart in the PRC. See KATRIN BLASEK, *RULE OF LAW IN CHINA: A COMPARATIVE APPROACH* 68 (2014).

regime (1998–2008) in the ROK, the inter-Korean relationship considerably improved, as suggested by the establishment of MT. Kungang Tourist Region and the inter-Korean Kaesong Industrial Region (개성공업지구)<sup>211</sup> in 2002.<sup>212</sup>

The domestic economic reforms undertaken during this period are notable. On July 1, 2002, the DPRK government implemented a significant reform of the public distribution system, introduced monetized economic transactions, revised incentive systems for producers, and adopted many policies and strategies to promote foreign investment and trade,<sup>213</sup> referred to as the “July 1st Measures.” This reform was, according to senior US diplomats, “an important series of positive initiatives that seemed the polar opposite of its posturing on the nuclear issue ... [representing] the most promising signs of change on the Peninsula in decades.”<sup>214</sup>

Nevertheless, although the unprecedented changes of 2002 allowed more autonomy for firms and reduced planning, they still failed to introduce private ownership and market coordination—the two core elements of a market economy.<sup>215</sup> Moreover, limited liberalization of prices resulted in high inflation due to low supply and low output

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<sup>211</sup> This region, located near the northern line of the Demilitarized Zone (DMZ), began operating in 2004. This undertaking allowed South Korean companies to utilize cheap labor in the DPRK while providing a valuable source of foreign currency to the DPRK.

<sup>212</sup> Hong Dae-un & Lee Ju-yoen, *supra* note 27.

<sup>213</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 157. For more details on the economic management improvement measures proclaimed on July 1, 2002, see BYUNG-YEON KIM, *supra* note 75, at 52–53.

<sup>214</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 158.

<sup>215</sup> BYUNG-YEON KIM, *supra* note 75, at 50–51.

and increase in income inequality,<sup>216</sup> although this was predictable to some outsiders, based on the experiences of former socialist states such as Hungary.<sup>217</sup> For example, the state-designated price of rice—the staple food of Koreans—increased by 550 times (from 0.08 won to 44 won per kilogram) in the DPRK following the introduction of price reforms,<sup>218</sup> whereas the rice price went up by 25% in the PRC after the initial price reforms in 1979.<sup>219</sup> The high inflation also adversely affected fixed-income workers, resulting in defections of many North Koreans<sup>220</sup> despite the risk of criminal punishment.<sup>221</sup>

Overall, the economic reforms undertaken during this period in the DPRK were not aimed at transitioning into a market economy but at merely adopting a reformed version of a socialist economy.<sup>222</sup> For example, the regime attempted to institutionalize informal markets by establishing general markets where mostly consumer goods are traded based

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<sup>216</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 171.

<sup>217</sup> BYUNG-YEON KIM, *supra* note 75, at 54.

<sup>218</sup> Sung-Min Mun, *An Empirical Analysis on North Korean Prices and Exchange Rates: Employing the Purchasing Power Parity Theory*, 17 UNIFICATION POL'Y STUD. (통일정책연구), no. 2, Dec. 2008, at 83, 88 (in Korean: Abstract in English), <https://www.kci.go.kr/kciportal/ci/sereArticleSearch/ciSereArtiView.kci?sereArticleSearchBean.artiId=ART001306554> (last visited Sept. 10, 2019).

<sup>219</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 171.

<sup>220</sup> *Id.* at 172.

<sup>221</sup> Article 233 (Illegal Crossing of Border) of the 2004 DPRK penal code provided that “A person who illegally crosses a border of the DPRK shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.”

<sup>222</sup> *Id.* at 51.

on the July 1st Measures,<sup>223</sup> which enabled the authorities to control and levy taxes on market activities.<sup>224</sup> Missing from these economic reforms were also more fundamental reforms, such as de-collectivization and the creation of non-state firms, and the legalization of free market exchanges between individuals, as was the case in the PRC during the late 1970s and 1980s and later in Russia after the dissolution of the USSR.<sup>225</sup>

#### 2.2.2.1. Developments of Economy-Related Laws

The DPRK enacted and amended many economy-related laws during this period. Examples of the enacted laws are Accounting Law (회계법), Bankruptcy Law For Foreign-Invested Enterprises (외국인투자기업파산법), and several intellectual property laws including Copyright Law (저작권법)<sup>226</sup>.

One noteworthy change during this period is that some provisions in the aforementioned People's Economic Planning Law granted limited freedom to institutions, enterprises, and organizations in charge of production. As shown in the table below, unlike the 1999 people's economic planning law, the 2001 law did not require those entities to produce detailed plans including specific numbers (Articles 16, 17, and 18),

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<sup>223</sup> *Id.* at 65.

<sup>224</sup> *Id.*

<sup>225</sup> *Id.* at 51.

<sup>226</sup> This law, enacted on March 21, 2001, was seemingly implemented in preparation for joining the Berne Convention for the Protection of Literary and Artistic Works on April 28, 2003. See Appendix 12. In addition to Copyright Law, Law on the Protection of Computer Software (컴퓨터소프트웨어보호법), and Law on the Name of Origin (원산지명법) were enacted in 2003.

and it clearly stated a bottom-up approach (Article 17), although the remaining 45 articles in the same law remained unchanged.

Table 3. Selected Provisions in People’s Economic Planning Law of the DPRK (Emphases are mine)

1999 Law	2001 Law
<p>Article 16 The drawing up of the people’s economic plan begins with putting estimates together. Institutions, enterprises, and organizations shall calculate the potential for production growth before putting estimates together. <b>Estimates drawn up shall be submitted to higher authorities and the national planning organ.</b></p>	<p>Article 16 The national planning organ, institutions, enterprises, and organizations shall carry out preparations for drawing up a current people’s economic plan in the first half of the year. In this process, plans shall be prepared to maintain and utilize existing production processes, to push ahead with production and improve technology, and to exchange materials between institutions, enterprises, and organizations.</p>
<p>Article 17 The national planning organ shall review the estimates, put control figures together, and have them <b>verified by the relevant institutions.</b> <b>Verified control figures shall be sent to institutions, enterprises, and organizations.</b></p>	<p>Article 17 A people’s economic plan is drawn up by synthesizing estimates <b>from the bottom.</b> In this process, institutions, enterprises, and organizations shall make a technological agreement on the indicators in the shared plan and ensure that their demands engage with each other.</p>
<p>Article 18 Institutions, enterprises, and organizations shall conduct crowd discussions based on the principle of <b>ensuring control figures</b>, draw up draft people’s economic plans, and submit them to higher authorities and to the national planning organ. The national planning organ shall accurately review the proposed draft people’s economic plans and make a draft of the national people’s economic plans and submit it to the Cabinet.</p>	<p>Article 18 Institutions, enterprises, and organizations shall conduct crowd discussions based on the principle of <b>ensuring national demand</b>, draw up draft people’s economic plans, and submit them to higher authorities and the national planning organ. The national planning organ shall accurately review the proposed draft people’s economic plans and make a draft of the national people’s economic plans and submit it to the Cabinet.</p>

Nonetheless, the DPRK also enacted laws such as Product Production Permit Law (제품생산허가법) prescribing a nationwide permit system for product production,<sup>227</sup> which suggests that the DPRK was still adhering to a socialist economy and was continuing its efforts to normalize it.

### 2.2.3. Before the July 2009 Amendment to the Penal Code (May 2004–July 2009)

The DPRK continued to open its economy to foreign markets during this period. By 2005, overall levels of trade, which had plummeted during the Arduous March (1995–98), had surpassed those of 1991, when trade was US\$2.5 billion. Total foreign trade for 2005 was around US\$4 billion, or around 10% of the DPRK's GDP,<sup>228</sup> although these numbers are not very impressive given that the DPRK's per capita exports to most OECD countries fell by almost 80% between 1980 and 2007.<sup>229</sup> Foreign investment in the DPRK continued to increase, albeit not dramatically, particularly due to the upsurge of investments from the ROK with the unprecedented progress in relations between the two Koreas.<sup>230</sup>

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<sup>227</sup> Article 2 of the law, enacted on July 3, 2002, provided that “Implementation of a permit system for product production is an important requirement of socialist economic management.”

<sup>228</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 173.

<sup>229</sup> Nicholas Eberstadt, *What Is Wrong with the North Korean Economy*, AM. ENTERPRISE INST., July 1, 2011, [www.aei.org/publication/what-is-wrong-with-the-north-korean-economy](http://www.aei.org/publication/what-is-wrong-with-the-north-korean-economy) (last visited Sept. 9, 2019). Since these same export markets were growing all the while, North Korea's share was 12 times smaller in 2007 than it had been in 1980. *Id.*

<sup>230</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 174–178.

However, the domestic economic reforms, represented by the July 1st Measures, initiated in 2002 to deal with manifold economic problems in the DPRK did not produce the results that Kim Jong-Il and the ruling regime had expected, in part due to the high inflation, rapidly growing income inequality, and massive layoffs by enterprises mentioned above.

New anti-market policies aimed at repressing market activities and retaining social control, including reinforcing the ration system in October 2005,<sup>231</sup> were introduced in 2005, and then intensified in and after 2007, in response to the social and economic instabilities caused by market activities and possible negative effects of them on the regime.<sup>232</sup> The DPRK regime banned (1) all forms of labor for individual profit in December 2005 and March 2006; (2) sales activities by female traders under the ages of 30, 40, 45, or 49 depending on period and region<sup>233</sup>, sales activities by all men, and all exchanges exceeding 200,000 won in April 2007<sup>234</sup>; and (3) the sale of rice in markets except in grain shops in September 2007, in addition to controlling the opening time of

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<sup>231</sup> Song et al., *supra* note 89, at 221.

<sup>232</sup> BYUNG-YEON KIM, *supra* note 75, at 65.

<sup>233</sup> Moon-Soo Yang (양문수), *Anti-Marketization Policy of North Korea in the 2000s* (2000년대 북한의 반(反)시장화 정책), 15 REV. NORTH KOREAN STUD. (현대북한연구), no. 1, Apr. 2012, at 85, 91 (in Korean: Abstract in English).

<sup>234</sup> The won is the DPRK currency. 200,000 DPRK won was approximately US\$1,500 as of September 2007, based on the official exchange rate, or US\$67 as of March 2006 according to unofficial exchange rates. US\$1 was around 3,000 won in unofficial rates in March 2006. Sung-Min Mun, *supra* note 218, at 114; Dae-Jung Gwak (곽대중), *Financial Times' Report that US\$1 = 6,000 DPRK Won Is False* (英기자 “北 장마당 환율 1 달러 6,000 원”은 오보), DAILY NK, Mar. 22, 2006, <https://www.dailynk.com/英기자-北-장마당-환율-1-달러-6000-원/> (last visited Sept. 10, 2019).

markets.<sup>235</sup> Park Pong-ju, the DPRK premier who had promoted economic reforms since 2003 with support from Kim Jong-Il, was relegated to a less important post in April 2007 due to backlash from the military and conservatives.<sup>236</sup> In June 2008, Kim Jong-Il strongly denounced the markets, which suggests that he directed several anti-market measures during this period:<sup>237</sup>

As I have spoken on a number of occasions lately, you must have the correct awareness of the market. As we allowed [people] to use the market to some extent for economic management, on some occasions, some people seem to have misunderstood such measures as breaking from the principles of socialism and shifting our economy to a market economy, which is a very wrong idea. The fact that personnel in charge of economic guidance have a misguided awareness of markets and the market economy tells us that they are bereft of thoughts and knowledge. If anyone fails to accurately, deeply recognize the ideas and policies of the KWP in relation to economic management, the belief in the superiority of the socialist economy can be shaken, leading to the “reformation” and “openness” that the imperialists brainlessly talk about. You can also be caught in the illusion of the capitalist market economy ... The market is the home and hotbed of non-socialist phenomena and capitalist elements in the economy. If you leave the market without taking any national countermeasures, or if you move forward to further promote the market and expand its boundaries, our economy will absolutely degenerate into a market economy. However, depending on the practical conditions, using the market

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<sup>235</sup> Song et al., *supra* note 89, at 221; BYUNG-YEON KIM, *supra* note 75, at 65.

<sup>236</sup> HYUNG-GON JEONG (정형곤) ET AL., Korea Institute for International Economic Policy, THE CURRENT SITUATION OF MARKETIZATION IN NORTH KOREA AND PROSPECTS FOR CHANGE OF ITS ECONOMIC SYSTEM (북한의 시장화 현황과 경제체제의 변화 전망) 18, 66 (2012) (in Korean: Abstract in English), [http://www.kiep.go.kr/sub/view.do?bbsId=search\\_report&nttlId=185708](http://www.kiep.go.kr/sub/view.do?bbsId=search_report&nttlId=185708) (last visited Sept. 11, 2019).

<sup>237</sup> Moon-Soo Yang, *supra* note 233, at 93.

to some extent under national control does not lead to a market economy. Markets and market economies are not the same concept ...<sup>238</sup>

Subsequently, in November 2008, the DPRK began to sequentially shut down general markets,<sup>239</sup> initiated 100-day and 150-day “battles” to blockade merchants from accessing markets in May 2009, and shut down Pyongsong market, the representative national-level wholesale market in June 2009.<sup>240</sup>

However, although the DPRK regime achieved partial success in that the regime embedded the fear of a crackdown and awareness of the instability of market activities in people’s minds,<sup>241</sup> the abovementioned ostensibly rigorous anti-market policies generally proved to be futile. This is partly because market participants continued to violate the policies under the connivance of government personnel who had taken bribes from them,<sup>242</sup> despite the central government’s greatly strengthened market crackdowns that began in 2007<sup>243</sup> and that were more difficult than local-level crackdowns for ordinary people to prepare for in advance due to the lack of a network. Most importantly, the informal economy had grown too much for the DPRK regime to suppress: the informal

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<sup>238</sup> KIM JONG-IL, TO ADHERE TO THE PRINCIPLES OF SOCIALISM IN ECONOMIC PROJECTS AND TO CULTIVATE THE SUPERIORITY OF THE SOCIALIST ECONOMY: A STATEMENT TO PERSONNEL FROM THE KWP AND NATIONAL ECONOMIC ORGANS (경제사업에서 사회주의 원칙을 고수하며 사회주의경제의 우월성을 높이 발양시킬데 대하여: 당, 국가경제기관 책임일군들과 한 담화), June 18, 2008 (in Korean).

<sup>239</sup> Song et al., *supra* note 89, at 222.

<sup>240</sup> Moon-Soo Yang, *supra* note 233, at 93.

<sup>241</sup> *Id.* at 95.

<sup>242</sup> BYUNG-YEON KIM, *supra* note 75, at 65.

<sup>243</sup> Moon-Soo Yang, *supra* note 233, at 92–93.

economy was estimated to account for 83% of the DPRK economy as of October 2008, according to a census in the DPRK.<sup>244</sup>

#### 2.2.3.1. Developments of Economy-Related Laws

The DPRK authorities' "zigzag" policy for markets<sup>245</sup> was reflected in the laws enacted or amended between May 2004 and July 2009: the legal developments during this period were a mix of market-friendly and anti-market measures.

The laws for foreign trade and investment that the DPRK regime enacted during this period provided "a more clearly delineated framework."<sup>246</sup> At the same time, the DPRK continued to legislate many laws for domestic economic administration. Law on Central Bank (중앙은행법) was enacted on September 29, 2004 as a countermeasure against fiscal crisis, which had been intense during the economic crisis in the 1990s. Law on Commercial Banks (상업은행법) was enacted on January 25, 2006, which constituted a significant development in the DPRK financial sector because no commercial bank had existed in the DPRK for decades since the establishment of a single-bank system in 1976

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<sup>244</sup> HYUNG-GON JEONG (정형곤) ET AL., *supra* note 236, at 84–85, 114, 2012, [http://www.kiep.go.kr/sub/view.do?bbsId=search\\_report&nttlId=185708](http://www.kiep.go.kr/sub/view.do?bbsId=search_report&nttlId=185708) (last visited Sept. 11, 2019). The census was conducted in October 2008 in the DPRK with assistance from the United Nations Population Fund and the ROK. *Id.* at 85.

<sup>245</sup> BYUNG-YEON KIM, *supra* note 75, at 65.

<sup>246</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 173. Examples are Law on Registration of Foreign-Invested Businesses (외국투자기업등록법, enacted on January 25, 2006); Accounting Law for Foreign-Invested Businesses (외국투자기업회계법, enacted on October 25, 2006); Law on Financial Management of Foreign-Invested Enterprises (외국인투자기업재정관리법, enacted on October 2, 2008); and Labor Law for Foreign-invested Enterprises (외국인투자기업노동법, enacted on January 21, 2009).

through the integration of the Commercial Bank into the Central Bank of the DPRK.<sup>247</sup> Law on Product Identification Code (상품식별부호법) was enacted on January 9, 2008, which suggests that the flow of commodities had increased and, thus, the DPRK felt the need to systemize it by introducing a bar code system.

It is also noteworthy that during this period, “Beobchi (법치(法治): Rule of Law or Rule by Law)” was emphasized in the DPRK by its top leader perhaps for the first time in its history, according to DPRK legal scholars:

The Supreme Leader Kim Jong-Il presented in several documents an innovative theory on building a socialist law-governed country under the leadership of the KWP ... This theory is fundamentally new and creative ... Beobchi allows for the construction of a strong economy. This is because only under legal security can the socialist economic system be strengthened and developed, and the people’s economic plan be legalized and accomplished unconditionally. At the same time, it is necessary to regulate all the specific economic relations by law in order to normalize production, manage the economy well, and improve financial management of the country.<sup>248</sup>

A law not only expresses the intents and demands of the people in the form of concrete and clear rules of conduct but, unlike morality or the codes of a political

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<sup>247</sup> Eun-Lee Joung (정은이), *Finance and Currency: Development of Private Finance and Reform of Public Finance*, in KOREA INSTITUTE FOR NATIONAL UNIFICATION, EIGHT CHANGES IN NORTH KOREAN ECONOMY AND SOCIETY UNDER THE KIM JONG UN REGIME 35, 35 (Park, Young-Ja et al. eds, 2018), <http://www.kinu.or.kr/pyxis-api/1/digital-files/7681af7a-b948-40ea-9e19-a5336ae72c02> (last visited Sept. 11, 2019).

<sup>248</sup> Yu-hyŏn Chin (진유현), *A Juche Theory on Building a Socialist Law-Governed Country* (사회주의 법치국가 건설에 대한 주체의 이론), J. KIM IL-SUNG U.: HIST., LEGAL STUD., no. 1, Feb. 2005, at 45, 45, 47 (in Korean).

party and social organization, the obligation of compliance with the law is guaranteed nationally.<sup>249</sup>

As suggested above, this unprecedented emphasis on the role of laws in the DPRK was in part prompted by Kim Jong-Il's desire for economic development. However, the concept of Beobchi in the DPRK should be interpreted as rule by law, not as rule of law, because of the clear limitation that the law was considered to be no more than a primary tool for social control by the KWP:

The Supreme Leader Kim Jong-Il pointed out that “A law-governed country means a country governed by law under the leadership of the KWP.” ... The leadership of the KWP is the core of the socialist law-governed country that we are building ...<sup>250</sup>

Bourgeois Beobchi and law-governed country are by no means intended for the people, but are mere ornamentation for a very few exploitative and capitalist classes ... A socialist country has to be a law-governed country to serve the people ... The former USSR and Eastern European socialist countries ... accepted bourgeois Beobchi under the name of building a law-governed country and did a “reform” show, thereby destroying socialism.<sup>251</sup>

In line with the emphasis on Beobchi, the DPRK began to publish a compilation of its laws for the general public in August 2004<sup>252</sup>—seemingly the first of its kind since 1961.<sup>253</sup> This suggests that the demand for legal information increased nationwide in the

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<sup>249</sup> Ch'ŏl-nam Kang (강철남), *The Essence of a Socialist Law-Governed Country* (사회주의법치국가의 본질), *Sahoe Kwahagwŏn Hakpo*, no. 1, Feb. 2007, at 20, 22 (in Korean).

<sup>250</sup> *Id.* at 21.

<sup>251</sup> Yu-hyŏn Chin, *supra* note 248, at 46–47.

<sup>252</sup> Pŏmnyul Ch'ulp'ansa, *supra* note 123. Its updated editions have been published every few years since 2006.

<sup>253</sup> Chosŏn Minjujuŭi Inmin Konghwaguk, Naegak Pŏpkyu Chŏngni Wiwŏnhoe, *supra* note 123.

DPRK, although it may also suggest that the DPRK regime was intent on systemizing, and thereby strengthening, its control of the economy. In any case, this was a groundbreaking event for DPRK law researchers because the DPRK laws had been mostly shrouded in secrecy for decades, making it extremely difficult for those outside the DPRK to ascertain the laws.<sup>254</sup>

However, after several legal developments directed toward opening up and developing the economy since the 1998 constitutional amendment, the DPRK's resumption of its efforts toward market suppression in the mid-2000s<sup>255</sup> resulted in a lack of change or even retrogression in economy-related laws enacted or amended thereafter.

A notable example is the DPRK's first enactment of the Anti-Money Laundering Law (자금세탁방지법) on October 2006, six days before the PRC first enacted the same kind of law, which suggests that the size of the informal economy had grown so considerably that the DPRK was attempting to crack down on it by cutting off the source of capital. For example, the scope of funds regulated in the 2006 DPRK Anti-Money Laundering Law substantially differed from that of its counterpart in the PRC.<sup>256</sup> While the focus of the 2006 PRC law was on hiding criminal income originating from crimes, such as drug crimes, organized crime, terrorism, smuggling, bribery, destruction of financial order, and financial

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<sup>254</sup> Although the DPRK had published compilations of selected economy-related laws—targeting foreign investors—starting from the 1990s, those compilations were mostly focused on foreign investment laws. Thus, most other laws were not included in the compilations.

<sup>255</sup> Song et al., *supra* note 89, at 220.

<sup>256</sup> The 2006 Anti-Money Laundering Law (反洗钱法) of the PRC.

fraud,<sup>257</sup> the focus of the 2006 DPRK law was not only on such crimes but on many forms of conduct that are penalized in the DPRK but are not crimes in most, if not all, of the rest of the world—for example, (1) “illegal” trade of currency or goods, (2) “illegal” real estate transactions, (3) credit transactions, such as loans and investments, but not through financial institutions, for the purpose of obtaining additional income, (4) economic transactions performed by impersonating a corporation, and (5) “illegal” trading of precious and non-ferrous metals.<sup>258</sup> Such a broad definition of criminal income suggests that the 2006 DPRK law, unlike the 2006 PRC law that was aimed at suppressing socially dangerous crimes, was primarily intended to crack down on ordinary, private market activities by strongly restricting the flow of funds obtained from such activities—currency trading, real estate transactions, private financing, founding and running a corporation, and trading of metals.

In light of the substantial economic policy switch of the DPRK in the mid-to-late 2000s, as shown by Kim Jong-Il’s statement in June 2008, it may have been natural that there was almost no change in the economic clauses in the DPRK constitution in its April 2009 amendment.<sup>259</sup> In the economic clauses, there was only one relatively minor change:

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<sup>257</sup> Article 2 of the 2006 Anti-Money Laundering Law of the PRC.

<sup>258</sup> Article 5 of the 2006 Anti-Money Laundering Law of the DPRK. This provision was significantly revised in 2014 and again in 2016, as mentioned below.

<sup>259</sup> Before the constitution, amended on April 9, 2009, was disclosed outside of the DPRK, some had anticipated that the new economic clauses would reflect many developments in the economy-related laws from 1998 to the mid-2000s and signal further economic reforms in the DPRK. Song et al., *supra* note 89, at 222.

“enterprises” was added to Article 36,<sup>260</sup> which was intended to facilitate the diversification of foreign trade.

## 2.3. SOCIO-POLITICAL AND ECONOMIC CONTEXTS OF DEVELOPMENTS OF ECONOMY-RELATED LAWS OF THE DPRK DURING THE KIM JONG-UN ERA (2011–PRESENT)

Kim Jong-Un (b. 1984) came to power after the death of his father, Kim Jong-Il, on December 17, 2011. Although he has been in power for a relatively short time compared to his father and grandfather, a notable policy switch has been observed especially in the economic sector, accompanied by corresponding changes in economy-related laws.

### 2.3.1. Before the May 2012 Amendment to the Penal Code (August 2009–May 2012)

During the period of August 2009 to May 2012, the DPRK authorities generally continued to demonstrate the aforementioned zigzag policy for markets that had been adopted in 2002.<sup>261</sup> In 2009, the DPRK regime continued to intensify its market suppression policies. The most notable example is the currency reform in November 2009, which was designed to suppress inflation, shrink unofficial market activities, and “absorb

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<sup>260</sup> Article 36.

In the DPRK, foreign trade is conducted by the State organs and enterprises, and social and cooperative organizations. The State shall develop foreign trade on the principles of complete equality and mutual benefit.

<sup>261</sup> BYUNG-YEON KIM, *supra* note 75, at 65.

money circulating in the shadow economy to the official economy”<sup>262</sup> via (1) imposing a re-denomination of the DPRK won at a rate of 100 to 1 and (2) setting a limit of 1,000 new won per household for exchanging old won for new won.<sup>263</sup> However, the currency reform—the highlight of the anti-market measures since the mid-2000s—caused chaotic hyperinflation.<sup>264</sup> Contrary to the expectations of the DPRK regime, private financing flourished undisturbed and the economic units relied on foreign currencies, leading to the “dollarization of the domestic economy.”<sup>265</sup>

In February 2010, the DPRK premier Kim Yong-Il offered “a sincere apology for the currency reform, as we pushed ahead with it without sufficient preparation and it caused great pain to the people,” to appease public outrage.<sup>266</sup> The DPRK authorities subsequently took a more lenient approach toward market activities.<sup>267</sup> Markets reopened in many places, and most transactions were allowed as long as the seller paid a certain

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<sup>262</sup> Choe Sang-Hun, *North Korea Revalues Its Currency*, N.Y. Times, Dec. 1, 2009, <https://www.nytimes.com/2009/12/02/business/global/02korea.html> (last visited Sept. 9, 2019); Eun-Lee Joung (정은이), *supra* note 247, at 36.

<sup>263</sup> JEA-HWAN HONG (홍제환), KOREA INSTITUTE FOR NATIONAL UNIFICATION, NORTH KOREAN ECONOMY IN THE KIM JONG-UN REGIME 26 (2018), <http://www.kinu.or.kr/pyxis-api/1/digital-files/478d56d2-966a-44f6-9d58-4d7be0583dc0> (last visited Sept. 11, 2019).

<sup>264</sup> *Id.* at 27; *The DPRK Economy Is Virtually in an Anomic State ... Exchange Rates and Prices Are Skyrocketing* (北경제 사실상 아노미...환율·물가 폭등세), DAILY NK, Jan. 6, 2010 (in Korean), <https://www.dailynk.com/北경제-사실상-아노미환율물가-폭등/> (last visited Sept. 11, 2019).

<sup>265</sup> Joung, *supra* note 247, at 36.

<sup>266</sup> Bong Park et al., *Apology Issued for Currency Gaffe*, RADIO FREE ASIA, Feb. 12, 2010, <https://www.rfa.org/english/news/korea/apology-02112010172045.html> (last visited Sept. 11, 2019).

<sup>267</sup> BYUNG-YEON KIM, *supra* note 75, at 178.

amount and complied with the regulations.<sup>268</sup> The authorities retracted all control over the market on May 26, 2010.<sup>269</sup> However, the inflation prompted by the currency reform, albeit less serious than before May 26, 2010, persisted until late 2011.<sup>270</sup>

Shortly after Kim Jong-Un came to power in December 2011, he reportedly showed a strong will to develop the economy and a relatively open-minded attitude toward capitalist ways compared to his father and grandfather. On January 28, 2012, at a meeting with KWP officials, Kim Jong-Un reportedly said that policymakers were reluctant to present good ideas because they feared being accused of “trying to introduce capitalist ways” and were ordered to “find reconstruction measures suiting the nation through discussion without taboos.”<sup>271</sup>

#### 2.3.1.1. Developments of Economy-Related Laws

The DPRK laws enacted or amended during this period, again, reflect well the zigzag nature of the DPRK economic policy of this period. On the one hand, the DPRK continued to implement laws to promote foreign investment and trade, including Law on

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<sup>268</sup> *Id.*

<sup>269</sup> Song et al., *supra* note 89, at 223.

<sup>270</sup> Chris Green, *The Currency Crisis: Year 2*, DAILY NK, Nov. 30, 2011, <https://www.dailynk.com/english/the-currency-crisis-year-2/> (last visited Sept. 11, 2019).

<sup>271</sup> Bill Powell, *Is Kim Jong Un Preparing to Become North Korea's Economic Reformer?* TIME, Apr. 19, 2012, <http://content.time.com/time/world/article/0,8599,2112567,00.html> (last visited Aug. 7, 2019). It was also reported that a source within the KWP said, “Recently Comrade Kim Jong-Un gave the order: ‘If there are any excellent methods that we can use, whether they are Chinese methods or from Russia or Japan, implement them.’” *Id.*

the Origin of Exports (수출품원산지법),<sup>272</sup> Law on the Chamber of Commerce (상업회의소법),<sup>273</sup> Law on MT. Kumgang Special Zone for International Tourism (금강산국제관광특구법),<sup>274</sup> Law of the Hwanggumphyong And Wihwado Economic Zone (황금평, 위화도경제지대법),<sup>275</sup> and Law on International Rail Freight Transportation (국제철도화물수송법).<sup>276</sup> In addition, several laws in the same domain, such as Law on Equity Joint Venture and Law on the Rason Economic and Trade Zone (라선경제지대무역법), were amended.

On the other hand, regarding its domestic economy, the DPRK regime struggled to retain control over marketization from below by enacting or amending related laws. Before Kim Jong-Un came to power, the DPRK had attempted repeatedly to tighten the control of its economy through enacting or amending economy-related laws from late 2009 to 2010, although the economic clauses of the constitution remained unchanged in the 2010 constitutional amendment. For example, the People's Economic Planning Law, through its amendments in August 2009 and April 2010, returned to a stricter planned economic model and granted less freedom to the entities in charge of production by restoring provisions that were amended in 2001<sup>277</sup> to their original conditions in the 1999 law and,

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<sup>272</sup> Enacted on November 25, 2009.

<sup>273</sup> Enacted on July 8, 2010.

<sup>274</sup> Enacted on May 31, 2011.

<sup>275</sup> Enacted on December 3, 2011.

<sup>276</sup> Enacted on December 14, 2011.

<sup>277</sup> Articles 16, 17, and 18. See Table 3.

thereby, requiring those entities to once again produce and comply with very detailed, rigorous production plans.

The Material Consumption Standards Law (물자소비기준법), enacted on November 11, 2009, is another example of the regime's attempts to strengthen its economic control. This law's objective is "to establish a rigorous system and order in the establishment and application of material consumption standards, eliminating material waste and contributing to fostering the development of the socialist economy."<sup>278</sup> It appears to have been designed to address a serious shortage of resources by "mandating all the institutions, enterprises, and organizations to set the standards"<sup>279</sup> on "the maximum consumption of materials"<sup>280</sup> "used in the production process and management activities."<sup>281</sup> Those who fail to meet the strict standards established according to the law can be subject to criminal punishment.<sup>282</sup>

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<sup>278</sup> Article 1 (The Objective of Material Consumption Standards Law).

<sup>279</sup> Article 5 (The Principle of Mandatory Establishment and Application of Material Consumption Standards).

<sup>280</sup> Article 2 (Definition of Material Consumption Standards).

<sup>281</sup> Article 5 (The Principle of Mandatory Establishment and Application of Material Consumption Standards).

<sup>282</sup> Article 39 (Administrative Responsibilities).

In the following cases, appropriate administrative penalties shall be imposed on the responsible personnel of institutions, enterprises, and organizations and individual citizens, according to the circumstances.

1. Material is thrown away by arbitrary establishment or application of material consumption standards.
2. Production and management activities are conducted without material consumption standards.
3. A material consumption standard is not updated on time.
4. A material consumption standard is not set and sent down in time, which interferes with the planning, production, and management activities.
5. No material consumption standard is applied.

Despite Kim Jong-Un's reportedly strong will to develop the DPRK economy, the economic clauses in its constitution remained unchanged in the April 2012 amendment,<sup>283</sup> perhaps because a new line of economic policies in the regime had not yet materialized by that time. Nevertheless, the level of punishment stipulated in the provisions on economic crimes in the penal code was greatly reduced, as discussed in Chapter 3., which signaled relaxation of the market suppression policies of the 2000s.

### 2.3.2. Before the July 2015 Amendment to the Penal Code (June 2012–July 2015)

Despite the ever-strengthening UN-led international sanctions on the DPRK for its missile tests and nuclear program, the DPRK economy seemingly continued to recover, albeit slowly, between June 2012 and July 2015. Annual economic growth rates appeared to be positive from 2011 to 2014.<sup>284</sup> In fact, this growth was mainly driven by minerals

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6. A non-registered consumption standard is applied.

7. A material consumption standard is passed without approval.

8. Material is wasted because it was not supplied in accordance with material consumption standards.

9. Projects, such as planning, performance evaluation, price setting, supervision, etc., are not carried out in accordance with material consumption standards, thereby interfering with the relevant business ...;

Article 40 (Criminal Liability).

If a conduct stipulated in Article 39 of this law reaches the level of a crime, criminal liability shall be imposed on the responsible personnel of institutions, enterprises, and organizations and individual citizens, in accordance with the relevant provisions of the Penal Code.

<sup>283</sup> In fact, the economic clauses in the DPRK constitution were not amended until April 2019. They remained unchanged in the 2013 and 2016 amendments to the constitution.

<sup>284</sup> BYUNG-YEON KIM, *supra* note 75, at 55–56. The DPRK experienced negative economic growth of –1.2% in 2015 for the first time in five years. Yu Sun-hui, *North Korea Has Negative Economic*

exports<sup>285</sup> and the service industry, which refutes the optimistic view on the rapid growth of the DPRK economy.<sup>286</sup>

On June 28, 2012, the Kim Jong-Un regime established reformative economic policies, the primary objective of which was to grant more autonomy to enterprises without undermining the framework of the socialist economy.<sup>287</sup> Notable reformist measures were allowing individual purchases of raw materials used for production; legalizing private investment in local factories by “*Donju*” (a small capitalist)<sup>288</sup>; allowing more enterprises to devise and implement their own plans; and granting managers more authority to hire or discharge workers.<sup>289</sup> Nonetheless, it is somewhat questionable whether these reforms will yield visible accomplishments, given that (1) many state-owned companies have suffered from a serious shortage of resources and, thus, could not even provide basic wages to their workers and (2) the reformist policies are not sophisticated enough to bring about real changes in the market.<sup>290</sup>

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*Growth for First Time in Five Years*, THE HANKYOREH, July 23, 2016. [http://english.hani.co.kr/arti/english\\_edition/e\\_northkorea/753583.html](http://english.hani.co.kr/arti/english_edition/e_northkorea/753583.html) (last visited Sept. 9, 2019).

<sup>285</sup> JEA-HWAN HONG, *supra* note 263, at 15.

<sup>286</sup> Seog-ki Lee (이석기), *Market and Industry: Industry in Recovery Backed by Market*, in KOREA INSTITUTE FOR NATIONAL UNIFICATION, EIGHT CHANGES IN NORTH KOREAN ECONOMY AND SOCIETY UNDER THE KIM JONG UN REGIME 16–17 (Park, Young-Ja et al. eds, 2018), <http://www.kinu.or.kr/pyxis-api/1/digital-files/7681af7a-b948-40ea-9e19-a5336ae72c02> (last visited Sept. 11, 2019).

<sup>287</sup> Song et al., *supra* note 89, at 27.

<sup>288</sup> This is an informal term that is widely used in the DPRK and literally means a money owner.

<sup>289</sup> JEA-HWAN HONG, *supra* note 263, at 29.

<sup>290</sup> *Id.* at 28.

The expansion of markets during this period should be noted. According to a recent study, as of 2016, 404 general markets were identified in the DPRK,<sup>291</sup> in contrast to the 200 general markets that existed as of January 2010, right after the currency reform of 2009.<sup>292</sup> Unofficial markets and labor markets also increased.<sup>293</sup>

Furthermore, the DPRK continued to devise reform measures in the financial sector. In the DPRK's official financial system, parts of the central bank's functions were separated and moved to commercial banks on July 22, 2015<sup>294</sup> through the simultaneous amendments of the Laws on the Central Bank and Commercial Banks enacted in 2004 and 2006, respectively.<sup>295</sup> The unofficial financial system also evolved to offer remittance service in addition to currency exchange and loans.<sup>296</sup> A domestic electronic payment card service was also launched in late 2015<sup>297</sup> and has been gaining in popularity

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<sup>291</sup> Min Hong et al., KOREA INSTITUTE FOR NATIONAL UNIFICATION, NATIONWIDE MARKET INFORMATION IN THE DPRK: WITH A FOCUS ON THE OFFICIAL MARKET (북한 전국 시장 정보: 공식시장 현황을 중심으로) (in Korean: Abstract in English), <http://www.kinu.or.kr/pyxis-api/1/digital-files/1b23757e-76aa-4014-98f4-c2b00844b02f> (last visited Sept. 11, 2019).

<sup>292</sup> JEA-HWAN HONG, *supra* note 263, at 34.

<sup>293</sup> *Id.*

<sup>294</sup> Young-Hui Kim (김영희), *Limitations and Challenges of Establishing North Korean Regional Banks: Focusing on the Case of Establishing Regional Banks in China* (북한 지방은행 설립의 한계와 과제: 중국 지방은행 설립 사례를 중심으로), KDB NORTH KOREA DEVELOPMENT (KDB 북한연구), Spring 2019, at 58, 61 (in Korean), <https://rd.kdb.co.kr/FLPBFP05N01.act?mnuId=FYERER0033> (last visited Sept. 12, 2019).

<sup>295</sup> Jung, *supra* note 247, at 35.

<sup>296</sup> *Id.* at 36–39.

<sup>297</sup> Yoon-Ah Ha, *Increasing Autonomy for North Korean Enterprises*, DAILY NK, Sept. 10, 2018, <https://www.dailynk.com/english/increasing-autonomy-for-north-korean-enterprises> (last visited Sept. 9, 2019).

since.<sup>298</sup> The spread of non-face-to-face financial transactions by bank cards, although seemingly introduced with the aim of absorbing money circulating in the informal economy into the official economy, is an important step in modernizing the extremely underdeveloped financial system of the DPRK, where it was previously very difficult to withdraw funds at the customer's convenience, and people had been worried that someone might ask them about the source of their money.<sup>299</sup>

### 2.3.2.1. Developments of Economy-Related Laws

During this period, while no change was made to the economic clauses in the DPRK constitution in its 2013 amendment, the regime continued to enact many foreign investment and trade laws, including Law on Economic Development Zones (경제개발구법)<sup>300</sup> and Law on Management of the General Trade Center (종합무역장관리법)<sup>301</sup>, and it also revised, for example, Law on Equity Joint Venture, Law on Contractual Joint Venture, and Law on External Economic Arbitration. In addition,

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<sup>298</sup> Jung, *supra* note 247, at 40.

<sup>299</sup> *Id.* at 35.

<sup>300</sup> Enacted on May 29, 2013, this law is partly implemented by regional governments and, thus, does not apply to the existing national-level special economic zones: the Rason Economic and Trade Zone; the Hwanggumphyong and Wihwado Economic Zone; Kaesong Industrial Region; and MT. Kumgang Special Zone for International Tourism (Article 2 in Addenda). The DPRK designated 13 economic development zones in 2013 and added six more in 2014.

<sup>301</sup> Enacted on December 24, 2014. Article 2 (Definition) of this law provides that "A general trade center is a place established for convenient and comprehensive delivery, inspection, quarantine, and inspection of cargo brought in and out through border bridgehead."

several regulations were adopted on MT. Kumgang Special Zone for International Tourism in 2012, reflecting Kim Jong-Un's special emphasis on international tourism.<sup>302</sup>

Laws relating to the domestic economy also underwent many changes. Some of the laws enacted during this period suggest the new fields that have emerged in the DPRK economy: Law on Renewable Energies (재생에너지법),<sup>303</sup> which seems to reflect the wider adoption of renewable resources<sup>304</sup> to struggle with the perennial problem of power shortages in the DPRK; Law on Convenience Service (편의봉사법),<sup>305</sup> which suggests that the DPRK service industry has grown and diversified; and Law on Construction Supervision (건설감독법),<sup>306</sup> which mirrors the construction boom during the Kim Jong-Un era.<sup>307</sup>

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<sup>302</sup> Joon-Ho Kim et al., *North Korea Plans Tourist, Economic Zones to Lure Foreign Cash*, RADIO FREE ASIA, Sept. 6, 2013, <https://www.rfa.org/english/news/korea/zones-09062013155244.html> (last visited Sept. 11, 2019).

<sup>303</sup> Enacted on May 29, 2013, Article 2 (Definition) of this law provides that “Renewable energy refers to energy renewable without affecting the environment, such as solar and light, wind, geothermal, biomass, and marine energy.

<sup>304</sup> Jung, *supra* note 247, at 16.

<sup>305</sup> Article 2 of this law defines convenience service as a form of social service that satisfies people's cultural welfare needs to guarantee convenience of life and promote health. Convenience service includes hygiene convenience services, application or consumption convenience services, manufacturing convenience services, and repair convenience services.

<sup>306</sup> This law was enacted on July 10, 2014.

<sup>307</sup> Eun-Mee Jeong, (정은미), *Class, Region, and Generations: Lifestyle Transformed by Social Changes*, in KOREA INSTITUTE FOR NATIONAL UNIFICATION, EIGHT CHANGES IN NORTH KOREAN ECONOMY AND SOCIETY UNDER THE KIM JONG UN REGIME 68–69 (Park, Young-Ja et al. eds, 2018), <http://www.kinu.or.kr/pyxis-api/1/digital-files/7681af7a-b948-40ea-9e19-a5336ae72c02> (last visited Sept. 11, 2019).

Also noticeable are the amendments to existing laws regarding the domestic economy. For example, several provisions added in November 2014 to the Law on Enterprises (기업소법)<sup>308</sup> substantially enhanced the autonomy of enterprises by granting them “the practical authority over management,”<sup>309</sup> “the authority to develop products,”<sup>310</sup> “the authority to engage in trade, equity joint venture, and contractual joint venture,”<sup>311</sup> and “the authority over financial management” including utilizing private finance.<sup>312</sup>

Although the People’s Economic Planning Law still adheres to the framework of the planned economy, it underwent a notable change in June 2015 with the addition to Article 29 of the stipulation that “Contracts based on order can be made at any time throughout

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<sup>308</sup> This law was enacted on November 11, 2010 and was amended twice thereafter—on November 5, 2014 and May 21, 2015.

<sup>309</sup> Article 29 (Exercising the Management Rights of an Enterprise).

Correctly exercising authority over the management of an enterprise is an important requirement for correct implementation of the socialist responsible corporate management system. An enterprise shall carry out its duties well by undertaking its business activities actively and creatively, with practical authority over management based on socialist ownership, and allow employees to fulfill their responsibilities and roles as owners in production and management.

<sup>310</sup> Article 34 (Product Development).

An enterprise shall, with the authority to develop products, actively develop new technologies and products in accordance with global development trends and the need for standardization and transform itself into a technology-intensive enterprise integrating science and technology and production.

<sup>311</sup> Article 37 (Trade, Equity Joint Venture, and Contractual Joint Venture).

An enterprise, while actively engaging in external economic activities to the extent possible, with the authority to engage in trade, equity joint venture, and contractual joint venture, to obtain the raw materials, tools, and facilities necessary for production, shall actively modernize facilities and the technical production process, organize units for the production of exports according to the situation, and produce products with global competitiveness.

<sup>312</sup> Article 38 (Financial Management).

An enterprise with authority over its financial management shall actively procure a working fund, utilize it effectively, expand production, and manage business activities well. An enterprise may supplement its fund for business activities by loans from banks or private funds.

the year.”<sup>313</sup> This change permitted institutions, enterprises, and organizations to enter into contracts, which was not provided in the yearly People’s Economic Plan and lessened the burden to predict and plan in advance all contracts that they would conclude, thereby rendering the law more realistic and flexible.

It must be noted that the bank card business was added to the list of businesses of commercial banking when Law on Commercial Banks was amended<sup>314</sup> on July 22, 2015,<sup>315</sup> which served as the basis for the launch of a domestic electronic payment card later that year.<sup>316</sup>

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<sup>313</sup> Article 29 of the 2015 DPRK People’s Economic Planning Law provides that “Contracts based on the plan shall be concluded within a fixed period of time from the time when the People’s Economic Plan is delivered. Contracts based on order can be made at any time throughout the year.”

<sup>314</sup> Article 1 (Objective) of this law provides that “Commercial banks are the institutions that take in deposits, grant loans, and handle settlements.”

<sup>315</sup> Article 18 (Categories of Business).

Commercial banks shall conduct the following categories of business:

1. Taking in deposits;
2. Granting loans;
3. Opening and managing accounts;
4. Handling domestic settlement;
5. Handling foreign settlement, receiving and discounting bills and stocks and exchange arbitrage;
6. Conducting foreign exchange transactions;
7. Examining creditworthiness of, and providing guaranty for, clients;
8. Issuing, buying, or selling financial bonds;
9. Dealing in precious metals;
10. Registering fixed assets;
11. Buying or selling moneys;
12. Bank card; and
13. Other approved transactions.

<sup>316</sup> Yoon-Ah Ha, *Increasing Autonomy for North Korean Enterprises*, DAILY NK, Sept. 10, 2018, <https://www.dailynk.com/english/increasing-autonomy-for-north-korean-enterprises> (last visited Sept. 9, 2019).

The enactment of the Legislation Law (법제정법) in December 2012 was another major legal development in the DPRK. This law, which is clearly modeled after the PRC's Legislation Law that was enacted in March 2000 in terms of both its framework and contents, appears to be a response to the ever-growing demand for professional skills and systemization in the legislation process, as the number of DPRK laws continued to increase and their amendments became increasingly more frequent.

It must also be noted that the 2006 DPRK anti-money laundering law was first revised on February 5, 2014, after the DPRK ratified the 1999 International Convention for the Suppression of the Financing of Terrorism on July 25, 2013.<sup>317</sup> The definition of criminal income stipulated in Article 5 of the 2006 DPRK anti-money laundering law, focused on suppressing market activities, was significantly revised to conform to the global standard.<sup>318</sup>

Furthermore, there was a noticeable development in legal education after Kim Jong-Un came to power in December 2011. Special emphasis was placed on education about economic laws during this period, which led to the establishment of a Department of

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<sup>317</sup> The DPRK signed this treaty on November 12, 2001. Thus, it took the DPRK more than 11-and-a-half years to ratify the treaty—the longest time among the 191 member states under the treaty (as of September 1, 2019: 59 of them became parties to the treaty by accession or succession)—which suggests that the DPRK was extremely cautious about the treaty. It took most states not more than four or five years to ratify the treaty after signing it. For example, the PRC signed this treaty on November 13, 2001—one day after the DPRK did—and ratified it on April 19, 2006.

<sup>318</sup> Article 2 of the 2014 DPRK Anti-Money Laundering Law did not provide examples of criminal income; it only prohibited laundering of “illegally obtained funds and property.” The law was amended again on April 20, 2016, and Article 2 of the 2016 DPRK Anti-Money Laundering Law provides a far longer list of examples of criminal income than in Article 5 of the 2006 DPRK Anti-Money Laundering Law.

Economic Laws at Chong Jun-taek University of Economics<sup>319</sup>—one of the most prestigious universities in the DPRK.<sup>320</sup> In addition, some local-level universities are known to currently offer a law degree program, which suggests the growing demand for legal professionals.

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<sup>319</sup> Sin Cheon-il (신천일), *Putting Great Power into Interdisciplinary Studies Education* (경제과학교육에 큰 힘을 넣어), RODONG SINMUN, Aug. 16, 2016 (in Korean): “The beloved comrade Kim Jong-Un gave us a valuable teaching in the field of social sciences ... to actively pioneer new interdisciplinary fields necessary for our revolutionary practice. ... Our university has explored an interdisciplinary field of economic law studies, which closely combines economics and legal studies; established a new Department of Economic Laws; and teaches economic laws as a foundation subject in all colleges and departments...” This newspaper spotlighted the Department of Economic Laws at Chong Jun-taek University of Economics again in August 2019 by devoting considerable space to the article with a photo. This is notable given that *Rodong Sinmun*, despite being the only national daily newspaper for the general public in the DPRK, consists of only six pages due to the chronic shortage of resources in the DPRK. Myung Hoon Kim (김명훈), *Accomplishments in Pioneering Interdisciplinary Studies* (경제과학개척에서 성과를 이룩하기까지), RODONG SINMUN, Aug. 14, 2019 (in Korean), [https://rodong.rep.kp/ko/index.php?strPageID=SF01\\_02\\_01&newsID=2019-08-14-0032](https://rodong.rep.kp/ko/index.php?strPageID=SF01_02_01&newsID=2019-08-14-0032) (last visited Sept. 9, 2019).

<sup>320</sup> This university was founded as Wonsan University of Economics (원산경제대학) on September 1, 1960 and was renamed Chong Jun-taek University of Economics (정준택원산경제대학) in 1990, in tribute to Chong Jun-taek (now spelled as Jong Jun-thaek in the ROK), an economic policymaker who served as Vice Premier of the Cabinet of the DPRK (and Chairman of the State Planning Commission) from 1953 to 1972. Many universities in the DPRK are named after the Kim family or those who served as high-level officials and remained loyal to the Kim family.

## **CHAPTER 3**

### **PROVISIONS ON ECONOMIC CRIMES IN THE DPRK PENAL CODE**

This chapter begins with a brief overview of the history of the penal codes of Korea before North Korea was liberated from Japanese occupation in 1945. Subsequently, the enactment of the first DPRK penal code and its later major amendments are analyzed, with a focus on how provisions on economic crimes in the DPRK penal code have been deleted, added, or amended through each amendment and the significance of those changes. This chapter concludes with a forecast of possible amendments to the provisions on economic crimes after July 2015—the last known amendment—and a suggestion of their implications for the future of the DPRK economy.

#### **3.1. PENAL CODE IN KOREA DURING THE PRE-DPRK PERIOD**

Korea had laws, including its penal code, long before 1945, when the USSR occupied the northern part of Korea after its liberation from Japanese occupation and began the process of establishing the DPRK. As China was traditionally the dominant power in East Asia, its influence on neighboring countries, including Korea, cannot be ignored, even in the field of law.

### 3.1.1. Goryeo and Joseon Dynasties

It is not clear when Chinese laws began to influence the laws of Korea. However, the influence of Chinese laws became evident in the late period of the Goryeo<sup>321</sup> Dynasty (918–1392)<sup>322</sup> and profound during the Joseon Dynasty (1392–1910),<sup>323</sup> although Chinese laws were voluntarily received and adapted by the dynasties.<sup>324</sup> For example, even though the Joseon Dynasty had its own uniform codes, such as Gyeongguk Daejeon (經国大典: the Grand Code for State Administration), which was compiled in the mid-to-late 1400s, Da Ming lü (大明律: The Great Ming Code) of the Ming Dynasty in China continued to be utilized throughout the Joseon era as a supplementary penal code for crimes not provided in Gyeongguk Daejeon, with the same level of authority as Gyeongguk Daejeon.<sup>325</sup> It must be noted that the concept of law in Korea was different from that in the West. As was the case in the traditional Chinese society, where people

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<sup>321</sup> Goryeo and Joseon used to be spelled *Koryo* and *Chosŏn* or *Chosun*, respectively, before the official South Korean language romanization system was revised in 2000. The old romanizations are still widely used outside the ROK.

<sup>322</sup> Jérôme Bourgon & Pierre-Emmanuel Roux, *The Chosŏn Law Codes in an East Asian Perspective*, in *THE SPIRIT OF KOREAN LAW: KOREAN LEGAL HISTORY IN CONTEXT* 19, 25 (Marie Seong-Hak Kim ed. 2015).

<sup>323</sup> Frédéric Constant, *Circulation of Law and Jurisprudence in Korea and China: Homicide and the Notion of Requit for Life*, in *THE SPIRIT OF KOREAN LAW: KOREAN LEGAL HISTORY IN CONTEXT* 52, 52–53 (Marie Seong-Hak Kim ed. 2015).

<sup>324</sup> *Id.* at 53–54.

<sup>325</sup> CHOSŎN PAEKKWA SAJŎN P'YŎNCH'AN WIWŎNHŎE, *supra* note 16, at 378. Unlike legal scholars in the DPRK, South Korean scholars generally regard Gyeongguk Daejeon as *lex specialis* to Da Ming lü and, thus, the former took precedence over the latter if both codes were applicable to a specific crime.

did not see public, positive law as the defining focus of social order,<sup>326</sup> Confucianism in Korea was a functional equivalent to the Western concept of the rule of law.<sup>327</sup>

At the end of the nineteenth century, following Japan and China, the Western legal system was transplanted in Korea. The first modern legal system appeared in Korea with the adoption of Chaep'anso Kusöngpöp (裁判所構成法: the Court Organization Law) in 1895.<sup>328</sup> More modern laws were subsequently enacted, including Hyeongbeob Daejeon (刑法大典: Grand Criminal Code), a comprehensive compilation of existing penal codes that was promulgated in 1905. The attempt to modernize the legal system during the Joseon era failed to have much of an impact on Korean society due to the loss of judicial power to Japan in 1909 and Japan's complete occupation of Korea by 1910.<sup>329</sup>

Traces of the penal codes of the Goryeo and Joseon Dynasties in the DPRK penal code, if any, are extremely hard to find, unlike prerevolution Russian legal tradition remained as “the deeper historical roots of the socialist system in the USSR.”<sup>330</sup> This severance of tradition can be partly explained by the fact that the modernization of the

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<sup>326</sup> WILLIAM ALFORD, *TO STEAL A BOOK IS AN ELEGANT OFFENSE: INTELLECTUAL PROPERTY LAW IN CHINESE CIVILIZATION* 10 (1995).

<sup>327</sup> Dai-kwon Choi, *Law and Development: the Korean Experience*, in *LAW AND SOCIETY IN KOREA* 3, 5 (Hyunah Yang ed., 2013).

<sup>328</sup> Jung Geung-sik, *Failures of the Modern Judicial System of the Joseon Dynasty and Birth of the Patriotic National Law*, in *SUPREME COURT LIBRARY OF KOREA, HOW COURT ORGANIZATION LAW LED TO THE MODERN JUDICIAL SYSTEM OF KOREA: LAWS AND TRIALS IN THE LATE JOSEON PERIOD* 4, 4–5 (2016).

<sup>329</sup> *Id.* at 6–7.

<sup>330</sup> William Partlett, *The historical roots of socialist law*, in *SOCIALIST LAW IN SOCIALIST EAST ASIA* 37, 44 (Fu Hualing, John Gillespie, Pip Nicholson, and William Partlett eds., 2018).

legal system during the Joseon era started too late to foster many legal experts, and Japanese occupation was long enough to disconnect the pre-1910 history of Korea from its modern history. Another reason would be that the DPRK has deliberately tried to eradicate “the vestiges of feudal society,” with sharp criticisms of Korean dynasties.<sup>331</sup> Although legal scholars in the DPRK—especially those who study criminal law—have paid relatively much more attention to the laws of Joseon than their counterparts in the South, their interest has been directed at how DPRK law fundamentally differs from that during the pre-DPRK period, not the continuity between them. For example, legal scholars in the DPRK emphasize in many publications that the laws of Korean dynasties, such as Joseon, were intended to exploit and oppress the subjugated class. Even if there was some influence of the laws of the pre-colonial period on the DPRK penal code, it will be very subtle and indirect and thus be excluded in this dissertation.

### 3.1.2. The Colonial Period (1910–1945)

After the collapse of the Joseon Dynasty with the conclusion of the Japan–Korea Annexation Treaty in 1910, the Japanese government promulgated a series of regulations, borrowing from many Japanese laws, including the penal code.<sup>332</sup> Joseon Criminal

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<sup>331</sup> Se-gwan Cheon (천세관), *The Penal Code of the Feudal Dynasty of Joseon was a Means of Oppressing Encroachment on the Absolute Authority of the King* (조선봉건왕조형률은 전제국왕에 대한 침해를 탄압하기 위한 수단), 60 J. KIM IL-SUNG U.: HIST., L., no. 2, Apr. 2014, at 105–110 (in Korean); Seong-hyeok Choi (최성혁), *The Penal System of Goguryeo and its Characteristics* (고구려의 형벌제도와 그 특징), *Id.* at 111–115 (in Korean).

<sup>332</sup> Jung Geung-sik, *Leveraging the Judicial System in the Darkest Hour to Aspire for a Brighter Future*, in SUPREME COURT LIBRARY OF KOREA, LAWS AND TRIALS IN THE JAPANESE COLONIAL PERIOD 4, 4–6 (2017).

Ordinance, promulgated on March 18, 1912, provided that the Japanese penal code and criminal procedure law,<sup>333</sup> with other related laws, would apply to Korea.<sup>334</sup> However, the Japanese government did not abolish some selected provisions in the Joseon laws, such as the aforementioned Hyeongbeob Daejeon, to more effectively oppress Koreans and restrict free political expression by stipulating harsher punishments for those offenses.<sup>335</sup>

Although the Japanese penal code was in place for more than 35 years, its influence on the DPRK penal code is hard to detect. One reason would be that during the colonial period, there were few Korean legal experts, including legal scholars, due to ethnic discrimination. The Japanese adopted an obscurantist policy, intentionally neglecting to train Koreans as professionals in many important areas, such as science, engineering, law, and medicine, making them incapable of running a liberated country.<sup>336</sup> When Korea

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<sup>333</sup> The Japanese penal code and criminal procedure law were originally modeled on French law, but were amended in 1908 and 1890, respectively, following the German penal code, in favor of the formation of an absolutist state. Percy R. Luney, Jr., *Traditions and Foreign Influences: Systems of Law in China and Japan*, 52 L. & CONTEMP. PROBS. 129, 147 (1989).

<sup>334</sup> SUPREME COURT LIBRARY OF KOREA, LAWS AND TRIALS IN THE JAPANESE COLONIAL PERIOD (2017), *supra* note 78, at 20.

<sup>335</sup> Yum, Bok-Kyu (염복규), *Haeje* (해제: Introduction), in ILCHE KANGJŎMGI Ŭ SABŎP (일제강점기의 사법: Law during the Japanese occupation) 3, 7 (2012).

<sup>336</sup> Dai-kwon Choi (2013), *supra* note 327, at 6. For example, the law department at Keijō Imperial University—the only four-year university in Korea during the colonial period—had a very small quota for Korean students. Hee Bong Lee (李熙鳳), *Pŏmnyurhak* (法律學: Legal studies), in KORYŎ TAEHAKKYŎ MINJOK MUNHWA YŎN'GUSO (高麗大學校 民族文化研究所: Research Institute of Korean Studies, Korea University), HAN'GUK HYŎNDŬE MUNHWASA TAEGYE 341 (韓國 現代 文化史 大系: A Modern Cultural History of Korea Ser. No. 2) (1976). As a result, the representation of Korean judges in the colonial courts was minimal—not higher than 20%, on average, during the colonial period. Marie Seong-Hak Kim, *Can There Be Good Colonial Law? Korean Law and Jurisprudence under Japanese Rule Revisited*, in THE SPIRIT OF KOREAN LAW: KOREAN LEGAL HISTORY IN CONTEXT (Marie Seong-Hak Kim ed.) 129, 133 (2015).

was liberated from Japanese occupation in 1945, there were fewer than 10 legal scholars across Korea, whose population was around 25 million.<sup>337</sup> Moreover, unlike many postcolonial societies where there was relatively little effort to undo the legal institutions bequeathed from colonial rule,<sup>338</sup> the DPRK strongly denounced the laws introduced in Korea by Japan for having served as an instrument of colonial domination and exploitation.<sup>339</sup> According to a North Korean legal scholar, a decree of the North Korean Bureau of Justice (북조선사법국) promulgated on November 16, 1945 “nullified all criminal and other laws which were employed during the imperialist Japanese occupation.”<sup>340</sup> It was natural for the DPRK to refuse to maintain the laws and a legal structure established during the colonial period, although a substantial portion of them remained intact long after the liberation of the South in 1945.<sup>341</sup> In fact, contrary to what the DPRK legal

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<sup>337</sup> Hee Bong Lee, *supra* note 336, at 342.

<sup>338</sup> Marie Seong-Hak Kim, *supra* note 336, at 129.

<sup>339</sup> The confrontations between the Soviet and Western blocs (including Japan) also likely exacerbated the DPRK’s animosity towards Japan.

<sup>340</sup> THE DEVELOPMENT OF LAWS IN NORTH KOREA (1960), *supra* note 81, at 33. Although this decree confirmed that many Japanese laws were abolished in tandem with North Korea’s liberation in August 1945, its actual expression was somewhat different from what the DPRK legal scholar asserted. The decree was as follows: (On Implementation of Laws in North Korea (北朝鮮에 시행할法令에 관한 件)) (Decree No. 2, November 16, 1945) “Among the laws that already lost effect on August 10, 1945, with the exception of those that do not correspond to the construction of a new state, the national sentiment of Korea, or sound reasoning, the rest remain in force until new laws are promulgated.”

<sup>341</sup> Japanese penal code continued to apply to the ROK, until October 3, 1953 when the first ROK penal code entered into force, according to the law of the U.S. Army Military Government in Korea (1945–1948) and Article 100 in Miscellaneous Clause of the First ROK constitution that was enacted in 1948. Since 1953, although many of its specifics have changed, the general framework of the ROK penal code has largely been based on that of Japanese penal code, which was criticized by the DPRK in that the ROK did not abandon the tool that Japanese Imperialists used to oppress Korean people. See RAK-KYU HAN (한락규), *The Development of Criminal Legislation in the DPRK*

scholars have maintained, it appears that Japanese penal code also continued to apply in the DPRK until the first penal code was enacted on March 3, 1950.<sup>342</sup>

### 3.2. PROVISIONS ON ECONOMIC CRIMES IN THE DPRK PENAL CODE DURING THE KIM IL-SUNG ERA (1945–1994)

Development of the DPRK penal code during the reign of Kim Il-Sung—including the enactment of the code in 1950 and its amendments in 1974 and 1987—is marked by the influence of the RSFSR penal code, which was initially dominant due to transplantation, but gradually waned. In the 1974 amendment, the provisions on economic crimes underwent significant changes, reflecting the completion of the DPRK economy's transformation into a socialist economy.

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(공화국 형사 립법의 발전), in THE DEVELOPMENT OF LAWS IN NORTH KOREA 225, 227–228 (1960) (in Korean). Nevertheless, some legal experts in the ROK made efforts not to just imitate Japanese penal code in drafting the first ROK penal code, as early as before the establishment of the ROK in 1948. For example, they also referred to the penal codes of China, France, Italy, Germany, Switzerland, and India. In-Sup Han, *Drafting the First Korean Criminal Code - Kim Pyong Ro's Contributions*, 55 SEOUL L. J., no. 4, Dec. 2014, at 313, 329–332 (in Korean: Abstract in English).

<sup>342</sup> In addition to the decree on implementation of laws made on November 16, 1945, other evidence suggests that the Japanese penal code—at least partly—remained in force for some time after the decree was made: Article 20 of Resolution No. 3-2 of the Interim People's Committee on March 6, 1946, titled “The Basic Principles of Organization and Task of the Bureau of Justice, Court, and Procuracy of the Interim People's Committee (臨時人民委員會司法局·裁判所·檢察所의 構成과 職務에 關한 基本原則),” provided that “a judge must deliver a judgment with democratic values and in the interest of Korean people when the judge provisionally refers to civil or criminal laws of Japan.”

### 3.2.1. The 1950 Penal Code: Heavy Influence of the Soviet Penal Code

#### 3.2.1.1. Overview of the 1950 Penal Code

The first DPRK penal code was enacted on March 3, 1950. It comprised 23 chapters containing 301 provisions. The General Part and Special Part of the code contained the first 12 chapters and the remaining 11 chapters, respectively.<sup>343</sup> Before the first penal code was enacted, many laws and decrees were promulgated in the DPRK (or North Korea, as the DPRK was not established until September 1948) to punish crimes besides the aforementioned laws on land reform and laborers and office workers.<sup>344</sup> Examples of laws and decrees regarding economic crimes are A Decision on Livestock Thieves (축우절도범에 관한 결정서),<sup>345</sup> Law on Temporary Measures for Handling Fertilizer (비료취급임시조치법),<sup>346</sup> Law on the Protection of Property of State, Social Organizations, and Consumer Unions in North Korea (북조선의 국가사회단체, 소비조합 재산보호에 관한 법령),<sup>347</sup> An Order on Food Control (식량단속포고),<sup>348</sup> and On Punishment of Counterfeiting Bills or

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<sup>343</sup> See Appendix 2.

<sup>344</sup> Ji-Yun JUN (전지연), *A Study on the DPRK Penal Code* (북한의 형법이론에 대한 연구), 6 YONSEI L. J. (연세대 학교 법학연구), no. 2, 1999, at 133, 136 (in Korean).

<sup>345</sup> Enacted on March 25, 1946.

<sup>346</sup> Enacted on September 26, 1946.

<sup>347</sup> Enacted on December 26, 1946.

<sup>348</sup> Enacted on November 8, 1946. This order was aimed at prohibiting the outflow of food to address food shortage in North Korea.

Using Counterfeit Bills of the DPRK Central Bank (북조선중앙은행권을 위조 또는 그 위폐를 사용함에 대한 처벌에 관하여).<sup>349</sup>

Even before the DPRK was established, a committee was organized in North Korea to draft a penal code, a criminal procedure law, a civil code, and a civil procedure law.<sup>350</sup> It appears that a draft penal code was prepared by the beginning of March 1948, at least two years before the penal code was enacted.<sup>351</sup> The draft penal code consisted of the General Part including 12 chapters containing 53 provisions and the Special Part including nine chapters containing 168 provisions.<sup>352</sup> The draft code seems to have been hastily prepared because it contained some provisions resembling those in the RSFSR penal code that were virtually meaningless in local contexts. For example, a chapter on crimes of violation of the principle of separation of religion and state, modeled after the RSFSR code,<sup>353</sup> was included in the draft code,<sup>354</sup> but appears strange in the Korean context because this had been a nonissue for at least centuries in Korean history. Like

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<sup>349</sup> Enacted on July 9, 1949.

<sup>350</sup> Koo-Chin Kang (강구진) (1973), *supra* note 60, at 4.

<sup>351</sup> *Id.*

<sup>352</sup> See Appendix 2.

<sup>353</sup> Chapter IV. Violation of Regulations on the Separation of Church and State (Articles 122–127). See Appendix 2-1 for more details.

<sup>354</sup> Chapter 9. Crimes of Violation of the Principle of the Separation of Religion and State (Articles 217–221). See Appendix 4. All articles in the chapter were substantially similar to the provisions in the corresponding chapter in the 1926 RSFSR code as of late 1949.

the draft penal code, the first penal code of the DPRK was heavily influenced by the RSFSR penal code, and DPRK legal scholars openly acknowledged it.<sup>355</sup>

The penal code of the DPRK ... was enacted utilizing the experiences and theories of the advanced USSR, with its basis in the principles of democracy, to be most compatible with the interest and will of the people and national development.<sup>356</sup>

The seemingly hasty legislation of the 1950 DPRK penal code<sup>357</sup>—based on the transplantation of its RSFSR counterpart—was not without problems. A notable example of the strong Soviet influence at that time is Article 101 of the 1950 penal code, according to which “propaganda or agitation aimed at arousing ethnic or religious hatred or dissension and the dissemination, preparation, and storage of such literature” will be punished “by imprisonment for not more than two years.” This is almost a copy of a provision of the 1926 RSFSR penal code<sup>358</sup> and, again, seems very odd in the Korean context not only because it mentions religious struggles but because Koreans have

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<sup>355</sup> Jae-Bong Kim (김재봉), *Contents and Features of Accomplice Provisions in North Korean Criminal Law* (북한형법상 공범규정의 체계 및 특징), *DONG-A L. REV.* (동아법학), no. 66, Feb. 2015, at 137, 140–141 (in Korean: Abstract in English).

<sup>356</sup> MINJOK BOWISOŒG MUNHWA HULLYOŒNGUK, *supra* note 10, at 1–2.

<sup>357</sup> It is questionable how much legal scholars in the DPRK, who were few in number at that time, were involved in the legislative process of the 1950 penal code. For example, a prominent DPRK criminal law scholar continues to speculate about the legislative intent in his commentary on the Special Part of the 1950 penal code published in 1955—only five years after the code was enacted. He continues to wonder why some provisions were inserted in this chapter and not in another chapter. It is strange given the extremely small size of academia in the DPRK at that time, although it is possible that some academics participated in the process of enacting the penal code, but were killed or were taken to or voluntarily moved to the ROK during the Korean War. *See generally* RAK-KYU HAN (1955), *supra* note 21.

<sup>358</sup> Article 59-7.

The carrying on of propaganda or agitation designed to arouse national or religious enmity or discord, or the dissemination, preparation, or possession of literature of such a character, shall be sentenced to confinement for not more than two years.

traditionally considered themselves as one single ethnic group.<sup>359</sup> As such, a South Korean scholar even claimed that the 1950 DPRK penal code was almost the Korean language translation of the RSFSR penal code,<sup>360</sup> although another South Korean legal scholar argued that would be an exaggeration because the 1950 DPRK penal code also contained provisions that were distinct from those in the RSFSR penal code.<sup>361</sup>

The 1950 DPRK penal code prescribed heavy punishment for crimes against State interests—both economic and non-economic. The maximum punishment for crimes against State property or the State was much heavier than the maximum sentence for other crimes, although the difference was smaller among economic crimes. Specifically, 11.1% of crimes against State property were punishable by death,<sup>362</sup> while the death

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<sup>359</sup> On the contrary, “more than 90 ethnic groups were indigenous to the territory of the Soviet Union,” according to a census in 1989. Anderson, Barbara A., & Brian D. Silver, *Growth and Diversity of the Population of the Soviet Union*, 510 THE ANNALS OF THE AM. ACADEMY OF POL. AND SOC. SCI., 155, 155 (1990).

<sup>360</sup> Pyong Choon Hahm, *supra* note 59, at 77. This suggests that the DPRK legislated its penal code before it had been adapted sufficiently to local circumstances. Why did the DPRK enact the penal code hastily? Koo-Chin Kang attributed this partly to the competition between the DPRK and the ROK in the process of building a new country, including legislation. He speculated that this was because the DPRK aspired to legislate its penal code and criminal procedure law before the ROK could (the ROK enacted its first penal code in October 1953) because the DPRK lagged behind the ROK by 24 days in promulgating its first constitution in 1948. PŎBWŎN HAENGJŎNGCH’Ŏ (법원행정처: National Court Administration of the ROK), PUKHAN ŬI HYŎNGSAPŎP (북한의 형사법: CRIMINAL LAW IN NORTH KOREA) 56 (2006) (citing KOO-CHIN KANG, A STUDY ON THE DPRK LAWS (북한법의 연구) 170 (1975) (in Korean)) (in Korean). Another possible reason would be that the DPRK needed a penal code for the Korean War that it initiated on June 25, 1950, because the regulation of military crimes is necessary in the conduct of war. This speculation is supported by the fact that a chapter on military crimes that was not included in the draft penal code until late 1949 was suddenly added to the 1950 penal code.

<sup>361</sup> Jae-Bong Kim, *supra* note 355, at 141.

<sup>362</sup> Life imprisonment was not provided in the DPRK penal code before 2004.

penalty was prescribed for only 3.6% of other economic crimes.<sup>363</sup> Regarding crimes not punishable by death, the average maximum sentence was 9.7 years for crimes against State property and 3.1 years for other economic crimes.<sup>364</sup>

Albeit less than in the case of the DPRK constitution,<sup>365</sup> many distinctive features and much of the structure of the current DPRK penal code have their origins in the 1950 penal code. One of the most notable features of the 1950 penal code that remain intact today is the distinction between crimes against State property and private property and much heavier punishment for the former.<sup>366</sup>

#### 3.2.1.2. Provisions on Economic Crimes

As seen in the table below, evidence of the Soviet influence on the 1950 DPRK penal code was visible among the provisions on economic crimes.

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<sup>363</sup> See Appendix 6-1. In contrast, 55.6% of crimes against the State and 7.6% of other non-economic crimes were punishable by death.

<sup>364</sup> See Appendix 7. The average maximum sentence was 20 years for crimes against the State and 3.1 years for other non-economic crimes.

<sup>365</sup> Dae-Kyu Yoon, *supra* note 82, at 1292.

<sup>366</sup> Many other special characteristics of the DPRK penal code remained for decades. For example, Article 9 of the 1950 DPRK penal code provided that “If a given criminal offense is not directly provided for in this code, the basis and limit of punishment, therefore, shall be determined in accordance with the articles of the code that provide for the offenses most comparable to it in importance and kind.” This provision on analogy was retained for decades, with only minor changes made to it, until it was abrogated in the 2004 amendment to the penal code.

Table 4. Provisions on Economic Crimes in the 1950 DPRK Penal Code <sup>367</sup> (Those corresponding to the provisions in the then RSFSR penal code are in bold)<sup>368</sup>

Chapter	Article	
15. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations	<p><b>103 (Stealing of State Property or the Property of Social or Cooperative Organizations, Committed by Secret Taking)</b></p> <p>104 (Stealing of State Property or the Property of Social or Cooperative Organizations, Committed by Open Taking)</p> <p><b>105 (Stealing of State Property or the Property of Social or Cooperative Organizations, Committed by Embezzlement or by Abuse of Official Position)</b></p> <p><b>106 (Stealing of State Property or the Property of Social or Cooperative Organizations on a Particularly Large Scale)</b></p>	<p><b>107 (Stealing of State Property or the Property of Public Organizations, Committed through Sweetheart Contract)</b></p> <p><b>108 (False Pretenses)</b></p> <p><b>109 (Intentional Destruction or Damage of State Property or the Property of Social or Cooperative Organizations)</b></p> <p>110 (Abusing and Damaging Leased State Property or the Property of Public Organization)</p> <p><b>111 (Criminally Careless Use or Maintenance of Agricultural Equipment)</b></p>
17. Crimes of Encroaching on the Private Property of Citizens	<p><b>147 (Stealing of Private Property, Committed by Secret Taking)</b></p> <p>148 (Stealing of Private Property on a Large Scale)</p> <p><b>149 (Stealing of Private Property, Committed by Open Taking)</b></p> <p><b>150 (Robbery of Private Property)</b></p> <p><b>151 (Stealing a Large Quantity of Livestock)</b></p> <p>152 (Stealing a Small Quantity of Livestock)</p> <p><b>153 (Stealing Guns and Ammunition)</b></p>	<p><b>158 (False Pretenses)</b></p> <p><b>159 (Extortion)</b></p> <p><b>160 (Fraudulent Issuance or Passing of a Check)</b></p> <p>161 (Fraudulent Bankruptcy)</p> <p><b>162 (Usury)</b></p> <p><b>163 (Alteration of Goods and Sale of Altered Goods)</b></p> <p><b>164 (Intentional Destruction or Damaging of Private Property of Citizens)</b></p> <p><b>165 (Failure to Render Aid Upon Collision of Vessel or Failure to Communicate Name of Vessel)</b></p>

<sup>367</sup> The titles of 48 out of 64 articles on economic crimes in the 1950 DPRK penal code are borrowed (and modified) from the titles in the 1949 DPRK draft penal code included in JONGCHI BOWIGUK SIMSABU (정치보위국심사부: Investigation Department, Political Security Bureau), A NOTE FOR LECTURE ON CRIMINAL LAW (형법제강) (1949) (in Korean). The Special Part of the 1949 draft penal code was substantially similar to that of the 1950 DPRK penal code, in which no article had a title. Other titles are my own creation.

<sup>368</sup> See Appendix 4.

	<p>154 (Stealing, Committed through Causing Loss of Consciousness)</p> <p><b>155 (Embezzlement of Private Property)</b></p> <p>156 (Embezzlement of the Property Entrusted by the Authorities)</p> <p><b>157 (Misappropriation of Lost Property)</b></p>	<p><b>166 (Infringement of Copyright and Inventors' Right)</b></p> <p><b>167 (Trademark Infringement)</b></p>
18. Crimes Involving Violation of Labor Laws	<p><b>168 (Violation of Laws on Labor and Social Insurance)</b></p> <p><b>169 (Causing Incapacity for Work Due to Violation of Rules for Protection of Workers)</b></p> <p><b>170 (Violation of Local Regulations on Protection of Workers, Safety Measures, and Industrial Sanitation)</b></p> <p><b>171 (Refusal to Employ or Reduction in Wages of Women Due to Pregnancy)</b></p>	<p><b>172 (Violation of Rules for Mining Safety)</b></p> <p><b>173 (Violation of Rules of Safety in Factories Where There Is Danger of Explosion)</b></p> <p>174 (Refusal to Work)</p> <p><b>175 (Violation of Labor Collective Agreements)</b></p> <p><b>176 (Obstruction of Labor Union Activities)</b></p> <p>177 (Assigning Work to Minors)</p>
20. Economic Crimes	<p><b>194 (Careless Management of State or Public Organizations or Enterprises)</b></p> <p><b>195 (Failure to Perform Contractual Duties)</b></p> <p><b>196 (Private Entrepreneurial Activity)</b></p> <p><b>197 (Malicious Evasion of Compulsory Labor)</b></p> <p><b>198 (Illegal Purchase or Sale of Land)</b></p> <p><b>199 (Unwarranted Making of Alcoholic Beverages for Sale)</b></p> <p><b>200 (Production of Poor-Quality, Nonstandard, or Incomplete Products)</b></p> <p><b>201 (Issuance for Sale of Poor-Quality, Nonstandard, and Incomplete Goods)</b></p> <p><b>202 (Use of False Weights and Measures)</b></p> <p><b>203 (Violation of Rules on Construction, Sanitation, and Fire Prevention When</b></p>	<p>205 (Destruction of Property for Insurance Fraud)</p> <p>206 (Violation of State Monopoly Regulations)</p> <p>207 (Violation of Indirect or Business Tax Regulations)</p> <p><b>208 (Making, Keeping, Purchase, or Sale of Prohibited or Restricted Materials)</b></p> <p><b>209 (Illegal Making, Keeping, or Sale of Narcotics)</b></p> <p><b>210 (Illegal Cultivation of Opium Poppies)</b></p> <p><b>211 (Engaging in a Prohibited Trade)</b></p> <p><b>212 (Illegally Engaging in Fishing and Other Water-Extractive Trades)</b></p> <p><b>213 (Tax Evasion)</b></p> <p>214 (Evasion of Grain Appropriation as Tax in Kind)</p> <p><b>215 (Concealing Property or False Report for Tax Evasion)</b></p> <p><b>216 (Concealing Inherited or Donated Property for Tax Evasion)</b></p>

	<p><b>Carrying on Construction Work)</b> 204 (Illegal Trade, Exchange, Delivery, or Acquisition of Facilities and Supplies)</p>	<p><b>217 (Illegal Felling of Timber)</b></p>
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### 3.2.1.2.1. Crimes against State Property

As in Articles 103<sup>369</sup> and 104<sup>370</sup>, the 1950 DPRK penal code followed the Soviet way of distinguishing between “secret” and “open” takings, the origin of which was in the tsarist legal tradition.<sup>371</sup> This distinction persists as of July 2015. Open taking—committed in the presence of a person who owns, uses, or manages the property<sup>372</sup> and may or may not accompany physical coercion that does not pose a serious threat to the life and health of

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<sup>369</sup> Article 103.

A private person who secretly steals property from state, public-service, or cooperative establishments, warehouses, freight cars, vessels, and other storage places of public use shall be sentenced to confinement in a prison for not more than three years.

The same act committed for the second time, repeatedly, or in collusion with others, shall be sentenced to imprisonment for not more than five years.

If the person has access to such establishments or warehouses by virtue of his or her official position or is guarding them, he or she shall be sentenced to imprisonment for not more than five years.

The same act committed repeatedly or by an organized group shall be sentenced to imprisonment for not more than eight years.

<sup>370</sup> Article 104.

A private person who openly steals state, public-service, or cooperative property on a large scale shall be sentenced to imprisonment for not more than 10 years and total or partial confiscation of property.

The same act committed for the second time or by an organized group shall be sentenced to imprisonment for not more than 15 years and total or partial confiscation of property.

<sup>371</sup> Thaman (2014), *supra* note 17, at 320.

<sup>372</sup> RAK-KYU HAN (1955), *supra* note 21, at 252.

the person, unlike the coercion that accompanies robbery<sup>373</sup>—has been subject to more severe punishment than secret taking.

More importantly, the distinction between crimes against private and socialist properties in the DPRK penal code was even clearer than in the RSFSR penal code. Although the RSFSR code did not have a separate chapter on crimes against socialist property until it was revised in 1960,<sup>374</sup> the DPRK code established this distinction by stipulating them in Chapter 15, ahead of Chapter 17 on crimes against private property.

The DPRK's strong emphasis on protection of socialist property is confirmed by the following excerpt:

Our penal code stipulates that those who oppose the authority of the state and encroach on state property are the people's enemy, who commit the most serious crime.<sup>375</sup>

Our penal code classifies crimes according to the object of those crimes. Even if a criminal has the same intent or purpose, what matters is not the form of the criminal act but the interest of the state or people encroached on by the crime. In this respect, encroachment on state property and private property are strictly distinguished, even though they are both committed in relation to property. Furthermore, Article 47 of our penal code provides for the most serious conditions of punishment for "crimes aimed at overthrowing the democratic system of the people or for the purpose of

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<sup>373</sup> *Id.* at 252–253.

<sup>374</sup> Before 1960, provisions on those crimes were scattered in different chapters in the RSFSR penal code. Article 116 (Embezzlement) was in Chapter 3. Breach of Official Duty (Malfeasance); Articles 162 (Larceny) and 169 (Fraud) were in Chapter 7. Crimes against Property; 129 (Plundering of State or Public Property) was in Chapter 5. Economic Crimes; Articles 79 (Intentional Destruction or Damage of Property) and 79-2 (Damaging or Breaking Tractors or Agricultural Machinery Belonging to Sovkhozses, Machine-Tractor Stations, or Kolkhozses) were in Chapter 2. Other Crimes against Public Administration.

<sup>375</sup> MINJOK BOWISOŔNG MUNHWA HULLYOŔNGUK, *supra* note 10, at 6.

establishing imperialist rule and a landlord capitalist regime.” Based on this, the Special Part of our penal code provides for severe punishment for reactionary and treasonous acts, encroachment on state property, and illegal acts of public officials.<sup>376</sup>

Because the sovereignty of the state is in the hands of the people, and important industries, railroads, and banks are owned by the state in our country, it is very clear that strict penalties should be applied to reactionary and treasonous acts that weaken the sovereignty of the people, encroachment on state property that violates the economic foundation of our nation, and illegal acts of public officials who have to serve in the interests of the people because they are the most severe social risks ...<sup>377</sup>

What kind of conduct was punished as a crime against state property in reality? It appears that the provisions on crimes against state property in the DPRK penal code were primarily used in the 1950s to punish petty economic offenses rather than crimes intended to directly harm the State’s interests, as was the case in the USSR during the Stalin era.<sup>378</sup> This suggests that the DPRK regime utilized these provisions to make scapegoats for extreme shortage of materials and resulting low production resulting from the Korean War, as seen in the excerpt below:

The Great Fatherland Liberation War<sup>379</sup>, which was provoked by American imperialists shortly after the penal code came into force, required the maximum protection of state property ... In the face of destruction of industrial and

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<sup>376</sup> *Id.* at 7.

<sup>377</sup> *Id.*

<sup>378</sup> See the part discussing the developments of economy-related laws before the 1974 amendment to the penal code in Chapter 2.

<sup>379</sup> This is what the Korean War has been referred to as in the DPRK. The DPRK government still maintains that the Korean War was provoked by the United States, although there is evidence that Kim Il-Sung planned and promoted the war. See PAUL M. EDWARDS, *THE KOREAN WAR*, 4, 6 (2006).

transportation facilities by our enemies, shrunken commodity exchanges, reduced revenue from state enterprises, and increased expenditures, rigorously reducing expenditures and eliminating unnecessary expenditures became one of the most important conditions to ensure victory in the war. Therefore, it was all the more necessary to struggle with criminal behaviors that are carried out—by those who failed to overcome difficult situations, disregarded laws, and wasted national funds, food, and medicines—in the form of giving banquets, gifts, free meals, and advance payments. Hence, Comrade Kim Il-Sung ... sternly instructed the following: “In particular, some of the personnel in our regime failed to overcome their difficulties and have become ideologically corrupt to work with profiteers in concert to start a business, to steal and sell state goods, to hold banquets with state property to flatter one’s superiors, to buy gifts for individuals with state property, and to waste state property for useless office supplies and facilities. ... We cannot stand this phenomenon for one minute or one second. Fighting breaches of fiscal discipline and waste of state property should be recognized as a critical battle against all Japanese imperialists’ ideological remnants and capitalist influences.”

#### 3.2.1.2.2. Crimes against Private Property

Although socialist property was clearly prioritized over private property in the 1950 DPRK penal code, private property—belonging to individuals as well as small and medium-sized businesses—was under constitutional protection, as mentioned in Chapter 2, and still accounted for a considerable portion of the DPRK economy until the penal code was enacted.<sup>380</sup> Therefore, it is no wonder that the chapter on crimes of encroaching on private property contained many provisions and preceded—that is, was accorded

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<sup>380</sup> Article 8 of the 1948 DPRK constitution.

greater importance than—the chapters on non-property economic crimes.<sup>381</sup> Crimes of encroaching on private property were considered to also have political implications:

All kinds of encroachment on private property ... violates the rules of democratic communal life. In particular, it is all the more dangerous in our country because conditions are set for refraining from encroaching private property. To put it differently, it is unbearable to steal fruits of the labor of other citizens who are striving for the restoration and construction of the people's economy, in spite of all the possibilities for a glorious, constructive working life. In this sense, the struggle with those who violate the private property of citizens is of great political significance.<sup>382</sup>

One thing to note is that criminal fraud<sup>383</sup> was very broadly interpreted at that time in the DPRK. Emphasis was placed on the differences between the capitalist and socialist economies, making it difficult to distinguish criminal fraud from civil fraud:

Bourgeois lawyers do not consider it a criminal fraud but a civil fraud to simply take advantage of the other party's ignorance or misunderstanding and to use his knowledge in an unjust way. ... In their opinion, knowledge is a capital that they have earned at a tremendous cost and, thus, they have no legal obligation to hand it over to anyone.

But we must broadly define the concept of criminal fraud. We must assume that in conclusion of an economic contract, it is always mandatory to let the other party

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<sup>381</sup> RAK-KYU HAN (1955), *supra* note 21, at 244–245.

<sup>382</sup> *Id.* at 244.

<sup>383</sup> Article 158.

A person who fraudulently obtains property or the rights thereto by maliciously abusing confidence or employing deception shall be sentenced to imprisonment for not more than two years or by correctional labor for not more than one year.

know a fact if the party would not have entered into the contract with knowledge of the fact. Failure to do so will constitute a criminal fraud as well as a civil fraud.<sup>384</sup>

Also noteworthy is that private finance was not prohibited when the 1950 penal code was enacted and the provision punishing usury was applied by analogy to similar crimes:

The KWP and DPRK government have always given special consideration to the living conditions of the working people, ensuring that their lives are not threatened by profiteering scoundrels, speculators, or usurers. Measures have been taken ... including Cabinet decision No. 188 of November 1952 that mandated the borrowing of high interest loans to be returned at no interest ... Our law allows the acquisition of interest arising from contracts between individual citizens to the extent that it does not exceed the statutory interest rate. However, it constitutes a crime of usury to receive interest beyond the statutory rate ... During the Great Fatherland Liberation War, the American imperialists launched indiscriminate, barbaric bombing of peaceful people's homes. As a result, after the war, people suffered from an extremely high shortage of housing and, by using this opportunity, some speculators skillfully rented the surviving state-owned buildings, minimally repaired and rented them, and reaped high rents. We cannot tolerate these bad people, and we will have to analogically apply Article 162 of the penal code to them. In addition, if there is a person who receives high profits in exchange for lending grains to others who are suffering from natural disasters in a rural area or other problems, Article 162 of the penal code must be applied.<sup>385</sup>

Interestingly, it was claimed that the DPRK penal code accepted international norms in Article 165 concerning the crime of violating a ship captain's duty to save another

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<sup>384</sup> RAK-KYU HAN (1955), *supra* note 21, at 265. Such an explanation is absent in the criminal law textbook published in 1987, perhaps because the DPRK's socialist economy was "completed" and, thus, a contract between private parties—at least officially—could not exist.

<sup>385</sup> RAK-KYU HAN (1955), *supra* note 21, at 269–270.

vessel,<sup>386</sup> although this provision was manifestly modeled after Article 175 of the then RSFSR penal code<sup>387</sup>:

... attention should be paid to Article 165. Similar provisions are also found in the penal codes of other countries, which stems from the introduction of the 1910 Brussels Convention (on Assistance and Salvage at Sea) into the penal code that is a domestic law. The DPRK penal code came to have this special provision in respect of the objective of such an international convention.<sup>388</sup>

Article 165 is another example of overcriminalization in the DPRK (and RSFSR) because the basic, traditional principle of salvage asserts that if a salvor voluntarily undertakes saving maritime property in danger at sea and succeeds, the salvor is entitled to a reward. In other words, it is universally accepted that salvage is essentially a civil matter—a monetary incentive system—and, thus, has nothing to do with a penal sanction.

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<sup>386</sup> Article 165.

Failure of the captain of any vessel involved in a collision at sea to take the necessary measures to save the other vessel, insofar as such measures could have been taken without seriously endangering his own passengers, crew, and vessel, shall be sentenced to corrective labor for not more than one year or a fine not more than 1,500 won.

<sup>387</sup> Article 176.

Failure of the captain of any vessel involved in a collision at sea to take the necessary measures to save the other vessel insofar as such measures could have been taken without seriously endangering his own passengers, crew, and vessel, apart from any liability to prosecution for failure to assist the crew and passengers of the wrecked vessel incurred under Article 156-1, shall be sentenced to confinement or corrective labor for not more than one year or a fine not more than 500 rubles. This article was added on June 25, 1929.

<sup>388</sup> RAK-KYU HAN (1955), *supra* note 21, at 279. Despite such a claim, the DPRK never became a party to this treaty, which remains in force in more than 70 states (the USSR signed the treaty on August 27, 1936 but did not ratify it). Nor has it become a party to the 1989 International Convention on Salvage, which replaced the 1910 Brussels Convention and has been ratified by 72 states as of September 24, 2019. International Maritime Organization, *Status of Conventions*, <http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx> (last visited Oct. 2, 2019).

Lastly, the provision on infringement of inventor's rights and copyright<sup>389</sup>, which would undergo a substantial change in the 1974 penal code, must be noted. It was included in the chapter on crimes of encroaching on private property in the 1950 DPRK penal code but the conduct was also considered a crime of encroaching on State interests.<sup>390</sup> Characteristics of a socialist perspective on intellectual property can be seen in the following excerpt:

In a capitalist country, inventors, writers, painters, and musicians become slaves to businesses, magazines, newspapers, films, and publications controlled by major financial capitalists. Remuneration for inventions and works is defined at the will of entrepreneurs ... The capitalist system is choking off all kinds of technological inventions that could be available to the wider public ... Hundreds, thousands of patents and technical improvements are bought by trusts, stored in safes, and excluded from production. Everything invented in a capitalist firm is considered to belong to the firm without question, and a person who has made an invention or technical improvement is, only in exceptional cases, recognized as an inventor, pitifully taking only scanty residues.<sup>391</sup>

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<sup>389</sup> Article 166.

A person who publicizes an invention without the inventor's permission or who willfully exploits literary, musical, or other artistic or scientific works in violation of the law governing the rights of authors shall be sentenced to correctional labor for not more than one year or by a fine not more than 2,000 won. Although only the conduct of "publicizing without permission" was stipulated in this provision, the phrase was interpreted more extensively to include piracy of invention and pretending to be the inventor. RAK-KYU HAN (1955), *supra* note 21, at 282. This perspective was reflected in the 1974 penal code, where the provision was moved to the chapter on crimes of impairing the socialist culture and amended as "A person who deliberately makes a wrong assessment of or ignores writing, inventions, technical innovations, and works of art and literature out of greed, jealousy, or other false motives, or who publishes another person's work under his or her own name, shall be committed to a reform institution for up to three years."

<sup>390</sup> RAK-KYU HAN (1955), *supra* note 21, at 281–282.

<sup>391</sup> *Id.* at 280–281.

In our country, workers and engineers consider it their duty to contribute to the post-war recovery and development of the people's economy through creation, technological improvement, cost reduction, and business method improvement. In the DPRK, inventions and improvements are encouraged not by any greedy aspirations but by noble patriotism and new socialist consciousness.<sup>392</sup>

Unlike the provision on infringement of inventor's rights and copyright, the provision on infringement of trademark was rarely used due to the shrinkage of private economy and was given less importance as early as the mid-1950s:

It is clear that this provision was inserted to promote exercise of personal creativity in industrial and commercial activities in view of where it was stipulated—that is, in the context of its inclusion in the chapter on encroachment on the property of individual citizens ... Today, however, the rapid development of state-owned enterprises and the extensive, voluntary organization of cooperative groups by citizens in the fields of production and sales have dramatically reduced the scope of private enterprises to be protected by this provision. Thus, the provision almost lost its significance.<sup>393</sup>

### 3.2.1.2.3. Crimes Involving Violation of Labor Laws

The provisions on labor crimes in the 1950 DPRK penal code are divided into two groups. One group encompasses the protection of labor: Articles 168 (Violation of Laws on Labor and Social Insurance)<sup>394</sup>, 169 (Causing Incapacity for Work Due to Violation of

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<sup>392</sup> *Id.* at 281.

<sup>393</sup> *Id.* at 283.

<sup>394</sup> Article 168.

Violation by a responsible official in a state or public institution or enterprise, or a private employer, of laws and decrees governing work days, rest, authorized vacation, or any other labor relations, and of laws and decrees regulating the protection of labor or social insurance, shall be sentenced to correctional labor for not more than one year or by a fine not more than 5,000 won.

Rules for Protection of Workers),<sup>395</sup> 170 (Violation of Local Regulations on Protection of Workers, Safety Measures, and Industrial Sanitation),<sup>396</sup> 171 (Refusal to Employ or a Reduction in Wages of Women Due to Pregnancy),<sup>397</sup> 177 (Assigning Work to Minors),<sup>398</sup> 175 (Violation of Labor Collective Agreements),<sup>399</sup> 176 (Obstruction of Labor Union Activities),<sup>400</sup> and 172 (Violation of Rules for Mining Safety).<sup>401</sup> It is difficult to find differences between these provisions and their counterparts in capitalist economies.

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<sup>395</sup> Article 169.

The same violations as specified by the preceding Article of the present Code that result, or might have resulted, in loss of the capacity of a laborer or office worker to work shall be sentenced to imprisonment for not more than three years or by correctional labor for not more than one year.

<sup>396</sup> Article 170.

A person who violates the rules of safety devices, industrial sanitation, or other rules for the protection of labor, as established by local organs of government in the form of decision, or by the decrees and instructions of the Ministry of Labor, shall be sentenced to imprisonment for not more than three years.

<sup>397</sup> Article 171.

A person who refuses to employ a woman or reduces her wages because of her pregnancy shall be sentenced to correctional labor for not more than one year or by a fine not more than 2,000 won. The same actions committed repeatedly shall be sentenced to imprisonment for not more than two years.

<sup>398</sup> Article 177.

A person who violates a regulation prohibiting the employment of minors up to 14 years of age shall be punished in accordance with one of the following:

- (1) If such action is committed for the first time: by a fine not more than 1,000 won;
- (2) If such action is committed for the second time: by a fine not more than 3,000 won;
- (3) If such action is committed no less than three times: by correctional labor for not more than one year.

<sup>399</sup> Article 175.

An employer who deliberately violates a collective bargaining contract concluded by him with a trade union or a wage scale agreement shall be sentenced to correctional labor for not more than one year or a fine not more than 10,000 won.

<sup>400</sup> Article 176.

A person who obstructs the lawful activity of trade unions shall be sentenced to imprisonment for not more than two years or by correctional labor for not more than one year.

<sup>401</sup> Article 172.

The other group of provisions—on labor disciplines—in this chapter, however, manifests special characteristics of a socialist economy, such as strong control and order with harsh punishments even for minor infractions. The following excerpt is illustrative of the rationale behind such provisions:

... in our country ... organization of social labor has resulted in a fundamental distinction from those in capitalist societies. In organizing social labor in our country, the issue of labor discipline is organically connected with the business of strengthening the sense of moral and political responsibility of the entire people to increase productivity, improve the material and cultural life standards of the people, promote the unification and independence of the country ... Lenin's teaching that cultivation of socialist labor discipline is a task with many difficulties and is a long-term business applies in our country as well ... More than a few works remain untrained by proletarian class consciousness, undisciplined, unorganized, and do not exactly recognize their current position as masters of the State. Thus we ... stipulated criminal responsibilities for those who viciously violate labor discipline and those who disrupt production.<sup>402</sup>

Article 173 (Violation of Rules of Safety in Factories Where There Is Danger of Explosion)<sup>403</sup> imposed harsh punishment for smoking in any place where explosion “could”

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A person who violates the laws and decrees regulating the protection of labor in the mining industry shall be sentenced to confinement in a prison for not more than three years or by correctional labor for not more than one year.

<sup>402</sup> RAK-KYU HAN (1955), *supra* note 21, at 284–285.

<sup>403</sup> Article 173.

A person who violates rules of technical safety, industrial and technical discipline, or other work rules for the safety of production, if such violation could result in an accident, or a person who smokes, sleeps, or gets drunk while at work in a plant manufacturing explosives, shall be sentenced to imprisonment for not more than three years. The same actions resulting in an explosion or fire shall be sentenced to imprisonment for not less than three years.

Violation of rules of technical safety or other work rules by a person responsible for duly established industrial and technical discipline shall be sentenced to imprisonment for not more than five years.

occur and sleeping or getting drunk in any place where an accident could occur,<sup>404</sup> which would generally result in not more than civil or administrative liability in non-socialist countries.

It is even more difficult to find in the penal codes of non-socialist countries an equivalent of Article 174 (Refusal to Work)<sup>405406</sup>, which forced educated people to work, although similar provisions punishing “parasitism” can be found in the RSFSR penal

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The same actions specified in the preceding section, if they result in an explosion or fire, shall be sentenced to imprisonment for not less than five years.

<sup>404</sup> Although Article 173 specified “factory,” this provision was more broadly interpreted as punishing smoking, sleeping, and getting drunk in many other places. RAK-KYU HAN (1955), *supra* note 21, at 293.

<sup>405</sup> Article 174.

The refusal, without valid reasons, of a graduate from an educational institution to work in spite of his duty to work shall be sentenced to imprisonment for not more than two years or by correctional labor for not more than one year.

<sup>406</sup> This provision suggests that some educated people resisted the decisions of authorities to place them in workplaces regardless of their preferences in the early history of the DPRK—before the 1950 penal code was enacted. In any case, it is interesting that this provision appears to be a novel creation—not corresponding to any provisions in the RSFSR penal code at the time—and a similar provision was introduced about 20 years later in the revised RSFSR penal code. However, it is not very likely that RSFSR lawmakers and legal researchers referred to the 1950 DPRK penal code, as the “core” countries did not feel the need to look to laws of “peripheral” countries for legal models. Dae Un Hong, *Is International Law International?* 35 AUSTL. Y.B. OF INT’L L., 233, 233 (2018) (book review) (discussing the concept of “comparative international law,” coined by Martti Koskenniemi); Holger Spamann, *Contemporary Legal Transplants: Legal Families and the Diffusion of (Corporate) Law*, 6 BYU. L. REV., at 1813, 1876 (2009).

code<sup>407</sup> and Cuban penal code.<sup>408</sup> In addition to Article 174, on August 31, 1953—about one month after the Korean War ceased on July 27—the DPRK issued a decree titled “On the Prohibition of Corporate and Institutional Workers and Office Workers from Leaving the Workplace” (기업소 및 기관 노동자, 사무원들이 임의로 직장을 리탈하는 행위를 금지함에 관하여). This decree, seemingly modeled after an edict that Stalin issued on June 26, 1940,<sup>409</sup> provided that “A person who has arbitrarily left the workplace shall be sentenced to correctional labor for not less than six months and not more than one year.” Moreover, Kim Il-Sung strongly fought against labor mobility to restore the post-war people’s economy by saying, “compromising with labor mobility today means disrupting our business, eliminating the possibility of implementing production plans, and eliminating the possibility of improving product quality.”<sup>410</sup>

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<sup>407</sup> In 1970, the RSFSR introduced a corresponding provision in its penal code that punished the malicious evasion of abiding by a decision rendered by a local Soviet for the arrangement of work and discontinuance of a parasitic existence (Article 209-1). This provision was repealed in 1975 and incorporated into Article 209, which was revised to punish a “long-term parasitic lifestyle,” defined as keeping one’s existence dependent on “illegal sources, such as prostitution, speculation, gambling, fortune-telling, begging, profits from renting one’s house or car, etc.” Thaman (2014), *supra* note 17, at 319. For more commentary on this provision, see W. E. BUTLER, *SOVIET LAW* 316–317 (2nd ed. 1988).

<sup>408</sup> Thaman (2014), *supra* note 17, at 319.

<sup>409</sup> This edict, which was issued in preparation for war and remained in place until 1956, criminalized common labor infractions including quitting and shirking. Any employee of a state firm who quit a regular job without permission was subject to imprisonment for two-to-four months. *Id.* at 321.

<sup>410</sup> RAK-KYU HAN (1955), *supra* note 21, at 291.

#### 3.2.1.2.4. Other Economic Crimes

Chapter 20 of the 1950 DPRK penal code contained provisions on economic crimes that could not be stipulated in chapters 15, 17, and 18. These provisions were especially emphasized after the Korean War to facilitate rebuilding the war-ravaged economy by addressing the extreme shortage of materials and workers.<sup>411</sup> While some provisions—including those on tax evasion<sup>412</sup>—were more directly related to government revenue, and thereby rebuilding the economy, other provisions were reinterpreted as such and emphasized in the aftermath of the Korean War.<sup>413</sup> Kim Il-Sung reiterated the importance of establishing strict order in the consumption of resources, materials, fuel, electricity, tools, etc. and instructed that “we cannot tolerate the shameful criminal phenomena caused by many workers in the Party, government, and economic sector who neglected to save and cherish valuable equipment.”<sup>414</sup>

Article 194 (Careless Management of State or Public Organizations or Enterprises)<sup>415</sup> is a notable example. Herein, “waste of property of an enterprise or an

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<sup>411</sup> *Id.* at 296.

<sup>412</sup> Articles 207 (Violation of Indirect or Business Tax); 213 (Tax Evasion); 214 (Evasion of Grain Appropriation as Tax in Kind); 215 (Concealing Property or False Report for Tax Evasion); and 216 (Concealing Inherited or Donated Property for Tax Evasion).

<sup>413</sup> “When the Korean War ended in the summer of 1953, the entire Korean peninsula lay in utter ruin. As many as three million Koreans had died, millions more had been displaced, and the economic infrastructures of both North and South Korea had been devastated.” Charles K. Armstrong, *“Fraternal Socialism”: The International Reconstruction of North Korea, 1953–62*, 5 COLD WAR HIST., 161, 161 (2005).

<sup>414</sup> RAK-KYU HAN (1955), *supra* note 21, at 298.

<sup>415</sup> Article 194.

Mismanagement resulting from careless or unconscientious handling of the work entrusted to him on the part of any person who heads a state or social institution or enterprise or on the part of his

institution” means that the property of the enterprise or institution is reduced after the person in charge takes charge of the business.<sup>416</sup> It also includes cases where the property has not been misappropriated but has been reduced despite conscientious efforts to gain profits for the institution,<sup>417</sup> which likely has suppressed creative, risk-taking initiatives by those in charge of the enterprise or institution and fostered a self-preservation attitude.

Articles 200 (Production of Poor-Quality, Nonstandard, or Incomplete Products)<sup>418</sup> is another good example of the criminalization of common labor infractions, as provided in Article 128-a of the RSFSR penal code.<sup>419</sup>

The KWP and our government have paid close attention to the productive outcomes of industrial enterprises and the struggle to improve the quality of the goods they manufacture.

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authorized representative, if waste or irreparable damage to the property of the institution or enterprise results, shall be sentenced to imprisonment for not more than three years or by correctional labor for not more than one year.

<sup>416</sup> RAK-KYU HAN (1955), *supra* note 21, at 299.

<sup>417</sup> *Id.*

<sup>418</sup> Article 200.

A person who manufactures, in a plant, factory, or any other industrial enterprise, products of poor or inferior quality not conforming to the standards set by the state shall be sentenced to imprisonment for not more than five years.

<sup>419</sup> Article 128-a.

For the release of industrial products that are incomplete or of inferior quality, or for the release of products in violation of required standards, directors, chief engineers, and chiefs of technical control divisions of industrial enterprises shall be punished as for anti-state crime tantamount to wrecking by imprisonment for five-to-eight years.

Large-scale or systematic release of inferior quality products by trading enterprises shall be sentenced to confinement for not more than five years or corrective labor work for not more than one year.

In the administration of performing the people's economic plans, there has been a series of cases where the production and distribution of industrial goods has grown and expanded, but the quality of products has deteriorated. This has been a serious obstacle to the recovery and reconstruction of the people's economy, which has meant enormous damage to the interests of workers and farmers as buyers of goods. In this respect, comrade Kim Il-Sung ... sternly pointed out the criminal-carelessness of the heads of enterprises and economic institutions by saying that "our enterprises lack strict management discipline and clear technical process standards for each product ... It results in a huge loss to the country by creating a lot of rejects and poor-quality products, and it is causing huge difficulties in managing the enterprises themselves."<sup>420</sup>

Although Article 200 did not specify the subject of this "crime," it was interpreted as limited to managers of trusts<sup>421</sup> and enterprises and chief engineers and, thus, not applicable to ordinary workers, as provided in Article 128-a of the RSFSR penal code.<sup>422</sup> However, this does not mean that ordinary workers were free from penal sanctions for such conduct. Article 109 (Intentional Destruction or Damage of State Property or the Property of Social or Cooperative Organizations)<sup>423</sup> was still applicable to workers who produced defective products.<sup>424</sup> This crime is consummated when defective goods are produced and, thus, does not require distribution or release of defective goods in the

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<sup>420</sup> RAK-KYU HAN (1955), *supra* note 21, at 304–305.

<sup>421</sup> Trust in the USSR referred to the intermediate level between ministries and enterprises.

<sup>422</sup> RAK-KYU HAN (1955), *supra* note 21, at 306–307.

<sup>423</sup> Article 109.

Deliberate damage of state, public-service, or cooperative property shall be sentenced to imprisonment for not more than three years. The same act, if committed repeatedly or resulting in stopping or suspension of production or causing serious damage to the state, shall be sentenced to imprisonment for not more than eight years and total or partial confiscation of property.

<sup>424</sup> RAK-KYU HAN (1955), *supra* note 21, at 307.

market or elsewhere,<sup>425</sup> which is subject to Article 201 (Issuance for Sale of Poor-Quality, Nonstandard, and Incomplete Goods)<sup>426</sup>.

Interpretation of several other provisions also reflects the shortage of materials in the DPRK at that time. Although most countries have banned illicit production of alcoholic beverages without government authorization primarily due to tax evasion and public safety concerns, during the Korean War, the DPRK paid more attention to significant grain “wasted and lost” in the process of making such beverages than to taxation and public health<sup>427</sup> in the interpretation of Article 199 (Unwarranted Making of Alcoholic Beverages for Sale)<sup>428</sup>. In this respect, the DPRK even prohibited the making of alcoholic beverages of any kind for self-consumption, which had nothing to do with tax evasion or public safety. In the same vein, Articles 212 (Illegally Engaging in Fishing and Other Water-Extractive

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<sup>425</sup> *Id.* at 306.

<sup>426</sup> Article 201.

A person who sells from a trade enterprise goods of poor quality either on a large scale or repeatedly shall be sentenced to imprisonment for not more than three years or by correctional labor for not more than one year.

<sup>427</sup> RAK-KYU HAN (1955), *supra* note 21, at 323–324.

<sup>428</sup> Article 199.

A person who manufactures liquor for the purpose of selling it without appropriate authorization or who manufactures liquor from prohibited raw materials shall be sentenced to imprisonment for not more than two years or by correctional labor for not more than one year or by a fine not more than 5,000 won.

Trades)<sup>429</sup> and 217 (Illegal Felling of Timber)<sup>430</sup> were not aimed at environmental protection but at preserving economic resources.<sup>431</sup>

Some other provisions in this section reveal the transitional state of the DPRK economy before its completion of a socialist economy. For example, Article 196 (Private Entrepreneurial Activity)<sup>432</sup> did not prohibit private business activities per se but, rather, punished abuse of government support for cooperative organizations by false registration.

The KWP and DPRK government ... give special significance to the development of agricultural cooperatives ... the DPRK is providing them with generous guidance and assistance ... There are impure people who are running private enterprises, but disguise them as cooperative organizations for the purpose of taking advantage of

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<sup>429</sup> Article 212.

A person who engages in fishing without appropriate authorization or at prohibited times or in prohibited places or using prohibited methods shall be sentenced to imprisonment for not more than two years or by correctional labor for not more than one year with confiscation of the illegal catch.

If deemed necessary, the implements of catching and the vessel with its appurtenances may be confiscated.

<sup>430</sup> Article 217.

A person who violates the regulations established for the protection of forests shall be sentenced to correctional labor for not more than one year.

A person who fells timber in forbidden areas or without an appropriate permission shall be sentenced to imprisonment for not more than two years and confiscation of the wood cut down. The DPRK enforced additional regulations on forest management that provided penal sanctions for a variety of conducts including unauthorized collection of bark or liquid from trees and grass that had traditionally served as a source of food for those who were starving in rural areas in difficult times in Korea. RAK-KYU HAN (1955), *supra* note 21, at 311–312.

<sup>431</sup> RAK-KYU HAN (1955), *supra* note 21, at 310–312, 322.

<sup>432</sup> Article 196.

A person who organizes a private enterprise disguised as a cooperative or who assists the activities of such an enterprise shall be sentenced to imprisonment for not more than three years and total or partial confiscation of their property.

privileges and favorable conditions provided by the State, selfishly pursue capitalist profits, and exploit and have a detrimental effect on others ...<sup>433</sup>

In addition, Articles 206 (Violation of State Monopoly Regulations)<sup>434</sup> and 208 (Making, Keeping, Purchase, or Sale of Prohibited or Restricted Materials)<sup>435</sup>, which prohibited the sale and distribution of designated items, such as grains and war supplies, were based on the premise that private enterprises were allowed to trade in other kinds of items.

### 3.2.2. The 1974 Penal Code: A Tool to Support Kim Il-Sung's Dictatorship and Stalinization of the DPRK

#### 3.2.2.1. Overview of the 1974 Penal Code

Following the amendment to its constitution in 1972, the DPRK revised its penal code for the first time on December 19, 1974 to support the completion of the socialist system and Kim Il-Sung's dictatorship,<sup>436</sup> which is suggested by the fact that protection

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<sup>433</sup> RAK-KYU HAN (1955), *supra* note 21, at 303.

<sup>434</sup> Article 206.

A person who violates the regulations concerning state monopoly shall be sentenced to imprisonment for not more than two years and total or partial confiscation of his property. The present article does not apply to persons who commit the actions specified in Article 97 of the present Code.

<sup>435</sup> Article 208.

A person who manufactures, stores, or buys, for the purpose of sale, products or goods concerning which there is a special prohibition or limitation, or who sells such products or goods as a form of business, shall be sentenced to imprisonment for not more than two years.

<sup>436</sup> POŬWŎN HAENGJOŬNGCH'Ŏ (2006), *supra* note 360, at 65–66.

of Kim Il-Sung was clearly stated as the foremost task of the penal code (see the table below).

Table 5. Objectives of the DPRK Penal Code

Year	Article
1950	Article 1. The penal code shall protect the DPRK and the legal order therein established from criminal acts by punishing in accordance with the present code persons who have committed them.
1974	Article 4. The penal code of the DPRK shall protect the President of the DPRK, ensure the line and policy of the DPRK government, guard the rights of workers and farmers, the socialist system, and accomplishments of the socialist revolution, protect the constitutional rights, life, and property of people, and establish revolutionary system and order in every aspect of life in the nation, thereby contributing to the historical accomplishment of making the whole society imbued with Juche ideology.
1987 / 1999	Article 1. The penal code of the DPRK shall, by fighting crimes, defend the power of the state and the socialist system and ensure that the people can lead an independent and creative life.
2004 / July 2009 / May 2012 / July 2015	Article 1. The penal code of the DPRK shall, by correctly establishing the system of criminal liability and punishment for crimes, defend the sovereignty of the State and the socialist system and ensure that the people can lead independent and creative lives.

According to a South Korean criminal law scholar, the 1974 amendment to the DPRK penal code was “a culmination of totalitarian iron fists.”<sup>437</sup> The following excerpt from a DPRK criminal law textbook published in 1986 also confirms the highly political and ideological nature of the 1974 penal code:

The important tasks of the DPRK criminal law are as follows:

First, to develop and argue in depth the originality, legitimacy, and greatness of the great ideas and theories on criminal law created by the Beloved Leader Kim Il-Sung and developed and enriched by the Dear Leader Kim Jong-Il.

<sup>437</sup> In-Sup Han (2006), *supra* note 62, at 122.

Second, to study, succeed, and develop the brilliant revolutionary tradition of DPRK criminal law, which the Great Leader Kim Il-Sung achieved during the anti-Japanese revolutionary struggle.

Third, to scientifically generalize the valuable practical experiences and achievements in the fight against crimes and to actively practice them under the wise spirit of the Great Leader Kim Il-Sung and the Dear Leader Kim Jong-Il.

Fourth, to criticize and expose the anti-revolutionary, rightist, and defeatist nature of the criminal law and theory of the leftist and rightist opportunists, and to thoroughly recount the reactionism of the Bourgeois criminal law and the anti-people, hawkish, military fascist nature of the so-called “criminal law” of the South Korean Puppet Party ...<sup>438</sup>

The 1974 DPRK penal code consisted of 17 chapters containing 215 provisions in total, which is much more compact than the 1950 penal code, which contained 303 provisions.<sup>439</sup> Eighty-three out of 199 provisions (41.7%) were abrogated in the Special Part, which seems to be partly because of a growing awareness that many of them did not fit the local contexts, as mentioned above. In its General Part, the 1974 penal code provided that the code shall protect the rights of workers and farmers, the socialist system, and socialist ownership, whereas the 1950 penal code was to protect the DPRK and the legal order therein.<sup>440</sup> In addition, the statute of limitations was generally extended and abrogated for “counter-revolutionary crimes” and intentional murder.<sup>441</sup> The Special Part of the 1974 penal code divided crimes into two categories: counter-revolutionary crimes

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<sup>438</sup> PUBLISHING HOUSE OF KIM IL-SUNG UNIVERSITY, CRIMINAL LAW 1 (형법학 1) 4 (1986) (in Korean).

<sup>439</sup> Thirty-three out of 64 (51.6%) provisions on economic crimes and 50 out of 135 (37%) provisions on non-economic crimes in the 1950 penal code were deleted in the 1974 amendment. See Appendix 8 for more details.

<sup>440</sup> PŎBWOŬN HAENGJŎNGCH'Ŏ (2006), *supra* note 360, at 67.

<sup>441</sup> *Id.* at 69.

and general crimes. In the 1974 code, the DPRK renamed crimes against the power of the state in the 1950 penal code as counter-revolutionary crimes, expanded the scope of such crimes by making their definitions more abstract, and prescribed harsher punishments for those crimes<sup>442</sup>—the death penalty was stipulated as the minimum (not maximum) penalty for 12 out of 14 counter-revolutionary crimes, including undermining the authority of Kim Il-Sung and Kim Jong-Il, thus implying equivalence between the Kim family and the State.<sup>443</sup> However, the 1974 penal code alleviated punishment for general non-economic crimes.<sup>444</sup>

In the 1974 DPRK penal code, the maximum punishment for crimes against State interests—both economic and non-economic—remained much greater than the maximum sentence for other crimes, although the difference is still much larger among non-economic crimes.<sup>445</sup> Yet the portion of economic crimes punishable by death more than doubled—from 4.7% to 13.7% (from 11.1% to 20% for crimes against State property

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<sup>442</sup> Tae-Young Ha (하태영), *Study on Anti-Nation and Anti-Nationality Crimes in Criminal Laws of North Korea* (북한 형법상 반국가 및 반민족범죄에 관한 연구), *DONG-A L. REV.* (동아법학), no. 66, Feb. 2015, at 1, 5 (in Korean: Abstract in English); *See also* Appendix 6.

<sup>443</sup> Article 56 (Reactionary Propaganda and Agitation) of the 1974 DPRK penal code provided that “Anyone who commits the following acts in order to have others have anti-revolutionary feelings and thoughts shall be executed and all property shall be confiscated ... 3. Reactionary graffiti • Sending a reactionary anonymous letter to the authorities (particularly those who undermine the authority or prestige of Kim Il-Sung and Kim Jong-Il) shall be sentenced to the most severe sentence.”

<sup>444</sup> *See* Appendix 8.

<sup>445</sup> *See* Appendix 6-1. 20% of the crimes against State property were punishable by death; it was the same case with 12.2% of other economic crimes. Furthermore, 81.3% of crimes against the State and 7.6% of other non-economic crimes were punishable by death.

and from 3.6% to 12.2% for other economic crimes)—in the 1974 penal code.<sup>446</sup> Compared to the 1950 DPRK penal code, the average maximum sentence for crimes not punishable by death in the 1974 code also increased for economic crimes not involving State property—from 3.1 to 4.3 years—although it decreased from 9.7 to 7.6 years for crimes against State property.<sup>447</sup> This change suggests that the main objective of amending the provisions on economic crimes in the 1974 DPRK penal code was to protect socialist ownership and exert tighter control over other parts of the economy.

#### 3.2.2.2. Provisions on Economic Crimes

The chapters on economic crimes from the 1950 penal code were restructured in the 1974 penal code: Chapter 15. Crimes of Encroaching on State Property and the Property of Social or Cooperative Organizations, Chapter 18. Crimes Involving Violation of Labor Laws, and Chapter 20. Economic Crimes were consolidated into one chapter titled “Crimes of Encroaching on the Socialist Economic System.”<sup>448</sup> In addition, Chapter 16. Crimes against Persons and Chapter 17. Crimes of Encroaching on the Private

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<sup>446</sup> See Appendix 6-1. This was the same case with non-economic crimes. The portion of non-economic crimes punishable by death significantly increased—from 14.1% in the 1950 penal code to 22.8% in the 1974 code.

<sup>447</sup> See Appendix 7. Nevertheless, the overall punishment for crimes against State property was enhanced in light of the increase in crimes against State property punishable by death. Among the non-economic crimes not punishable by death, the average maximum sentence decreased from 20 to 12.3 years for crimes against the State and from 5.4 to 4.2 years for other non-economic crimes.

<sup>448</sup> See Appendix 2.

Property of Citizens were consolidated into one chapter titled “Crimes of Impairing Life and Private Property of Citizens.”<sup>449</sup>

While the chapter on crimes of encroaching on the socialist economic system was provided after the one on counter-revolutionary crimes, which appeared at the beginning of the Special Part of the 1974 penal code, the chapter on crimes of impairing life and private property of citizens was moved to the end of the Special Part of the same code.<sup>450</sup> This suggests that the DPRK regime regarded crimes against the socialist economy as a considerably serious danger and the rights or interests of individuals—economic or non-economic—as the lowest priority because it had “completed” its construction of a socialist state.

Table 6. Changes in the Provisions on Economic Crimes in the 1974 DPRK Penal Code (Those corresponding to the provisions in the then RSFSR penal code are in bold)<sup>451</sup>

Deleted Provisions in the 1950 Penal Code		
Chapter	Article	
15. Crimes of Encroaching on State Property and the Property of Social or Cooperative Organizations	107 (Stealing of State Property or the Property of Public Organizations, Committed through Sweetheart Contract)	110 (Abusing and Damaging Leased State Property or the Property of Public Organization)
17. Crimes of Encroaching on the Private	151 (Stealing a Large Quantity of Livestock) 152 (Stealing a Small Quantity of Livestock)	160 (Fraudulent Issuance or Passing of a Check) 161 (Fraudulent Bankruptcy) 162 (Usury)

<sup>449</sup> *Id.*

<sup>450</sup> *Id.* The chapter on military crimes is excluded.

<sup>451</sup> See Appendix 4.

Property of Citizens	153 (Stealing Guns and Ammunition) 154 (Stealing, Committed through Causing Loss of Consciousness) 156 (Embezzlement of Property Entrusted by the Authorities) <b>159 (Extortion)</b>	<b>165 (Failure to Render Aid upon Collision of Vessel or Failure to Communicate Name of Vessel)</b> <b>167 (Trademark Infringement)</b>
18. Crimes Involving Violation of Labor Laws	<b>171 (Refusal to Employ or a Reduction in Wages of Women Due to Pregnancy)</b> <b>172 (Violation of Rules for Mining Safety)</b> 174 (Refusal to Work)	175 (Violation of Labor Collective Agreements) <b>176 (Obstruction of Labor Union Activities)</b> 177 (Assigning Work to Minors)
20. Economic Crimes	<b>196 (Private Entrepreneurial Activity)</b> 197 (Malicious Evasion of Compulsory Labor) <b>198 (Illegal Purchase or Sale of Land)</b> <b>199 (Unwarranted Making of Alcoholic Beverages for Sale)</b> <b>203 (Violation of Rules on Construction, Sanitation, and Fire Prevention When Carrying out Construction Work)</b> 205 (Destruction of Property for Insurance Fraud) 206 (Violation of State Monopoly Regulations)	207 (Violation of Indirect or Business Tax Regulations) 208 (Making, Storage, Purchase, or Sale of Prohibited or Restricted Materials) <b>211 (Engaging in a Prohibited Trade)</b> 213 (Tax Evasion) 214 (Evasion of Grain Appropriation as Tax in Kind) 215 (Concealing Property or False Report for Tax Evasion) 216 (Concealing Inherited or Donated Property for Tax Evasion)
Added Provisions in the 1974 Penal Code		
Chapter	Article	
Crimes of Encroaching on the Socialist Economic System	73 (Stealing Prize Money, Benefits, and Wages) <b>80 (Illegal Trade)</b> 86 (Violation of Regulations for Supply and Sales of Materials) 88 (Spoilage and Loss of Base Materials and Resources) 89 (Violation of Equipment Inspection and Repair Regulations) 92 (Sub-standard Design and Faulty Construction) 93 (Violation of Regulations for Scientific and Technological Agriculture)	97 (Abuse of Arable Land and Making Land Uncultivable) 98 (Irresponsible Mining of Subterranean Resources) 99 (Forest Fire Due to Negligence) <b>102 (Violation of Pollution Prevention Regulations)</b> 103 (Failure to Repair State Building and Illegal Modification of State Building) 104 (Destruction of an Embankment and Annexed Facilities) <b>107 (Traffic Accident)</b> 108 (Waste of Labor)

	<b>94 (Violation of Regulations for Breeding and Disease Control of Livestock)</b> 95 (Delay or Misdistribution in Supply of Goods)	109 (Violation of the Principle of Socialist Distribution) 110 (Assigning Prohibited Work to Women)
Crimes of Impairing the Life and Property of Citizens	178 (Serious Forms of Stealing Private Property)	

3.2.2.3. Deleted Provisions on Economic Crimes

The Special Part of the 1950 DPRK penal code underwent a major change in its 1974 amendment: More than 40% of its provisions were abrogated, as mentioned above. There was even more significant change among the provisions on economic crimes: 33 out of 64 provisions (51.6%) were abrogated. This massive abrogation, however, should be construed as the “subsequent development of legal transplant in the host system” and “not be confused with rejection”<sup>452</sup> because there is evidence of reference to Soviet legal materials in the DPRK in the 1980s, as discussed below.

It seems that the abolition of many provisions on economic crimes was not intended to decriminalize such conduct. Rather, it would be more accurate to explain that most of the provisions were eliminated because they came to be—at least officially—unnecessary under the socioeconomic conditions of the DPRK at the time. In other words, it was presumed that conduct that had previously been punishable under the provisions did not exist in a “completed” socialist economy, as in the case of the RSFSR.<sup>453</sup> For example,

<sup>452</sup> Alan Watson, *LEGAL TRANSPLANTS: AN APPROACH TO COMPARATIVE LAW* 27 (2nd ed. 1993).

<sup>453</sup> Michael Alexeev, Clifford Gaddy & Jim Leitzel, *Economic Crime and Russian Reform*, 151 *J. INSTITUTIONAL AND THEORETICAL ECON. / ZEITSCHRIFT FÜR DIE GESAMTE STAATSWISSENSCHAFT*, 677,

Article 196 of the 1950 penal code<sup>454</sup>, which punished running a private business disguised as a cooperative, was deleted in the 1974 penal code, not because private business was permitted—which is still not the case in the DPRK—but because private business did not exist (or at least was not supposed to exist) in the DPRK at that time owing to the complete nationalization that had occurred in the 1950s. Another example is the aforementioned Article 174 of the 1950 DPRK penal code, which punished those who refused to work. It would be reasonable to assume that this provision was abolished not because the conduct was decriminalized but because the DPRK society was heavily controlled and, thus, it was not feasible for people to refuse to work in the early 1970s. Similarly, Article 197 (Malicious Evasion of Compulsory Labor)<sup>455</sup> in the 1950 penal code was also no longer necessary because all kinds of labor had become obligatory by 1974, contrary to the situation in 1950, when private business still existed and not all kinds of labor were obligatory.

Of the chapters on economic crimes in the 1950 penal code, as shown in the table below, the reduction in provisions on crimes against private property from 21 to seven is

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679 (1995) (“certain activities that were not supposed to exist under socialism—and hence were not strictly illegal—only recently have become recognized as crimes. Prostitution, for example, now proscribed, was not illegal during most of the Soviet era, because it was deemed to be a social ill associated with capitalism and was therefore non-existent under Soviet socialism”).

<sup>454</sup> Article 196.

A person who organizes private business masked as a cooperative (pseudo-cooperative) or who promotes the activities of such a business shall be sentenced to imprisonment for not more than three years and total or partial confiscation of their property.

<sup>455</sup> Article 197.

A person who maliciously avoids performing obligatory and productive labor, which constitutes a social or national task and has national significance, shall be sentenced to correctional labor for not more than three months.

most dramatic because three provisions were moved to different chapters,<sup>456</sup> in addition to the deletion of 11 provisions, which is discussed below. This confirms the extent of the shrinkage of the scope of private property by 1974.

Table 7. Analysis of Changes in the Provisions on Economic Crimes in the 1950 DPRK Penal Code in 1974

Chapters in the 1950 Penal Code	Provisions in the 1950 Penal Code	Provisions Deleted	Provisions Moved to Different Chapters	Provisions Added <sup>457</sup>	Provisions in the 1974 Penal Code
15. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations	9	2 (22.2%)	-	2	9
17. Crimes of Encroaching on Private Property of Citizens	21	11 (52.4%)	3 (14.3%)	-	7
18. Crimes Involving Violation of Labor Laws	10	6 (60%)	-	4	8
20. Economic Crimes	24	14 (58.3%)	-	15	25

In the 1950 penal code, for example, in addition to fraud, three more crimes with some elements of fraud were stipulated in the chapter on crimes against private property: Articles 160 (Fraudulent Issuance or Passing of a Check), 161 (Fraudulent Bankruptcy), and 163 (Alteration of Goods and Sale of Altered Goods). Of these, Articles 160 and 161 were abrogated and Article 163 was moved to the chapter on crimes of encroaching on

<sup>456</sup> Articles 157 (Misappropriation of Lost Property), 163 (Alteration of Goods and Sale of Altered Goods), and 166 (Infringement of Copyright and Inventor's Rights) were moved to the chapters on crimes of violating the regulations for socialist collective life, crimes of encroaching on the socialist economic system, and crimes of impairing the socialist culture, respectively.

<sup>457</sup> These numbers include the provisions moved from the chapter on crimes of encroaching on private property of citizens.

the socialist economic system. Another example is the provision on trademark infringement<sup>458</sup>, which appeared in the 1950 DPRK penal code, but was removed in the 1974 amendment to the code. This is perhaps because commercial activities by individuals had been banned and all production facilities had been completely nationalized since the 1950s, which rendered the said provision meaningless.

On the contrary, provisions on crimes against state property in the 1950 penal code were least affected by the 1974 amendment. Articles 107 (Stealing of State Property or the Property of Public Organizations, Committed through Sweetheart Contract)<sup>459</sup> and 110 (Abusing and Damaging Leased State Property or the Property of Public Organization)<sup>460</sup> were both premised on the existence of private enterprise, which no longer officially existed in the DPRK in 1974.

Many provisions on labor crimes and other economic crimes were deleted, although such deletions were offset by additions of new provisions on those crimes, as shown in the table above. Of the provisions on labor crimes in the 1950 penal code, Articles 171

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<sup>458</sup> Article 167 of the 1950 DPRK penal code provided that “A person who, for the sake of unscrupulous competition, willfully uses the commodity, factory, trademark, sketch, or model of another, or a person who uses the sign or name of another, shall be sentenced to imprisonment for not more than two years or by correctional labor for not more than one year.”

<sup>459</sup> Article 107.

Plundering of state, public-service property through the conclusion of an unfavorable contract by a director of a state or public-service establishment or enterprise in collusion with a contractor shall be sentenced to penal servitude for a term of more than one year and total or partial confiscation of property.

<sup>460</sup> Article 110.

The squandering of state or public property by a tenant or representative of a juristic person assigned to him on a rental basis shall be sentenced to imprisonment for not more than eight years.

(Refusal to Employ or a Reduction in Wages of Women Due to Pregnancy),<sup>461</sup> 175 (Violation of Labor Collective Agreements),<sup>462</sup> 176 (Obstruction of Labor Union Activities),<sup>463</sup> and 177 (Assigning Work to Minors)<sup>464</sup> in the 1950 penal code were all premised on the duty of private entrepreneurs and, thus, became unnecessary in the socialist economy.

Most of the deleted provisions on other economic crimes were also related to completion of the socialist economy. Provisions on tax evasion—Articles 207, 213, 214, 215, and 216—were deleted with the abolition of all kinds of taxes. Provisions on violation of regulations for state monopoly—Articles 206 and 208—received the same fate because no private enterprise that could violate state monopoly existed.

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<sup>461</sup> Article 171.

A person who refuses to employ a woman or reduces her wages because of her pregnancy shall be sentenced to correctional labor for not more than one year or by a fine not more than 2,000 won. The same actions committed repeatedly shall be sentenced to imprisonment for not more than two years.

<sup>462</sup> Article 175.

An employer who deliberately violates a collective bargaining contract concluded by him with a trade union or a wage scale agreement shall be sentenced to correctional labor for not more than one year or a fine not more than 10,000 won.

<sup>463</sup> Article 176.

A person who obstructs the lawful activity of trade unions shall be sentenced to confinement in a prison for not more than two years or by correctional labor for not more than one year.

<sup>464</sup> Article 177.

A person who violates a regulation prohibiting the employment of minors up to 14 years of age shall be punished in accordance with one of the following:

- (1) If such action is committed for the first time: by a fine not more than 1,000 won;
- (2) If such action is committed for the second time: by a fine not more than 3,000 won;
- (3) If such action is committed no less than three times: by correctional labor for not more than one year.

#### 3.2.2.4. Added Provisions on Economic Crimes

Of the provisions newly added to the 1974 DPRK penal code, 16 of 19 provisions (84.2%) on economic crimes did not correspond to any provision in the RSFSR penal code at the time, thus contributing to the gradual deviation of the DPRK penal code from its RSFSR counterpart.

Many of the added provisions on economic crimes were premised on the characteristics of a socialist economy. For example, Article 80 (Illegal Trade)<sup>465</sup> was based on the prohibition of private trade of goods other than the sale of farm produce from small vegetable gardens where members of cooperative organizations were allowed to farm. Other examples are Articles 86 (Violation of Regulations for Supply and Sales of Materials), 95 (Delay or Misdistribution in Supply of Goods), 108 (Waste of Labor), and 109 (Violation of the Principle of Socialist Distribution), which were based on the model of a strict planned economy.

The diminished influence of the RSFSR penal code on its DPRK counterpart also in part resulted from the addition of truly unique provisions that were attributable to Kim Il-Sung's autocracy. As in the cases of the Backyard Furnaces Movement (土法炼钢)<sup>466</sup>

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<sup>465</sup> Article 80.

A person who sells or buys goods shall be sentenced to correctional labor for not more than one year.

<sup>466</sup> This campaign forced farmers “to farm during the day and to produce steel at night” in their backyards and “all households to contribute their pots and pans, shovels and hoes, to be melted down” to produce steel for Mao Zedong’s dream of rapid industrialization, only to produce massive low-quality steel that could not be used for any purpose. JAMES A. TYNER, GENOCIDE AND THE GEOGRAPHICAL IMAGINATION 89–90 (2012).

and Kill Sparrows Campaign (消灭麻雀运动)<sup>467</sup>, which were promoted by Mao Zedong, but turned out to be extremely detrimental to the PRC economy, Kim Il-Sung's amateur—and ineffective or even absurd in terms of economic efficiency—ideas were implemented unchecked by economic experts and were reflected in the penal code. For example, Article 93 (Violation of Regulations for Scientific and Technological Agriculture)<sup>468</sup> stipulated punishment for those who failed to comply with the Juche farming method—essentially based on overuse of chemical fertilizer<sup>469</sup>—which has been advertised as a great accomplishment of Kim Il-Sung, but in fact “led to land degradation vis-à-vis declining soil fertility, erosion and acidification, and water pollution.”<sup>470</sup> Likewise, Article 98 (Irresponsible Mining of Subterranean Resources)<sup>471</sup> was added in line with the following instruction of Kim Il-Sung:

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<sup>467</sup> This mass movement was part of the Four Pests Campaign (除四害) to exterminate rats, flies, mosquitoes, and sparrows. As the sparrow was nearly extinct, insects proliferated and swarmed the countryside and significantly contributed to the Great Chinese Famine (1958–1961). George Dvorsky, *China's Worst Self-Inflicted Environmental Disaster: The Campaign to Wipe out the Common Sparrow*, io9.com, July 18, 2012, <http://io9.com/5927112/chinas-worst-self+inflicted-disaster-the-campaign-to-wipe-out-the-common-sparrow> (last visited Sept. 22, 2019). Reportedly, 310,000 sparrows were killed in Beijing alone and an estimated 4,000,000 were killed throughout the rest of the PRC. *RED CHINA: Death to Sparrows*, TIME, May 5, 1958. <http://content.time.com/time/magazine/article/0,9171,863327,00.html> (last visited Sept. 22, 2019).

<sup>468</sup> Article 93.

A person who causes great hindrance to agricultural production by violating the scientific and technical processes of agricultural production or conducting agricultural work carelessly shall be committed to a reform institution for up to two years.

<sup>469</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 154, 157.

<sup>470</sup> Chong-Ae Yu, *The Rise and Demise of Juche Agriculture in North Korea*, in *ORIGINS OF NORTH KOREA'S JUCHE* 113, 131–132 (Jae-Jung Suh ed., 2013) (citing U.S. Library of Congress, North Korea Country Studies).

<sup>471</sup> Article 98 (Irresponsible Mining of Subterranean Resources).

We must mine not only high-grade ores but also low-grade ores and produce more ores by a large quantity of mining and processing. This is the right way from the standpoint of protecting our resources and using them effectively ...<sup>472</sup>

Although mining all ores regardless of their quality would obviously overconsume energy and labor thus be unproductive in terms of cost-effectiveness and detrimental to the mining industry and ultimately the entire economy, this provision—another example of overcriminalization—has persisted for decades, although its wording has been slightly modified.<sup>473</sup>

### 3.2.2.5. Amended Provisions on Economic Crimes

In 1974, Article 195 (Failure to Perform Contractual Duties) of the 1950 penal code was amended as Article 85 (Failure to Perform Economic Plans and Contractual Duties)<sup>474</sup> to ensure the implementation of national economic plans, reflecting the DPRK regime's increased emphasis on a socialist planned economy.

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A person who irresponsibly mines subterranean resources or carelessly tunnels, thereby inflicting a loss to subterranean resource development, shall be sentenced to imprisonment for not more than two years or correctional labor for not more than two years.

<sup>472</sup> PUBLISHING HOUSE OF KIM IL-SUNG UNIVERSITY, CRIMINAL LAW 2 (형법학 2) 102 (1987) (in Korean).

<sup>473</sup> Article 166 (Violation of Subterranean Resources Development, Mining, and Smelting Regulations) of the 2015 DPRK penal code provides that “A person who violates regulations for subterranean resources development, mining, or smelting shall be sentenced to training through labor for not more than one year.”

<sup>474</sup> Article 195.

A person who fails to perform any obligation arising from a contract concluded with a state, cooperative, or social institution, organization, or enterprise, shall be sentenced to penal servitude for not more than five years and total or partial confiscation of his property.

Another noteworthy change is that whereas infringement of inventor's rights and copyright was classified as a crime of encroaching on private property in the 1950 DPRK penal code, it was regarded as a crime for impairing the socialist culture in the 1974 penal code.<sup>475</sup> Thus, the DPRK penal code followed its Russian counterpart in having once regarded infringement of inventor's rights and copyright as an economic crime, but then moved it to a chapter on non-economic crimes.<sup>476</sup>

### 3.2.3. The 1987 Penal Code: An Appeasement Policy under Relatively Stable Social and Economic Conditions

#### 3.2.3.1. Overview of the 1987 Penal Code

The DPRK undertook a major amendment to its penal code on February 5, 1987. The primary task of the 1987 penal code was "to protect national sovereignty and socialist institutions and guarantee people's self-reliance and creative life through the struggle against crimes,"<sup>477</sup> which is much less political and ideological than that of the 1974 penal

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<sup>475</sup> Article 98 of the 1974 DPRK penal code.

<sup>476</sup> The 1960 RSFSR penal code is the same case. However, the DPRK did not passively introduce—that is, simply translate and copy—the corresponding provision from the RSFSR penal code. Even before the RSFSR penal code was revised in 1960, a DPRK legal scholar claimed as early as 1955 that infringement of copyright and inventor's rights should not be classified as a crime of encroaching on private property because those rights not only involve economic interests but also non-economic interests, such as author's moral rights. See RAK-KYU HAN (1955), *supra* note 21, at 247–248.

<sup>477</sup> Article 1 of the 1987 penal code.

code.<sup>478</sup> Counter-revolutionary crimes were renamed as crimes against the State and the principle of ruthless repression against counter-revolutionary crimes added in the 1974 penal code was removed.<sup>479</sup> Article 56 of the 1974 penal code, which stipulated undermining the authority or prestige of Kim Il-Sung and Kim Jong-Il as a special aggravating factor, was also removed. All crimes against the State became punishable not only by death but by reform through labor. It appears that these changes were made in response to the international criticism that promotion of only the death penalty for counter-revolutionary crimes in the 1974 penal code was a violation of human rights because the DPRK had an international obligation to amend its domestic laws to conform to the ICCPR, which the DPRK joined in September 1981.

The 1987 penal code consisted of eight chapters containing 161 provisions. The entire chapter on military crimes in the 1974 code, which contained 35 provisions, in addition to three provisions on economic crimes and four provisions on non-economic crimes, were deleted and some provisions were merged.

The number of crimes punishable by death in the penal code greatly decreased in 1987—from 33 to 5.<sup>480</sup> Furthermore, the maximum sentence prescriptible for crimes not

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<sup>478</sup> POŬWŎN HAENGJOŬNGCH'Ŏ (2006), *supra* note 360, at 70.

<sup>479</sup> *Id.*

<sup>480</sup> See Appendix 6-1. Twenty-five crimes were punishable by death according the Appendix. It seems that the remaining eight provisions were in the chapter on military crimes that is not available to most researchers.

punishable by death decreased from 20 to 15 years.<sup>481</sup> Overall, the maximum sentence decreased in 70.6% of the provisions on economic crimes of the 1974 code. In the 1987 DPRK penal code, as compared to the 1974 code, the average maximum sentence for crimes not punishable by death decreased from 4.3 to 3.4 years for economic crimes not involving State property, although it increased for crimes against State property from 7.6 to 8.7 years.<sup>482</sup> Above all, the number of economic crimes punishable by up to death fell dramatically—from seven to zero.<sup>483</sup> Such a relaxation of penal sanctions suggests that economic crimes including crimes against State property were not very serious in the DPRK until the mid-1980s.

#### 3.2.3.2. Provisions on Economic Crimes

The chapters on economic crimes were restructured in the DPRK penal code in 1987. The chapter on crimes of encroaching on the socialist economic system was divided into four sections: 1. Crimes of Encroaching on Socialist Property; 2. Crimes of Violating the Regulations for Socialist Economic Management; 3. Crimes of Violating the Regulations for Land Administration; and 4. Crimes of Violating the Regulations for

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<sup>481</sup> PUBLISHING HOUSE OF KIM IL-SUNG UNIVERSITY (1986), *supra* note 438, at 164; Article 24 of the 1987 penal code.

<sup>482</sup> See Appendix 7. The average maximum sentence for non-economic crimes not punishable by death and life imprisonment decreased from 12.3 to 7.4 years for crimes against the state and from 4.2 to 4.1 years for other non-economic crimes. It must be noted that the maximum period of imprisonment prescribed in the penal code decreased from 20 years in the 1974 code to 15 years in the 1987 code.

<sup>483</sup> See Appendix 6-1. The number of non-economic crimes punishable by death also significantly decreased—from 13 to four for crimes against the State and from five to one for other non-economic crimes—in the 1987 penal code.

Socialist Labor Administration. The DPRK appears to have felt the need to systemically reorganize the provisions on economic crimes by dividing the overly large existing chapter on crimes of encroaching on the socialist economic system.

However, the provisions on economic crimes in those chapters underwent only very minor changes, as mentioned above. Only two provisions on economic crimes were abrogated and no new provision was added in the 1987 amendment to the penal code (see the table below).

Table 8. Changes in Provisions on Economic Crimes in the DPRK Penal Code in 1987<sup>484</sup>

Deleted Provisions in the 1974 Penal Code	
Chapter	Article
Crimes of Encroaching on the Socialist Economic System	82 (Destruction of Equipment and Facilities of National Importance) 83 (Destruction of Transportation Facilities)
Added Provisions in the 1987 Penal Code	
None	

<sup>484</sup> The titles of the provisions in the 1987 DPRK penal code were mostly borrowed from those in the 1974 DPRK penal code, on the ground that the Special Part of the 1974 code was substantially similar to that of the 1987 code, in which no article had a title. Other titles are my own creations.

### 3.2.3.2.1. Deleted Provisions on Economic Crimes

It is not clear why Articles 82 (Destruction of Equipment and Facilities of National Importance)<sup>485</sup> and 83 (Destruction of Transportation Facilities)<sup>486</sup> were abrogated, although we can speculate that the conduct punishable under these provisions was also punishable by other provisions in the 1987 penal code, such as Articles 64 (Wrecking) and 65 (Wrecking by Accident).<sup>487</sup>

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<sup>485</sup> Article 82.

A person who destroys or damages the equipment or facilities of important objects of national significance, such as power plants, reservoirs, irrigation facilities, meteorological stations, water sources, and broadcasting stations, and thereby impedes their normal operation shall be sentenced to imprisonment for not less than five years and not more than 10 years.

A person who deliberately destroys or damages the above facilities, and thereby impedes their normal operation, shall be sentenced to imprisonment for not less than 10 years. If the level of impediment is serious, the person shall be sentenced to death.

<sup>486</sup> Article 83.

A person who has overturned or destroyed trains, ships, or airplanes or disrupted their normal operation by destroying or damaging transportation facilities, such as railroads, bridges, danger signs, lighthouses, etc., shall be sentenced to imprisonment for not less than five years and not more than 10 years.

A person who knowingly causes the result of the preceding paragraph shall be sentenced to imprisonment for not less than 10 years. If the conduct in the preceding paragraph is clearly malicious, the person shall be sentenced to death.

<sup>487</sup> Article 64.

A person who deliberately destroys or damages property of the state or of a public cooperative organization shall be committed to a reform institution for up to three years. A person who causes serious loss to the state or to a public cooperative organization by the aforementioned act or who causes destruction or damage by arson, blasting, or other dangerous means or who causes loss of life shall be committed to a reform institution for not less than three and not more than 10 years. A person who commits a serious offense shall be committed to a reform institution for not less than 10 years.;

Article 65.

A person who causes serious loss by destroying or damaging property of the state or of a public cooperative organization accidentally shall be committed to a reform institution for up to two years.

### 3.2.3.2.2. Amended Provisions on Economic Crimes

Even the 48 retained provisions on economic crimes underwent minor changes, except that the maximum sentence decreased in the majority—36 (75%)—of them and increased in only 10 (20.8%) of them. The provisions on economic crimes in the 1974 penal code for which the maximum sentence was increased in 1987 were Articles 75 (Wrecking), 80 (Illegal Trade),<sup>488</sup> 81 (Smuggling), 90 (Illegal Disposal and Acquisition of Facilities and Resources), 98 (Irresponsible Mining of Subterranean Resources), and 99 (Forest Fire Due to Negligence)—in the chapter on crimes of encroaching on the socialist economic system—and Articles 175 (Stealing of Private Property, Committed by Open Taking), 176 (Robbery of Private Property), 177 (Embezzlement of Private Property), and 180 (Intentional Destruction or Damage of Private Property)—in the chapter on crimes of impairing the lives and property of citizens. The increase in their maximum sentence suggests that these types of crimes were taken more seriously by the DPRK regime perhaps due to their increase or subsistence between 1974 and 1987.

Aside from crimes of encroaching on the socialist economic system, why were the punishments for several crimes against private property strengthened, considering that the scope of private property had significantly shrunk with the completion of the DPRK's socialist economy? It was because the social—or the DPRK regime's—interests violated by those crimes were taken very seriously, rather than the personal interests violated:

Although theft and destruction of private property are serious crimes, in that another's property is illegally taken or the wealth of society is destroyed, the first

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<sup>488</sup> Despite the increase in its maximum sentence, the scope of the subject of this crime was limited to “A person who conducts illicit transactions habitually” by the 1987 amendment.

magnitude of those crimes lies in the fact that they disturb the order of our society and thereby create an insecure atmosphere in society.<sup>489</sup>

### 3.3. PROVISIONS ON ECONOMIC CRIMES IN THE DPRK PENAL CODE DURING THE KIM JONG-IL ERA (1994–2011)

The three amendments to the DPRK penal code in 1999, 2004, and July 2009 examined in this section mirror the unstable socioeconomic conditions in the DPRK at that time and the regime's attempts to address them. Accordingly, the provisions on economic crimes underwent drastic changes as well, as discussed below.

#### 3.3.1. The 1999 Penal Code: Few Changes Despite Significant Socioeconomic Changes

##### 3.3.1.1. Overview of the 1999 Penal Code

The 1987 DPRK penal code was amended twice—on December 15, 1990 and March 15, 1995—before it was amended again on August 11, 1999. Although it is unknown how the penal code was amended in 1990 and 1995, those two amendments appear to have been extremely minor, given that the 1999 penal code was strikingly similar to the 1987 code, especially in the Special Part.

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<sup>489</sup> PUBLISHING HOUSE OF KIM IL-SUNG UNIVERSITY (1987), *supra* note 472, at 201.

One of the few changes found in the General Part of the 1999 penal code is the increase in the lower age limit for the death penalty, from 17 to 18,<sup>490</sup> which appears to have been among the DPRK's continued efforts to amend its penal code to conform to the ICCPR.<sup>491</sup> Another noticeable change is the differentiation of punishment for inchoate offenses,<sup>492</sup> which has been regarded as intended to increase the predictability of sentencing by placing more emphasis on objective outcomes (possibility and risk) than subjective intentions.<sup>493</sup>

Between 1987 and 1999, very minor changes were made to the Special Part of the DPRK penal code. No provision on economic crimes was deleted or added to the penal code up to 1999 and only one provision on non-economic crime was deleted and added

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<sup>490</sup> Article 23 of the 1999 penal code provided that “the death penalty may not be imposed on those who were under 18 years of age when they committed the offense, nor may it be executed against pregnant women.”

<sup>491</sup> On August 25, 1997, the DPRK attempted to withdraw from the ICCPR in protest at the resolution of the Sub-Commission on Prevention of Discrimination and Protection of Minorities—a think tank of the United Nations Commission on Human Rights—condemning the human rights practices of the DPRK on August 21, 1997. The Secretary-General of the United Nations, however, in his aide-memoire on September 23, 1997, stated his view that the DPRK was still a state party to the ICCPR because the covenant does not provide withdrawal; therefore, withdrawal would be possible only if all other state parties consented, which has not occurred to this day.

<sup>492</sup> Article 15 of the 1999 penal code provided that “lighter punishment shall be imposed on the planning of a crime than on an attempt carried out. No punishment may be imposed if planning or attempt at a crime is acknowledged to carry little danger,” whereas the same article in the 1987 penal code provided that “penalties for those who plan or attempt criminal acts shall be defined in consideration of the gravity of the crime, the extent to which the crime is carried out and the reason for the failure to carry it out.”

<sup>493</sup> In-Sup Han, *Criminal Law in North Korea: Does it Really Change?* J. NORTH KOREAN L. (북한법연구), no. 6, (2003) at 33, 36 (in Korean).

during this period.<sup>494</sup> Moreover, only four provisions on economic crimes were amended up to 1999.

Consequently, as compared to the 1987 penal code, the level of punishment prescribed in the 1999 code largely remained the same: the number of economic crimes punishable by up to death remained at zero.<sup>495</sup> Neither did the average maximum sentence for economic crimes not punishable by death undergo significant changes—it slightly increased from 3.4 to 3.6 years only for economic crimes not involving State property.<sup>496</sup> Although this slight increase may be interpreted as the DPRK's attempt to control the growing market activities in the late 1990s, taken together, the changes mentioned above were still far less significant than the 2004 amendment, which will be discussed in the next section.

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<sup>494</sup> Article 105 (“A person who causes social disruption by spreading false or unconfirmed rumors that might cause social disorder or discredit the State shall be committed to a reform institution for up to one year.”) was replaced in the 1999 DPRK penal code with a new provision: “A person who makes illegal use of an official seal or a government seal registered by the State, or fabricates such a thing or uses a fabricated seal knowing that it is a fabrication, shall be committed to a rehabilitation institution for up to three years.” Another notable change can be seen in Article 50 (subversion and sabotage), in which additional punishment was provided for “a person who causes damage to the establishment and facilities of special importance,” which suggests that damaging such public establishment and facilities had become more prevalent before the 1999 amendment.

<sup>495</sup> See Appendix 6-1. The same applies to non-economic crimes punishable by up to death.

<sup>496</sup> See Appendix 7. However, the average maximum sentence for non-economic crimes not punishable by death or life imprisonment significantly remained unchanged.

### 3.3.1.2. Provisions on Economic Crimes

Between 1987 and 1999, the structure of chapters on economic crimes in the DPRK penal code did not change and no provision on economic crime was abrogated or added, as mentioned above.

Table 9. Changes in Provisions on Economic Crimes in the 1987 DPRK Penal Code until 1999

Deleted Provisions in the 1987 Penal Code
None
Added Provisions in the 1999 Penal Code
None

#### 3.3.1.2.1. Amended Provisions on Economic Crimes<sup>497</sup>

Although a few provisions on economic crimes (Articles 77, 82, 87, and 89) were amended and penalties for those crimes were strengthened in 1999, the changes were relatively minor compared to other major amendments discussed in this dissertation. However, the amendments to those provisions still shed light on some important socioeconomic changes in the DPRK in the 1990s.

First, private shops disguised as public shops appear to have significantly increased with rapid marketization by the late 1990s. This is evinced by the fact that Article 82 (Violation of Commercial Order) in the 1987 penal code<sup>498</sup> was amended to also punish

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<sup>497</sup> The titles of the provisions in the 1999 DPRK penal code were mostly borrowed from those in the 1974 DPRK penal code on the ground the Special Part of the 1974 code was substantially similar to that of the 1999 code, in which no article had a title. Other titles are my own creations.

<sup>498</sup> Article 82 of the 1987 DPRK penal code provided that “a person who causes great inconvenience to other people by not observing the order of supply and sale of goods, illegally changes the nature

a person “who makes use of the counter of a public shop to sell the things of an individual” and the maximum punishment was increased from up to two years to up to four years under aggravating circumstances.

Second, Article 87 (Illegal Felling of Trees) in the 1987 penal code<sup>499</sup> was amended by 1999 to increase the maximum penalty and also punish a person “who causes a great loss to forestry resources or brings about such serious results as landslide or flood,”<sup>500</sup> reflecting the massive summer floods in 1995 and 1996 that were among the proximate causes of the famine in the DPRK in the last half of the 1990s.<sup>501</sup> The flood in 1995 destroyed that year’s harvest<sup>502</sup> and severe flooding continued in 1996.<sup>503</sup>

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of goods, sells them at fraudulent prices, or makes use of the counter of a public shop to sell the items of an individual shall be committed to a rehabilitation institution for up to one year.”

<sup>499</sup> Article 87.

A person who causes serious loss to forestry resources by felling trees in woodlands carelessly or without permission or by cultivating hillsides shall be committed to a reform institution for six months.

<sup>500</sup> Article 87.

A person who fells trees in woodlands carelessly or without permission or cultivates hillsides illegally shall be committed to a rehabilitation institution for up to one year.

A person who causes great loss to forestry resources or brings about such serious results as landslide or flood shall be committed to a rehabilitation institution for up to three years.

<sup>501</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 156.

<sup>502</sup> “Floods in July and August that year inundated 400,000 hectares of arable land, displaced 500,000 people, and reduced grain production by 1.9 million tons, which was about 30% of the annual grain supply.” *Id.*

<sup>503</sup> *Id.*

Finally, the maximum penalty increased and marine pollution was added in Article 89 (Violation of Regulations for Pollution Prevention),<sup>504</sup> which suggests that the DPRK regime realized the serious consequences of environmental pollution and that sea pollution was increasing in country in the 1990s.

Still, it is not clear why the amendments to the DPRK penal code between 1987 and 1999 were extremely minor—even fewer than those in the 1987 penal code and also in sharp contrast to the 2004 penal code—especially since the DPRK economy was undergoing fundamental changes and significant, albeit few, amendments were made to the DPRK constitution in 1998, as mentioned above. There is plenty of evidence—albeit anecdotal—that economic crimes greatly increased both in number and type in the 1990s. One possible explanation is that the changes that the DPRK economy underwent and their effects were so profound that it was difficult for DPRK criminal law experts to prepare a full-scale amendment to the penal code in a short period. Although the penal codes of Russia and the PRC were significantly revised and many provisions on economic crimes were added to them in 1996 and 1997, respectively, it appears that these two codes were not of great help to DPRK lawmakers and criminal law scholars because the economic systems of Russia and the PRC—a young capitalist market economy in transition and a

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<sup>504</sup> Article 89 of the 1987 penal code provided that “A person who harms marine resources or agricultural production or who greatly interferes with the people’s livelihood by discharging harmful matter into rivers or onto cultivated land or by releasing poisonous gases or causing environmental pollution in other ways shall be committed to a reform institution for up to two years.” The provision was amended by 1999 as “A person who harms public health, marine resources, or agricultural production by discharging harmful matter into the sea, rivers, or onto cultivated land or by releasing poisonous gases or causing environmental pollution in other ways shall be committed to a rehabilitation institution for up to two years. A person who commits serious offense shall be committed to a rehabilitation institution for up to four years.”

socialist market economy, respectively—were substantially different from that of the DPRK, which still aimed to maintain a more traditional socialist economy.<sup>505</sup> In addition, the DPRK may have assumed that it could control new kinds of economic crimes, without carrying out a complete revision of the Special Part of the penal code, by applying the existing provisions on similar conduct based on the doctrine of analogy, which had been retained in the DPRK penal code for decades.

### 3.3.2. The 2004 Penal Code: A Tool to Control Growing Market Activities

#### 3.3.2.1. Overview of the 2004 Penal Code

The 1999 DPRK penal code was amended on April 29, 2004. The scale of the 2004 amendment to the penal code was voluminous.<sup>506</sup> In the Special Part, only one (2.1%) and five (7.1%) provisions on economic crimes and non-economic crimes, respectively, in the 1999 penal code remained unchanged. Whereas only one provision on economic crimes in the 1999 code was deleted, the number of provisions in the Special Part more than doubled, from 118 in 1999 to 245 in 2004 (the number of articles in the General Part also increased from 43 to 58, as shown in the table below). This is a significant increase,

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<sup>505</sup> For example, in the 1997 PRC penal code, many new provisions were added on crimes of disrupting the order of company and enterprise administration, crimes of undermining the order of financial management, crimes of financial fraud, crimes of endangering the collection and management of taxes, and crimes of disrupting market order. However, most of these crimes could not occur in the DPRK, where individuals did not have the freedom to establish and run companies, no financial market existed, no tax officially existed, and market activities by individuals were prohibited, at least officially, until the 1999 amendment to the penal code.

<sup>506</sup> In-Sup Han (2006), *supra* note 62, at 122.

albeit less dramatic than the 1997 amendment to the PRC penal code in which provisions on economic crimes more than quadrupled.

Table 10. Provisions in the penal codes of the DPRK, the PRC, and Russia

Penal Code	The DPRK		The PRC		Russia	
	1999	2004	1979	1997	1960 <sup>507</sup>	1996
General Part	43	58	89	101	68	104
Special Part	118	245	103	350 (318) <sup>508</sup>	288 (253)	256 (234)
Economic Crimes	48	112	22	92	54	47
Non-economic Crimes	70	133	81	258 (226)	234 (199)	209 (187)

As mentioned above, one of the most conspicuous changes in the General Part of the 2004 penal code was the repeal of the provision on analogy.<sup>509</sup> For decades, it had permitted punishment of conduct not prescribed in the penal code, but similar to that stipulated therein. Following the path of Russia and the PRC,<sup>510</sup><sup>511</sup> the legal principle of *nullum crimen sine lege* (no punishment without law) was articulated in Article 6<sup>512</sup> of the

<sup>507</sup> The 1960 penal code amended up to June 13, 1996.

<sup>508</sup> Military crimes are excluded in the numbers in parentheses.

<sup>509</sup> Article 10 of the 1999 DPRK penal code.

<sup>510</sup> In-Sup Han (2006), *supra* note 62, at 124.

<sup>511</sup> The analogy clause was repealed in the RSFSR in 1958 amidst the de-Stalinization movement and in the PRC in 1997. *Id.* at 124–125.

<sup>512</sup> Article 6. (Principle of Imposing Criminal Liability Only for Crimes Prohibited by Penal Code)  
The state shall impose criminal liability only for offenses defined as offenses under the penal code.

2004 DPRK penal code.<sup>513</sup> In addition, the traditionally highly ideological tone of the penal code was diluted<sup>514</sup> and many crimes became more precisely delineated than before, leaving less room for arbitrary interpretation and application of the penal code.<sup>515</sup> Like the case of the 1997 PRC penal code,<sup>516</sup> these changes brought the DPRK penal code closer to internationally accepted standards for criminal justice. Another significant change was the introduction of life imprisonment and training through labor<sup>517</sup> as new categories of principal punishment that were less severe than death and reform through labor, respectively, which appears to be a measure in response to mounting international criticism of human rights violations in the DPRK.<sup>518519</sup> Moreover, a new chapter on crimes

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<sup>513</sup> In-Sup Han (2006), *supra* note 62, at 124.

<sup>514</sup> *Id.* at 122.

<sup>515</sup> PŎBWŎN HAENGJŎNGCH'Ŏ (2006), *supra* note 360, at 188.

<sup>516</sup> JIANFU CHEN, *supra* note 69, at 3.

<sup>517</sup> Article 31 (Training Through Labor) of the 2004 penal code provided that “training through labor is executed by sending an offender to a designated place where the offender will engage in labor. The civil rights of an offender are guaranteed during the period of training through labor. The period of training through labor is from six months to two years. Even if offenses are combined or added, the total term of training through labor may not exceed one year. Each day of the offender’s detention shall be counted as two days of training through labor.” Note that “a designated place” in Article 31 refers to places other than a prison, such as a labor camp, factory, or mine. In-Sup Han (2006), *supra* note 62, at 125.

<sup>518</sup> The UN Commission on Human Rights adopted a resolution on the DPRK for the first time in 2003 and appointed a Special Rapporteur to investigate and report on the human rights situation in the DPRK in 2004. Roberta Cohen, *The High Commissioner for Human Rights and North Korea*, in THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, CONSCIENCE FOR THE WORLD 293, 295 (Felice D. Gaer and Christen L. Broecker eds., 2014).

<sup>519</sup> In addition, the aforementioned Administrative Penalty Law of the DPRK that was first enacted on July 14, 2004—about two-and-a-half months after the penal code was amended on April 29, 2004—practically lowered the level of punishment for crimes stipulated in the penal code by providing lighter sanctions for minor forms of much of the conduct that was also punished under the penal code.

of violating the regulations for national defense was inserted as Chapter 4, although most provisions therein had been moved from existing sections of the 1999 penal code.<sup>520</sup>

Although the provisions on economic crimes more than doubled in the 2004 amendment to the DPRK penal code, similar to what happened in the PRC in 1997 as shown in the table above, the background and substance of the amendments in the two countries were essentially different. While the main objective of the 1997 amendment to the provisions on economic crimes in the PRC penal code was to control crimes concomitant with building a market economy, albeit a 'socialist' one, that of the 2004 amendment to the provisions on economic crimes in the DPRK penal code was to control marketization and thereby retain the DPRK's traditional socialist economy and eliminate potential threats to the regime, which was generally in line with the economic policy and legal developments in the DPRK from the late 1990s to mid-2004.

Indeed, the DPRK regime enhanced punishment for crimes, especially economic ones. Whereas the maximum sentences provided in 33 (68.8%) and 36 (51.4%) provisions on economic crimes and non-economic crimes, respectively, in the 1999 penal code increased, maximum sentences in 9 (18.8%) and 26 (37.1%) provisions on economic crimes and non-economic crimes, respectively, decreased with the 2004 amendment to the code.<sup>521</sup>

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<sup>520</sup> These are the sections on crimes of encroaching on socialist property in Chapter 4 (Crimes of Encroaching on the Socialist Economic System) and crimes of violating the regulations for general administration in Chapter 6 (Crimes of Violating the Regulations for General Administration of the State). POŬWŎŬ HAENGJOŬNGCH'Ŏ (2006), *supra* note 360, at 185.

<sup>521</sup> See Appendix 8.

It should be noted that the average maximum sentence—for both economic and non-economic crimes against State interests—significantly increased compared with the 1999 penal code. Among the crimes not punishable by death or life imprisonment, the average maximum sentence for crimes against State property increased from 8.7 to 12.2 years, while that of crimes against the state increased from 7.4 to 10.6 years.<sup>522</sup> In addition, whereas no economic crime was punishable by life imprisonment in the 1999 penal code, two economic crimes were punishable by up to life imprisonment in the 2004 penal code.<sup>523</sup> This suggests that the DPRK regarded the socioeconomic changes at the time as a threat to its regime and attempted to control them by imposing heavier punishments, especially for crimes against State interests.

Nor did the regime regard the penal code as independent of politics. The following scholarly material published in early 2004 is a clear example:

The class nature of every criminal law is that it serves as a tool for the ruling class to realize dictatorship. The class nature of socialist criminal law lies in the fact that it serves as a tool to realize people's democratic dictatorship, while the class nature of criminal law in exploitative states is that it serves as a tool to realize dictatorship of the exploiting class ... In a class society, the political system directly determines the characteristics and contents of all laws, especially the penal code. The penal code embodies what politics demands and is made in order to solidify and develop political order. Furthermore, the penal code completely depends on changes in the

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<sup>522</sup> See Appendix 7. The average maximum sentence for other crimes deemed economic crimes and non-economic crimes both increased from 3.6 to 4.2 years and from 4.1 to 4.5 years, respectively.

<sup>523</sup> See Appendix 6-1. Among the non-economic crimes, whereas four crimes were punishable by death and one crime was punishable by up to life imprisonment in the 1999 penal code, those numbers increased to five and six, respectively, in the 2004 penal code.

political system because the code is directly shaped by political power and serves as a tool to secure political order.<sup>524</sup>

In short, the 2004 amendment to the provisions on economic crimes in the penal code reflected the DPRK regime's will to maintain and very cautiously promote its traditional socialist economy by allowing a limited number of market activities despite adding a great number of new provisions and amending the existing provisions on economic crimes in the penal code. The significant increase in the number of provisions on economic crimes may be understood in the same vein. It was not the regime's initiative directed toward building a market economy; rather, it occurred because the DPRK had no choice due to the prevalence of new types of crimes resulting from uncontrollable marketization from the bottom and the repeal of the analogy clause that had been in place for more than half a century and the resulting inability to apply the existing provisions to new forms of economic crimes, as discussed in detail below.

#### 3.3.2.2. Provisions on Economic Crimes

Between 1999 and 2004, although Chapter 4, "Crimes of Violating the Regulations for Administration of National Defense," was added and the following chapters were renumbered as a result, the structure of chapters on economic crimes in the DPRK penal code generally remained unchanged. However, Section 3, "Crimes of Violating the Regulations for Land Administration," of Chapter 4, "Crimes of Encroaching on the Socialist Economic System," in the 1999 penal code was renamed as "Crimes of Violating

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<sup>524</sup> Dong-jin Choe (최동진), *A General Understanding of the Penal Code* (형법에 대한 일반적리해), JONGCHI POPRYUL YONGOO, no. 2, June 2004, 36, 36–37 (in Korean).

the Regulations for Land Administration and Environmental Protection (see the table below).” This is an important development in light of the fact that environmental concerns had not come to the fore in the DPRK penal code before. Economic concerns had preceded them even in environment-related provisions, as mentioned above in the discussion on “Other Economic Crimes” in the 1950 penal code. In addition, two provisions on economic crimes were abrogated during the same period.

Table 11. Changes in the Provisions on Economic Crimes in the DPRK Penal Code in 2004<sup>525</sup> (Those corresponding to the provisions in the then penal codes of Russia and the PRC are in bold and italics, respectively, and bold italics when they correspond to both codes)<sup>526</sup>

Deleted Provisions in the 1999 Penal Code			
Chapter	Section	Article	
5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on State Property and the Property of Social or Cooperative Organizations	60 (Theft of State Property or the Property of Social or Cooperative Organizations on a Large Scale)	
4. Crimes of Encroaching on the Socialist Economic System	2. Crimes of Violating Economic Regulations	69 (Illegal Trade)	
Added Provisions in the 2004 Penal Code			
Chapter	Section	Article	
5. Crimes of Encroaching	1. Crimes of Encroaching	91 (Extortion of State Property)	

<sup>525</sup> Titles in the 1999 penal code are borrowed from those in the 1974 penal code because the Special Part of the 1974 code is substantially similar to that of the 1999 code, in which no article has a title. Other titles are my own creation.

<sup>526</sup> See Appendix 4.

on the Socialist Economic System	on State Property and the Property of Social or Cooperative Organizations		
	2. Crimes of Violating Economic Regulations	<p><b>103 (Illegal Issuance, Payment, or Usage of a Noncash Method of Payment)</b></p> <p>105 (Outward Transfer of Currency of the DPRK)</p> <p><b>106 (Violation of the Regulations for Foreign Currency Control)</b></p> <p>107 (Illegal Trade of Equipment and Supplies in Foreign Currency)</p> <p><b>108 (Tax Evasion)</b></p> <p><b>109 (Failure to Make State Payments)</b></p> <p>110 (Commercial Activity of Individuals)</p> <p>111 (Commercial Activity of Institutions, Enterprises, or Organizations)</p> <p>112 (Impersonating a Corporation to Conduct Transactions)</p> <p><b>113 (Trademark Infringement)</b></p> <p>114 (Brokerage)</p> <p><b>115 (Trafficking of Precious or Non-Ferrous Metals)</b></p> <p><b>117 (Violation of the Regulations for Import and Export)</b></p> <p>118 (Usury)</p> <p>119 (Exploitation of Labor)</p> <p>120 (Receiving Money or Goods for Illegally Performed Work or Transportation)</p>	<p>142 (Violation of Quality Control Regulations)</p> <p>145 (Irresponsible Inspection of Construction and Approval for Use)</p> <p>146 (Usage without Inspection of Construction and Approval for Use)</p> <p>147 (Modification of a State Building)</p> <p>149 (Illegal Transfer of State-Owned Dwelling Place)</p> <p>150 (Failure to Give Directions According to Juche Farming Methods)</p> <p>151 (Violation of Production, Supply, and Use of Seeds Regulations)</p> <p>154 (Violation of Pisciculture Work Regulations)</p> <p>155 (Violation of Mariculture Regulations)</p> <p>158 (Violation of Crop Policy Regulations)</p> <p>159 (Illegal Production of Alcoholic Drink by Institutions, Enterprises, and Organizations)</p> <p>160 (Illegal Production of Alcoholic Drink by Individuals)</p> <p>161 (Illegal Distribution of Products)</p> <p>163 (Violation of the Regulations for Production and Supply of Electricity)</p> <p>164 (Construction and Manufacture of Impractical Facilities and Machinery)</p>

		<p><b>122 (Violation of Transportation Utilization Regulations)</b></p> <p>123 (<i>Delaying of Transportation Service</i>)</p> <p>124 (<i>Foreign Economic Activities Undertaken in an Irresponsible Manner</i>)</p> <p>125 (Illegal Earning of Foreign Currency)</p> <p>126 (Illegal Payment of Sources for Foreign Currency Earnings)<sup>527</sup></p> <p>132 (Unplanned Production and Construction)</p> <p>134 (Illegal Management of Economy)</p> <p>135 (Illegal Borrowing and Lending of State Property to Individuals)</p> <p>139 (<i>Plunder and Transfer of Properties</i>)</p> <p>140 (Disposal of Received Goods or Procured Goods)</p>	<p>165 (Violation of the Regulations for Use of Electricity)</p> <p>166 (Providing Communications and Broadcasting Service in an Irresponsible Manner)</p> <p>167 (Violation of Telephone Installation Regulations and Obstruction of Telephone Use)</p> <p>168 (Violation of the Regulations for Maritime Affairs Supervision)</p> <p><b>169 (Evasion of Responsibility to Rescue on Sea)</b></p> <p>170 (Violation of Price Setting Regulations)</p> <p>171 (Stealing Heat)</p> <p>172 (Violation of the Regulations for Residential Fuel Supply)</p>
	3. Crimes of Violating the Regulations for Land Administration and Environmental Protection	<p><b>176 (Illegal Collection and Smelting of Gold)</b></p> <p><b>177 (Violation of Regulations for Creation, Protection, and Use of Forest Regulations)</b></p>	<p><b>180 (Illegal Clearing of Forest)</b></p> <p>184 (Violation of Road Maintenance Regulations)</p>
	4. Crimes of Violating the Regulations	188 (Irresponsible Assignment, Adjustment, and Mobilization of Labor Force)	189 (Arbitrary Dismissal) 191 ( <i>Assigning Work to Minors</i> )

<sup>527</sup> North Koreans must regularly pay fur, metal, or coal to the government as “source for foreign currency earnings,” which the government sells to foreign countries like the PRC to earn foreign currency.

THE CRIMINAL LAW OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA 22 (Sang-Hyup Lee, et al., trans. 2009), [https://www.hrnk.org/uploads/pdfs/The\\_Criminal\\_Law\\_of\\_the\\_Democratic\\_Republic\\_of\\_Korea\\_2009\\_\(1\).pdf](https://www.hrnk.org/uploads/pdfs/The_Criminal_Law_of_the_Democratic_Republic_of_Korea_2009_(1).pdf) (last visited Sept. 18, 2019).

	for Labor Administration		
9. Crimes of Impairing the Life and Property of Citizens	2. Crimes of Encroaching on Private Property	<b>298 (Extortion of Private Property)</b>	

Among the 58 provisions on economic crimes added to the 2004 DPRK penal code, 13 (22.4%) and 18 (30.5%) provisions corresponded to the Russian and the PRC penal codes, respectively. This suggests that DPRK lawmakers and legal researchers began finding more homogeneity or common ground with the PRC penal code and, thus, consulted it more frequently than the Russian penal code. More difficult to interpret is the fact that the majority—38 (64.4%)—of the newly added provisions on economic crimes corresponded to neither code. This means either that new types of economic crimes that did not exist or become serious social problems in Russia and the PRC emerged in the DPRK or that the DPRK regime had a very different criminal justice policy—that is, it wanted to penalize conduct that was not criminalized in either Russia or the PRC.

3.3.2.2.1. Deleted Provisions on Economic Crimes

Although many anecdotes suggest that theft of State property and private trade were prevalent from the late 1990s to the early 2000s, Articles 60 (Theft of State Property or the Property of Social or Cooperative Organizations on a Large Scale) and 69 (Illegal Trade) of the 1999 penal code were abrogated in the 2004 amendment. The reason for this is unclear. It is possible that the DPRK considered such conduct punishable by other

provisions at that time, although the provision on illegal trade was reinstated after July 2009 and can be found in the May 2012 penal code.

### 3.3.2.2.2. Added Provisions on Economic Crimes

As seen in the table below, the increase in provisions by the 2004 amendment to the penal code is most noticeable in the section on crimes of violating the regulations for socialist economic management—more than quadruple the number in the 1999 code (from 18 to 74)—suggesting that the DPRK regime was devoted to controlling this area at that time.

Table 12. Provisions on Economic Crimes in the 1999 and 2004 DPRK Penal Codes by Section

Chapter	Section	Penal Code		Increase By
		1999	2004	
4. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on Socialist Property	10	10	-
	2. Crimes of Violating the Regulations for Socialist Economic Management	18	74	311.1%
	3. Crimes of Violating the Regulations for Land Administration (and Environmental Protection)	8	12	50%
	4. Crimes of Violating the Regulations for Socialist Labor Administration	5	8	60%
9. Crimes of Impairing the Life and Property of Citizens	2. Crimes of Encroaching on Private Property	7	8	14.3%
Number of Provisions on Economic Crimes		48	112	133.3%

### 3.3.2.2.2.1. Crimes of Encroaching on State and Private Properties

In the 2004 amendment to the DPRK penal code, Articles 91 (Extortion of State Property)<sup>528</sup> and 298 (Extortion of Private Property) were added to the sections on crimes against State and private properties, respectively. What were extortion cases like in the DPRK at that time? The following case, albeit shocking in some parts, seems to show a dark side of DPRK society:

Soon-sil Choi, the general manager of a restaurant, heard a rumor that a human brain would be good for treating her son's mental illness. She told Woo-sun Park, a worker at the restaurant, that she would give him 500,000 won in cash in exchange for a human brain.

After a few days, Park ate his dog and removed the dog's brain, which he then gave to Choi, saying that it was a human brain. Choi took 500,000 won from the restaurant's finances and gave it to Park as promised. She put the brain in alcohol and fed her son the alcohol. ... Sun-man Song ... learned of this story, called Choi, and threatened to report the story unless Choi gave him 500,000 won, saying that Choi must manage a lot of money for the restaurant. Choi also gave Song 500,000 won.<sup>529</sup>

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<sup>528</sup> Article 91.

A person who extorts property of the State or a social cooperative organization shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

A person who extorts a large amount of property or extorts repeatedly or in collusion shall be sentenced to reform through labor for not less than three years and not more than 10 years.

If an extremely large amount of property belonging to the State or a social cooperative organization is extorted, he or she shall be sentenced to reform through labor for not less than 10 years.

<sup>529</sup> YOON-GI LEE (리윤기) ET AL., POPT'UJAENG PUMUN ILKUNDULUL WIHAN CH'AMGOSŎ (법투쟁부문 일군들을 위한 참고서: A Reference Book for Personnel Fighting in the Field of Law) 148 (2009) (in Korean). This book became available in the ROK in June 2011 because someone clandestinely took pictures of it and sent them to a human rights NGO outside of the DPRK.

The case above suggests—apart from the backwardness of medical service and information in the DPRK—that embezzlement had become prevalent and the finances of state-run enterprises were not closely monitored in the DPRK at that time. Indeed, there was no corporate accounting system in the DPRK until the early 2000s.<sup>530</sup>

#### 3.3.2.2.2. Crimes of Violating Economic Regulations

As mentioned above, this section was most significantly expanded in the 2004 amendment to the penal code. Some new provisions were added in accordance with the partial opening up of the DPRK economy and some with other laws enacted for economic development. Based on the Law on Foreign Investment-Business Enterprise and Foreign Individual Tax and Foreign Trade Law, which were enacted in the 1990s, Article 108 (Tax Evasion)<sup>531</sup> was added in preparation for foreign investment and foreign trade. Another example is the addition of Article 113 (Trademark Infringement)<sup>532</sup>. As mentioned above, the provision punishing trademark infringement in the 1950 DPRK penal code was deleted in 1974. For the next three decades, there was nothing among the provisions on

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<sup>530</sup> CHONG-T'AE YI (이종태), HAETPYOT' CHANGMADANG PŎPCH'I: PUKHAN ŪL PAKKUNŪN PŎP (햇볕 장마당 법치 : 북한을 바꾸는 法: Sunshine, Markets, Rule of Law: How to Change North Korea through Laws) 137 (2017) (in Korean).

<sup>531</sup> Article 108.

A foreign investment company or a foreigner who intentionally fails to pay taxes in whole or in part shall be sentenced to reform through labor for not more than three years. If the offense is serious, he or she shall be sentenced to reform through labor for not less than three years and not more than five years.

<sup>532</sup> Article 113.

A person who illegally makes or sells a trademark; who sells, imports, or exports an unbranded product; or a person who infringes the trademark rights of an institution, enterprise, or organization shall be sentenced to reform through labor for not more than two years.

economic crimes in the DPRK penal code that prescribed criminal punishment for infringement of intellectual property until Article 113 on was stipulated in the 2004 penal code.<sup>533</sup>

Of note is Article 113's prescription of punishment for the sale, import, and export of "unmarked goods." This part appears to have been influenced by Article 171.1. of the present Russian penal code, adopted on July 9, 1999, because there is no corresponding provision in the PRC penal code. This part was seemingly added to control the distribution of counterfeit goods. Such a practice, however, is generally governed by unfair competition laws aimed at preventing market disturbances and is not regarded as infringement of trademark rights set forth in trademark law, whose main purpose is to protect the property rights of trademark holders. In that regard, it appears to be a legislative error that the DPRK included such conduct in Article 113, although the seeming error disappeared by July 2009 through an amendment to the provision. The Russian penal code also makes it clear that Article 171.1., which punishes the production, purchase, storage, transportation, or sale of unmarked goods, is distinct from Article 180, which provides crimes of trademark infringement by separating the two provisions, among the many provisions included in Chapter 22, "Crimes in the Sphere of Economic Activity."

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<sup>533</sup> Although the DPRK penal code has consistently provided punishment for infringement of inventor's rights and copyright since 1950, those offenses have been regarded not as economic crimes but as "crimes of impairing the socialist culture" since the 1974 amendment to the penal code. This suggests that the inventor's rights and copyright were mere "honorary" rights, in that they had no economic value to the rightsholder. It must be noted that infringement of inventor's rights or copyright was, like trademark infringement, prescribed in the chapter on crimes of encroaching on private property of citizens and, thus, was considered an economic crime in the 1950 DPRK penal code.

In contrast to Articles 108 and 113, many other provisions on economic crimes added in 2004 were aimed at protecting the DPRK's heavily controlled socialist economy. For example, several provisions were added for maintaining tight control of commercial activities. Articles 114 (Brokerage)<sup>534</sup> and 119 (Exploitation of Labor)<sup>535</sup> were added to punish any kind of brokerage by individuals—mainly regarding products or buildings and housing<sup>536</sup>—and employment for private purposes, respectively. Article 120 (Receiving Money or Goods for Illegally Performed Work or Transportation)<sup>537</sup> was added to punish renting out production facilities and vehicles owned by State institutions, enterprises, and organizations, suggesting that many of those State entities were not operating well and, thus, it was a common practice to allow individuals to use these facilities for production

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<sup>534</sup> Article 114.

A person who gains large profits from brokerage shall be sentenced to training through labor for not more than two years. If profits gained from the foregoing act are particularly large, he or she shall be sentenced to reform through labor for not more than five years.

<sup>535</sup> Article 119.

A person who illegally hires another person, with the promise of money or goods, for personal business or exploits, such other person's labor shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

<sup>536</sup> YOON-GI LEE (리윤기) ET AL., *supra* note 529, at 192.

<sup>537</sup> Article 120.

A person who uses the machinery or transportation of an institution, enterprise, or organization to illegally perform work or transportation for another, and who receives a large amount of money or goods, shall be sentenced to training through labor for not more than two years. If profits gained from the foregoing act are particularly large, he or she shall be sentenced to reform through labor for not more than two years.

and transportation.<sup>538</sup> Article 115 (Trafficking of Precious or Non-Ferrous Metals)<sup>539</sup> punished private transactions of precious or non-ferrous metals, which were often earned by embezzlement of metal resources<sup>540</sup> or theft of power lines made of copper.<sup>541</sup> The addition of Article 113 (Usury)<sup>542</sup> suggests the resurgence and prevalence of private financing in the DPRK at that time.

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<sup>538</sup> State entities that rented out their facilities or vehicles shall be punished by Article 135 (Illegal Borrowing and Lending of State Property to an Individual), which provides that “A person who illegally borrows or lends to an individual the property of a state or a social cooperative organization, including money, shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than five years.”

<sup>539</sup> Article 115.

A person who illegally traffics precious or non-ferrous metals shall be sentenced to reform through labor for not more than five years.

If a large quantity of precious or non-ferrous metals is trafficked, he or she shall be sentenced to reform through labor for not less than five years and not more than 10 years. If the offense is serious, he or she shall be sentenced to reform through labor for not less than 10 years.

If the foregoing act is particularly serious, he or she shall be sentenced to reform through labor for life.

<sup>540</sup> YOON-GI LEE (리윤기) ET AL., *supra* note 529, at 194.

<sup>541</sup> This provision was stipulated although it was possible to punish such conduct as embezzlement, theft, or trading of stolen property, which seems to reflect how much the DPRK was suffering from a shortage of metals. Another possible reason would be that the scope of (transaction of) private property in the DPRK was still so narrow that it was very easy for the DPRK authority to conclude that metals traded by individuals had been obtained from illegal sources. This provision was amended on July 26, 2005 to also punish smuggling of such metals.

<sup>542</sup> Article 113.

A person who earns a large amount of money by engaging in usury shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, he or she shall be sentenced to reform through labor for not more than three years.

Further examples of the DPRK's adherence to the traditional socialist economy are Articles 132 (Unplanned Production and Construction)<sup>543</sup>, forcing the execution of the people's economic plan, and 170 (Violation of Price Setting Regulations)<sup>544</sup>, which punished free pricing—a fundamental principle in a market economy.

The addition of Article 124 (Foreign Economic Activities Undertaken in an Irresponsible Manner) shows that a serious shortage of foreign currency led the DPRK to criminalize foreign contractual losses, which will likely incur only civil or administrative liabilities in many other countries.<sup>545</sup> This provision was interpreted as applicable, for example, if the loss was incurred because (1) you were unaware of the foreign market price, (2) you had been deceived by the other party, (3) goods were refused or damages were paid for a breach of contract in packaging, specifications, quality, or delivery date, or (4) you failed to ensure the quality of a construction project overseas.<sup>546</sup>

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<sup>543</sup> Article 132.

A person who utilizes labor, equipment, materials, or funding for plans for the people's economy to produce unplanned goods or make unplanned constructions to hinder the execution of plans for the people's economy shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

<sup>544</sup> Article 170.

A person who violates the regulations for price setting shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than two years.

<sup>545</sup> Article 124.

A person who makes problematic economic contracts, including trade contracts, with other countries or conducts foreign economic activities in an irresponsible manner that causes particularly large damage shall be sentenced to reform through labor for not more than two years.

<sup>546</sup> YOON-GI LEE (리윤기) ET AL., *supra* note 529, at 208–209.

### 3.3.2.2.3. Crimes of Violating the Regulations for Land Administration and Environmental Protection

The addition of Articles 176 (Illegal Collection and Smelting of Gold),<sup>547</sup> 177 (Violation of Regulations for Creation, Protection, and Use of Forest Regulations),<sup>548</sup> and 180 (Illegal Clearing of Forest)<sup>549</sup> to the 2004 penal code suggests that unauthorized gold mining, felling of trees, and farming in the mountains—not only by individuals but by enterprises and institutions<sup>550</sup>—had become widespread in the DPRK. Article 184 (Violation of Road Maintenance Regulations)<sup>551</sup> suggests that the overall road conditions in the DPRK had seriously deteriorated.

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<sup>547</sup> Article 176 (Illegal Collection and Smelting of Ores)

A person who illegally collects or smelts ores shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than four years.

<sup>548</sup> Article 177 (Violation of Regulations for Creation, Protection, and Use of Forest Regulations)

A worker-in-charge of an institution, corporate association, or organization who violates the regulations for creation, protection, and use of forests, resulting in great damage to forestry resources, shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than four years.

<sup>549</sup> Article 180 (Illegal Clearing of Forest)

A person who illegally clears forest to hinder the protection of forests shall be sentenced to training through labor for not more than two years.

<sup>550</sup> YOON-GI LEE (리 윤기) ET AL., *supra* note 529, at 272.

<sup>551</sup> Article 184.

A person who fails to duly repair or maintain roads, thereby hindering transportation service, shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

#### 3.3.2.2.2.4. Crimes of Violating the Regulations for Labor Administration

The addition of Article 189 (Arbitrary Dismissal)<sup>552</sup> shows that enterprises had been given some level of autonomy to discharge workers—resulting from a series of measures relaxing economic control by the DPRK regime—as long as they had a justifiable reason. This also suggests that the discharge of many workers by DPRK enterprises, which were forced to cut expenses due to the large wage hikes caused by the July 1st Measures<sup>553</sup>, had already become a serious concern for the DPRK regime before April 2004.

Article 191 (Assigning Work to Minors)<sup>554</sup> was also added in 2004, which suggests that child labor had become prevalent since the mid-to-late 1990s, as the DPRK regime's social control weakened with the extreme economic crisis at that time.

Article 188 (Irresponsible Assignment, Adjustment, and Mobilization of Labor Force)<sup>555</sup> suggests the serious shortage of labor in the public sector. The following cases

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<sup>552</sup> Article 189.

Anyone who dismisses or moves an employee without justifiable reason is subject to labor training for not more than two years.

<sup>553</sup> FEDERAL RESEARCH DIVISION, LIBRARY OF CONGRESS, *supra* note 72, at 172.

<sup>554</sup> Article 191.

A person who assigns work to a minor under the working age shall be sentenced to training through labor for not more than two years.

<sup>555</sup> Article 188.

A worker in the labor administration sector who, although there is an available workplace, refuses to commence his work, does not assign work to workers, or mobilizes and adjusts the labor force in a haphazard way to waste labor or evoke public criticism shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than two years.

suggest that the lack of human resources in the public sector was a result not only of outflow into the private sector but of widespread bribery required for employment.

Myung-hoon Choi, staff in the labor department at a county office, postponed placing Su-ho Han—who had just been released from prison—at a factory for four months without a valid reason. Choi placed Han as a worker at a construction enterprise when Han paid Choi 30,000 won as an “employment fee.” When Han came to the construction enterprise with a certificate of placement, Won-sun Kim, who was in charge of labor at the enterprise, did not accept Han because of his criminal record. Han wandered, unemployed, and later committed a crime, acting as an agent, and was caught in the act.<sup>556</sup>

Interestingly, in the case above, Kim is punishable only by Article 188 and the DPRK does not apply the same provision to Choi’s acceptance of a bribe because it was considered a much less serious offense and punishable only by an administrative penalty.<sup>557</sup> This generous attitude to bribery shows how prevalent it was in the DPRK at that time.

### 3.3.2.2.3. Amended Provisions on Economic Crimes

Although most provisions on economic crimes in the 1999 penal code were amended in 2004,<sup>558</sup> the amendments to existing provisions were generally minor, except for changes in the extent of punishment and refinement of expressions therein. However, there were several notable exceptions as follows.

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<sup>556</sup> YOON-GI LEE (리윤기) ET AL., *supra* note 529, at 299.

<sup>557</sup> *Id.* at 300.

<sup>558</sup> See Appendix 8.

In line with the enactment of People's Economic Planning Law, Article 72 on the people's economic plan<sup>559</sup> in the 1999 penal code became more detailed and was divided into four provisions in the 2004 penal code—Articles 127 (Haphazard Planning of People's Economic Plan), 128 (Modification of People's Economic Plan), 129 (Failure to Meet People's Economic Plan), and 130 (False Reports on the Execution of People's Economic Plan).<sup>560</sup> This suggests the DPRK regime's intention to more closely monitor and ensure implementation of people's economic plan.

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<sup>559</sup> Article 72.

A person who seriously disrupts the normal development of the national economy by drawing up a plan for the national economy in a careless manner, changing the State plan, submitting a false report on the execution of a plan, or violating the plan and contract discipline repeatedly shall be committed to a reform institution for up to three years.

<sup>560</sup> Article 127.

A person who hinders the planned and balanced development of the people's economy by drawing up a plan for the people's economy in a haphazard manner shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

Article 128.

A person who modifies a plan for the people's economy without the authorization of a ratifying organization shall be sentenced to training through labor for not more than two years.

Article 129.

A person who fails to meet a plan for the people's economy by a wide margin due to failure to make careful plans for organized economic enterprises in advance shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than two years.

Article 130.

A person who makes false reports on the execution of a plan for the people's economy shall be sentenced to training through labor for not more than two years. If the foregoing act is repeated or hinders the State's policymaking and policy execution, he or she shall be sentenced to reform through labor for not more than five years.

Whereas Article 89 (Violation of Regulations for Pollution Prevention) in the 1999 penal code required economic, tangible damage to humans, such as “harm to marine resources or agricultural production” or “great interference with the people’s livelihood,” for penal sanctions, the provision was amended in the 2004 penal code to require just “contamination of the air, water, or soil.”<sup>561</sup> This is in line with the addition of “environmental protection” to the title of Chapter 5, Section 3, and is a noticeable advancement in that environmental destruction has been an issue of global concern.

Article 90 (Failure to Repair a State Building)<sup>562</sup> was moved from the section on crimes of violating the regulations for land administration to the section on crimes of violating the regulations for socialist economic management<sup>563</sup> in the 2004 amendment. This suggests that buildings, which had merely been considered as objects of administration, were increasingly considered to have economic value in the DPRK.

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<sup>561</sup> Article 182 (Violation of Environmental Protection Regulations)

A person who contaminates the air, water, or soil to create pollution shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than five years.

<sup>562</sup> Article 90.

A person who causes a State-owned building or public establishment to fall into disrepair or reduces its length of service, or who changes its structure illegally, shall be committed to a reform institution for up to one year.

<sup>563</sup> Article 148.

A person who fails to repair a State building in a timely manner and allows it to fall into disrepair or reduces its length of service shall be sentenced to training through labor for not more than two years.

### 3.3.3. The July 2009 Penal Code: A Full-Scale Counteroffensive Against Marketization

#### 3.3.3.1. Overview of the July 2009 Penal Code

The 2004 DPRK penal code was amended nine times before it was amended again on July 21, 2009. While only three (2.7%) provisions on economic crimes in the 2004 penal code were deleted, seven and three provisions on economic crimes and non-economic crimes, respectively,<sup>564</sup> were added to the Special Part until July 2009.<sup>565</sup> While 60 (53.6%) provisions on economic crimes and 68 (51.1%) provisions on non-economic crimes in the 2004 penal code were retained until July 2009,<sup>566</sup> the rapid change in the DPRK's economic policy during this period—from partial permission or promotion to full-scale suppression of marketization—was reflected in the remaining part of the penal code. Whereas the maximum sentences in 10 (8.9%) provisions on economic crimes and 4 (3%) provisions on non-economic crimes decreased through amendments from April 2004 to July 2009, those in 27 (24.1%) and 28 (21.1%) provisions on economic crimes and non-economic crimes, respectively, increased during the same period.

Heightened punishment is also recognizable by the average maximum sentence for economic crimes that significantly increased again in the July 2009 penal code as compared to the 2004 code. Although the increase in the average maximum sentence for

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<sup>564</sup> The three provisions on non-economic crimes were Article 7 in Addenda (Illegal Sale of Strategic Reserve Supplies), Article 13 in Addenda (Illegal Cooperation with Person from Another Country), and Article 16 in Addenda (Obstruction of Resolution of a Case).

<sup>565</sup> See Appendix 3.

<sup>566</sup> See Appendix 8.

crimes not punishable by death or life imprisonment in the 2009 penal code—from 12.2 to 13.9 years for crimes against State property and almost no change for other economic crimes—looks less dramatic than the changes in the 2004 amendment, the number of economic crimes punishable by death significantly increased—from zero to eight—in the 2009 penal code.<sup>567</sup> This unprecedented high level of punishment for economic crimes, especially those against State property, came very close to the level of punishment for crimes against the State—traditionally the most heavily punished crimes in the DPRK—suggesting how devoted the DPRK regime was to suppressing its ever-growing market economy and thereby protecting itself from potential threats arising from increased freedom of individuals through marketization.

One noteworthy development regarding the DPRK penal code during this period is that a law reference book for law enforcement personnel<sup>568</sup> was published for the first time in the DPRK in June 2009 by the DPRK's Ministry of People's Security (인민보안성).<sup>569</sup> This 791-page book—a classified material—contains 456 examples with explanations of how to apply selected DPRK laws—primarily the penal code and criminal procedure law—to each example. It appears that, with this reference book, the DPRK regime intended to reinforce its control over the society through the uniform and strict application of the penal

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<sup>567</sup> *Id.* The number of non-economic crimes punishable by death also significantly increased from five in the 2004 code to 13 in the 2009 code.

<sup>568</sup> YOON-GI LEE (리 윤기) ET AL., *supra* note 529.

<sup>569</sup> This organization generally corresponds to the national police agencies in many other countries, but also has characteristics of a paramilitary force. INSTITUTE FOR UNIFICATION EDUCATION, MINISTRY OF UNIFICATION OF THE ROK, UNDERSTANDING NORTH KOREA 2012 131 (2012), <http://www.uniedu.go.kr/uniedu/atcfile/down/F000003607.pdf> (last visited Sept. 17, 2019).

code.<sup>570</sup> Many of the examples appear to be based on actual cases,<sup>571</sup> which renders this book an invaluable source for those studying DPRK laws because the media and law textbooks in the DPRK never mention actual cases<sup>572</sup> and, thus, it is almost impossible to find actual cases tried in court.<sup>573</sup>

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<sup>570</sup> Narae Kim (김나래), *Social Chaos Confirmed... Law Utilized for the Hereditary Succession of Power*(사회 혼란 방증... ‘법’ 내세워 3 대세습 안착에 활용), KUKMINILBO, June 19, 2011 (in Korean), <http://news.kmib.co.kr/article/view.asp?arcid=0005074585> (last visited Sept. 17, 2019).

<sup>571</sup> Seong-gyu Lee (이성규) & Do-gyong Lee (이도경), *Rumors about Drugs, Counterfeit Money, and Eating Human Flesh in the DPRK Turn out to Be True* (北, ‘마약·위폐·인육 사건’ 說이 실제로...), KUKMINILBO, June 19, 2011 (in Korean), <http://news.kmib.co.kr/article/view.asp?arcid=0005074583> (last visited Sept. 17, 2019).

<sup>572</sup> In part, this seems to be because the DPRK has often advertised itself as a workers’ paradise both domestically and internationally, although it has tended to do much less of this since the Arduous March in the mid-to-late 1990s. The unique perspective of the DPRK regime on the media seems to have contributed to this phenomenon, as suggested by the following conversation between two DPRK officials and a journalist from the ROK:

... a councilor ... who once visited Seoul in the 2000s said this: “When I went to Seoul ... I watched TV. Why do they only talk about bad stories? Someone kills another, someone goes to prison, someone gets injured by a car accident somewhere ... How can the general public become people of culture if they always report negative news on the air? In the DPRK, broadcasters are dedicated to enhancing the level of people’s culture for social progress and development. There is not enough time to dig out and report hidden people of ability, praise good work ... Why are they always at each other’s throats?

“That’s because it’s all about audience ratings. South Korean broadcasters prefer to cover bad news about others to boost their ratings,” another councilor ... said.

“There’s a lot of competition for viewership, but not just because of that. In the South, we think it is necessary to point out the wrong things in order for society to develop. We think it is the mission of the media to address social irrationalities ...”

“I can’t understand it. We should introduce exemplary cases for people to follow them. Is there anything good in talking about bad things?”

KI-HYŎN O (오기현), PUKHAN SARAM KWA KORAE HANUN POŬP (북한 사람과 거래하는 법: How to negotiate with North Koreans) 194–195 (2019) (in Korean).

<sup>573</sup> A handful of political criminals seem to be the only exception: The case of Jang Song-thaek, uncle of Kim Jong-Un, who was executed in December 2013 for attempting to overthrow the State, was extensively covered by RODONG SINMUN.

### 3.3.3.2. Provisions on Economic Crimes

Between 2004 and July 2009, the chapters on economic crimes in the DPRK penal code retained their structure, but three provisions on economic crimes were abrogated (see the table below). Six (85.7%) and two (28.6%) out of seven new provisions on economic crimes in the July 2009 DPRK penal code corresponded to their PRC and Russian counterparts, respectively.

Table 13. Changes in the Provisions on Economic Crimes in the DPRK Penal Code until July 2009 (Those corresponding to the provisions in the then penal codes of Russia and the PRC are in bold and italics, respectively, and bold italics if they correspond to both codes)<sup>574</sup>

Deleted Provisions in the 2004 Penal Code			
Chapter	Section	Article	
5. Crimes of Encroaching on the Socialist Economic System	2. Crimes of Violating Economic Regulations	105 (Outward Transfer of the Currency of the DPRK)	140 (Disposal of Received Goods or Procured Goods)
	4. Crimes of Violating the Regulations for Labor Administration	189 (Arbitrary Dismissal)	
Added Provisions in the July 2009 Penal Code			
Chapter	Section	Article	
5. Crimes of Encroaching on the Socialist Economic System	2. Crimes of Violating Economic Regulations	<i>107 (Violation of the Regulations for Storage and Supply of Drugs and Explosives)</i>	140 (Violation of Real Estate Management Regulations)
	4. Crimes of Violating the Regulations for Labor Administration	<b><i>189 (Violation of Fire Prevention Regulations)</i></b>	

<sup>574</sup> See Appendix 4.

2007 Addenda	8 ( <i>Smuggling of State Resources</i> ) 9 ( <i>Foreign Currency Flight</i> )	<b>10 (<i>Violation of Laws and Regulations of Construction</i>)</b> 18 ( <i>Illegal Business</i> )
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### 3.3.3.2.1. Deleted Provisions on Economic Crimes

During this period, only three provisions of the 2004 penal code—Articles 105 (Outward Transfer of Currency of the DPRK), 140 (Disposal of Received Goods or Procured Goods), and 189 (Arbitrary Dismissal)—were abrogated. It is not clear why these provisions were abolished just about five years after they had been added to the penal code, although it may be that Article 105 was replaced by a similar provision—Article 9 in the 2007 Addenda to the penal code.

### 3.3.3.2.2. Added Provisions on Economic Crimes

More provisions on economic crimes were added than deleted during the same period, in part through the 2007 Addenda to the penal code, which seems to reflect the Kim Jong-Il regime’s strong will to control the market at that time. The addition of Articles 107 (Violation of the Regulations for Storage and Supply of Drugs and Explosives)<sup>575</sup> and 189 (Violation of Fire Prevention Regulations)<sup>576</sup> suggest that the DPRK was having

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<sup>575</sup> Article 107.

If an institution, corporate association or organization violates the regulations for storage and supply of drugs and explosives, he or she shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than five years.

<sup>576</sup> Article 140.

A person who violates the regulations for real estate management shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

difficulties with drug control and the prevention of fire accidents and accidents caused by explosives. Article 140 (Violation of Real Estate Management Regulations)<sup>577</sup> was added seemingly because private, clandestine transactions of state-owned real estate had significantly increased.

The 2007 Addenda to the penal code also contained four provisions on economic crimes—Articles 8 (Smuggling of State Resources)<sup>578</sup>, 9 (Foreign Currency Flight)<sup>579</sup>, 10 (Violation of Laws and Regulations of Construction)<sup>580</sup>, and 18 (Illegal Business)<sup>581</sup>—

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<sup>577</sup> Article 189.

A person who fails to take measures to prevent fire resulting in serious accidents, such as fire or explosion, shall be sentenced to training through labor for not more than two years.

If the foregoing act causes death, serious injuries to multiple persons, or a particularly large property loss, he or she shall be sentenced to reform through labor for not more than five years.

<sup>578</sup> Article 8.

A person who illegally sells state resources, such as underground resources, forest resources, or fishery resources, to another country shall be sentenced to reform through labor for not less than five years and not more than 10 years. A person who sells resources to another country multiple times or in a large amount shall be sentenced to reform through labor for not less than 10 years.

If the act of the foregoing clause is extremely serious, he or she shall be sentenced to life-term reform through labor or the death penalty and confiscation of property.

<sup>579</sup> Article 9.

A person who deposits foreign currency in a foreign bank or corporation shall be sentenced to reform through labor for not more than five years.

If the offense is serious, he or she shall be sentenced to reform through labor for not less than five years and not more than 10 years.

<sup>580</sup> Article 10.

A person who undertakes construction activities in violation of laws or regulations related to construction shall be sentenced to training through labor for not more than two years.

If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

<sup>581</sup> Article 18.

A person who illegally runs a restaurant, inn, shop, or such shall be sentenced to reform through labor for not more than five years.

which also suggests that the conduct punished by these provisions had become visibly commonplace. It is not clear, however, why the DPRK had to stipulate these provisions in the Addenda, rather than in the main body of the penal code.<sup>582</sup>

#### 3.3.3.2.3. Amended Provisions on Economic Crimes

The average maximum sentence for economic crimes was significantly increased by the amendments to the penal code between 2004 and July 2009, as mentioned above. However, the provisions on economic crimes underwent only very minor changes otherwise. The revisions made to the provisions on crimes against state property and intellectual property crimes during this period require special attention.

##### 3.3.3.2.3.1. Crimes against State Property

The phrase, “State property is sacred and inviolable,” which was used to explain the 1974 penal code in the criminal law textbook published in 1987 by Kim Il-Sung University, is still found in a textbook published in August 2006 for an introductory law course at the

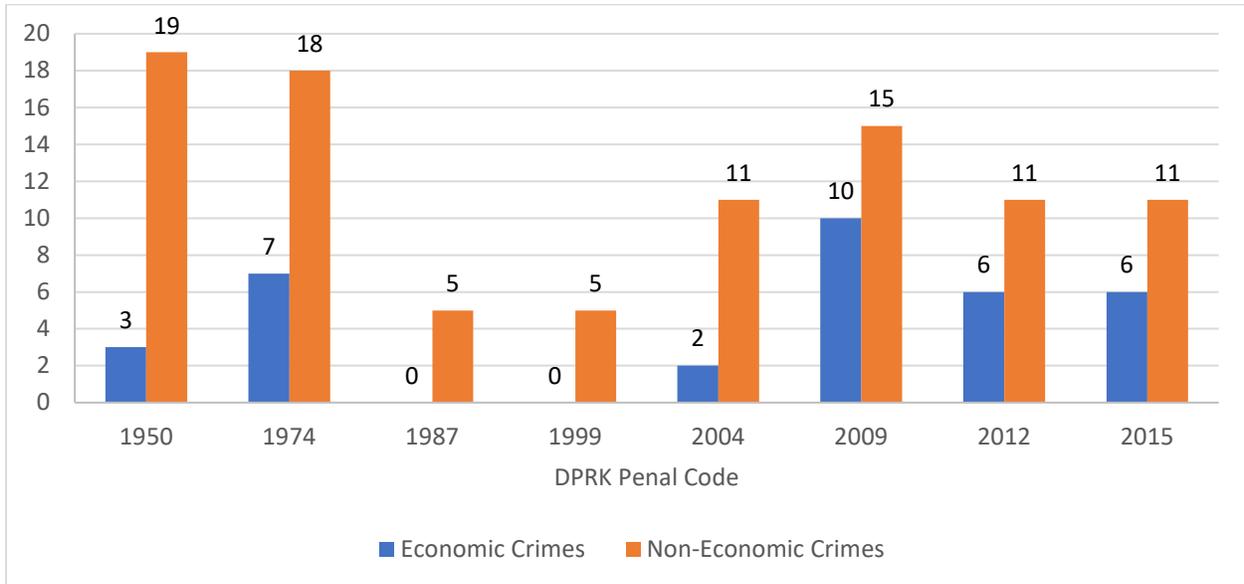
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If a particularly large amount of profit is gained from illegal business, he or she shall be sentenced to reform through labor for not less than five years and not more than 10 years. If the offense is serious, he or she shall be sentenced to reform through labor for not less than 10 years. If sexual service was organized in the course of operating a restaurant or an inn, he or she shall be sentenced to life-term reform through labor or the death penalty.

<sup>582</sup> Adding provisions through the Addenda seemingly had no advantage over regular amendment to the penal code in terms of simplicity in legislation. It appears the Addenda also went through the same legislative process, as it was added by a decree of the Presidium of the Supreme People’s Assembly as regular amendments are. One possible advantage is that provisions can remain a secret because the Addenda to the penal code have not been made public in the DPRK. However, the addition of those specific provisions in the Addenda is still incomprehensible because the four provisions are not distinct from other regular provisions on economic crimes.

same university.<sup>583</sup> This reflects the DPRK regime's ongoing attempt to protect State property and thereby maintain the socialist economy.

Figure 7. Number of Crimes Punishable by Death or by up to Life Imprisonment in the DPRK Penal Code



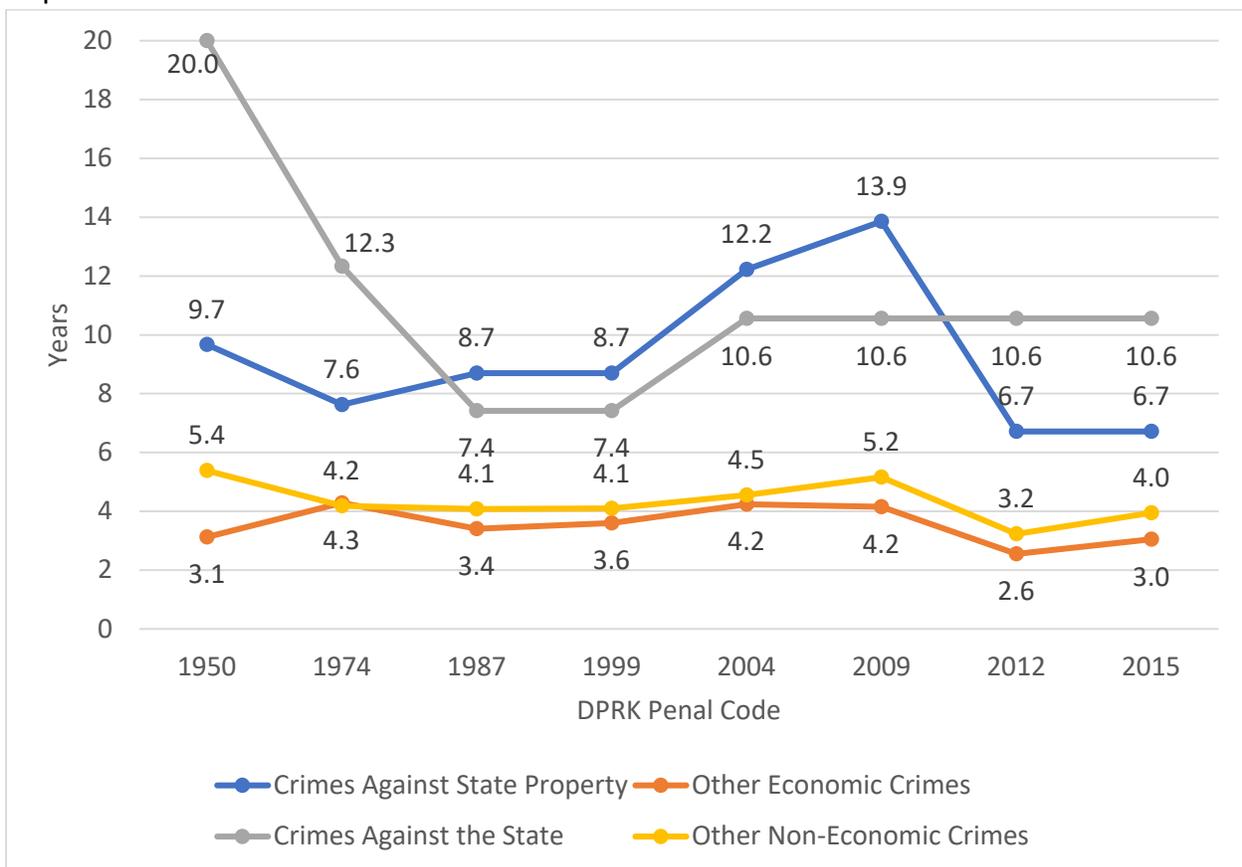
(See Appendices 6-1. and 6-2. for more details)

Such a perspective is confirmed by the fact that the number of economic crimes punishable by death in the penal code greatly increased—from zero to eight—and even surpassed that in the 1974 penal code, which was legislated at the stage of completion

<sup>583</sup> HEE-SEONG KIM (김희성) ET AL., INTRODUCTION TO LAW (법개론) 144 (2006) (in Korean). As 100,000 copies were printed, it appears that this textbook, containing general knowledge of the DPRK constitution, administrative law (mostly Administrative Penalty Law), penal code, and civil code, was widely used, also by students who did not major in law, at many universities across the country. *Id.* at 190. Most law textbooks at Kim Il-Sung University are printed in a much smaller number—often less than 100 or just a few thousand copies at most. In the part on non-State crimes, about half of the pages were dedicated to theft of State property. This, again, suggests how prevalent crimes against State property were at that time and how much the DPRK prioritized protection of State property.

of Stalinization and evaluated as “a culmination of totalitarian iron fists,” as mentioned above (see the figure above). Likewise, the average maximum sentence for crimes against State property not punishable by death or life imprisonment peaked in the July 2009 penal code (see the figure below).

Figure 8. Average Maximum Sentence for Crimes Not Punishable by Death or Life Imprisonment in the DPRK Penal Code



(See Appendix 7. for more details)

### 3.3.3.2.3.2. Intellectual Property Crimes

It is noteworthy that the scope of criminally sanctioned intellectual property infringement expanded. Whereas Article 113 of the 2004 DPRK penal code stipulated

only infringement of trademark as punishable, the same provision was amended in July 2005 to make infringement of patent, industrial design, and geographical indication punishable as well. Another important change was that the scope of the holder of such intellectual property rights was broadened to include individuals. The phrase “trademark rights of an institution, enterprise, or organization” in Article 113 was removed in 2009, which implicitly acknowledged individuals as subjects of intellectual property rights for the first time in the penal code since 1974.

Table 14. Provisions on Crimes of Infringement of Trademark (and Patent) in the DPRK Penal Code

2004 Penal Code	July 2009 Penal Code
<p>Article 113 (Infringement of Trademark)</p> <p>A person who illegally makes or sells a trademark; a person who sells, imports, or exports an unmarked product; or a person who infringes the trademark rights of an institution, enterprise, or organization shall be sentenced to reform through labor for not more than two years.</p>	<p>Article 113 (Infringement of Patent, Trademark, Industrial Design, or Geographical Indications)</p> <p>A person who infringes patent, trademark, industrial design, or geographical indications shall be sentenced to training through labor for not more than two years.</p> <p>If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.</p>

Whereas infringement of patents, along with infringement of trademarks, industrial designs, and geographical indication, is classified as a crime of violating economic regulations in the DPRK, infringement of inventor’s rights and copyright has been regarded as a crime of impairing the socialist culture since 1974. Since 1950, the DPRK penal code has followed its Russian counterpart, which once regarded infringement of inventor’s rights and copyright as an economic crime, but moved it to a chapter on non-economic crimes. With the addition of patent infringement to the DPRK penal code in

2005, however, the DPRK's classification became partly in line with the PRC approach, which included infringement of patent in economic crimes in 1997, and not the Russian one, which placed infringement of patent and inventor's rights in the category of non-economic crimes in 1996 (see the table below).<sup>584</sup> Again, this suggests the growing influence of PRC laws on DPRK laws.

Table 15. Comparisons of Classifications of Intellectual Property Crimes in the Penal Codes of the DPRK, Russia, and the PRC

	Penal Code	Trademark Rights	Patent Rights	Inventor's Rights	Copyright
DPRK	1950	Economic <sup>585</sup>	-	Economic <sup>586587</sup>	Economic <sup>588</sup>
	1974 / 1987 / 1999	-	-	Non-Economic <sup>589</sup>	Non-Economic <sup>590</sup>

<sup>584</sup> All intellectual property-related crimes in the PRC penal code were prescribed in Section 7. Infringement of Intellectual Property Rights (第七节 侵犯知识产权罪) under Chapter III. Crimes of Undermining the Order of Socialist Market Economy (第三章 破坏社会主义市场经济秩序罪). In contrast, all intellectual property-related crimes in the Russian penal code were prescribed in Chapter 19. Crimes Against the Constitutional Rights and Freedoms of Man and Citizen (Глава 19. Преступления против конституционных прав и свобод человека и гражданина) under Section VII. Crimes against the Person (Раздел VII. Преступления против личности), not under Section VIII. Crimes in the Sphere of Economics (Раздел VIII. Преступления в сфере экономики).

<sup>585</sup> Article 167 in Chapter 17. Crimes of Encroaching on Private Property of Citizens.

<sup>586</sup> Article 166 in the same chapter as above.

<sup>587</sup> It is noteworthy that in the 1950 DPRK penal code there was another provision on invention other than Article 166. While this article mentions invention, it was to protect national interests, not private interests. Article 231 in Chapter 21. Crimes of Violating the Regulations for General Administration provided that "A person who discloses outside the country without appropriate authorization an invention made in the DPRK or who applies for inventor's rights for such an invention outside the country shall be sentenced to correctional labor for not more than one year or by a fine of not more than 3,000 won."

<sup>588</sup> *Id.*

<sup>589</sup> Article 98 in the chapter titled "Crimes of Encroaching on the Socialist Economic System."

<sup>590</sup> *Id.*

	2004	Economic <sup>591</sup>	-	Non-Economic <sup>592</sup>	Non-Economic <sup>593</sup>
	July 2009	Economic <sup>594</sup>	Economic <sup>595</sup>	Non-Economic <sup>596</sup>	Non-Economic <sup>597</sup>
	May 2012	Economic <sup>598</sup>	Economic <sup>599</sup>	Non-Economic <sup>600</sup>	Non-Economic <sup>601</sup>
	July 2015	Economic <sup>602</sup>	Economic <sup>603</sup>	Non-Economic <sup>604</sup>	Non-Economic <sup>605</sup>

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<sup>591</sup> Article 113 (Infringement of Trademark Rights) in Section 2. Crimes of Violating the Regulations for Socialist Economic Management, Chapter 5. Crimes of Encroaching on the Socialist Economic System.

<sup>592</sup> Article 199 (Disregard of Writings, Inventions, and Technical Innovations) and Article 200 (Theft of Writings, Inventions, and Technical Innovations) in Chapter 6. Crimes of Impairing the Socialist Culture.

<sup>593</sup> *Id.*

<sup>594</sup> Article 113 (Infringement of Patent, Trademark, Industrial Design, or Geographical Indications) in Section 2. Crimes of Violating the Regulations for Socialist Economic Management, Chapter 5. Crimes of Encroaching on the Socialist Economic System.

<sup>595</sup> *Id.*

<sup>596</sup> Article 199 (Disregard of Writings, Inventions, and Technical Innovations) and Article 200 (Theft of Writings, Inventions, and Technical Innovations) in Chapter 6. Crimes of Impairing the Socialist Culture.

<sup>597</sup> *Id.*

<sup>598</sup> Article 117 (Infringement of Patent, Trademark, Industrial Design, or Geographical Indications) in Section 2. Crimes of Violating the Regulations for Socialist Economic Management, Chapter 5. Crimes of Encroaching on the Socialist Economic System.

<sup>599</sup> *Id.*

<sup>600</sup> Article 190 (Disregard of Writings, Inventions, and Technical Innovations) and Article 191 (Theft of Writings, Inventions, and Technical Innovations) in Chapter 6. Crimes of Impairing the Socialist Culture.

<sup>601</sup> *Id.*

<sup>602</sup> Article 117 (Infringement of Patent, Trademark, Industrial Design, or Geographical Indications) in Section 2. Crimes of Violating the Regulations for Socialist Economic Management, Chapter 5. Crimes of Encroaching on the Socialist Economic System.

<sup>603</sup> *Id.*

<sup>604</sup> Article 190 (Disregard of Writings, Inventions, and Technical Innovations) and Article 191 (Theft of Writings, Inventions, and Technical Innovations) in Chapter 6. Crimes of Impairing the Socialist Culture.

<sup>605</sup> *Id.*

Russia (RSFSR)	1926 <sup>606</sup>	Economic <sup>607</sup>	-	Economic <sup>608</sup>	Economic <sup>609</sup>
	1960 <sup>610</sup>	Economic <sup>611</sup>	-	Non-Economic <sup>612</sup>	Non-Economic <sup>613</sup>
	1996 <sup>614</sup>	Economic <sup>615</sup>	Non-Economic <sup>616</sup>	Non-Economic <sup>617</sup>	Non-Economic <sup>618</sup>
PRC <sup>619</sup>	1979	Economic <sup>620</sup>	-	-	-
	1997 <sup>621</sup>	Economic <sup>622</sup>	Economic <sup>623</sup>	-	Economic <sup>624</sup>

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<sup>606</sup> The 1926 RSFSR penal code amended up to April 1959.

<sup>607</sup> Article 178 in Chapter VII. Crimes against Property.

<sup>608</sup> Article 177 in the same chapter as above.

<sup>609</sup> *Id.*

<sup>610</sup> The 1960 RSFSR penal code amended up to July 1996.

<sup>611</sup> Article 155 (Illegal Use of Trademarks) in Chapter VI. Economic Crimes.

<sup>612</sup> Article 141 (Infringement of Author's and Inventor's Rights) in Chapter IV. Crimes against Political and Labor Rights of Citizens.

<sup>613</sup> *Id.*

<sup>614</sup> The 1996 Russian penal code amended up to February 2019.

<sup>615</sup> Article 180 (Illegal Use of a Trademark) in Chapter 22. Crimes in the Sphere of Economic Activity).

<sup>616</sup> Article 147 (Infringement of Inventor's Rights and Patent Rights) in Chapter 19. Crimes against the Constitutional Rights and Freedoms of Man and Citizen.

<sup>617</sup> *Id.*

<sup>618</sup> Article 146 (Infringement of Copyright and Neighboring Rights) in Chapter 19. Crimes against the Constitutional Rights and Freedoms of Man and Citizen.

<sup>619</sup> See Appendix 12. Whereas the 1979 PRC penal code provided punishment only for trademark infringement, the 1997 PRC penal code included punishment for infringement of other intellectual properties including patent and copyright. This came after the PRC joined the Paris Convention in 1985 and the Berne Convention in 1992. The PRC enacted its first patent and copyright laws in 1984 and 1992, respectively, before the date of entry into force of the aforementioned treaties.

<sup>620</sup> Article 127 in Chapter III. Crimes of Undermining the Socialist Economic Order.

<sup>621</sup> The 1997 PRC penal code amended up to November 2017.

<sup>622</sup> Articles 213–215 in Section 7. Infringement of Intellectual Property Rights, Chapter III. Crimes of Undermining the Order of Socialist Market Economy.

<sup>623</sup> Article 216 in the same section as above.

<sup>624</sup> Article 217 in the same section as above.

Although Article 113 in the 2004 DPRK penal code was amended in 2005 to include punishment for patent infringement, it appears that the type of crime was either not yet prevalent or taken seriously until early 2009. This is suggested by the fact that only one example of the crime of trademark infringement was mentioned for Article 113 in the aforementioned Reference Book for Personnel Fighting in the Field of Law<sup>625</sup>:

Mi-ran Yu, who used to work for a soda factory before she got married, bought the trademarks of a soda produced by the Seongcheon soda factory for 100 won per trademark, attached the trademarks to soda drinks that she produced at home, and sold the drinks in the market for 500 won per bottle, thereby making an undue profit of 2,500,000 won save the cost of production.<sup>626</sup>

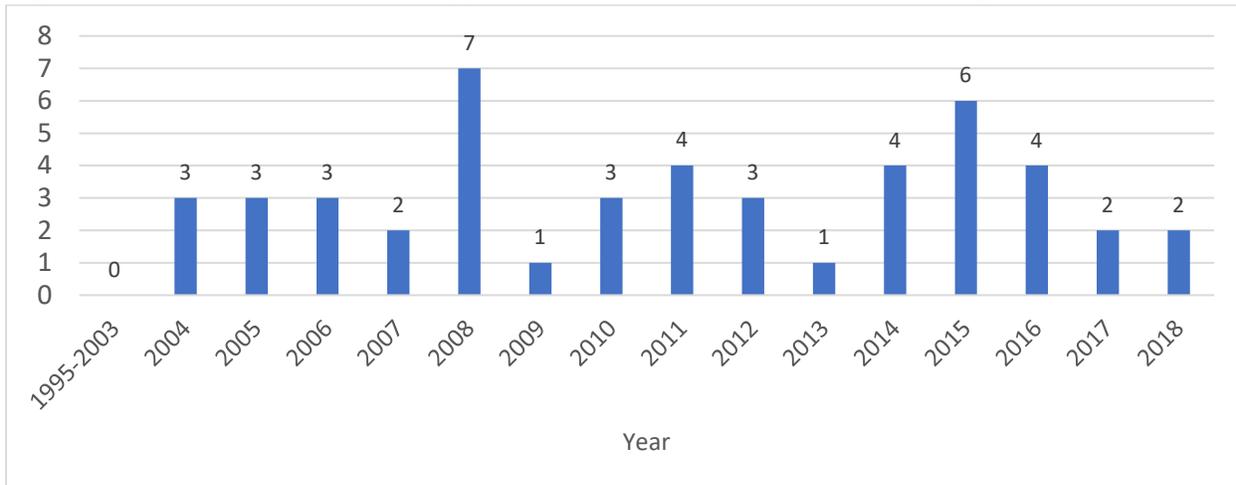
However, as the DPRK has put great emphasis on intellectual property including patent in recent years, both registration and infringement of intellectual property may increase accordingly—not only domestically but internationally—in the near future. Indeed, international patent applications and trademark registration from the DPRK have been steady despite the country's extreme isolation and economic hardships (see the figures below).

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<sup>625</sup> YOON-GI LEE (리 윤기) ET AL., *supra* note 529.

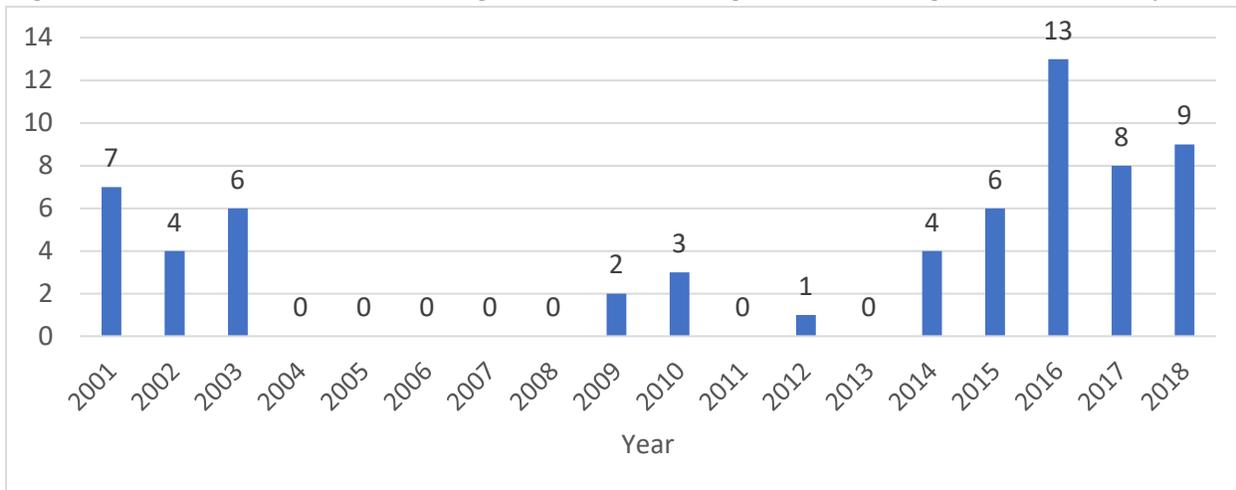
<sup>626</sup> *Id.* at 191.

Figure 9. International Patent Applications Where the DPRK is the Origin



Source: WIPO statistics database. Last updated: August 2019<sup>627</sup>

Figure 10. Trademarks Whose Origin is the DPRK Registered through the Madrid System



Source: WIPO Madrid Monitor (as of August 18, 2019)<sup>628</sup>

<sup>627</sup> WORLD INTELLECTUAL PROPERTY ORGANIZATION, WIPO IP STATISTICS DATA CENTER, <https://www3.wipo.int/ipstats/editSearchForm.htm?tab=pct> (last visited Aug. 18, 2019).

<sup>628</sup> WORLD INTELLECTUAL PROPERTY ORGANIZATION, MADRID MONITOR, <https://www.wipo.int/madrid/monitor/en> (last visited Aug. 18, 2019).

### 3.4. PROVISIONS ON ECONOMIC CRIMES IN THE DPRK PENAL CODE DURING THE KIM JONG-UN ERA (2011–PRESENT)

Although only two major amendments to the DPRK penal code under Kim Jong-Un's rule have been identified so far, they are noteworthy because they are the touchstone of the DPRK's economic control policy and future changes therein.

#### 3.4.1. The May 2012 Amendment to the Penal Code: More Lenient Punishment for Economic Crimes

##### 3.4.2.1. Overview of the May 2012 Penal Code

The DPRK penal code was amended four times after July 2009 before it was amended on May 14, 2012. Unlike in the economic clauses in the DPRK constitution, the DPRK penal code underwent significant changes during this period: only two (1.7%) provisions on economic crimes and 19 (14.1%) on non-economic crimes in the July 2009 penal code remained unchanged.<sup>629</sup> Up to May 2012, 19 (16.4%) provisions on economic crimes and 11 (8.1%) provisions on non-economic crimes<sup>630</sup> in the July 2009 penal code

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<sup>629</sup> See Appendix 8.

<sup>630</sup> The 11 provisions on non-economic crimes were Article 204 (Irresponsible Execution of Education Decrees and Curriculum), Article 221 (Interference with the Execution of the Duty of Legal-Sector Personnel), Article 225 (Trading Certificates), Article 234 (Assisting Illegal Crossing of the Border), Article 235 (Leaving Designated Area of Navigation and Fishing Ground), Article 257 (Bribe Acceptance by Management Personnel), Article 268 (Encouraging Superstitious Activities), Article 285 (Infliction of Grave Injury beyond Justifiable Self-Defense), Article 7 in Addenda (Illegal Sale of

were deleted, while eight and three new provisions were added to the provisions on economic crimes and non-economic crimes, respectively<sup>631</sup>. From July 2009 to May 2012, the maximum sentence decreased in 92 (80%) and increased in only 4 (3.5%) provisions on economic crimes and decreased in 101 (74.8%) and increased in only 4 (3%) provisions on non-economic crimes.<sup>632</sup>

A decrease in the level of maximum sentences is also evident. In the May 2012 DPRK penal code, as compared with the July 2009 code, the average maximum sentence for economic crimes not punishable by death or life imprisonment significantly decreased—from 13.9 to 6.7 years for crimes against State property and from 4.2 to 2.6 years for other economic crimes.<sup>633</sup> The number of economic crimes punishable by up to death or life imprisonment also decreased—from 10 to six—in the May 2012 penal code.<sup>634</sup> Such lenient punishment in the May 2012 penal code suggests that the DPRK regime's attitudes became more liberal to the ongoing changes in the domestic economy after Kim Jong-Un came to power in December 2011, or that the DPRK regime had tacitly

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Strategic Reserve Supplies), Article 13 in Addenda (Illegal Cooperation with Person from another Country), and Article 16 in Addenda (Obstruction of Resolution of a Case).

<sup>631</sup> See Appendix 8. The three provisions on non-economic crimes were Article 222 (Illegal Cooperation), which punishes cooperation with a person who is against the State; Article 232 (Illegal Usage and Disposal of Property Held as Security); and Article 259 (Violation of Regulations for Nursing Service for the Aged).

<sup>632</sup> *Id.*

<sup>633</sup> *Id.* Although the average maximum sentence for crimes against the State that are not punishable by death or life imprisonment remained unchanged, that of other non-economic crimes not punishable by death or life imprisonment significantly decreased in the May 2012 penal code—from 5.2 to 3.2 years.

<sup>634</sup> *Id.* The number of non-economic crimes punishable by death also significantly increased from five in the July 2009 penal code to 13 in the May 2012 code.

acknowledged their market suppression policy through draconian penalties has generally failed, or both.

### 3.4.2.2. Provisions on Economic Crimes

Between July 2009 and May 2012, the structure of chapters on economic crimes in the DPRK penal code did not change, but 15 provisions on economic crimes were abrogated (see the table below). One (14.3%) of seven new provisions on economic crimes in the May 2012 DPRK penal code corresponded only to its PRC counterpart. The other six provisions were unique to the DPRK penal code and none of the new provisions corresponded to their Russian counterparts.

Table 16. Changes in Provisions on Economic Crimes in the DPRK Penal Code until May 2012 (Those corresponding to the provisions in the then penal codes of Russia and the PRC are in bold and italics, respectively, and bold italics if they correspond to both codes)<sup>635</sup>

Deleted Provisions in the July 2009 Penal Code			
Chapter	Section	Article	
5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on State Property and the Property of Social or Cooperative Organizations	91 (Extortion of State Property)	
	2. Crimes of Violating Economic Regulations	107 (Illegal Trade of Equipment and Supplies in Foreign Currency) 119 (Exploitation of Labor) 125 (Illegal Earning of Foreign Currency)	148 (Failure to Repair State Building) 150 (Failure to Give Directions According to Juche Farming Methods)

<sup>635</sup> See Appendix 5.

		132 (Unplanned Production and Construction) 140 (Violation of Real Estate Management Regulations) 147 (Modification of State Building)	151 ( <i>Violation of Production, Supply, and Use of Seeds Regulations</i> ) 161 (Illegal Distribution of Products) 167 (Violation of Telephone Installation and Obstruction of Telephone Use Regulations)
	4. Crimes of Violating the Regulations for Labor Administration	188 (Irresponsible Assignment, Adjustment, and Mobilization of Labor Force)	
9. Crimes of Impairing the Lives and Property of Citizens	2. Crimes of Encroaching on Private Property	<b>298 (<i>Extortion of Private Property</i>)</b>	
2007 Addenda		<b>8 (<i>Smuggling of State Resources</i>)</b> <b>9 (<i>Foreign Currency Flight</i>)</b>	<b>10 (<i>Violation of Laws and Regulations of Construction</i>)</b> <b>18 (<i>Illegal Business</i>)</b>
Added Provisions in the May 2012 Penal Code			
Chapter	Section	Article	
5. Crimes of Encroaching on the Socialist Economic System	2. Crimes of Violating Economic Regulations	104 (Violation of Loan Control) 105 (Violation of Currency Control) 108 (Violation of the Regulations for Currency Usage)	111 (Illegal Trade) 139 (Violation of Production Facilities Repair Regulations) 142 (Violation of State Building Usage Regulations)
9. Crimes of Impairing the Lives and Property of Citizens	2. Crimes of Encroaching on Private Property	<b>287 (<i>Taking a Large Amount of Private Property</i>)</b>	

#### 3.4.2.2.1. Deleted Provisions on Economic Crimes

Seemingly in line with the overall relaxation of control over market activities, many activities were decriminalized between July 2009 and May 2012. During this period, 14 provisions on economic crimes were abrogated in the DPRK penal code—the highest number since 1974, when 33 provisions on economic crimes were deleted from the code. It appears that the DPRK decriminalized at least some of those 14 activities with the aim of promoting economic development.

The abrogation of Articles 150 (Failure to Give Directions According to Juche Farming Methods)<sup>636</sup> and 151 (Violation of Production, Supply, and Use of Seeds Regulations)<sup>637</sup>—seemingly tacit admission that the strict application of a uniform standard in agricultural administration had failed—was supposedly intended to give more autonomy to the agricultural sector. Additionally, the abolition of “Juche”—political propaganda—farming methods, which had been advertised for decades as one of the greatest accomplishments of Kim Il-Sung in the economic sector, could be interpreted as reflecting Kim Jong-Un’s will to gradually deviate from the legacies of his father and grandfather. Indeed, this is also suggested by the recent constitutional amendments of

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<sup>636</sup> Article 150.

A worker of an agricultural supervisory agency who fails to give directions according to Juche agricultural methods, resulting in serious consequences in agricultural production, shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than two years.

<sup>637</sup> Article 151.

A person who violates the regulations for production, supply, and use of seeds, resulting in serious consequences for agricultural production, shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than two years.

the DPRK, as mentioned below in the discussion of possible penal code amendments since July 2015.

The abrogation of Articles 119 (Exploitation of Labor)<sup>638</sup> punishing private employment and Article 18 (Illegal Business) in the 2007 Addenda is also noteworthy because it suggests that the DPRK thereby practically acknowledged private economy and hiring to some extent. In a similar vein, the expunction of Article 147 (Modification of State Building)<sup>639640</sup> can be understood as tacit approval of the widespread practice of unofficial, private purchase of state buildings and conversion of those buildings into apartments for rent.

There are more signs that the new DPRK regime's policy was deviating slightly from the absolute prohibition of private economy. It appears that Article 125 (Illegal Earning of Foreign Currency)<sup>641</sup> and Article 8 (Smuggling of State Resources) in the 2007 Addenda

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<sup>638</sup> Article 119.

A person who illegally hires another person with money or goods for personal business or exploits such other person's labor shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

<sup>639</sup> Article 147.

A person who illegally modifies the structure of a state building shall be sentenced to training through labor for not more than two years.

<sup>640</sup> It may be that this provision was not repealed but replaced by Article 142 (Violation of State Building Usage Regulations) in the 2012 penal code, which provides that "A person who violates regulations for using state buildings shall be sentenced to training through labor for not more than one year," although it is not clear what those regulations refer to. Even if that is the case, however, it is still true that the DPRK has relaxed penal sanctions for such conduct, as the maximum punishment has decreased from two years to one year of training through labor.

<sup>641</sup> Article 125.

A person who illegally earns foreign currency or organizes a group to undertake such an act shall be sentenced to training through labor for not more than two years.

were expunged for the purpose of legalizing underground money earned from unofficial, private foreign trade and thereby raising more base money needed to revive the national economy. The abolition of Article 132 (Unplanned Production and Construction)<sup>642</sup> and Article 10 (Violation of Laws and Regulations of Construction) in the 2007 Addenda is also notable not only because it coincides with the construction boom driven by Kim Jong-Un but because the Kim Jong-Un regime chose to acquiesce production of unplanned goods and thereby give more autonomy to state-run enterprises. The removal of Article 132 is also in line with the subsequent relaxation of control over planned production in the People's Economic Planning law, which is discussed in Chapter 5, Section 2. Moreover, Article 188 (Irresponsible Assignment, Adjustment, and Mobilization of Labor Force)<sup>643</sup> was also abrogated to give more autonomy to enterprises in allocating labor, which likely promoted labor mobility in the DPRK.

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If the offense is serious, he or she shall be sentenced to reform through labor for not more than five years.

<sup>642</sup> Article 132.

A person who utilizes labor, equipment, materials, or funding for plans for the people's economy to produce unplanned goods or make unplanned constructions to hinder the execution of plans for the people's economy shall be sentenced to training through labor for not more than two years. If the offense is serious, he or she shall be sentenced to reform through labor for not more than three years.

<sup>643</sup> Article 188.

A worker in the labor administration sector who, although there is an available workplace, refuses to commence his work, does not assign work to workers, or mobilizes and adjusts the labor force in a haphazard way to waste labor or evoke public criticism shall be sentenced to training through labor for not more than two years.

If the offense is serious, he or she shall be sentenced to reform through labor for not more than two years.

#### 3.4.2.2.2. Added Provisions on Economic Crimes

Despite the Kim Jong-Un regime's overall relaxation of penalties for economic crimes in 2012, several provisions on economic crimes were added to the penal code at the same time—although not as many as the provisions deleted. Most of those new provisions, however, were not aimed at strong market suppression, as discussed below.

While decriminalizing some market activities, and thereby freeing people from concerns about investigation into the source of their money earned through such activities, the DPRK attempted to absorb such money circulating only in the unofficial, private sector into its official financial system. It did so by introducing new provisions related to the financial sector: Articles 104 (Violation of Loan Control),<sup>644</sup> 105 (Violation of Currency Control),<sup>645</sup> and 108 (Violation of the Regulations for Currency Usage).<sup>646</sup>

A provision punishing “illegal trade” that had been repealed in 2004 was reinstated, although the scope of the subject of this crime was limited to those who not only commit

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<sup>644</sup> Article 104.

A bank employer or employee who illegally loans cash shall be sentenced to training through labor for not more than one year.

If the amount of financial damage caused due to the act as provided in the preceding paragraph is particularly large, he or she shall be sentenced to reform through labor for not more than five years. If the offense is serious, he or she shall be sentenced to reform through labor for not less than five years and not more than 10 years.

<sup>645</sup> Article 105.

A person who causes financial damage to the Democratic People's Republic of Korea due to violating currency control shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, he or she shall be sentenced to reform through labor for not more than five years.

<sup>646</sup> Article 108.

A person who violates the regulations for foreign currency usage shall be sentenced to reform through labor for not more than one year.

illegal trade but “create a large amount of profits,” thereby exempting small private traders from sanction. Article 139 (Violation of Production Facilities Repair Regulations)<sup>647</sup> appears to reflect the DPRK’s desperate struggle with the overall deterioration of old, antiquated production facilities. The addition of Article 287 (Stealing a Large Amount of Private Property)<sup>648</sup>, which punishes those who have stolen multiple times in small quantities by different methods, including secret taking, open taking, fraud, and embezzlement, but the amount is large in aggregate, seems to reflect the growth of private economy and the resulting diversification of crimes against private property.

#### 3.4.2.2.3. Amended Provisions on Economic Crimes

As mentioned above, the maximum sentence for economic crimes was significantly reduced by the amendments to the penal code between July 2009 and May 2012. However, the provisions on economic crimes underwent only very minor changes otherwise. One noticeable change is in Article 113 (Usury)<sup>649</sup>, which was amended to apply only to a person who “habitually” engages in usury. This suggests that private finance with a high interest rate had become too widespread to criminally punish

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<sup>647</sup> Article 139.

A person who violates the regulations for repairing production facilities, resulting in serious consequences, shall be sentenced to reform through labor for not more than one year.

<sup>648</sup> Article 287.

A person who steals a large amount of private property by committing offenses provided in Articles 283 to 286 shall be sentenced to reform through labor for not more than four years.

<sup>649</sup> Article 113.

A person who habitually engages in usury shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, he or she shall be sentenced to reform through labor for not more than three years.

indiscriminately as in Article 118 of the July 2009 penal code. Another provision worthy of discussion is Article 100 (Negligent Destruction of State Property)<sup>650</sup>, which was revised to punish only those who negligently destroy state properties “in a large quantity,” which seems to reflect the degradation of old state-owned facilities and its resulting prevalence of small-scale negligent destruction of such properties.

### 3.4.2. The July 2015 Amendment to the Penal Code: Addition of Crimes of Money Laundering and Terrorist Financing

#### 3.4.2.1. Overview of the July 2015 Penal Code

The DPRK penal code amended in May 2012 was amended five times before it was amended again on July 22, 2015. One of the most significant changes in the July 2015 penal code was the addition of Chapter 10 to the Special Part on crimes of money laundering and terrorist financing, reflecting the ratification of the Terrorist Financing Convention in 2013. Aside from the addition of Chapter 10, the Special Part of the May 2012 penal code underwent very minor changes through the amendments up to July 2015: 85 (85%) provisions on economic crimes and 113 (86.3%) provisions on non-economic crimes in the May 2012 penal code remained unchanged and only two (1.5%) provisions

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<sup>650</sup> Article 100.

A person who negligently destroys state property or the property of social or cooperative organizations in a large quantity shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, he or she shall be sentenced to reform through labor for not more than three years.

on non-economic crimes in the May 2012 penal code were deleted until July 2015.<sup>651</sup> The maximum sentence changed (all increased) in only six (6%) and 14 (10.7%) provisions on economic and non-economic crimes, respectively, until July 2015.<sup>652</sup>

In the July 2015 DPRK penal code, as compared to the May 2012 penal code, the average maximum sentence for economic crimes not punishable by death or life imprisonment did not change for crimes against State property, but slightly increased for other economic crimes—from 2.6 to 3 years<sup>653</sup>—while the number of economic crimes punishable by up to death or life imprisonment did not change.<sup>654</sup> This suggests that the DPRK slightly tightened its control over at least part of its economy after the May 2012 amendment to the penal code.

#### 3.4.2.2. Provisions on Economic Crimes

Between May 2012 and July 2015, the chapters on economic crimes in the DPRK penal code were not restructured except for the addition of Chapter 10. Crimes of Money Laundering and Terrorist Financing. Moreover, no provision on economic crimes was abrogated (see the table below). Eight (88.9%) and three (33.3%) out of nine new provisions on economic crimes in the July 2015 DPRK penal code corresponded to their PRC and Russian counterparts, respectively.

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<sup>651</sup> See Appendix 8.

<sup>652</sup> *Id.*

<sup>653</sup> *Id.* The average maximum sentence for non-economic crimes not punishable by death or life imprisonment remained unchanged.

<sup>654</sup> *Id.* The same applies to non-economic crimes punishable by up to death or life imprisonment.

Table 17. Changes in Provisions on Economic Crimes in the DPRK Penal Code until July 2015 (Those corresponding to the provisions in the then penal codes of Russia and the PRC are in bold and italics, respectively, and bold italics if they correspond to both codes)<sup>655</sup>

Deleted Provisions in the May 2012 Penal Code		
None		
Added Provisions in the July 2015 Penal Code		
Chapter	Article	
10. Crimes of Money Laundering and Terrorist Financing	<b>291 (Illegal Transaction, Possession, and Use of Money)</b>	295 (Failure to Report Suspicious Transactions of Money)
	<b>292 (Providing Illegal Capital Accounts and Entering into Illegal Contracts)</b>	297 (Failure to Cooperate with Investigation)
	293 (Failure to Check the Origin and Purpose of Money and the Identity of the Person Who Makes the Transaction)	298 (Failure to Freeze, Seize, and Confiscate Money)
	294 (Loss and Incineration of Documents Such as Identification Record of the Person Who Makes the Transaction)	<b>299 (Disclosure of Data)</b>
		300 (Concealing of Money Laundering and Terrorist Financing)

#### 3.4.2.2.1. Added Provisions on Economic Crimes

All new provisions on economic crimes that were added to the DPRK penal code in this period were related to money laundering (see the table above).

The DPRK created a new chapter on crimes of money laundering and terrorist financing. This special treatment was in contrast to the penal codes of the PRC and Russia, where the provisions on money laundering were stipulated in existing chapters—namely, Section 4. Crimes of Undermining the Order of Financial Management in Chapter 3. Crimes of Undermining the Order of the Socialist Market Economy in the PRC and

<sup>655</sup> See Appendix 4.

Section 22. Crimes in the Sphere of Economic Activity in Chapter 8. Crimes in the Sphere of Economics in Russia.

Moreover, although the definitions of most, if not all, provisions on economic crimes stipulated in the DPRK penal code have been far simpler—and, thus, more abstract and vague—than their counterparts in the penal codes of Russia and the PRC, the definitions of crimes of money laundering have been more detailed<sup>656</sup> in the DPRK than in Russia and the PRC. This appears to suggest the DPRK regime's—at least ostensibly—strong commitment to implementing the 1999 International Convention for the Suppression of the Financing of Terrorism, which it ratified in 2013 seemingly to ease ongoing financial sanctions.<sup>657</sup> This is confirmed by the following announcement from the DPRK authority:

We have consistently stood against money laundering and financing for terrorism and weapons of mass destruction. We have closely worked with the Asia/Pacific Group on Money Laundering and have taken almost all actions in line with international standards, such as legislation of the law on anti-money laundering and anti-terrorist financing, revision of the penal code, and enhancing the responsibilities and roles of our financial intelligence unit and supervisory institutions. We have carried out our responsibilities by submitting reports every year, with detailed information on our implementations, to the international financial supervisory organization.<sup>658</sup> Nevertheless, the plenary meeting of the organization adopted an open statement urging the complete blockade of our banking transactions, without

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<sup>656</sup> See Appendix 1.

<sup>657</sup> Chad O'Carroll, *N. Korea Commits to 'Intl. Standards' on Money Laundering, Financing of Terror*, NK NEWS, Jan. 16, 2015, <https://www.nknews.org/2015/01/n-korea-commits-to-intl-standards-on-money-laundering-financing-of-terror> (last visited Sept. 18, 2019). See also Appendix 11.

<sup>658</sup> "The international financial supervisory organization" appears to refer to the Financial Action Task Force (on Money Laundering) (FATF), also known by its French name, Groupe d'action financière (GAFI).

saying anything about our sincere efforts toward adopting international standards, which has been exploited for the political purposes of the United States and hostile forces.<sup>659</sup>

#### 3.4.2.2.2. Amended Provisions on Economic Crimes

Very few provisions on economic crimes in the May 2012 DPRK penal code had been amended before July 2015. During this period, 85 (85%) out of 100 provisions on economic crimes in the 2012 code remained unchanged, while seven provisions (7%) were slightly modified with their penalties unchanged, and the maximum sentence was increased in eight provisions (8%).<sup>660</sup> The maximum penalty increased in three (25%)—Article 169 (Damaging Forest Trees), Article 170 (Forest Fire Caused by Negligence), and Article 174 (Damaging River Protection Facilities)<sup>661</sup>—of the existing 12 provisions on crimes of violating regulations for land administration and environmental protection. This suggests that the DPRK is still struggling with the devastation of its forests and floods.

#### 3.4.3. Penal Code Amendments Since July 2015

The DPRK has shown a pattern of following up its constitutional amendments with amendments to the penal code. In recent years, the DPRK has transformed its political

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<sup>659</sup> *An Answer from the Spokesperson for the National Coordination Committee for the Prevention of Money Laundering and Terrorist Financing of the DPRK* (조선민주주의인민공화국 자금세척 및 테러자금지원방지를 위한 국가조정위원회 대변인대답), DPRK TODAY, Oct. 27, 2016 (in Korean), <http://dprktoday.com/index.php?type=8&no=15378> (last visited Aug. 12, 2019).

<sup>660</sup> See Appendix 8.

<sup>661</sup> See Appendix 1.

system, gradually expunged the legacies of Kim Il-Sung and Kim Jong-Il, and strengthened the power of Kim Jong-Un by undertaking constitutional amendments in April 2016, April 2019, and August 2019.<sup>662</sup> Although the DPRK reportedly amended its penal code in May 2019,<sup>663</sup> most of the substance of the amendment has remained undisclosed. Neither is it known precisely how many times the DPRK's penal code has been amended or what provisions have changed since July 2015.

Although the DPRK constitution was amended four times from 2010 to 2016—on April 9, 2010, April 13, 2012, April 1, 2013, and June 29, 2016—its economic clauses remained unchanged. In its April 2019 amendment, however, there were noticeable changes: Articles 27 and 36 were revised to put greater emphasis on science and technology and external economic relations. More importantly, by amending Article 33, the DPRK regime empowered the Cabinet, simultaneously decreasing the influence of the KWP in economic administration, which suggests Kim Jong-Un's determination to let technocrats take the leading role in devising and implementing the country's economic policies. The highlight of the changes in the economic clauses of the 2019 DPRK

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<sup>662</sup> By the time of the April 2016 amendment to the DPRK constitution, the National Defense Commission (국방위원회), the most powerful organ of the country from 1998 to 2016 and a symbol of Kim Jong-Il's *Songun* (선군: military first) policy, had been replaced by the State Affairs Commission (국무위원회), whose chairman is Kim Jong-Un. The April 2019 Amendment further weakened the status of Juche ideology—one of the core legacies of Kim Il-Sung—and *Songun* policy by the indirect and ambiguous articulation of them as “Kim Il-Sungism and Kim Jong-Ilism,” respectively, in Article 3 in the chapter on politics.

<sup>663</sup> Hye-min Son, *The DPRK Amended a Provision on Human Trafficking in its Penal Code* (북, 인신매매범 처벌에 관한 형법 일부 개정), RADIO FREE ASIA, June 26, 2019, [https://www.rfa.org/korean/in\\_focus/human\\_rights\\_defector/humantrafficking-06262019093228.html](https://www.rfa.org/korean/in_focus/human_rights_defector/humantrafficking-06262019093228.html) (last visited Aug. 19, 2019).

constitution is the abolition of the *Daean* work system stipulated in Article 33—a socialist economic management system based on PRC-style mass mobilization, the essence of which is direct control of economic entities by personnel dispatched to the field by the KWP. This system had been in place since 1972 and had long been highly acclaimed as one of the greatest achievements of “the Great Leader” Kim Il-Sung.

Table 18. Selected Provisions in the DPRK Constitution (emphases are mine)

2016 Constitution	April 2019 Constitution
<p>Article 27. The technological revolution is a basic link for developing the socialist economy. The State shall conduct all economic activities giving primary preference to technical development at all times, push ahead with scientific and technological development and the technical renovation of the national economy, and vigorously promote the mass technical innovation movement <b>so as to free the working people from difficult, tiresome labor and narrow the distinctions between physical and mental labor.</b></p>	<p>Article 27. The technological revolution is a basic link for developing the socialist economy, <b>and science and technology is the nation’s most important strategic resource.</b> The State shall push ahead with economic development <b>by enhancing the leading role of science and technology, integrating science and production,</b> and vigorously promoting the mass technical innovation movement.</p>
<p>Article 33. The State shall guide and manage the national economy <b>according to the Daean work system, which is a socialist economic management form whereby the economy is operated and managed</b> in a scientific and rational way depending on the collective power of the producing masses <b>and according to the agricultural guidance system whereby agricultural management is conducted by industrial methods.</b> The State shall introduce a <b>cost accounting system in the economic management according to the demand of the Daean work system</b> and utilize such economic levers as prime costs, prices, and profits.</p>	<p>Article 33. The State shall operate and manage the national economy in a scientific and rational way depending on the <b>collective wisdom</b> and power of the producing masses and <b>require the Cabinet to assume a decisive role therein.</b> The State shall introduce a <b>socialist responsible corporate management system</b> and utilize such economic levers as prime costs, prices, and profits.</p>
<p>Article 36.</p>	<p>Article 36.</p>

<p>In the DPRK, foreign trade is conducted by the State organs and enterprises and social, cooperative organizations. The State shall develop foreign trade on the principles of complete equality and mutual benefit.</p>	<p>In the DPRK, foreign trade is conducted by the State organs and enterprises and social, cooperative organizations. The State shall <b>keep the credits intact in</b> foreign trade, <b>improve trade structure</b>, and develop and <b>expand external economic relations</b> on the principles of complete equality and mutual benefit.</p>
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These changes in the DPRK constitution reflect manifold changes in the economic policy and institutions of the DPRK since the penal code was amended in July 2015, including the aforementioned reforms in the financial sector and establishment of an administrative organization to protect intellectual property<sup>664</sup> following Kim Jong-Un’s emphasis on “building a knowledge economy.”<sup>665</sup> For example, a notable change is the five-year National Development “Strategy” announced in May 2016 by the KWP. Prior to this proclamation, the DPRK had announced seven mid-to-long-term economic development “plans” since the 1950s. The change in name suggests that “the central planning authorities now have just a limited role of drawing up broad outlines.”<sup>666</sup> In addition, although shrouded by nuclear and missile issues, the DPRK continues to seek international legal solutions to overcome its economic difficulties, as illustrated by its accession to the United Nations Convention on Contract for the International Sales of

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<sup>664</sup> *N. Korea Establishes Organization in Charge of Intellectual Property*, KBS WORLD RADIO, Aug. 19, 2019, [http://world.kbs.co.kr/special/northkorea/contents/news/news\\_view.htm?lang=e&No=147488](http://world.kbs.co.kr/special/northkorea/contents/news/news_view.htm?lang=e&No=147488). (last visited Aug. 19, 2019).

<sup>665</sup> See *generally* KI-SUNG RI (리기성), *THE AGE OF KNOWLEDGE ECONOMY AND THE NEW ERA OF INDUSTRIAL REVOLUTION (지식경제시대와 새 세기 산업혁명)* (2019) (in Korean).

<sup>666</sup> JEA-HWAN HONG, *supra* note 263, at 26.

Goods (more commonly called CISG) on March 27, 2019<sup>667</sup>, its ratification of intellectual property treaties<sup>668</sup>, and its hosting of events on intellectual property law—such as academic conferences—with high-level officials at WIPO.<sup>669</sup> Furthermore, some laws that are closely related to the penal code, such as the anti-money laundering law, were significantly revised.<sup>670</sup>

In line with the policy and legal developments above, the DPRK economy underwent profound changes, which many visitors have observed. For example, a graduate student from the UK visited the DPRK in the summer of 2018 and was related the following exchange with a manager of a local café in Pyongyang:

A North Korean told me that “not everything is done as in the books and laws” and explained the recently adopted market-based contract system. He said that his enterprise no longer receives plans from the state planning committee or the ministry

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<sup>667</sup> UNCITRAL Secretariat, *Democratic People’s Republic of Korea Accedes to the UN Convention on Contracts for the International Sale of Goods (CISG)*, UNIS/L/273, Apr. 2, 2019, <http://www.unis.unvienna.org/unis/en/pressrels/2019/unisl273.html> (last visited Sept. 13, 2019); For more details, see also Appendix 13.

<sup>668</sup> The DPRK has ratified three treaties on intellectual property protection since July 2015: The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled on February 19, 2016; Singapore Treaty on the Law of Trademarks on September 13, 2016; and Patent Law Treaty on August 22, 2018. For more details, see Appendix 12.

<sup>669</sup> *Conference on Geographical Indication Held* (지리적명칭보호에 관한 민족토론회 진행), RODONG SINMUN, Aug. 22, 2019 (in Korean), [http://www.rodong.rep.kp/ko/index.php?strPageID=SF01\\_02\\_01&newsID=2019-08-22-0029](http://www.rodong.rep.kp/ko/index.php?strPageID=SF01_02_01&newsID=2019-08-22-0029) (last visited Sept. 13, 2019).

<sup>670</sup> Article 2 of the 2014 DPRK anti-money laundering law, which stipulated only punishment of laundering of “illegally obtained funds and property,” was substantially amended in the 2016 DPRK anti-money laundering and anti-terrorist financing law to provide a much longer and significantly different list of examples of criminal income than in Article 5 of the 2006 DPRK anti-money laundering law.

supervising his enterprise and directly enters into a contract with another enterprise. In his café, he asks a design enterprise to make a menu and pays for it when he receives the designed menu. This is a typical order contract.

The café and the design enterprise make an agreement for themselves on specific terms, such as price and designing period. The DPRK Law on Enterprises, which was revised a few years ago, states that the DPRK enterprises have a pricing authority in accordance with “principles and methods.”<sup>671</sup> Of course, it varies from company to company. Taedonggang Brewing Company, a major DPRK company, is the largest beer factory that can set its own price when selling beer without agreement with other companies. Whereas in the old days, the price was determined by the ministries, or other relevant authorities of the State or regional governments, the price is now decided between companies through making orders.<sup>672</sup>

The conversation above, albeit anecdotal, confirms that the laws enacted or amended to promote the DPRK economy during the Kim Jong-Un era—including the Law on Enterprises—have actually been implemented, at least to some extent.

Nevertheless, it is not easy to predict how changes in the economy and related policies and laws of the DPRK may have affected the provisions on economic crimes in the penal code. At this point, we have no choice but to speculate. The DPRK regime may have lowered the overall level of punishments for economic crimes or decriminalized some economic conduct to foster economic development. For instance, as financing and procurement from private sources were recognized in the Law on Enterprises in

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<sup>671</sup> Article 39 (Pricing and Sale of Products) of the 2015 Law on Enterprises (기업소법).

<sup>672</sup> Peter Ward (피터 워드), *Extensive Marketization in the DPRK: The DPRK Today Observed by a UK Student* (광범위하게 진행 중인 북한의 시장경제화: 영국인 유학생이 본 오늘의 북한(上)), NORTH KOREA (北韓) 92, 93 (Sept. 2018) (in Korean).

November 2014, as mentioned above, Articles 113 (Usury)<sup>673</sup>, 114 (Business and Commercial Activity of Individuals)<sup>674</sup>, and 122 (Illegal Payment of Sources for Foreign Currency Earnings)<sup>675</sup> in the DPRK penal code may have been amended accordingly. On the contrary, punishments for economic crimes may have generally been enhanced for social stability and to prevent too much liberalization of the DPRK economy, as was the case in the final years of the Kim Jong-Il regime. However, this is not very likely given the overall trend of the DPRK economy and laws, despite the recent “battle” to eradicate all anti-socialist socioeconomic phenomena.<sup>676</sup> As the DPRK has increasingly granted autonomy to economic entities, new kinds of economic crimes may have emerged

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<sup>673</sup> Article 113.

A person who habitually engages in usury shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, he or she shall be sentenced to reform through labor for not more than three years.

<sup>674</sup> Article 114.

A person who gains large profits by engaging in business or commercial activities shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, he or she shall be sentenced to reform through labor for not more than two years.

<sup>675</sup> Article 122.

A person who illegally pays individuals money or goods as sources for foreign currency earnings shall be sentenced to training through labor for not more than one year. If goods under state control are paid as sources for foreign currency earnings, he or she shall be sentenced to reform through labor for not more than three years.

<sup>676</sup> Seul-gi Jang (장슬기), *The DPRK Forewarns an Annihilation Operation against Anti-Socialist Phenomena... Proclaims “Harsh Punishment if Uncovered”* (北, 비사회주의 섬멸전 예고... “적발시 엄벌’ 포고”), DAILY NK, Mar. 26, 2018 (in Korean), <https://www.dailynk.com/北-비사회주의-섬멸전-예고-적발시-엄벌-포고/> (last visited Sept. 13, 2019); Yoon-Ah Ha (하윤아), *The DPRK Enhances Resident Control in Border Regions... “Crush Anti-Socialist Conduct”* (국경지역 주민 다잡는 北... “비사회주의 행위 짓부셔야”) DAILY NK, Sept. 11, 2019 (in Korean), <https://www.dailynk.com/국경지역-주민-다잡는-北-비사회주의-행위-짓부셔/> (last visited Sept. 13, 2019).

accordingly, or some existing economic crimes may have become more prevalent, posing potential threats to the regime. For example, provisions on crimes related to intellectual property might have been amended to counter the seeming increase in infringement of intellectual property, as suggested by the addition of a provision on the jurisdiction of courts in intellectual property cases to the DPRK civil procedure law in November 2016<sup>677</sup> and a recent incident where fake liquor became a serious social problem<sup>678</sup>. The substantial revision of the Anti-Money Laundering Law on April 20, 2016<sup>679</sup> might have led to changes in the chapter on Crimes of Money Laundering and Terrorist Financing in the DPRK penal code. In addition, the PRC influence on the DPRK penal code may have increased, with the recent series of cooperation agreements between the DPRK and the

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<sup>677</sup> Article 27 (Case Involving Claim for Intellectual Property).

An intellectual property case shall be tried by the court that has jurisdiction over the defendant's place of residence (or domicile).

<sup>678</sup> Yoon-Ah Ha, *The DPRK Proclaims "Manufacturing of Fake Goods Shall Be Strongly Punished" ... Related to the Songak Soju Case?* (北 "가짜상품 제조 엄격히 처벌" 포고문...송악소주 사건과 연관?), DAILY NK, June 17, 2019 (in Korean), <https://www.dailynk.com/北-가짜상품-제조-엄격히-처벌-포고문송악소주-사/> (last visited Sept. 12, 2019).

<sup>679</sup> The law was renamed the Anti-Money Laundering and Anti-Terrorist Financing Law (자금세척 및 테로자금지원반대법).

PRC in the field of criminal justice.<sup>680681</sup> In any case, the provisions on economic crimes in the DPRK penal code that we will see in the near future will be an important test of how the DPRK regime intends to control the economy.

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<sup>680</sup> Colin Zwirko, *Chinese, North Korean Central Prosecutors' Offices Sign Agreement in Beijing: PRC Side Promotes Judicial Reform as Two Sides Agree to Boost Cooperation*, NK NEWS, June 5, 2019, <https://www.nknews.org/2019/06/chinese-north-korean-central-prosecutors-offices-sign-agreement-in-beijing> (last visited July 19, 2019); Colin Zwirko, *Delegation of North Korea's Ministry of People's Security Visiting China: KCNA: DPRK Police Agency Continues Work with Beijing after Recent Russia Cooperation*, NK NEWS, July 10, 2019, <https://www.nknews.org/2019/07/delegation-of-north-koreas-ministry-of-peoples-security-visiting-china-kcna> (last visited July 19, 2019); Colin Zwirko, *Delegation of North Korea's Central Court Visiting China, KCNA Reports: Trip Follows Signing of MOU between Two Countries' Top Prosecutors in June*, NK NEWS, July 16, 2019, <https://www.nknews.org/2019/07/delegation-of-north-koreas-central-court-visiting-china-kcna-reports> (last visited July 19, 2019).

<sup>681</sup> At the same time, the DPRK began to pursue cooperation in the legal sector with other socialist countries such as Cuba, Lao PDR, and Vietnam. Korea Central News Agency, *Talks Held between Vice-Director of DPRK Central Public Prosecutors' Office and Vice-Attorney General of Cuban Supreme Prosecutor's Office*, DPRK TODAY, Oct. 2, 2019, <http://dprktoday.com/index.php?type=72&no=18472&for=e> (last visited Oct. 2, 2019); *Delegation of the Central Court visits Laos and Vietnam, Holds talks between the Chief Justices, Executes an MOU* (중앙재판소대표단이 라오스와 월남 방문 / 소장사이의 회담들 진행, 량해문 조인), CHOSON SINBO, May 13, 2019 (in Korean), <http://chosonsinbo.com/2019/05/il-1962/> (last visited Oct. 2, 2019); *Central Public Prosecutors' Office and Cuban Supreme Prosecutors' Office Sign a Cooperation Agreement* (조선과 쿠바 두 나라 검찰기관들사이의 협조에 관한 합의서 조인), RODONG SINMUN, Mar. 16, 2018 (in Korean), [http://www.rodong.rep.kp/ko/index.php?strPageID=SF01\\_02\\_01&newsID=2018-03-16-0028](http://www.rodong.rep.kp/ko/index.php?strPageID=SF01_02_01&newsID=2018-03-16-0028) (last visited Oct. 2, 2019).

## CHAPTER 4

### LEGAL TRANSPLANTS AND OTHER EXTERNAL FACTORS INFLUENCING THE CHANGES IN THE DPRK PENAL CODE

Most of this chapter is devoted to discussing the influences of Russian and Chinese penal codes on the DPRK penal code because those two countries appear to have been the main sources of foreign influence on DPRK laws, although the possibility of diversification of foreign influence in the future, including German influence, is mentioned at the end of this chapter. Unlike in Chapter 3, where the Russian and Chinese influence on the DPRK penal code was sporadically discussed, largely at the micro level—the level of specific provisions—the focus shifts in this chapter to a macro-level analysis, such as the statistics of corresponding provisions between the penal codes of the DPRK and Russia (RSFSR) and the PRC. This chapter also investigates legal materials other than statutes, such as law textbooks, and other factors, such as foreign language education and sending law professors to study law overseas, because not just statutory rules but also court decisions and academic opinion can be objects of legal transplant<sup>682</sup> and law education may serve as a channel for borrowing laws.<sup>683</sup>

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<sup>682</sup> ALAN WATSON, *THE EVOLUTION OF WESTERN PRIVATE LAW* 16 (2001).

<sup>683</sup> Alan Watson, *Legal Transplants and European Private Law*, 4 *ELECTRONIC J. COMP. L.*, no. 4, Dec. 2000, <https://www.ejcl.org/44/art44-2.html> (last visited Oct. 1, 2019).

## 4.1. INFLUENCES OF RUSSIAN AND CHINESE PENAL CODES ON THE DPRK PENAL CODE DURING THE KIM IL-SUNG ERA (1945–1994)

### 4.1.1. The 1950 DPRK Penal Code

Legal sector was under the heavy Soviet influence during the formative period of the DPRK. A dictionary of academic terms published in the DPRK in 1954<sup>684</sup> contained only Korean–Russian translations of thousands of academic terms including 818 legal terms.<sup>685</sup> The Soviet influence is also confirmed by the fact that many legal materials from that period had a table of contents in both Korean and Russian and cited only Russian legal sources and scholars. For example, in a pamphlet published by the DPRK government that advertises and explains the first DPRK penal code, only the words of Joseph V. Stalin, Vladimir Lenin, and Friedrich Engels are mentioned with highly honorific titles and great respect,<sup>686</sup> whereas Kim Il-Sung, despite being the head of the DPRK at

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<sup>684</sup> HAKSUL YONGŎ SAJŎNG WIWŎNHŎE. CHOSŎN MINJUJUŬI INMIN KONGHWAGUK KWAHAGWŎN (학술용어사정위원회편찬. 조선민주주의인민공화국과학원: The Committee for Review of Academic Terms, The Academy of Sciences of the DPRK). HAKSUL YONGŎ. SAHOE KWAHAK (학술용어. 사회과학: Academic Terms, Social Sciences) (1954) (in Korean and Russian). The DPRK published a similar book for science and engineering in the previous year: HAKSUL YONGŎ SAJŎNG WIWŎNHŎE. CHOSŎN MINJUJUŬI INMIN KONGHWAGUK KWAHAGWŎN (학술용어사정위원회편찬. 조선민주주의인민공화국과학원: The Committee for Review of Academic Terms, The Academy of Sciences of the DPRK). HAKSUL YONGŎ. CHAYŎN-KISUL KWAHAK (학술용어. 자연·기술과학: Academic Terms, Natural Science and Technology) (1953) (in Korean and Russian).

<sup>685</sup> In addition to the legal terms, academic terms in various fields, such as linguistics, literature, history, philosophy, economics, and arts are contained in the dictionary.

<sup>686</sup> Examples are “The Grand Marshal Stalin said ... The Honorable Mr. Lenin said ...” MINJOK BOWISŎNG MUNHWA HULLYŎNGUK, *supra* note 10, at 5, 13, and 15.

the time, is not mentioned at all.<sup>687</sup> During this period, hundreds of North Korean students, including a younger brother of Kim Il-Sung, went to the USSR to study various subjects because the USSR provided generous financial assistance to those students.<sup>688</sup>

The RSFSR penal code, first enacted in 1922, was re-enacted in 1926 and entered into force on January 1, 1927, after which it remained at the core of Soviet criminal policy for more than three decades.<sup>689</sup> From 1927 to December 1949, about three months<sup>690</sup> before the DPRK penal code was enacted, many provisions, including those on economic crimes, were added to the Special Part of the code.<sup>691</sup>

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<sup>687</sup> This is in sharp contrast to the fact that most, if not all, scholarly materials published in the DPRK since the 1960s begin with citation of words of “the Supreme Leader” Kim Il-Sung, his son Kim Jong-Il, and more recently his grandson Kim Jong-Un and extremely rarely, if ever, quote figures other than the Kim family.

<sup>688</sup> HO-JE KANG, *supra* note 184, at 92–95. Other communist countries launched similar programs for North Korean students in the early 1950s. *Id.*

<sup>689</sup> W. E. BUTLER (1988), *supra* note 407, at 298.

<sup>690</sup> A window of around three months is set throughout this dissertation when comparing the penal codes of the DPRK and Russia (or the RSFSR) or the PRC because it seems to be the minimum time required for DPRK researchers to review a new penal code in Russia (or the RSFSR) or the PRC after their penal codes were amended and for DPRK lawmakers to decide whether to reflect such changes in the DPRK penal code, considering that the DPRK is not a democracy where many interested parties may participate in the legislative process and a bill often has to go through an extensive review procedure in the legislature. There were less frequent major amendments to the penal codes of the RSFSR and the PRC than in the DPRK: the 1960 and 1996 amendments in Russia (and the RSFSR) and the 1997 amendment in the PRC were most significant. In fact, it makes only a negligible difference, if any, to increase the window of about three months to six months or even one year because other amendments in Russia (and the RSFSR) or the PRC newly included in the increased window had very minor and extremely rare, if any, effects on the number of corresponding provisions between the penal codes of said countries.

<sup>691</sup> See Appendix 2. Eight provisions on economic crimes—Article 128-a. (Release of Industrial Products that Are Incomplete or of Inferior Quality, or Release of Products in Violation of Required Standards); Article 129-a. (Founding or Directing the Operations of Any Pseudo-Cooperative); Article 128-c. (Giving Customers False Weight or Short Measure, Using Incorrect Measuring Devices or Selling Goods of Lower Quality at the Price of Higher Quality Goods, or Concealing

The Special Part of the 1950 DPRK penal code was unusually similar to that of the RSFSR penal code: 78.1% of the provisions on economic crimes and 86.9% of those on non-economic crimes (84.1% of the total provisions in the entire Special Part) in the DPRK penal code corresponded to—prescribed punishments for similar conduct as—the provisions in the RSFSR penal code amended up to December 1949.<sup>692</sup> This is a surprisingly high percentage considering the huge differences in socioeconomic conditions—e.g., level of economic development,<sup>693</sup> history, and culture—of the two countries. The fact that the correspondence was even higher between the Special Part of

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from Buyers the Commodity Price List); Article 128-d. (Issuance of Loan, Bond, or Other Form of Security, or of Scrip or Other Money Substitutes); Article 133-a. (Refusal to Accept Women for Work or Reduction of Their Wages); Article 164-a. (Purchase, Possession, or Sale of Any Firearm); Article 166-a. (Secret or Open Theft of Any Firearm); Article 169-a. (Illegal Check)—and many more provisions on non-economic crimes, especially in the chapters on state and military crimes, were added to the RSFSR penal code after its enactment in 1926.

<sup>692</sup> See Appendix 5. In this dissertation, correspondence is determined according to whether a specific act is stipulated as a crime. Other factors, such as the degree of punishment and aggravating circumstances, are not considered. It must be noted that correspondence should be distinguished from similarity, although they may frequently overlap. This dissertation defines similarity as a broader concept, depending on several factors including expression and way of punishment, in addition to correspondence. Thus, corresponding provisions may be very similar, or not very similar. The DPRK penal code contained many expressions highly similar to that of the RSFSR penal code before the Russian code was drastically revised in 1996. However, they are no longer that similar, which can be told at a glance. While the DPRK penal code generally adheres to the same style of expression as the original 1950 penal code, provisions—especially those on economic crimes—in both the Russian and PRC penal codes have become far more detailed since the 1990s, reflecting the growing complexity of economic activities and resulting crimes in the two countries. In any case, this dissertation does not assess the similarity of expressions in provisions because it is focused on determining the changes in the socioeconomic conditions of the DPRK and policies of its regime, primarily through examining what has been criminalized or decriminalized.

<sup>693</sup> For example, the GDP per capita in 1950 was \$2,841 (US dollars) in the Soviet Union—more than triple that of the DPRK (\$854). As of the same year, the GDP per capita in the United States, Germany, Brazil, the PRC, and Japan was \$9,561, \$3,881, \$1,672, \$448, and \$1,921, respectively. Source: CLIO-INFRA, [www.clio-infra.eu](http://www.clio-infra.eu) (last visited Aug. 31, 2019).

the DPRK draft penal code as of October 1949 and the RSFSR penal code—88.1% for both provisions on economic and non-economic crimes—is noteworthy.<sup>694</sup> It suggests that the DPRK continued to make efforts to localize the RSFSR penal code to some extent. The PRC had no penal code and thus was not able to influence the first DPRK penal code that was enacted on March 3, 1950, less than five months after the establishment of the PRC on October 10, 1949.

#### 4.1.2. The 1974 DPRK Penal Code

The USSR began to relax many of the draconian penalties introduced during the Stalin era,<sup>695</sup> immediately after his death on March 5, 1953.<sup>696</sup> Subsequently, a major change was made to the Special Part of the RSFSR penal code in 1960. On October 27, 1960, the RSFSR adopted a new penal code to take effect on January 1, 1961. Although the 1960 RSFSR penal code, to a certain extent, reflected ongoing de-Stalinization and democratic transformation,<sup>697</sup> it was not a complete break from the remnants of the Stalin era as the code “continued to adhere to the class principle of Soviet criminal law and its

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<sup>694</sup> See Appendix 5.

<sup>695</sup> VLADIMIR GSOVSKI, *RSFSR CRIMINAL CODE, 1956 EDITION, AND SUPPLEMENTARY MATERIAL* 116–123 (1958).

<sup>696</sup> For example, as regards economic crimes, amnesty was prohibited for those who violated the abovementioned Law of August 7, 1932 “On the Protection of the Property of State Enterprises, Collective Farms and Cooperatives, and Institutions of Socialist Property” but the prohibition was rescinded on September 8, 1953. *Id.* at 122–123.

<sup>697</sup> HAROLD J. BERMAN, *SOVIET CRIMINAL LAW AND PROCEDURE: THE RSFSR CODES* 23 (1966); A. V. Naumov, *The New Russian Criminal Code as a Reflection of Ongoing Reforms* (Oxsana Gribakova trans.), 8 *CRIM. L. F.*, 191, 192 (1997). <https://doi.org/10.1007/BF02677783>. (last visited Sept. 11, 2019).

apparent opposition to bourgeois criminal law, and proceeded from the ideology of Marxism-Leninism, a centralized, planned economy, and the principle of supremacy of the Communist party.”<sup>698</sup> Although further amendments were made to the RSFSR penal code from 1961 to September 1974, about three months before December 1974, when the DPRK penal code was first amended, the provisions on economic crimes in the RSFSR penal code were not significantly revised during that period.<sup>699</sup>

The Special Part of the 1974 DPRK penal code continued to reflect much of the content of the RSFSR penal code, albeit less than the 1950 DPRK penal code did: 60.8% of the provisions on economic crimes and 72.2% of the provisions on non-economic crimes (67.7% of the provisions in the entire Special Part) in the DPRK penal code corresponded to the provisions in the RSFSR penal code amended up to July 15, 1974.<sup>700</sup> The decrease in the portion of corresponding provisions and the similarities between the penal codes of the two countries may be explained by: (1) the significant decrease in Soviet influence on the DPRK, (2) heightened awareness that many provisions transplanted from the RSFSR penal code did not conform to local contexts, and (3) the establishment of Kim Il-Sung’s dictatorship, which necessitated the criminalization of

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<sup>698</sup> Naumov, *supra* note 697, at 191.

<sup>699</sup> Although 32 provisions on non-economic crimes were added to the Russian penal code during this period, only five provisions on economic crimes—Article 152.1. (Padding and Other Distortions of Accounts Concerning Fulfillment of Plans); Article 154.1. (Buying up for Feeding to Cattle or Poultry, or Feeding to Cattle or Poultry, Bread, and other Grain Products); Article 154.2.; Article 156.1. (Violation of Rules of Trade in Alcoholic Beverages); and Article 166.1. (Продажа, скупка, обмен шкуроч пушных зверей: Buying Up, Selling, and Exchanging of Skins of Fur-Bearing Animals). In the Special Part of the code, only one provision on non-economic crime was abrogated during the same period.

<sup>700</sup> See Appendix 5.

conduct that posed a threat to the regime and imposition of maximum penalties for the crimes.

There was still no penal code in the PRC by the time the DPRK penal code was amended in 1974, although a number of criminal law-related statutes were issued by various judicial and administrative agencies and party organs.<sup>701</sup> A draft PRC penal code was prepared as early as July 1950, but the drafting work was interrupted by political movements—including the Anti-Rightist Movement<sup>702</sup> and the Cultural Revolution, which began in 1957 and 1966, respectively—and did not resume until March 1979.<sup>703</sup>

#### 4.1.3. The 1987 DPRK Penal Code

The Special Part of the Russian penal code did not significantly change between October 1974 and November 1986,<sup>704</sup> which was about three months before the DPRK penal code was amended again in February 1987.<sup>705</sup> During the same period, in July

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<sup>701</sup> Sida Liu & Terence C. Halliday, *supra* note 42, at 921.

<sup>702</sup> Pitman B. Potter, *The Chinese Legal System: Continuing Commitment to the Primacy of State Power*, 159 THE CHINA Q., 673, 673 (1999).

<sup>703</sup> JIANFU CHEN, *supra* note 69, at 5–6.

<sup>704</sup> The RSFSR penal code did not undergo major changes until the Soviet Union was disintegrated in 1991. Naumov, *supra* note 697, at 222.

<sup>705</sup> Four provisions on economic crimes (Article 156.2. Obtaining Illegal Remuneration from Citizens for Jobs Related to Services (Получение незаконного вознаграждения от граждан за выполнение работ, связанных с обслуживанием населения); Article 156.3. Violation of the Rules of Trade (Нарушение правил торговли); Article 156.4. Illegal Dispensing of Gasoline or Other Fuels and Lubricants (Незаконный отпуск бензина или других горюче-смазочных материалов); Article 162.1. Evasion of Income Tax (Уклонение от подачи декларации о доходах)) and nine provisions on non-economic crimes were added to the Russian penal code. One provision on economic crime (Article 154.2.) and one on non-economic crime (two newly

1979, the first penal code was enacted in the PRC. The drafting work started in March 1979, only four months before the penal code was adopted by the National People's Congress.<sup>706</sup> However, four months was too short a period to thoroughly examine the earlier draft; thus, the 1979 PRC penal code—consisting of only 192 articles (89 articles in the General Part, 22 articles on economic crimes, and 81 articles on non-economic crimes)—became “a product of the 1950s and 1960s,” when PRC laws and legal scholarship drew heavily on Soviet laws and experiences<sup>707 708</sup> despite meaningful advancements, such as the abolition of the distinction between crimes against state property and crimes against private property and heavier punishments for the former.<sup>709</sup>

The Special Part of the 1987 DPRK penal code still had many provisions that corresponded to the RSFSR penal code: 62.5% of the provisions on economic crimes and 75.7% of the provisions on non-economic crimes (70.3% of the provisions in the entire Special Part) in the DPRK penal code corresponded to the provisions in the RSFSR penal code as amended up to August 1986.<sup>710</sup>

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added military crimes are excluded) were abrogated from the Russian penal code during this period.

<sup>706</sup> JIANFU CHEN, *supra* note 69, at 5–6.

<sup>707</sup> *Id.* A notable example among the provisions on economic crimes is Article 100, which stipulated a certain type of destruction of State property as a “counterrevolutionary crime” and imposed a heavy punishment of up to life imprisonment for the crime.

<sup>708</sup> The first PRC criminal procedure law represents a similar case. See Sida Liu & Terence C. Halliday, *supra* note 42, at 922, 925.

<sup>709</sup> Nevertheless, the 1979 PRC penal code imposed heavier punishment for embezzlement of State property than that of private property (Articles 83 and 155: these provisions were revised and moved to Articles 93 and 384, respectively, in the 1997 amendment to the code).

<sup>710</sup> See Appendix 5. Although these numbers are slightly higher than those in the comparison of the 1974 DPRK penal code and the 1974 RSFSR penal code, it is not because these penal codes

In contrast, the Special Part of the 1987 DPRK penal code corresponded far less to the 1979 PRC penal code than to the RSFSR penal code: 37.5% of the provisions on economic crimes and 51.4% of the provisions on non-economic crimes (45.8% of the provisions in the Special Part) in the DPRK penal code corresponded to those in the 1979 PRC penal code.<sup>711</sup> Such a low corresponding rate suggests that those who were involved in lawmaking in the DPRK may not have referred to the PRC penal code in amending their penal code in 1987. One possible reason for this is that Russian was the only foreign language taught in secondary education in the DPRK until the mid-1980s<sup>712</sup> and, thus, legal scholars in the DPRK would have had difficulties in reading Chinese legal materials, as suggested by the References section of a criminal law textbook published in 1986.<sup>713</sup> In the section, the textbook does not list any legal materials from the PRC but lists only two DPRK legal materials published in 1955 and 1975, respectively, and one Soviet criminal law textbook published in 1950.<sup>714</sup> Moreover, as the DPRK regime was

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became more similar but is due to technical matters, such as the merging of some provisions from the 1974 DPRK penal code.

<sup>711</sup> See Appendix 5.

<sup>712</sup> This contrasts to the ROK, where traditional Chinese characters were commonly taught as part of secondary education, in addition to English taught as the first, mandatory foreign language and another foreign language—mostly German and French until the 1990s—widely taught in high school.

<sup>713</sup> PUBLISHING HOUSE OF KIM IL-SUNG UNIVERSITY (1987), *supra* note 472, at 209.

<sup>714</sup> Владимир Дмитриевич Меньшагин & З. А. Вышинская (Vladimir Dmitrievich Menshagin & Z. A. Vyshinskaya), Советское уголовное право: учебник для юридических школ (Soviet Criminal Law: A Textbook for Law Schools), (1950) ВСЕСОЮЗНЫЙ ИНСТИТУТ ЮРИДИЧЕСКИХ НАУК (The All-Union Institute of Juridical Science), Москва: Гос. изд-во юрид. лит-ры, 1950, 519.

extremely critical of capitalism and cautious about its introduction, it might have been hesitant to emulate the ongoing reforms in the legal sector of the PRC.<sup>715</sup>

However, with the collapse of the USSR in 1991 and the discontinuance of its aid to the DPRK, the demand to learn Russian fell sharply while that for learning English, and later Chinese, greatly increased. Thus, the Russian share of foreign language education in the DPRK also diminished. This likely led to a significant drop in the number of legal researchers who had a good command of Russian.<sup>716</sup>

The fact that the USSR was the most powerful and highly advanced country in the Communist Bloc also likely led the DPRK to rely on the legacies of legal transplant from the USSR rather than look to the laws of other socialist countries, such as the PRC, prior to the dissolution of the Eastern Bloc. For example, although the population of the PRC was far more than three times that of the USSR, the USSR's GDP (second only to that of the United States) was more than four times that of the PRC in 1975—before the PRC opened up its economy—and remained at about three times that of the PRC until 1985, ranking third after the United States and Japan.<sup>717</sup> However, in 1993, only two years after

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<sup>715</sup> One notable exception is the enactment of the aforementioned 1984 Law on Equity Joint Venture (합영법) of the DPRK that was modeled after its PRC counterpart.

<sup>716</sup> This phenomenon has been observed in Mongolia. While Mongolians generally had a very good command of Russian until the 1980s, most Mongolians—not to mention those who went to school after 1991—have become far less proficient in Russian (interview with a Mongolian legal scholar in November 2018 in Ithaca, New York).

<sup>717</sup> STATISTICS DIVISION, DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, UNITED NATIONS, NATIONAL ACCOUNTS, <https://unstats.un.org/unsd/snaama/downloads> (last visited Oct. 2, 2019); RICHARD SAKWA, SOVIET POLITICS IN PERSPECTIVE 244 (1998); Xiaogang Wu and Guangye He, *The Evolution of Population Census, Undertakings in China, 1953–2010*, 15 THE CHINA REV. 171, 180 (2015).

the collapse of the USSR, the Russian GDP was surpassed by that of the PRC. Subsequently, it fell to below a quarter of that of the PRC in 2000, and the gap widened to more than eight times in 2015.<sup>718</sup> The relative fall of Russia and ascendancy of the PRC are confirmed also by GDP per capita. The USSR's rank for GDP per capita was within the top 50 in the world until 1975, but plummeted to 94 in 1995 and further dropped to 110 in 2000. On the contrary, the PRC's rank for GDP per capita continued an upward trend and reached 91 in 2017.

Table 19. GDP per Capita in Selected (Former) Socialist States (World Rank)

Year	DPRK	Russia <sup>719</sup>	PRC	Vietnam	Lao PDR	Mongolia	Cuba
1970	386 (104 <sup>th</sup> )	1,788 (38 <sup>th</sup> )	112 (163 <sup>rd</sup> )	64 (184 <sup>th</sup> )	44 (187 <sup>th</sup> )	156 (158 <sup>th</sup> )	653 (77 <sup>th</sup> )
1975	561 (119 <sup>th</sup> )	2,706 (47 <sup>th</sup> )	177 (169 <sup>th</sup> )	80 (186 <sup>th</sup> )	70 (187 <sup>th</sup> )	243 (161 <sup>st</sup> )	1,380 (70 <sup>th</sup> )
1980	638 (139 <sup>th</sup> )	3,553 (57 <sup>th</sup> )	308 (168 <sup>th</sup> )	44 (187 <sup>th</sup> )	102 (185 <sup>th</sup> )	402 (158 <sup>th</sup> )	2,025 (79 <sup>th</sup> )
1985	722 (128 <sup>th</sup> )	3,305 (60 <sup>th</sup> )	289 (164 <sup>th</sup> )	79 (187 <sup>th</sup> )	170 (182 <sup>nd</sup> )	634 (135 <sup>th</sup> )	2,273 (73 <sup>rd</sup> )
1990 <sup>720</sup>	735 (157 <sup>th</sup> )	2,736 (85 <sup>th</sup> )	337 (189 <sup>th</sup> )	95 (216 <sup>th</sup> )	212 (208 <sup>th</sup> )	787 (154 <sup>th</sup> )	2,707 (88 <sup>th</sup> )
1995	222 (196 <sup>th</sup> )	2,713 (94 <sup>th</sup> )	592 (159 <sup>th</sup> )	276 (189 <sup>th</sup> )	382 (179 <sup>th</sup> )	730 (151 <sup>st</sup> )	2,790 (92 <sup>nd</sup> )
2000	462 (173 <sup>rd</sup> )	1,787 (110 <sup>th</sup> )	944 (143 <sup>rd</sup> )	388 (178 <sup>th</sup> )	339 (183 <sup>rd</sup> )	550 (167 <sup>th</sup> )	2,741 (95 <sup>th</sup> )
2005	548 (180 <sup>th</sup> )	5,372 (85 <sup>th</sup> )	1,730 (139 <sup>th</sup> )	684 (175 <sup>th</sup> )	512 (182 <sup>nd</sup> )	1,158 (157 <sup>th</sup> )	3,779 (101 <sup>st</sup> )
2010	570 (198 <sup>th</sup> )	10,757 (77 <sup>th</sup> )	4,487 (116 <sup>th</sup> )	1,310 (169 <sup>th</sup> )	1,171 (176 <sup>th</sup> )	2,650 (148 <sup>th</sup> )	5,676 (106 <sup>th</sup> )
2015	648 (196 <sup>th</sup> )	9,510 (83 <sup>rd</sup> )	7,920 (93 <sup>rd</sup> )	2,065 (158 <sup>th</sup> )	2,159 (155 <sup>th</sup> )	3,947 (125 <sup>th</sup> )	7,609 (94 <sup>th</sup> )
2017	685 (197 <sup>th</sup> )	10,956 (78 <sup>th</sup> )	8,682 (91 <sup>st</sup> )	2,342 (153 <sup>rd</sup> )	2,457 (152 <sup>nd</sup> )	3,620 (137 <sup>th</sup> )	8,433 (92 <sup>nd</sup> )

Source: United Nations Statistics<sup>721</sup>

<sup>718</sup> *Id.*

<sup>719</sup> The USSR before 1991.

<sup>720</sup> In 1990, resulting from the collapse of the Eastern Bloc, more than 20 new countries—primarily from the USSR and Yugoslavia—were included in the statistics, which significantly affected the rankings of some countries—especially those ranked near the bottom—such as Vietnam and Lao PDR.

<sup>721</sup> STATISTICS DIVISION, DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, UNITED NATIONS, *supra* note 717.

## 4.2. INFLUENCES OF RUSSIAN AND CHINESE PENAL CODES ON THE DPRK PENAL CODE DURING THE KIM JONG-IL ERA (1994–2011)

### 4.2.1. The 1999 DPRK Penal Code

The Special Part of the Russian penal code underwent a major transformation between 1987 and 1999. The 1960 RSFSR penal code was replaced by the 1996 penal code of the Russian Federation, which entered into force in January 1, 1997.<sup>722</sup>

After the USSR collapsed in 1991, many provisions on crimes against the state were abolished. There were also many changes in the provisions on economic crimes, including the abolition of the entire chapter on crimes against socialist ownership on July 1, 1994:

Norms of Soviet criminal legislation had always strictly protected a centralized, planned economy. Subsequently, concrete steps toward a Russian market economy resulted in the repeal of criminalization of the following: private enterprise and commercial middleman activity; production of poor quality, nonstandard, and/or incomplete products; and additions to or other distortions of accounts concerning fulfillment of an economic plan. At the beginning de facto, and later de jure, speculation was decriminalized.<sup>723</sup>

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<sup>722</sup> There was no further significant amendment to it before the DPRK penal code was amended in August 1999. Only one provision on non-economic crime was added to the 1996 Russian penal code, although more provisions were amended in part.

<sup>723</sup> Naumov, *supra* note 697, at 196.

However, a new penal code was called for because the changes in the existing penal code exposed its limits in keeping abreast with the rapid social changes that were occurring.<sup>724</sup>

The fact that the chapter on the protection of private interests has finally taken precedence over the chapters on the protection of public and state interests in the 1996 Russian penal code<sup>725</sup>—which is not yet the case in the DPRK and the PRC—is symbolic of Russia’s aspiration for democratization in the 1990s. As Russia had to build a market economy from scratch and cope with new kinds of crimes, the Russian penal code borrowed from the penal codes of capitalist states, including the United States,<sup>726</sup> which resulted in the sharp decrease in corresponding provisions on economic crimes between the penal codes the DPRK and Russia.

During the same period, the PRC penal code—especially the provisions on economic crimes—also underwent significant changes through its amendment in March

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<sup>724</sup> *Id.* at 197.

<sup>725</sup> Chapter 7. Crimes against the Person (Sections 16. Crimes against Human Life and Health; 17. Crimes against Freedom, Honor, and Dignity of the Person; 18. Crimes against Sexual Inviolability and Sexual Freedom of the Person; 19. Crimes against Constitutional Rights and Freedoms of Man and Citizen; 20. Crimes against Family and Minors) comes before Chapter 9. Crimes against Public Security and Public Order (Sections 24. Crimes against Public Security; 25. Crimes against Public Health and Public Morality; 26. Environmental Crimes; 27. Crimes against Traffic and Operation of Transport Safety; 28. Crimes in the Sphere of Computer Information) and Chapter 10. Crimes against State Power (29. Crimes against the Fundamentals of Constitutional System and State Security; 30. Crimes against State Power and Interests of Civil Service and Service in Local Self-government; 31. Crimes against Justice; 32. Crimes against Administrative Order). See Appendix 2.

<sup>726</sup> Naumov, *supra* note 697, at 222–223.

1997.<sup>727</sup> The number and types of economic crimes increased significantly after the PRC economy was opened up.<sup>728</sup> To counter new types of crimes, such as financial fraud and tax evasion, in the 1997 amendment—which remains the most significant amendment to the PRC penal code—the PRC deleted four (18.2 percent) of the 22 provisions on economic crimes in the 1979 penal code and added 84 new provisions (79.2% of the 106 provisions on economic crimes in the new code) to the chapters governing economic crimes. However, the PRC deleted only seven (8.6%) of the 81 provisions on non-economic crimes in the 1979 penal code and added 164 new provisions (67.2% of the 244 provisions on non-economic crimes in the new code) to the chapters governing non-economic crimes.<sup>729</sup>

Despite these major transformations in the penal codes of Russia and the PRC, there were only minor changes to the Special Part of the DPRK penal code during this period. As a result, the portion of provisions on economic crimes in the Special Part of the DPRK penal code that corresponded to the RSFSR penal code significantly decreased in 1999, whereas this was less the case with the provisions on non-economic crimes: 43.8% of the provisions on economic crimes and 74.3% of those on non-economic crimes (61.9%

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<sup>727</sup> Between 1981 and 1997, 25 regulations were issued to supplement the 1979 PRC penal code and about 130 articles contained in around 80 different rules and regulations addressed criminal responsibilities that referred to the penal code. They are not, however, analyzed in this dissertation because they were fragmented and at times even contradicted the 1979 penal code.

<sup>728</sup> Cynthia B. Schultz, *Economic Crimes in the People's Republic of China: A Swinging Door Policy*, 5 AM. U. INT'L L. REV., 161, 205 (1989).

<sup>729</sup> See Appendix 2-2. If we exclude military crimes, as was done in the analysis of the DPRK penal code in this study, the portion of new provisions in the chapters governing non-economic crimes in the 1997 penal code drops to 62.3% (132 of the 212 provisions).

of the provisions in the entire Special Part) in the DPRK penal code corresponded to the provisions in the RSFSR penal code amended up to May 31, 1999.<sup>730</sup>

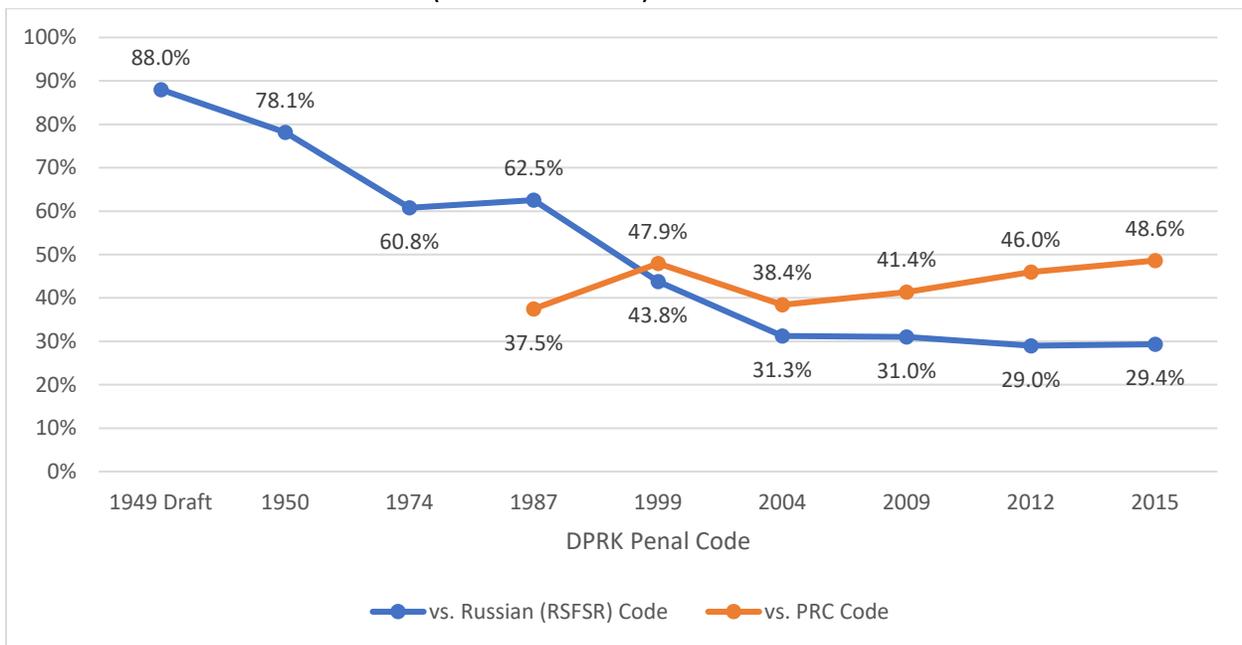
The Special Part of the 1999 DPRK penal code had more provisions corresponding to the 1997 PRC penal code than the 1987 DPRK penal code did to the 1979 PRC penal code: 47.9% of the provisions on economic crimes and 68.6% of the provisions on non-economic crimes (60.2% of the provisions in the entire Special Part) in the DPRK penal code corresponded to the provisions in the 1997 PRC penal code.<sup>731</sup> Although correspondence between the codes of the DPRK and the PRC was slightly higher than between those of the DPRK and Russia, it was not because the DPRK penal code conformed more to the PRC penal code but primarily because the number of provisions in the Special Part of the PRC code had greatly increased and, thus, the number of corresponding provisions in the DPRK code increased accordingly.

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<sup>730</sup> See Appendix 5.

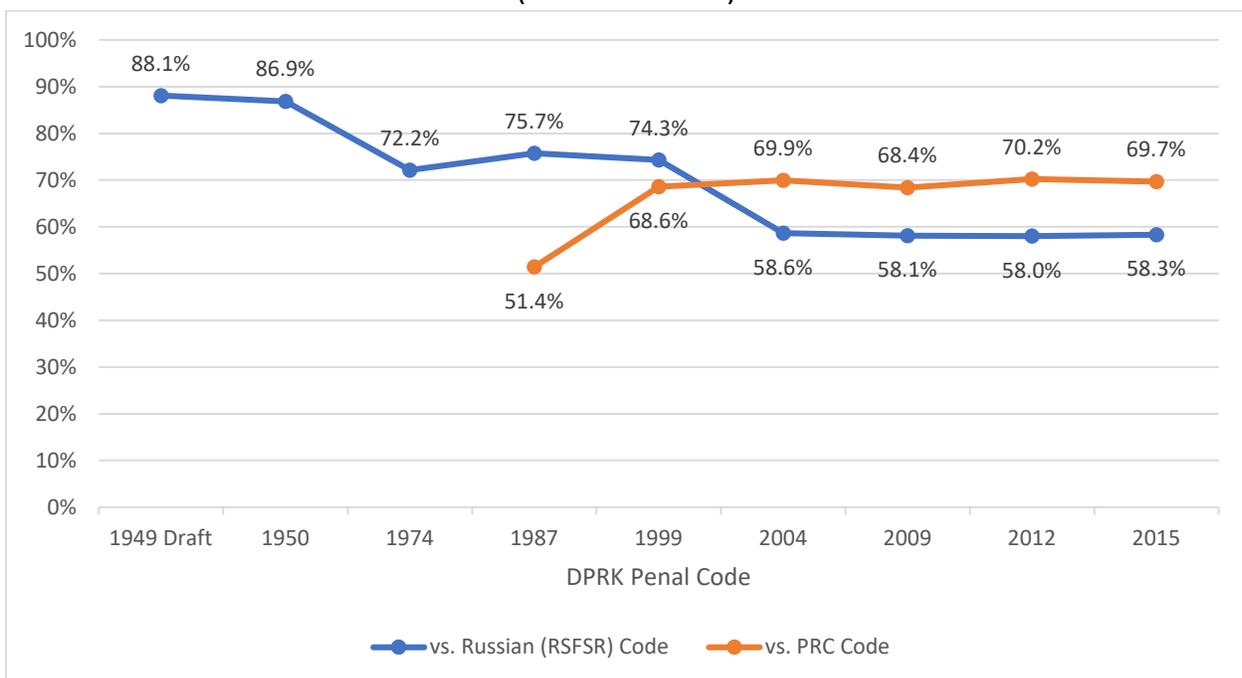
<sup>731</sup> *Id.*

Figure 11. Corresponding Provisions on Economic Crimes in the Special Part of the Penal Codes of the DPRK and Russia (and the RSFSR) and the PRC



(See Appendix 5. for more details)

Figure 12. Corresponding Provisions on Non-Economic Crimes in the Special Part of the Penal Codes of the DPRK and Russia (and the RSFSR) and the PRC



(See Appendix 5. for more details)

#### 4.2.2. The 2004 DPRK Penal Code

The Special Part of the Russian penal code did not significantly change between June 1999 and January 2004—about three months before the DPRK code was amended in April 2004.<sup>732</sup> During the same period, the PRC penal code was amended four times—in December 1999, August 2001, December 2001, and December 2002—which did not significantly affect the provisions on economic crimes.<sup>733</sup>

With the 2004 amendment, the Special Part of the DPRK penal code came to correspond even less to that of the Russian penal code: 31.3% of the provisions on economic crimes and 58.6% of the provisions on non-economic crimes (46.1% of the

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<sup>732</sup> Four provisions on economic crimes (Article 171.1. Production, Purchase, Storage, Transportation or Sale of Unmarked Goods and Products (Производство, приобретение, хранение, перевозка или сбыт немаркированных товаров и продукции)); Article 185.1. Persistent Refusal to Disclose or Provide Information Required under the Russian Law on Securities (Злостное уклонение от раскрытия или предоставления информации, определенной законодательством Российской Федерации о ценных бумагах); Article 199.1. A Tax Agent's Failure to Discharge His/Her Duties (Неисполнение обязанностей налогового агента); and Article 199.2. Concealment of Monetary Funds or Property of an Organization or Individual Businessman against Which the Recovery of Taxes and (or) Fees Is Levied (Соккрытие денежных средств либо имущества организации или индивидуального предпринимателя, за счет которых должно производиться взыскание налогов, сборов, страховых взносов)) and 11 provisions on non-economic crimes were added to the Russian penal code. Two provisions on economic crimes (Article 182. Advertisement Known to Be False (Заведомо ложная реклама); Article 200. Deception of Consumers (Обман потребителей)) and two provisions on non-economic crimes were abrogated from the Russian penal code during this period.

<sup>733</sup> Only three provisions on non-economic crimes were added to the PRC penal code by these amendments. Although more provisions—on both economic and non-economic crimes—were partly amended, it did not affect the number of corresponding provisions between the penal codes of the DPRK and the PRC.

provisions in the Special Part) in the DPRK penal code corresponded to the provisions in the Russian penal code amended up to July 1999.<sup>734</sup>

Overall, the Special Part of the 2004 DPRK penal code corresponded less closely to that of the PRC penal code than that of the 1999 DPRK penal code did: 55.5% of the provisions in the Special Part of the 2004 DPRK penal code corresponded to those in the Special Part of the 2002 PRC penal code.<sup>735</sup> However, there was a noticeable difference between the provisions on economic and non-economic crimes: the portion of corresponding provisions was 38.4% for the former—a significant drop compared to the previous penal code—and 69.9% for the latter. This confirms the observation in Chapter 3 that although the number of provisions on economic crimes in the DPRK penal code more than doubled—as was the case in the 1997 PRC penal code—the DPRK added significantly different types of economic crimes to its penal code. Therefore, the DPRK aimed at maintaining an economy that was fundamentally different in nature from that of the PRC.

#### 4.2.3. The July 2009 DPRK Penal Code

The Special Part of the Russian penal code did not significantly change between February 2004 and July 2009, three months before October 2009 when the DPRK penal code was amended: Only four provisions on non-economic crimes were added to the

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<sup>734</sup> See Appendix 5.

<sup>735</sup> *Id.*

Special Part of the Russian penal code. During the same period, the PRC penal code was amended three times: in February 2005, June 2006, and February 2009. Six provisions on economic crimes<sup>736</sup> and four provisions on non-economic crimes were added to the PRC penal code by these amendments.

The Special Part of the DPRK penal code amended in July 2009 did not correspond much to the Russian penal code: 31% of the provisions on economic crimes and 58.1% of the provisions on non-economic crimes (45.6% of the provisions in the Special Part) in the DPRK penal code corresponded to the provisions in the Russian penal code as amended up to April 28, 2009.<sup>737</sup> On the other hand, in the DPRK penal code amended in July 2009, 41.4% of the provisions on economic crimes corresponded to the PRC penal code, whereas 68.4% of the provisions on non-economic crimes (56% of the total provisions in the Special Part) in the DPRK penal code corresponded to the PRC penal code.<sup>738</sup> In short, the corresponding rates of provisions of the penal codes of the DPRK and Russia or the PRC largely remained the same, although the rate slightly increased between provisions on economic crimes in the penal codes of the DPRK and the PRC.

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<sup>736</sup> Article 162.2. False Bankruptcy (虚假破产罪); Article 169.1. Violation of Fiduciary Duty in a Listed Company (背信损害上市公司利益罪); Article 175.1. Obtaining by Fraudulent Means a Loan, Acceptance of an Instrument, or Financial Securities (骗取贷款、票据承兑、金融票证罪); Article 177.1. Hampering the Administration of Credit Cards (妨害信用卡管理罪); Article 185.1. Violation of Fiduciary Duty in Managing Consigned Asset (背信运用受托财产罪); and Article 224.1. Organizing and Leading Pyramid Schemes (组织、领导传销活动罪).

<sup>737</sup> See Appendix 5.

<sup>738</sup> *Id.*

This is a natural outcome because none of the penal codes of the DPRK, Russia, and the PRC underwent a major change during this period.

### 4.3. INFLUENCES OF RUSSIAN AND CHINESE PENAL CODES ON THE DPRK PENAL CODE DURING THE KIM JONG-UN ERA (2011-PRESENT)

#### 4.3.1. The May 2012 DPRK Penal Code

The Special Part of both the Russian and PRC penal codes did not significantly change between August 2009 and February 2012, about three months before the DPRK penal code was amended in May 2012.<sup>739</sup> As in the case of the 2009 DPRK penal code,

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<sup>739</sup> During this period, seven provisions on economic crimes—Article 173.1. Unlawful Establishment (Creation, Re-Organization) of a Legal Entity (Незаконное образование (создание, реорганизация) юридического лица); Article 173.2. Unlawful Use of Documents for Establishing (Creating, Re-Organizing) a Legal Entity (Незаконное использование документов для образования (создания, реорганизации) юридического лица); Article 185.2. Failure to Follow the Procedure for Registration of Rights to Securities (Нарушение порядка учета прав на ценные бумаги); Article 185.3. Market Manipulation (Манипулирование рынком); Article 185.4. Impeding the Exercise or Unlawful Limitation of the Right of Securities Owners (Воспрепятствование осуществлению или незаконное ограничение прав владельцев ценных бумаг); and Article 185.5. Falsifying a Decision of a General Meeting of Shareholders (Stakeholders) of a Company or a Decision of the Board of Directors (Supervisory Board) of a Company (Фальсификация решения общего собрания акционеров (участников) хозяйственного общества или решения совета директоров (наблюдательного совета) хозяйственного общества)—and eight provisions on non-economic crimes were added to the Russian penal code. Two provisions on economic crimes—Article 173. Pseudo-entrepreneurship (Лжепредпринимательство); Article 188. Smuggling (Контрабанда)—and three provisions on non-economic crimes were abrogated in the code during the same period. No provision on economic crime and six provisions on non-economic crimes were added to the PRC penal code in its 2011 amendment, although more provisions were partly amended.

the corresponding rates of provisions of the penal codes of the DPRK and Russia or the PRC largely remained the same during this period.

Despite the amendments made up to May 2012, the corresponding rate between the Special Parts of the DPRK and Russian penal codes remained lower than that between the DPRK and RSFSR penal codes before the fall of the USSR: 29% of the provisions on economic crimes and 58% of the provisions on non-economic crimes (45.5% of the provisions in the entire Special Part) in the DPRK penal code corresponded to the provisions in the Russian penal code as amended up to February 29, 2012.<sup>740</sup>

In this period, the PRC penal code was amended only once in February 2011. In the DPRK penal code amended in May 2012, the portion of the provisions on economic crimes that corresponded to the PRC penal code increased from 41.4% to 46.0%, whereas 70.2% of the provisions on non-economic crimes (59.7% of the total provisions in the Special Part) in the DPRK penal code corresponded to the PRC penal code.<sup>741</sup>

#### 4.3.2. The July 2015 DPRK Penal Code

Between March 2012 and April 2015, about three months before the DPRK penal code was amended in July 2015, the Special Part of the Russian penal code changed relatively more significantly than before.<sup>742</sup>

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<sup>740</sup> See Appendix 5.

<sup>741</sup> *Id.*

<sup>742</sup> There were 11 new provisions on economic crimes—Article 159.1. Credit Fraud (Мошенничество в сфере кредитования); Article 159.2. Payment Fraud (Мошенничество при получении

Despite its amendments up to July 2015, the Special Part of the DPRK penal code still corresponded far less to the Russian penal code than to the PRC penal code: 29.4% of the provisions on economic crimes and 58.3% of those on non-economic crimes (45.2% of the provisions in the Special Part) in the DPRK penal code corresponded to the provisions in the Russian penal code amended up to March 30, 2015.<sup>743</sup>

The PRC penal code did not change after it was amended in February 2011 and before July 2015 when the DPRK penal code was amended.<sup>744</sup> Through the amendment to the DPRK penal code in July 2015, more provisions on economic crimes in the same code came to correspond more closely to those in the PRC penal code, although a considerable gap still existed between the provisions on economic and non-economic crimes: 48.6% of the provisions on economic crimes corresponded to those in the PRC

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выплат); Article 159.3. Electronic Payment Fraud (Мошенничество с использованием электронных средств платежа); Article 159.4. Business Fraud (Мошенничество в сфере предпринимательской деятельности); Article 159.5. Insurance Fraud (Мошенничество в сфере страхования); Article 159.6. Computer Information Fraud (Мошенничество в сфере компьютерной информации); Article 185.6. Misuse of Insider Information (Неправомерное использование инсайдерской информации); Article 191.1. Acquisition, Storage, Transportation, Processing for Marketing or Marketing of Illegally Harvested Wood (Приобретение, хранение, перевозка, переработка в целях сбыта или сбыт заведомо незаконно заготовленной древесины); Article 193.1. Commission of Currency Transactions on Money Transfer in Foreign Currency or the Currency of the Russian Federation to Non-residents' Accounts with Fraudulent Documents (Совершение валютных операций по переводу денежных средств в иностранной валюте или валюте Российской Федерации на счета нерезидентов с использованием подложных документов); Article 200.1. Smuggling of Cash and/or Cash Instruments (Контрабанда наличных денежных средств и (или) денежных инструментов); Article 200.2. Smuggling of Alcoholic Products and/or Tobacco Products (Контрабанда алкогольной продукции и (или) табачных изделий)—and 24 provisions on non-economic crimes were added to the Russian penal code during this period.

<sup>743</sup> See Appendix 5.

<sup>744</sup> The 2011 PRC penal code was amended on August 29, 2015.

penal code amended in February 2011, while 69.7% of the provisions on non-economic crimes (60.2% of the total provisions in the entire Special Part) in the DPRK penal code corresponded to those in the PRC penal code.<sup>745</sup> A significant gap persists despite the upward trend in corresponding rates of the provisions on economic crimes of the penal codes of the DPRK and the PRC. This suggests that there are still fundamental limitations on the Chinese influence on provisions on economic crimes in the DPRK penal code as compared to the provisions on non-economic crimes.

#### 4.4. LIMITS OF THE CHINESE INFLUENCE ON THE PROVISIONS ON ECONOMIC CRIMES IN THE DPRK PENAL CODE AND POSSIBLE DIVERSIFICATION OF SOURCES OF FOREIGN INFLUENCE

The present chapter has discussed the increasing and decreasing influences of the PRC and Russian penal codes, respectively, on the DPRK penal code, particularly among the provisions on economic crimes. These influences were suggested by a paper titled “Several problems arising from legal cooperation between the DPRK and the PRC and its reinforcement” that was presented by a DPRK legal scholar at a recent seminar jointly held in Pyongyang by Kim Il-Sung University and Jilin University in the PRC.<sup>746</sup>

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<sup>745</sup> See Appendix 5.

<sup>746</sup> *An International Academic Seminar Was Held* (국제 학술 토론회 진행), KIM IL-SUNG UNIVERSITY, Aug. 22, 2019 (in Korean), <http://www.ryongnamsan.edu.kp/univ/international/scholar/33> (last visited Sept. 30, 2019).

More circumstantial evidence of this trend can be found in the DPRK's heavy reliance on Chinese legal materials. It appears that Chinese legal materials are currently the primary sources for North Korean legal scholars conducting research on foreign laws. In most cases, it is impossible to know what materials North Korean scholars have referred to when they publish specific materials because nearly all scholarly materials lack citations of any sources except the words of their leaders—Kim Il-Sung, Kim Jong-Il, and Kim Jong-Un.<sup>747</sup> It has largely remained a mystery how legal scholars in the DPRK—a country where most people are not allowed to access the internet, not to mention go abroad—conduct research on foreign laws<sup>748</sup> because it is even more difficult to find

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<sup>747</sup> This was not the case during the early period of DPRK history. North Korean legal scholars cited many sources, both domestic and international (mostly from the Communist Bloc), up to the early 1960s. Soviet materials were by far the most important sources for foreign legal studies. It seems that the disappearance of citations of any sources since the mid-to-late 1960s is attributable to a combination of the following factors. First, the aforementioned complete removal of the private property system in the DPRK in 1958 likely resulted in weakening the notion of copyright, in that copyright is meaningless when everything, including all works, is regarded as State property and, thus, in the public domain. Second, there were often tensions in the DPRK's relationships with the Soviet Union and the PRC after Stalin's death in 1953 and the purge of the pro-China and pro-Soviet factions in the DPRK who failed to oust Kim Il-Sung in 1956. Third, since Kim Il-Sung managed to purge all of his opponents and solidify his power base in the late 1960s, the DPRK supposedly had a policy disapproving of the authority of any person other than Kim Il-Sung and his successors and mandated scholars to cite only the words of their Supreme Leaders.

The almost complete absence of citations of sources may gradually change because the DPRK recently began placing great emphasis on copyright, together with other intellectual property rights. In addition, there seems to be a growing awareness of the problems of such a custom, at least among some North Korean legal scholars, as suggested by a recent law journal article criticizing the common practice of omitting citations. See Young-il Park (박영일), *An Introduction to Citation of Works* (저작물의 내용인용에 대한 일반적리해), JONGCHI POPRYUL YONGOO (정치법률연구), no. 2, June 2017, at 49–50 (in Korean).

<sup>748</sup> For example, a law article on computer crimes recently published in the DPRK analyzes regulations on computer crimes in Russia, the PRC, France, Germany, Japan, the United States, and the United Kingdom. Although analyses of the cases of Russia and the PRC appear first, and more pages are devoted to these two analyses, a substantial number of pages are nonetheless devoted to analyses of the other countries' laws. Won-chool Kim (김원출), *Major Forms of Computer*

citations of foreign sources than domestic ones in legal materials from the DPRK. However, quite a few law textbooks recently published by the publishing house of Kim Il-sung University make reference to several foreign materials, which gives us clues as to how North Korean legal scholars study foreign laws.

Table 20. Foreign Legal Materials Cited in the Two Law Textbooks of the DPRK Published in 2016

Reopening of Procedures and Extraordinary Appeal in Criminal Proceedings (형사소송에서 비상상소심제도와 재심제도) (2016) <sup>749</sup>	A Study on Conditions for Tort Liability (불법침해에 대한 민사책임조건 연구) (2016) <sup>750</sup>
1. Criminal Procedure in Foreign Countries (外国刑事诉讼法学), Peking University Press (北京大学出版社) (2006) <sup>751</sup> 2. A Comparative Study of Criminal Procedure in Foreign Countries (外国刑事诉讼法比较研究),	1. A Study on Compensation for Non-economic Damage (精神损害赔偿制度研究), China University of Political Science and Law Press (中国政法大学出版社) (2003) <sup>754</sup>

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*Network Crimes in Many Countries* (세계 여러 나라 컴퓨터망범죄의 주요형태), PŎPHAK YOŬ'GU (법학연구), no. 23, Nov. 2015, at 99–105 (in Korean).

<sup>749</sup> GWANG-IL SHIN (신광일), REOPENING OF PROCEDURES AND EXTRAORDINARY APPEAL IN CRIMINAL PROCEEDING (형사소송에서 비상상소심제도와 재심제도) 96 (2016) (in Korean).

<sup>750</sup> YOUNGHOON BAEK (백영훈), A STUDY ON CONDITIONS FOR TORT LIABILITY (불법침해에 대한 민사책임조건 연구) 203 (2016) (in Korean).

<sup>751</sup> This appears to be an incorrect citation of CRIMINAL PROCEDURE IN FOREIGN COUNTRIES (外国刑事诉讼法学) (Yizhen Wang et al., eds. (王以真主编)), Peking University Press (北京大学出版社) (2004) (in Chinese).

<sup>754</sup> PING HU (胡平), A STUDY ON THE COMPENSATION SYSTEM FOR MENTAL DAMAGE (精神损害赔偿制度研究), China University of Political Science and Law Press (中国政法大学出版社) (2003) (in Chinese).

<p>China Legal Publishing House (中国法制出版社) (2006)<sup>752</sup></p> <p>3. Chinese Criminal Procedure (中国刑事诉讼法), Peking University Press (北京大学出版社) (2002)<sup>753</sup></p>	<p>2. European Comparative Tort Law (欧洲比较侵权行为法), Vol. 2 (下), Law Press China (法律出版社) (2002)<sup>755</sup></p> <p>3. A General Theory of the Law of Obligations (债法总论), China University of Political Science and Law Press (中国政法大学出版社) (2000)<sup>756</sup></p> <p>4. A Research on Modern French Tort Liability System (现代法国侵权责任制度研究), China University of Political Science and Law Press (中国政法大学出版社) (2004)<sup>757</sup></p> <p>5. The Theory of Civil Law (民法原论), Law Press China (法律出版社) (2005)<sup>758</sup></p>
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As we can see in the table above, all the eight materials cited in the two DPRK law textbooks were published in the PRC, which suggests that North Korean legal scholars rely heavily on Chinese legal materials. It must be noted that they even refer to Chinese materials written in the Chinese language to study the laws of other foreign countries,

<sup>752</sup> SHIJIE SON ET AL. (宋世杰等), A COMPARATIVE STUDY OF CRIMINAL PROCEDURE IN FOREIGN COUNTRIES (外国刑事诉讼法比较研究), China Legal Publishing House (中国法制出版社) (2006) (in Chinese).

<sup>753</sup> This appears to be an incorrect citation of GUANGZHONG CHEN (陈光中), CRIMINAL PROCEDURE (刑事诉讼法), Peking University Press (北京大学出版社) (2002) (in Chinese).

<sup>755</sup> This appears to be an incorrect citation of CHRISTIAN VON BAR, EUROPEAN COMPARATIVE TORT LAW (欧洲比较侵权行为法, Jiao mei hua (焦美华) trans.), Law Press-China (法律出版社) (2001) (in Chinese).

<sup>756</sup> SHANGKUAN SHI (史尚宽), A GENERAL THEORY OF THE LAW OF OBLIGATIONS (债法总论), China University of Political Science and Law Press (中国政法大学出版社) (2000) (in Chinese).

<sup>757</sup> MIN'AN ZHANG (张民安), A STUDY ON THE MODERN FRENCH TORT LIABILITY SYSTEM (现代法国侵权责任制度研究), Law Press-China (法律出版社) (2003) (in Chinese).

<sup>758</sup> JUNJU MA & YANMAN YU (马俊驹, 余延满), THE THEORY OF CIVIL LAW, SECOND EDITION (民法原论 (第二版)), Law Press-China (法律出版社) (2005) (in Chinese).

such as France. This is in sharp contrast to the fact that a Soviet criminal law textbook was the only foreign legal material cited in a criminal law textbook published in the DPRK in 1986.<sup>759</sup>

The growing Chinese influence on DPRK laws has been confirmed by a Chinese law professor at Yanbian University<sup>760</sup> in the PRC.<sup>761</sup>

Currently there is no law student from the DPRK at Yanbian University School of Law, although I heard that there was one such student seven or eight years ago. North Korean scholars, including legal scholars, regularly make visits to Yanbian University as a group for academic purposes for weeks or months. In the PRC, Yanbian University is known to be the most popular destination for academic exchange for North Korean scholars. The fields that those legal scholars study include criminal law, civil law, economic law, and international law. Although DPRK laws have been heavily influenced by PRC laws, North Korean legal scholars are known to have started referring to the laws of other countries. As it is difficult to obtain foreign legal materials in the DPRK, North Korean scholars not only gather many books but download many journal articles during their stay at Yanbian University.

Recently, the DPRK has begun endeavoring to diversify the sources of its legal research by sending legal researchers to study in other countries besides the PRC, such

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<sup>759</sup> PUBLISHING HOUSE OF KIM IL-SUNG UNIVERSITY (1987), *supra* note 472, at 209.

<sup>760</sup> This university is located in Yanbian, Jilin Province, near the border between the DPRK and the PRC. Many of its students and professors are ethnic Koreans. The region is inhabited by many ethnic Koreans, some of whom have close connections with North Koreans. Yanbian University is the only university in the PRC where Korean is the official language of instruction along with Chinese.

<sup>761</sup> This is according to an interview with the Chinese law professor in February 2019.

as Germany,<sup>762</sup> encouraging submissions of law articles to foreign law journals<sup>763</sup>, and receiving foreign students in college of law, in line with the instructions of Kim Jong-Un,<sup>764</sup> although it will be difficult to increase such activities in the current political and economic situation. Thus, the impact of PRC law is likely to continue for quite some time.<sup>765</sup>

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<sup>762</sup> For example, two DPRK legal scholars—including Un Nam Kim, an associate professor of law at Kim Il-Sung University—recently studied in the LL.M. program at Humboldt-Universität zu Berlin, which they graduated from in the summer of 2015. They have been the only North Koreans to do so after the inauguration of the program as of November 2019. Christoph G. Paulus, *Foreword to Un Nam Kim, supra* note 156, at 95. The other student—seemingly another experienced law professor—wrote his master’s thesis on space law, according to an interview with Prof. Dr. Christoph G. Paulus in November 2019.

<sup>763</sup> Science and Encyclopedia Publishing House (과학백과사전출판사), *Let’s uphold the New Year’s address of the beloved Supreme Leader, comrade Kim Jong-Un, and bring about a new revolutionary uplift in the study of law* (경애하는 최고영도자 김정은 동지의 신년사를 높이 받들고 법학연구에서 새로운 혁명적 양양을 일으키자), L. J. (법률연구) 2, 2 (Jan. 2018). Un Nam Kim, *supra* note 156 is mentioned as one of the most excellent achievements in 2017 in this article.

<sup>764</sup> “We must push forward the project that makes Kim Il-Sung University a base for international academic exchanges. The university must regularly organize disciplinary or interdisciplinary international academic conferences and expand joint research with prestigious universities and research institutions in other countries. Faculty members should write excellent academic papers and present them at authoritative international conferences and or publish them in international academic journals. Books including academic journals, textbooks, and reference books must be made of high quality so that they can be widely used in colleges and universities and exported to other countries. The university should receive a lot of foreign students in a variety of departments besides Korean language education ... and send more people, mainly doctoral students, abroad to study.” KIM JONG-UN, ON THE BASIC MISSION OF KIM IL-SUNG UNIVERSITY (주체혁명의 새시대 김일성종합대학의 기본임무에 대하여) 12–13 (2016) (in Korean). Although Kim Il-Sung University opened its doors to foreign students in 1954, they have been allowed only to major in the Korean language. *Kim Il-Sung University opens its door wide to foreign students* (김일성대, 외국인 유학생에 ‘손짓’... 전공 대폭 개방), YONHAP NEWS, Oct. 21, 2017 (in Korean), <https://www.yna.co.kr/view/AKR20171020140600014> (last visited Sept. 28, 2019).

<sup>765</sup> One very recent, highly interesting development is that two brief notes written by German law professors were translated into Korean and published in Journal of Kim Il-Sung University: Law, no. 1, Mar. 2019. One of them—written by Prof. Dr. Horst Hammen of Justus Liebig University Giessen—was on Genussschein (also called “Gewinnschein”): profit-participation certificates or participation shares that are typical in Germany and Austria and are equity papers, which do not confer any ownership rights but grant the holder the right to participate in the net profit and liquidation proceeds, as well as the right to subscribe to new shares. Stockopedia.com, Unusual

Nevertheless, room for Chinese influence on the DPRK penal code has been limited because, since the 1950s, the DPRK has been more reluctant to borrow laws extensively if they are—as in the case of the penal code and constitution—directly related to its sovereignty and the stability of its regime, unlike the case of many other laws, including foreign investment and intellectual property laws and Legislation Law.

Table 21. Corresponding Rate of Added Provisions on Economic Crimes in the DPRK Penal Code to their Russian and PRC Counterparts

DPRK Penal Code	Only Corresponds to Russian Penal Code	Only Corresponds to the PRC Penal Code	Corresponds to Both Penal Codes	Corresponds to Neither Penal Code	Sum
1950	50 (78.1%)	N/A	N/A	14 (21.9%)	64
1974	4	N/A	N/A	15	19

Share Classes, <https://help.stockopedia.com/technical-guide/instruments/unusual-share-classes> (last visited Oct. 1, 2019). The note briefly mentions articles on cooperative organizations in the DPRK constitution and subsequently discusses how cooperative organizations—which are still prevalent in the DPRK—can utilize Genussschein to attract foreign capital with a structure similar to that of a bank loan. Horst Hammen (호스트 하멘), *Cooperatives And Profit Participation Certificates* (도이칠란드에서 향유증권을 통한 조합의 대부), 65 J. Kim Il-Sung U.: LAW (김일성종합대학 학보: 법률학), no. 1, Mar. 2019, at 108-112.

The other note on the development of international trade law was authored by Prof. Dr. Sven Simon at Philipps-University Marburg. The publication of works by foreign legal scholars in a DPRK law journal is an unprecedented event to the best of my knowledge. North Korean legal scholars who recently studied in Germany—including Un Nam Kim—might have got to know the two German professors and later requested them to write those notes for publication in the DPRK. It remains to be seen whether such academic exchange will continue. Also of note, in the same issue of the law journal, several of the nine articles therein written by DPRK scholars include many footnotes—albeit still far less thorough than the general practice in many other countries, at times inconsistent in the citation style, and occasionally even somewhat irrelevant—including citations of foreign legal materials, which all but disappeared in the DPRK after the early 1960s. Sven Simon (스벤 씨문), *Development and Principles of International Economic Law—International Trade and Development of International Economic Law* (국제경제법의 발전과 원칙 – 국제무역과 국제경제법의 발전), 65 J. Kim Il-Sung U.: LAW (김일성종합대학 학보: 법률학), no. 1, Mar. 2019, at 113-118.

The two publications are based on a lecture in recent years at the Kim Il-Sung University College of Law by the two German scholars, who have visited the DPRK several times for the purpose of scientific exchange, according to an interview with Prof. Dr. Horst Hammen in November 2019.

	(21.1%)			(78.9%)	
1987 / 1999	-	-	-	-	-
2004	3 (5.2%)	7 (12.1%)	10 (17.2%)	38 (65.5%)	58
July 2009	-	4 (85.7%)	2 (28.6%)	1 (14.3%)	7
May 2012	-	1 (14.3%)	-	6 (85.7%)	7
July 2015	-	5 (55.6%)	3 (33.3%)	2 (11.1%)	9
<b>Since 2000</b>	<b>3 (3.7%)</b>	<b>17 (21.0%)</b>	<b>15 (18.5%)</b>	<b>46 (56.8%)</b>	<b>81</b>

(See Tables 4, 6, 8, 9, 11, 13, 16, 18 in Chapter 3 for more details)

Moreover, especially with respect to the provisions on economic crimes, Chinese influence has been further limited by the countries' divergent approaches to the market economy. As shown in the table above, although new provisions on economic crimes added to the DPRK penal code since 2000 correspond far more to their counterparts in the PRC penal code than in Russian penal code, the majority of them does not correspond to either their counterparts in Russian or the PRC penal code. In other words, as long as the DPRK does not abandon its traditional socialist economic model and adopt the Chinese or Vietnamese model of opening up its economy, significant differences will likely remain among the provisions on economic crimes in the penal codes of the DPRK and the PRC.

In short, although the 1950 DPRK penal code is a clear example of legal transplants from the RSFSR, in later amendments to the code, Russian influence continued to decrease mainly because of the DPRK's adherence to its own political and economic lines, although this local development does not necessarily have to be interpreted as a

total refusal, as mentioned in Chapter 3 in the discussion on provisions deleted in the 1974 amendment of the DPRK penal code. Although Chinese influence on the DPRK penal code has increased since the 2000s, it remains a subtle, indirect form of legal transplant, particularly regarding the provisions on economic crimes, primarily because the DPRK adheres to a traditional socialist economy.

In any case, the transplantation of Russian and Chinese criminal law in the DPRK is an interesting case, in part, because legal transplant has been discussed far more often with respect to private laws than public laws including criminal law, as in the aforementioned Alan Watson's book, *Legal Transplants: An Approach to Comparative Law*.<sup>766767</sup>

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<sup>766</sup> ALAN WATSON (1993), *supra* note 452, at 111. Indeed, this book focuses on the cases of transplantation of private laws with a few exceptions, such as Scottish criminal law. *Id.* at 105–106.

<sup>767</sup> The dearth of discussions on transplantation of criminal law seems to relate to the fact that criminal law has long been considered as beyond the scope of comparative law studies. See MARKUS D. DUBBER, *supra* note 4, at 1288.

## **CHAPTER 5**

### **CONCLUSION**

#### **5.1. SUMMARY AND EVALUATION**

In Chapter 2, I investigated how the DPRK has enacted and amended laws to promote and control its economy. An examination of the history of legislation of economic laws in the DPRK revealed that the DPRK, mostly since the collapse of the Soviet Bloc, has endeavored to address its grave, perennial economic crisis by legislating many economy-related laws, including those on foreign investment and foreign trade, and intellectual property.

In Chapter 3, I performed a thorough analysis of the provisions on economic crimes in the DPRK penal code, focusing on the ones that best exhibit the characteristics of a socialist economy. This inquiry established that the provisions on economic crimes have undergone more drastic changes than those on non-economic crimes, particularly since the serious economic crisis that the DPRK faced, after which, in the late 1990s, it began to more actively pursue economic development. New provisions on economic crimes related to foreign trade and infringement of intellectual property have been added. Additionally, the once highly political and ideological nature and draconian penalties—even among the provisions on economic crimes—of the DPRK penal code have weakened to some extent. Indeed, since Kim Jong-Un came to power in December 2011, the punishment for economic crimes has considerably decreased. A recent, noticeable

development is the addition of Chapter 10, on the crimes of money laundering, to the penal code in 2015, which was intended to show the DPRK regime's will to accept international norms to resolve the perennial economic crisis.

In Chapter 4, I reviewed legal transplant in the DPRK, centering on the influences of Russian and Chinese penal codes on the DPRK penal code. By thorough provision-to-provision examination, I have established that the once dominant influence of the RSFSR penal code on its DPRK counterpart waned over time and dramatically weakened after the dissolution of the USSR in 1991 and the ensuing full-scale revision of the Russian penal code in 1996. While the influence of the PRC penal code appears to be increasing in the DPRK, it remains limited, especially regarding the provisions on economic crimes. This is primarily due to the fundamental differences in their economic systems.

Despite Kim Jong-Un's seeming dedication to economic development, the future of the DPRK economy observed through the lens of the penal code is not very rosy. Although it has not been ascertained how the 2015 DPRK penal code has changed with amendments through May 2019, one thing seems clear after examining the provisions on economic crimes in the DPRK penal code: Kim Jong-Un's initial attempts to develop the DPRK economy until July 2015—during the first three-and-a-half years of his reign—were far less audacious than what Deng Xiaoping did in the process of opening up the PRC economy that began in the late 1970s. Despite Kim's seemingly strong commitment to driving economic growth, the provisions on economic crimes—at least ostensibly—still aim to protect and maintain an old-fashioned socialist economy rather than promote radical transformation into a socialist market economy, like that of the PRC. One notable

example is adherence to the strict distinction between crimes against state and private properties and the imposition of harsher punishment on the former, which is nonexistent even in all major (former) socialist economies such as the PRC, Russia, and Vietnam.<sup>768</sup>

What might have changed in the DPRK penal code since July 2015? Could the continued, albeit incremental, relaxation of heavy control of the market in the DPRK and Kim Jong-Un's economic policies in anticipation of the lifting of United Nations-led sanctions—with the relative, temporary relaxation of tensions in and around the Korean Peninsula since early 2018—have also affected the penal code, and particularly the provisions on economic crimes? Given Kim Jong-Un's continued emphasis on economic development, it remains to be seen how the provisions on economic crimes in the DPRK penal code have changed since July 2015 and what such changes imply for the future of the DPRK economy.

Overall, the DPRK's policy of controlling the economy through its penal code has failed—at least until July 2015—since the economic crisis and mass starvation in the 1990s, as many North Koreans were compelled to participate in market activities for survival and, thereby, commit economic “crimes.” In the DPRK, the unofficial private sector has grown to account for such a significant portion of the country's economy that it now seems impossible to revert to the old socialist economy.<sup>769</sup> Nonetheless, many of

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<sup>768</sup> See Appendix 9; See also Bo-Hack Suh (서보학), *The Characteristics of Crimes against Personal Property Rights in North Korean Criminal Law* (북한 형법에 나타난 개인재산 침해범죄의 특징), DONG-A L. REV. (동아법학), no. 66, Feb. 2015, at 71, 74 (in Korean: Abstract in English).

<sup>769</sup> CHONG-T'AE YI, *supra* note 530, at 81.

the provisions on economic crimes in the DPRK penal code have been premised on a traditional socialist economy, as illustrated by the many provisions that still punish deviation from the official, planned economy, which can no longer be found in other (former) socialist countries. The resulting huge discrepancies between the law as written and the law in practice render those provisions impractical, leave ordinary people subject to arbitrary application of such provisions by law enforcement personnel, and necessitate bribery to avoid criminal sanctions for market activities that are ordinary in most other countries. The prevalence of corruption, in turn, will undermine economic development and ultimately threaten the stability of the DPRK regime,<sup>770</sup> unless Kim Jong-Un abandons the long-time DPRK policy of maintaining its official, socialist economy through the penal code and initiates more drastic change in its economic policy.

## 5.2. NOTES FOR FUTURE RESEARCH

This dissertation adopts average maximum penalties for measuring changes in punishments prescribed in the DPRK penal codes. If we look into data on actual cases of punishment of crimes—particularly economic ones—in the DPRK, this will not only be an interesting study but also one that complements this dissertation. Although no such data or official statistics have been made available by the DPRK government, research on actual sentences—albeit scant, scattered, fragmented, falsifiable, and thus less reliable

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<sup>770</sup> HAENG-SOŔN SON, *supra* note 208, at 194.

than official data—has been sporadically conducted outside the DPRK, based on interviews with defectors from the country.<sup>771</sup>

Although only partially discussed in this dissertation, an in-depth analysis of the provisions on economy-related crimes but are classified as non-economic crimes in the DPRK—namely, bribery, drug-related crimes, infringement of inventor’s rights and copyright, gambling, prostitution, sale of counterfeit food/drugs, and sale or receipt of stolen property—or the provisions in the General Part of the DPRK penal code—such as those on application of penalties or analogy—will provide us with a more comprehensive and multidimensional picture of the socioeconomic changes in the DPRK and the impact of the Russian and Chinese penal codes on their North Korean counterpart.

In addition, an interesting comparative law study would involve analyzing the changes in economic crime-related provisions (and deviation from the Soviet legacy) in the process of opening up the economy in other socialist countries, such as Vietnam, Laos, and Cuba, as well as former socialist countries, such as Mongolia and those in Eastern Europe, although it appears that their laws have not directly influenced the DPRK penal code.

Although less important than the penal code, the Administrative Penalty Law enacted in 2004 also requires further research. This is because it seems to be used—in addition to the penal code—as a major tool for controlling the economic sector, punishing most of the same acts as stipulated in the penal code. In particular, as mentioned in

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<sup>771</sup> One of the few examples is *Id.* at 191.

Chapter 1., it would be interesting to compare the DPRK's Administrative Penalty Law with those of the PRC and Russia because it appears to be modeled more after its Russian counterpart, enacted in 2001, than after the PRC counterpart, enacted in 1996.

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## **APPENDICES**

## Appendix 1. The DPRK Penal Code (July 2015)<sup>772</sup>

### The Penal Code of the Democratic People's Republic of Korea

Adopted in the fifth meeting of the first session of the Supreme People's Assembly on March 3, 1950.

Amended and supplemented by decision of the Standing Committee of the Supreme People's Assembly on December 19, 1974.

Adopted by Decision No. 2 of the Standing Committee of the Supreme People's Assembly on February 5, 1987.

Amended and supplemented by Decision No. 6 of the Standing Committee of the Supreme People's Assembly on December 15, 1990.

Amended and supplemented by Decision No. 54 of the Standing Committee of the Supreme People's Assembly on March 15, 1995.

Amended by Decree No. 953 of the Presidium of the Supreme People's Assembly on August 11, 1999.

Amended and supplemented by Decree No. 432 of the Presidium of the Supreme People's Assembly on April 29, 2004.

Amended and supplemented by Decree No. 1084 of the Presidium of the Supreme People's Assembly on April 19, 2005.

Amended and supplemented by Decree No. 1225 of the Presidium of the Supreme People's Assembly on July 26, 2005.

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<sup>772</sup> This translation is partly—particularly the General Part (Chapters 1 and 2) of this code—based on the English translation of the 2012 DPRK penal Code by Amanda Won, *in* the COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA, CRIMINAL LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (2012), [https://www.hrnk.org/uploads/pdfs/2012DPRKCriminalCode\\_HRNK.pdf](https://www.hrnk.org/uploads/pdfs/2012DPRKCriminalCode_HRNK.pdf) (last visited June 18, 2019).

English translation of some other versions of the DPRK penal code is also available: The 1950 penal code was translated by both Koo-Chin Kang and U.S. Joint Publications Research Service. Koo-Chin Kang (1969), *supra* note 29, at 452–556; Kang Koo Chin, *North Korean Penal Code*, 11 THE JUST. (저스티스), no. 1, Dec. 1973, at 235–279, <http://www.dbpia.co.kr/Article/NODE00952560> (last visited Aug. 18, 2019); U.S. JOINT PUBLICATIONS RESEARCH SERVICE, CRIMINAL LEGISLATION IN THE PEOPLE'S DEMOCRATIC REPUBLIC OF KOREA (1958). The 1987 and 1999 penal codes were translated and published by the DPRK. FOREIGN LANGUAGES PUBLISHING HOUSE, THE CRIMINAL LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA : ADOPTED BY THE DECISION NO. 2 OF THE STANDING COMMITTEE OF THE SUPREME PEOPLE'S ASSEMBLY ON FEBRUARY 5, 1987 (1992); FOREIGN LANGUAGES PUBLISHING HOUSE, THE CRIMINAL LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (2000). The 2009 code was translated by Sang-Hyup Lee, et al. *supra* note 526. The Special Part of the 1974 and 2004 penal codes are largely similar to that of the 1987 and 2009 penal codes, respectively, except the degree of punishment.

Amended and supplemented by Decree No. 1673 of the Presidium of the Supreme People's Assembly on April 4, 2006.

Amended and supplemented by Decree No. 2035 of the Presidium of the Supreme People's Assembly on October 18, 2006.

Amended and supplemented by Decree No. 2280 of the Presidium of the Supreme People's Assembly on June 26, 2007.

Amended and supplemented by Decree No. 2403 of the Presidium of the Supreme People's Assembly on October 16, 2007.

Amended and supplemented by Decree No. 2527 of the Presidium of the Supreme People's Assembly on January 15, 2008.

Amended and supplemented by Decree No. 2689 of the Presidium of the Supreme People's Assembly on April 29, 2008.

Amended and supplemented by Decree No. 27 of the Presidium of the Supreme People's Assembly on April 28, 2009.

Amended and supplemented by Decree No. 158 of the Presidium of the Supreme People's Assembly on July 21, 2009.

Amended and supplemented by Decree No. 366 of the Presidium of the Supreme People's Assembly on October 19, 2009.

Amended and supplemented by Decree No. 1105 of the Presidium of the Supreme People's Assembly on October 1, 2010.

Amended and supplemented by Decree No. 1694 of the Presidium of the Supreme People's Assembly on June 7, 2011.

Amended and supplemented by Decree No. 2346 of the Presidium of the Supreme People's Assembly on April 24, 2012.

Amended and supplemented by Decree No. 2387 of the Presidium of the Supreme People's Assembly on May 14, 2012.

Amended and supplemented by Decree No. 3232 of the Presidium of the Supreme People's Assembly on June 19, 2013.

Amended and supplemented by Decree No. 3376 of the Presidium of the Supreme People's Assembly on September 26, 2013.

Amended and supplemented by Decree No. 3449 of the Presidium of the Supreme People's Assembly on November 21, 2013.

Amended and supplemented by Decree No. 17 of the Presidium of the Supreme People's Assembly on April 24, 2014.

Amended and supplemented by Decree No. 324 of the Presidium of the Supreme People's Assembly on January 21, 2015.

Amended and supplemented by Decree No. 578 of the Presidium of the Supreme People's Assembly on July 22, 2015.

## **CHAPTER 1 THE FUNDAMENTAL PRINCIPLES OF PENAL CODE**

### **Article 1 (Objectives of Penal Code)**

The penal code of the Democratic People's Republic of Korea defends the

sovereignty of the state and the socialist system and, by establishing the system of the penal codes for offenses, ensures that

the people can lead independent and creative lives.

**Article 2 (Principle of Treating Offenders)**

In the treatment of offenders, the state shall adhere to principles that have been ascribed to the working class and apply legal sanctions with the main stress on social education.

**Article 3 (Principle of Preventing Crime)**

The state shall attempt to ensure that all citizens respect and strictly observe state laws and take an active part in the fight against offense so as to prevent offense.

**Article 4 (Principle of Treating Repenters Who Once Betrayed the Country and Nation)**

The past criminal history of a person shall be forgiven if the person works actively for the reunification of the country, and he or she shall bear no criminal liability.

**Article 5 (Principle of Treating Offender Who Surrenders Himself)**

The state shall show leniency and forgive an offender who repents of his wrongdoings and surrenders himself voluntarily.

**Article 6 (Principle of Imposing Criminal Liability Only for Crimes Prohibited by Penal Code)**

The state shall impose criminal liability only for offenses defined as offenses

under the penal code.

**Article 7 (Principle of Imposing Penalty)**

The state shall impose penalties on offenders in consideration of the dangerousness of the criminal acts and the offender.

**Article 8 (Citizens, Territory, and Actual Principle)**

This law applies to citizens of the Democratic People's Republic of Korea who commit offenses.

This law also applies to citizens of the Democratic People's Republic of Korea who commit offenses outside its territory.

This law also applies to foreigners who commit offenses within our country.

However, imposing criminal liabilities on foreigners with diplomatic status is settled in accordance with diplomatic protocol.

This law also applies to foreigners who commit offenses against the Democratic People's Republic of Korea outside of its territory or against Korean citizens in another country.

**Article 9 (Retroactivity and Non-retroactivity Principle)**

Punishment is imposed on offenders in accordance with the penal law in force at the time when the offense was committed.

This principle applies if acts that were regarded as offenses under a previous law are not considered as such under a revised law or if penalty has been reduced under a revised law.

## CHAPTER 2 GENERAL REGULATIONS

### SECTION 1. OFFENSES

#### **Article 10 (Concept of Offenses)**

Offenses are punishable, dangerous acts that violate the sovereignty of the state, the socialist system, and state laws, whether intentionally or negligently.

#### **Article 11 (Age of Criminal Responsibility)**

Criminal responsibility shall be imposed only on offenders who are over the age of fourteen when they commit an offense.

#### **Article 12 (Treatment of Offender Who Commits Socially Dangerous Acts in a State of Mental Disorder)**

Criminal liability shall not be imposed on an offender who commits socially dangerous acts while he or she is unable to judge his or her conduct or control himself or herself because of chronic mental disease or a temporary mental disorder; medical measures may be adopted in such cases.

The preceding paragraph does not apply to a person who commits an offense under the influence of alcohol.

#### **Article 13 (Treatment of Offenders in a State of Mental Disorder)**

Should a person who has committed an offense while in a normal mental state become mentally unbalanced at the time of the investigation, preliminaries, and delivery of the verdict, medical measures shall be adopted for him or her.

Criminal liability shall be imposed on him

or her after his or her return to a normal mental state.

#### **Article 14 (General Requisites for Exempting an Offender from Criminal Liability)**

An offender shall not be attributed criminal liability if the conditions required for criminal prosecution are not sufficiently satisfied, even if the act is defined as an offense under this code.

#### **Article 15 (Self-Defense)**

Should an act that is defined as an offense under this code be committed in order to prevent an offense against the interests of the state, against the public interests, or against the legitimate interests of other persons or oneself, and should the offense be considered a reasonable defensive measure, it shall not be punished.

#### **Article 16 (Necessity)**

Should an act defined as an offense under this code be committed to counter a dangerous situation and should there be no alternative and the resultant damage be not more than that which would otherwise have been caused, it shall bear no criminal liability.

#### **Article 17 (Criminal Liability for Voluntarily Ceased Crime)**

If a person stops his or her offense completely during the planning or the attempt, criminal liability shall not be

imposed.

However, if the act committed has an indication of other serious offense, appropriate punishment may be imposed.

**Article 18 (Criminal Liability of Offender, Violating Victim's Physical Rights, Who Acted upon Victim's Request)**

An offender, who violates a victim's physical rights upon his or her request, will bear criminal liability only when the offense carries little danger.

**Article 19 (Criminal Liability for Crimes Committed Against Family Members or Relatives)**

Crimes committed against a family member or relative shall bear no criminal liability when the victim himself or the victim's family demands a pardon.

The preceding paragraph does not apply to aggravated murder; murder; killing in the heat of passion; killing in imperfect self-defense; involuntary manslaughter; intentional infliction of serious bodily injury; robbery; rape; neglecting the responsibility to protect elderly and children; mistreatment.

**Article 20 (Criminal Liability for Planning or Attempt of Crime)**

Criminal liability for the planning or the attempt of an offense shall be imposed in consideration of the degree of dangerousness, the progress of execution of the offense, and the cause of failure to consummate the offense.

The article concerning the offense committed shall be applicable also when the offense is planned or attempted.

A lighter sentence shall be imposed on the planning of an offense than on an attempt carrying it out.

**Article 21 (Criminal Liability of Organized Group of Accomplices)**

The mastermind and his assistants in the criminal group shall be punished under the article concerning the offense committed with the mastermind being punished more severely.

**Article 22 (Criminal Liability of Mere Accomplices)**

Instigators and supporters who are mere accomplices and who are implicated in an offense shall be punished under the article applied to the offenders.

The sentence for the instigator shall be equal to or heavier than that imposed on the offender, and the sentence for the supporter shall be equal to or lighter than that imposed on the offender.

**Article 23 (Accomplice of Offenses Which Require Special Status)**

In a case where a perpetrator of an offense that requires special status has committed the offense in collusion with another who does not have the status to commit the offense, the other offenders, instigators, and supporters without the special status shall also be punished as co-perpetrators, instigators, or supporters.

**Article 24 (Criminal Liability for Harboring a Criminal)**

In cases provided for under this code, those who, although not directly involved in the offense, hide the offender or the

evidence of the offense after it was committed, shall bear criminal liability.

### **Article 25 (Criminal Liability for Failing to Report a Crime)**

In cases provided for under this code, those who fail to report to the relevant authorities the offense or the fact that an offense was being planned in spite of having been aware of it, shall bear criminal

liability.

### **Article 26 (Criminal Liability for Neglect)**

In cases provided for under this code, the sentence shall be imposed on those who fail to act to prevent an offense, when such action is fully possible or who fail to take steps to prevent an offense and thus cause serious consequences to arise.

## **SECTION 2. PUNISHMENTS**

### **Article 27 (Types of Punishments)**

The types of punishments are:

1. Death;
2. A life term of reform through labor;
3. Limited term of reform through labor;
4. Training through labor;
5. Deprivation of the right to vote
6. Confiscation of property
7. Removal of qualifications
8. Suspension of qualifications.

### **Article 28 (Principal Punishments and Supplementary Punishments)**

The death penalty, a life term of reform through labor, limited term of reform through labor, and training through labor are the principal punishments imposed on offenders.

Deprivation of the right to vote, confiscation of property, deprivation of qualifications, and suspension of qualifications are supplementary punishments.

### **Article 29 (The Death Penalty)**

The death penalty is executed by

depriving the offender of his physical life.

The death penalty shall not be imposed on those who were under the age of eighteen when they committed the offense, nor shall it be executed against pregnant women.

### **Article 30 (Life and Limited Term of Reform Through Labor)**

A life term or a limited term of reform through labor shall be executed by sending an offender to a long-term prison labor camp where he or she will engage in labor.

During a life term or a limited term of reform through labor, an offender's civil rights are partially suspended.

The period of reform through labor for limited term is from one year to fifteen years.

Even if offenses are combined, or the prison terms are added together, the total term may not exceed fifteen years.

Each day of the offender's detention shall be counted as a day of the reformation period.

### **Article 31 (Training Through Labor)**

Training through labor is executed by sending an offender to a designated place where the offender will engage in labor.

The civil rights of an offender are guaranteed during the period of training through labor.

The period of training through labor is from six months to one year.

Even if offenses are combined or added, the total term of training through labor may not exceed one year.

Each day of the offender's detention shall be counted as one day of training through labor.

### **Article 32 (Deprivation of the Right to Vote)**

Suffrage is a punishment that takes away the right to vote for a certain period of time from those who committed anti-state and anti-people offenses.

The deprivation of the right to vote must be considered when an offense against the state and the nation is being judged.

The period of the deprivation of the right to vote must be five years and shall be counted from the end of the execution of the limited term of reform through labor.

### **Article 33 (Monetary Penalty)**

The monetary penalty is executed by fining an offender who committed offenses against the state and the nation.

The monetary penalty must be considered when an offense against the state and the nation is being judged.

The amount of the fines shall be defined by the court based on the severity of the

offense.

### **Article 34 (Confiscation of Property)**

The penalty of confiscation of property is executed by handing the property of the convicted criminal to the state free of charge.

When a property forfeiture judgment is enforced, the family of the convicted person leaves the food, daily necessities, and money necessary for a basic standard of living and shall not be confiscated.

### **Article 35 (Compensation in Case of Cancellation of Confiscation or Dismissal of the Case)**

Confiscated property shall be returned should the penalty of confiscation of property be cancelled or should the case be dismissed.

### **Article 36 (Debt Treatment for a Person Whose Property is Subject to Confiscation)**

Any debt previously incurred by a person whose property is subjected to confiscation before attachment shall be repaid from the confiscated property according to the order provided for under the law.

However, a debt contracted after seizure shall not be repaid from the confiscated property.

### **Article 37 (Deprivation of Qualifications)**

The penalty of deprivation of qualifications is executed by permanently depriving a certain qualification that the convicted person had.

When considering the cases of offenses in

which the offender used his qualifications to intentionally commit an offense, deprivation of qualifications of the offender should be considered.

### **Article 38 (Suspension of Qualifications)**

The penalty of suspension of a qualification is executed by temporarily depriving certain qualifications that the convicted person had.

When considering the cases of offenses in which the offender with a certain qualification negligently committed an offense, suspension of the qualification of the offender should be considered.

The term of the suspension of qualification is three years and shall be counted from the end of the execution of the limited term of reform through labor or training through labor.

### **Article 39 (Determination of Penalties)**

Penalties are determined by considering the character of, the motives for, and the aim of the offense; the ways and means by which and the extent to which the offense was committed; the consequences of the offense, complicity, and the degree of danger to which the offender repents of his or her offense.

In this case, the limits of the penalties provided by the relevant articles of this law shall be taken as the standard.

### **Article 40 (Conditions for Determining Aggravated Penalties)**

Penalties shall be aggravated in the following cases:

1. When the offender is the principal culprit in the offense;
2. When the offender has committed offenses multiple times;
3. When the offense is committed by brutal ways and means;
4. When the offender commits an offense by taking advantage of a wartime or disaster situation.

### **Article 41 (Conditions for Determining Mitigated Penalties)**

Penalties shall be mitigated in the following cases:

1. When the offender is a passive culprit;
2. When the offense is committed to contribute to the country;
3. When the offense is committed under the influence of strong mental pressure;
4. When the offense is considered to meet the conditions for self-defense or necessity;
5. When the offender confesses his or her guilt;
6. When the offender has previously contributed greatly to the country;
7. When the offender makes compensation for or restitution of the properties that he has plundered or damaged;
8. When the victim is found with fault;
9. When the offender assists in identifying serious offenses.

### **Article 42 (Limit of Applying Aggravated or Mitigated Penalties)**

Aggravated or mitigated penalties may be aggravated or mitigated by up to half the original penalty based on the seriousness of offenses.

In such a case, the penalty may not exceed the maximum penalty or fall short of the minimum penalty prescribed in the relevant provision.

**Article 43 (Determination of Penalties Below Minimum Limit Allowed by Law)**

In special cases, lighter penalty than the minimum limit provided for under the relevant article shall be imposed.

**Article 44 (Conditions for Merging of Offenses)**

If an offender commits different types of offenses that respectively entail independent criminal liability, he or she shall be merged into one offense.

However, if different types of offenses are combined to constitute a single offense or one offense is considered to have been an essential premise for subsequent offenses or other types of offenses, merging shall not be possible.

**Article 45 (Determination of Penalty In Case of Merging of Offenses)**

If the offender commits different types of offenses, the sentence shall be determined by first deciding penalties for each offense.

Then the heaviest penalty shall be added to one-half of the remaining penalties.

In such a case, the supplementary penalties of the merged offenses shall be applied in line with general punishments.

The rendition of judgment shall be based on this article.

**Article 46 (Determination of the Period of Different Penalties)**

In cases of multiple penalties for which a single period of penalty is determined, the penalty shall be of the heaviest kind, and two days of training through labor shall be counted as one day of limited reform through labor.

**Article 47 (Determination of Penalty for Crimes Committed or Hidden before the Term Is Over)**

If, after sentence has been passed, the offender commits or hides another offense before serving the full term of the penalty, the penalty for the new or hidden offense shall be decided and added to the remaining term of the former penalty.

**Article 48 (Interpretation of “Not Less Than” and “Not More Than”)**

The expressions “not less than” and “not more than” used in this law for determining the term of penalties, shall include the relevant number described.

The term of penalty may be determined from months to years depending on the seriousness of the offense.

**Article 49 (Calculation of the Period for the Execution of Penalty)**

The execution of a penalty begins from the day when the judgment becomes final and ends on the day of completion of the term of punishment.

The criminal’s execution period for detention is included in the period of execution of a penalty and shall be calculated in accordance with Articles 30 and 31.

**Article 50 (Conditions for Applying Public Education Penalty)**

If the offender is a minor or is an adult deemed suitable for reform through public education, a public education penalty shall be applied after consideration of the degree to which the offender repents and the seriousness of the offense.

**Article 51 (Legal Effect of Public Education Penalty)**

Should a person who has received a public education penalty not commit another offense during the period stipulated in this code, he or she is deemed to have served his or her sentence.

However, if a person who has been given a public education penalty commits another offense or reveals hidden offenses during the period of suspension, all or part of the penalty that was suspended shall be added to the penalty for the new offense.

**Article 52 (Requisites and Periods for Suspension of Sentence)**

If it is deemed unnecessary to send an offender to a prison camp who receives three years or less of reform through labor due to their degree of repentance and the seriousness of the offense, a penalty may be suspended for three to five years.

**Article 53 (Legal Effect of Suspension of Sentence)**

A person who has received a public education penalty and does not commit another offense during the probation period, he or she is deemed to have

served his or her sentence.

However, if a person who has been given a public education penalty commits another offense or reveals hidden offenses during the probation period, all or part of the penalty that was suspended shall be added to the penalty for the new offense.

**Article 54 (Special and General Pardons)**

A convicted criminal may have his or her penalty cancelled under a special or general pardon.

Special pardons are granted by the First Chairman of the National Defense Commission of the Democratic People's Republic of Korea.

General pardons are granted by the Presidium of the Supreme People's Assembly.

**Article 55 (Reduction of Term and Parole)**

If a person who has been sentenced to either a limited term of reform through labor or training through labor has shown exemplary behavior during the execution period, his or her term for the penalty may be reduced.

If a person who has been sentenced to a life or limited term of reform through labor is deemed to have become faithful in reforming himself or herself, he or she may be released after the passage of half of the period of training through labor.

In the case of a life term of reform through labor, the release can take place after the passage of ten years.

**Article 56 (Legal Status of the Person Whose Term Is Ended)**

A person who has been granted a special or a general pardon and a person who has served his or her full time is regarded as guiltless from the day of the granting of the special or general pardon or from the day on which the term ends and is not discriminated against under the law.

**Article 57 (Prescription Period for Criminal Prosecution)**

Criminal liability shall not be borne when the following periods have passed from the commission of an offense.

1. Three years for offenses that merit reform through labor for up to one year;
2. Five years for offenses that merit reform through labor for up to three years;
3. Eight years for offenses that merit reform through labor for three to five years;
4. Twelve years for offenses that merit

reform through labor for up to five to ten years;

5. Twenty years for offenses that merit a life term of reform through labor or the death penalty.

**Article 58 (Offenses Excluded from Criminal Prosecution)**

Criminal liability shall be borne for offenses against the state and the nation and for premeditated murder, regardless of the passage of time.

**Article 59 (Reasons for Counting Anew the Period of Criminal Prosecution)**

When an offender commits a new offense before the period provided under Article 57 of this law passes or declines a preliminary examination or trial before the period passes, the period of criminal prosecution will start anew.

**CHAPTER 3 CRIMES AGAINST THE STATE AND THE NATION**

**SECTION 1. CRIMES AGAINST THE STATE**

**Article 60 (Conspiracy to Subvert the State)**

A person who, with anti-state purposes, participates in a coup d'état, riot, demonstration or assault, or takes part in a conspiracy shall be sentenced to reform through labor for not less than five years. If the offense is particularly serious, the sentence shall be a life term of reform through labor or death, with confiscation of property.

**Article 61 (Terrorism)**

A person who, with anti-state purposes, kills, abducts, or injures cadres or people shall be sentenced to reform through labor for not less than five years. If the offense is particularly serious, the sentence shall be a life term of reform through labor or death, with confiscation of property.

**Article 62 (Anti-State Propaganda and Agitation)**

A person who, with anti-state purposes, launches propaganda and agitation shall be sentenced to reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 63 (Treason against the Fatherland)**

A citizen of the Democratic People's Republic of Korea who commits treason against the Fatherland by defection, surrender, betrayal, or disclosure of secrets shall be sentenced to reform through labor for not less than five years. If the offense is particularly serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 64 (Espionage)**

A non-citizen of the Democratic People's Republic of Korea who detects, collects, or transmits secrets with the intention of espionage against the Democratic People's Republic of Korea shall be sentenced to reform through labor for not less than five years and not more than ten years.

If the offense is serious, the sentence shall be reform through labor for not less than ten years.

**Article 65 (Sabotage)**

A person who commits acts of sabotage with anti-state purposes shall be sentenced to reform through labor for not

less than five years and not more than ten years.

If the offense as provided in the preceding paragraph has been executed multiple times or in collusion, the offender shall be sentenced to reform through labor for not less than ten years. If the offense is particularly serious, the sentence shall be a life term of reform through labor or death, with confiscation of property.

**Article 66 (Inducement of Armed Intervention and Severance of Diplomatic Relationship)**

A foreign national who encourages or supplies funds to encourage a foreign country or group to perpetrate armed intervention against the Democratic People's Republic of Korea, break diplomatic relations with the Democratic People's Republic of Korea, or annul a treaty with the Democratic People's Republic of Korea shall be sentenced to reform through labor for not less than ten years. If the offense is serious, the sentence shall be reform through labor for not less than ten years.

**Article 67 (Aggression against Foreigners)**

A person who violates the personal liberty or property of a foreigner in the Democratic People's Republic of Korea in order to weaken relations between the Democratic People's Republic of Korea and the latter country shall be sentenced to reform through labor for not less than five years and not more than ten years. If the offense is serious, the sentence shall be reform through labor for not less than

ten years.

## SECTION 2. CRIMES AGAINST THE NATION

### **Article 68 (Treason against the Nation)**

A Korean national, who, under the control of imperialists, suppresses our people's struggle for national liberation or the struggle for the reunification of the country or betrays the nation by selling national interests to imperialists, shall be sentenced to reform through labor for not less than five years. If the offense is particularly serious, the sentence shall be a life term of reform through labor or death, with confiscation of property.

### **Article 69 (Suppression of the National Liberation Struggle of the Korean Nation)**

A foreign national who suppresses the national liberation struggle of the Korean people or the struggle for the reunification

of the country shall be sentenced to reform through labor for not less than five years and not more than ten years. If the offense is serious, the sentence shall be reform through labor for not less than ten years.

### **Article 70 (Aggression against the Korean Nation)**

A foreign national who, with hostile intentions against the Korean nation, violates the personal liberty or property of a Korean national who resides or stays abroad, or causes national dissension, shall be sentenced to reform through labor for not less than five years and not more than ten years. If the offense is serious, the sentence shall be reform through labor for not less than ten years.

## SECTION 3. CRIMES OF HARBORING, FAILING TO REPORT, AND NEGLECTING OF A CRIME AGAINST THE STATE OR THE NATION

### **Article 71 (Harboring an Individual who Committed a Crime against the State or the Nation)**

A person who harbors another who has committed an offense against the state or the nation or conceals the evidence of an offense or the nation, shall be sentenced to reform through labor for not more than four years.

### **Article 72 (Criminal Failure to Report a Crime against the State or the Nation)**

A person who, having known another person who has committed an offense against the state or the nation, fails to inform the relevant authorities about such other person, shall be sentenced to reform through labor for not more than three years.

### **Article 73 (Failure to Prevent a Crime against the State)**

A person who, having learned of an offense against the state being committed,

fails to take steps to prevent such an offense despite his or her capacity to do

so, shall be sentenced to reform through labor for not more than three years.

## **CHAPTER 4 CRIMES OF VIOLATING THE REGULATIONS FOR ADMINISTRATION OF NATIONAL DEFENSE**

### **Article 74 (Negligent Execution of Orders, Decisions, and Directions)**

A person who fails to accurately execute in a timely manner or perfunctorily executes the orders of the President of the Democratic People's Republic of Korea, the orders of the Chairman of the National Defense Commission, the orders of the First Chairman of the National Defense Commission of the Democratic People's Republic of Korea, the orders of the Supreme Commander of the Korean People's Army, the orders, decisions, and directions of the Central Military Committee of the Worker's Party of Korea, or the decisions and directions of the National Defense Commission, shall be sentenced to reform through labor for not more than two years.

If the offense as provided in the preceding paragraph has been executed multiple times, the offender shall be sentenced to reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

### **Article 75 (Failure to Prepare for Strategic Reserve Supplies, Organization, and Wartime Production)**

He or she who fails to prepare strategic reserve supplies or to prepare for wartime production shall be sentenced to reform through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

### **Article 76 (Plundering of Weapons, Ammunition, and Combat Technology Equipment)**

A person who plunders weapons, ammunition, or combat technology equipment shall be sentenced to training through labor for not more than one year. If a large number of weapons, ammunition, or combat technology equipment is plundered or plundered multiple times, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

### **Article 77 (Illegal Occupation, Transfer of Weapons, and Ammunition)**

A person who illegally occupies or transfers weapons and ammunition shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 78 (Intentional Destruction of Weapons, Ammunition, Combat Technology Equipment, or Military Facilities)**

A person who intentionally destroys weapons, ammunition, combat technology equipment or military facilities shall be sentenced to reform through labor for not more than one year.

If a large number of weapons, ammunition, combat technology equipment or important military facilities is damaged or destroyed, the sentence shall be reform through labor for not more than five years.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be a life term of reform through labor.

**Article 79 (Destruction of Weapons, Ammunition, Combat Technology Equipment, or Military Facilities through Negligence)**

A person who destroys a large number of weapons, ammunition, combat technology equipment or important military facilities, shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than

three years.

**Article 80 (Violation of Military Guard System)**

If a person who is mobilized for civilian military training violates the military guard system and this leads to damage of a guarded object, the sentence shall be reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 81 (Interference with Performance of Military Duties)**

A person who interferes with military duties, such as guard duty, policing, or secret communications duty, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be sentenced to reform through labor for not more than three years.

**Article 82 (Loss of Military Supplies)**

A person who loses military supplies shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 83 (Trading Military Supplies)**

A person who knowingly buys or sells military supplies shall be sentenced to training through labor for not more than

one year.

**Article 84 (Hindering Production of Military Supplies)**

A person who hinders the production of military supplies by failing to build equipment or produce raw or other materials, fuel or electric power in a timely manner or failing to ensure their qualities shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 85 (Production of Defective or Disqualified Military Supplies)**

A military supplies production worker who does not comply with technical regulations, a standard operation manual, product specifications or product inspection codes, and produces defective or disqualified supplies, shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 86 (Embezzlement of Military Supplies or Materials for Production of Military Supplies)**

A military supplies production manager who embezzles military supplies or materials for production of such military supplies shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding

paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 87 (Evasion of Military Service)**

A person who evades military service shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed during wartime or quasi-wartime, the sentence shall be reform through labor for not more than three years.

**Article 88 (Harboring of Evaders and Deserters)**

A person who knowingly hides an evader of military service or a deserter shall be sentenced to training through labor for not more than one year.

**Article 89 (Impersonating a Soldier)**

A person who impersonates a soldier and commits a socially dangerous act shall be sentenced to training through labor for not more than one year.

**Article 90 (Disclosure of Confidential Information Concerning National Defense)**

A person who discloses national defense information shall be sentenced to reform through labor for not more than one year.

If the information as provided in the preceding paragraph is important, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

## **CHAPTER 5 CRIMES OF ENCROACHING ON THE SOCIALIST ECONOMIC SYSTEM**

### **SECTION 1. CRIMES OF ENCROACHING ON STATE PROPERTY OR THE PROPERTY OF SOCIAL OR COOPERATIVE ORGANIZATIONS**

#### **Article 91 (Stealing State Property, Committed by Secret Stealing)**

A person who secretly steals state property or the property of social or cooperative organizations shall be sentenced to training through labor for not more than one year.

If a large amount of state property or the property of social or cooperative organizations is stolen by secret stealing, the sentence shall be reform through labor for not more than four years.

If a particularly large amount of state property or the property of social or cooperative organizations is stolen by secret stealing, the sentence shall be reform through labor for not less than four years and not more than nine years.

#### **Article 92 (Stealing State Property, Committed by Open Stealing)**

A person who openly steals state property or the property of social or cooperative organizations shall be sentenced to training through labor for not more than one year.

If a large amount of state property or the property of social or cooperative organizations is stolen by open stealing, or if the offense as provided in the preceding

paragraph is committed multiple times or in collusion, the sentence shall be reform through labor for not more than six years. If a particularly large amount of state property or the property of social or cooperative organizations is stolen by secret stealing, the sentence shall be reform through labor for not less than six years and not more than ten years.

#### **Article 93 (Extortion of State Property)**

A person who extorts state property or the property of social or cooperative organizations shall be sentenced to training through labor for not more than one year.

If a large amount of state property or the property of social or cooperative organizations is extorted, the sentence shall be reform through labor for not more than three years.

If a particularly large amount of state property or the property of social or cooperative organizations is extorted, the sentence shall be reform through labor for not less than three years and not more than eight years.

#### **Article 94 (Embezzlement of State Property)**

A person who is under a duty entrusted by an institution, enterprise, or organization, or a management personnel and embezzles state property or the property of social or cooperative organizations that he or she is in charge of, either as part of his or her duty or by temporary delegation, shall be sentenced to training through labor for not more than one year.

If a large amount of state property or the property of social or cooperative organizations is embezzled, the sentence shall be reform through labor for not more than five years.

If a particularly large amount of state property or the property of social or cooperative organizations is embezzled, the sentence shall be reform through labor for not less than five years and not more than ten years.

#### **Article 95 (Stealing Large Amount of State Property)**

A person who steals a large amount of state property or the property of social or cooperative organizations by committing offenses provided in Articles 91 to 94 shall be sentenced to reform through labor for not more than five years.

#### **Article 96 (Robbery of State Property)**

A person who robs the state, a social organization, or a cooperative organization of its property through battery or threats that endanger the lives and health of people shall be sentenced to reform through labor for not more than five years.

If robbery of state property or the property of social or cooperative organizations is committed multiple times, in collusion, or with weapons or lethal weapons, or if the amount of the property taken is large, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the offense as provided in the first paragraph of this article is serious, the sentence shall be reform through labor for not less than ten years.

#### **Article 97 (Particularly Serious Stealing of State Property)**

A person who commits a particularly serious offense of stealing state property or the property of social or cooperative organizations shall be sentenced to reform through labor for not less than ten years.

#### **Article 98 (Collective Embezzlement of State Property)**

A person who directs or organizes collective embezzlement of state property or the property of social or cooperative organizations shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

#### **Article 99 (Intentional Destruction of State Property)**

A person who purposely destroys state property or the property of social or cooperative organizations shall be

sentenced to training through labor for not more than one year.

If a particularly important means of production or an important facility is destroyed or if the destruction was committed through arson or use of explosives, the sentence shall be reform through labor for not more than five years. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the offense as provided in the preceding paragraph is particularly

serious, the sentence shall be reform through labor for not less than ten years.

#### **Article 100 (Negligent Destruction of State Property)**

A person who negligently destroys state property or the property of social or cooperative organizations in a large quantity shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

## SECTION 2. CRIMES OF VIOLATING ECONOMIC REGULATIONS

#### **Article 101 (Currency Counterfeiting and Use of Counterfeit Currency)**

A person who uses the currency of the Democratic People's Republic of Korea or foreign currency that is counterfeited shall be sentenced to reform through labor for not more than one year.

A person who counterfeits the currency or uses a large amount of counterfeit currency shall be sentenced to reform through labor for not more than five years. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the amount of the currency counterfeited as provided in the first paragraph of this article is particularly large, the sentence shall be reform through labor for not less than ten years.

#### **Article 102 (Securities Counterfeiting and Use of Counterfeit Securities)**

A person who counterfeits state securities or uses a large amount of counterfeit securities shall be sentenced to training through labor for not more than one year. If the amount of the state securities counterfeited as provided in the preceding paragraph is large, or If the amount of the state securities used as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than five years.

#### **Article 103 (Illegal Issuance, Payment or Usage of a Noncash Method of Payment)**

A person who illegally issues, pays or uses a noncash method of payment shall

be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph results in a particularly large loss, the sentence shall be reform through labor for not more than five years.

**Article 104 (Violation of Loan Control)**

A bank employer or employee who illegally loans cash shall be sentenced to training through labor for not more than one year.

If the amount of the financial damage caused due to the act as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 105 (Violation of Currency Control)**

A person who causes financial damage to the Democratic People's Republic of Korea due to violating the currency control shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 106 (Trading Foreign Currency)**

A person who illegally exchanges currency that is exchangeable in a bank of the Democratic People's Republic of Korea for personal gain shall be

sentenced to training through labor for not more than one year.

**Article 107 (Violation of the Regulations for Foreign Currency Control)**

A person who violates the regulations for foreign currency control shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 108 (Violation of the Regulations for Currency Usage)**

A person who violates the regulations for foreign currency usage shall be sentenced to reform through labor for not more than one year.

**Article 109 (Tax Evasion)**

A foreign investment company or a foreigner that intentionally fails to pay taxes in whole or in part shall be sentenced to reform through labor for not more than three years.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than three years and not more than five years.

**Article 110 (Violation of State Payment Regulations)**

A person who fails to make a large amount of payment due to the state shall be sentenced to training through labor for not more than one year.

If the amount of the payment due as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than three years.

**Article 111 (Illegal Trade)**

A person who commits illegal trade and creates a large amount of profits shall be sentenced to training through labor for not more than one year.

If the profits gained due to the offense as provided in the preceding paragraph are large, the sentence shall be reform through labor for not more than two years.

**Article 112 (Brokerage)**

A person who gains large profits from brokering shall be sentenced to training through labor for not more than one year. If the profits gained from the offense as provided in the preceding paragraph are particularly large, the sentence shall be reform through labor for not more than three years.

**Article 113 (Usury)**

A person who habitually engages in usury shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 114 (Business and Commercial Activity of Individuals)**

A person who gains large profits by engaging in business or commercial

activities shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 115 (Commercial Activity of Institutions or Trade and Foreign Currency Earning Agency or Organization)**

If a person in charge of a trade or foreign currency earnings agency or organization illegally conducts commercial activities with supplies imported from other countries, the sentence shall be training through labor for not more than one year.

**Article 116 (Impersonation of Corporation)**

A person who commits a serious offense by impersonating a corporation to conduct transactions shall be sentenced to training through labor for not more than one year.

**Article 117 (Infringement of Patent, Trademark, Industrial Design, or Country of Origin Markings)**

A person who infringes patent, trademark, industrial design or country of origin markings shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 118 (Smuggling and Trafficking of Precious or Non-Ferrous Metals)**

A person who illegally smuggles or traffics precious or non-ferrous metals shall be sentenced to training through labor for not more than one year.

If a large quantity of precious or non-ferrous metals is smuggled or trafficked, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be reform through labor for not less than ten years.

**Article 119 (Smuggling)**

A person who smuggles goods shall be sentenced to training through labor for not more than one year.

If the quantity of goods or goods under state control as provided in the preceding paragraph is large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 120 (Violation of Import and Export Regulations)**

A person in charge of an institution, enterprise, or organization who violates import and export regulations shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the

sentence shall be reform through labor for not more than three years.

**Article 121 (Violation of Foreign Economic Activities Regulations)**

A person who conducts foreign economic activities in an irresponsible manner that causes large financial damage shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 122 (Illegal Payment of Sources for Foreign Currency Earnings)**

A person who illegally pays individuals money or goods as sources for foreign currency earnings shall be sentenced to training through labor for not more than one year.

If goods under state control are paid as sources for foreign currency earnings, the sentence shall be reform through labor for not more than three years.

**Article 123 (Illegally Performed Work or Transportation)**

A person who uses machinery and transportation of an institution, enterprise, or organization to illegally perform work or transportation for another and receives a particularly large amount of money or goods shall be sentenced to training through labor for not more than one year.

**Article 124 (Violation of the Railway, Marine or Air Transportation Regulations)**

A person who causes a large amount of property loss, hinders regular operation of transportation, or causes death or serious injury by violating transportation regulations shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph results in overturn of or damage to a train, ship, or an airplane, or if the offense causes multiple deaths or serious injuries to multiple persons, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the offense as provided in the first paragraph of this article is particularly serious, the sentence shall be reform through labor for not less than ten years.

#### **Article 125 (Violation of Freight Car and Cargo Regulations)**

A person who violates regulations for freight cars and cargoes, resulting in delaying freight cars and cargoes, shall be sentenced to training through labor for not more than one year.

#### **Article 126 (Interruption of Transportation Utilization Service)**

A person who interrupts the transportation utilization service shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

#### **Article 127 (Violation of the People's Economic Plan Regulations)**

A person who hinders or modifies the planned and balanced development of the people's economy by drawing up a plan for a local economy or an enterprise, in a haphazard manner, changing the plan, filing false reports on the implementation of the plan, or failing to implement the plan as specified shall be sentenced to training through labor for not more than one year.

If the plan as provided in the preceding paragraph is for the national economy, the sentence shall be reform through labor for not more than three years.

#### **Article 128 (Violation of Contractual Regulations)**

A person who hinders the execution of a plan for the people's economy by violating contractual regulations shall be sentenced to training through labor for not more than one year.

If the contractual regulations as provided in the preceding paragraph are based on a plan for the national economy, the sentence shall be reform through labor for not more than three years.

#### **Article 129 (Violation of Supply, Storage and Use of State Reserve Supply Regulations)**

A person who violates supply, storage and state reserve supply regulations shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the

sentence shall be reform through labor for not more than three years.

**Article 130 (Violation of the Regulations for Storage and Supply of Drugs, Poisons, and Explosives)**

A person who violates the regulations for storage and supply of drugs, poisons, and explosives shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 131 (Illegal Management of Economy)**

A person who illegally manages the economy shall be sentenced to training through labor for not more than one year.

**Article 132 (Illegal lending of State Property to Individuals)**

A person who illegally lends to individuals state property or the property of social or cooperative organizations, including money, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 133 (Embezzling, Squandering or Hoarding of Raw and Other Materials, Funds and Equipment)**

A person who hinders the normal management of the economy or causes the loss of state property or the property

of social or cooperative organizations by embezzling raw and other materials, funds or equipment shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 134 (Spoilage and Loss of State Property)**

A person who causes a large amount of state property or the property of social or cooperative organizations to be spoiled or lost by managing such property in an irresponsible manner shall be sentenced to training through labor for not more than one year.

If the amount of the property spoiled or lost as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than two years.

**Article 135 (Illegal Disposal of Equipment, Supplies, Materials, and Funds)**

A person who illegally trades equipment, supplies, materials, or funds with an institution, enterprise, or organization shall be sentenced to training through labor for not more than one year.

**Article 136 (Plundering and Transferring Properties)**

A person who plunders properties and uses said properties in his or her institution, enterprise, or organization, or transfers said properties to another

institution, enterprise, or organization, shall be sentenced to training through labor for not more than one year. If the amount of the properties as provided in the preceding paragraph is particularly large, or if a robbery is committed to plunder said properties, the sentence shall be reform through labor for not more than three years.

**Article 137 (Production of Sub-standard or Rejected Goods)**

A person who fails to meet technical regulations, standard operating regulations or specifications and produces or directs the production of a large quantity of sub-standard or rejected goods shall be sentenced to training through labor for not more than one year.

**Article 138 (Violation of Quality Control Regulations)**

A person who violates the regulations for quality control shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 139 (Violation of Production Facilities Repair Regulations)**

A person who violates the regulations for repairing production facilities, resulting in serious consequences, shall be sentenced to reform through labor for not more than one year.

**Article 140 (Violation of Equipment Inspection and Repair Regulations)**

A person who violates the regulations for inspection and repair of equipment, resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 141 (Sub-standard Design and Faulty Construction)**

A person who makes a sub-standard design for construction or constructs without a blueprint, causing serious injury or great loss, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 142 (Violation of State Building Usage Regulations)**

A person who violates regulations for using state buildings shall be sentenced to training through labor for not more than one year.

**Article 143 (Irresponsible Inspection of Construction and Approval for Use)**

A person who commits a serious offense by violating the regulations of inspecting a building, machinery, or equipment shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 144 (Usage without Inspection of Construction and Approval for Usage of a Building, Equipment, and Facilities)**

A person who makes a sub-standard design for construction or constructs without a blueprint or without proper reference to it, causing serious great loss, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 145 (Unprofitable Construction of a Building, Equipment, or Facilities)**

A person who constructs a facility or manufactures machinery knowing that there is no or very little economic benefits, thereby squandering a large amount of materials, funds or labor, shall be sentenced to training through labor for not more than one year.

**Article 146 (Violation of State-Owned Dwelling Place Regulations)**

A person who violates regulations for state-owned dwelling places shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 147 (Violation of Agricultural Production Regulations)**

A person who violates the regulations for agricultural production shall be sentenced to training through labor for not more than one year.

**Article 148 (Violation of Veterinary Control and Breeding Regulations)**

A person who violates the regulations for veterinary control or breeding, causing great loss, shall be sentenced to training through labor for not more than one year.

**Article 149 (Violation of Pisciculture Work Regulations)**

A person who violates the regulations for the maintenance of fish farms shall be sentenced to training through labor for not more than one year.

**Article 150 (Violation of Mariculture Regulations)**

A person who violates the regulations for mariculture, causing great loss, shall be sentenced to training through labor for not more than one year.

**Article 151 (Violation of Product Supply Regulations)**

A person who does not receive a product in a timely manner or violates the regulations for product supply, resulting in great inconvenience to the people's lives, shall be sentenced to training through labor for not more than one year.

**Article 152 (Violation of Product Sale Regulations)**

A person who violates regulations for product sale shall be sentenced to training through labor for not more than one year.

**Article 153 (Violation of Crop Policy Regulations)**

A person who violates regulations for crop policy shall be sentenced to training through labor for not more than one year.

**Article 154 (Production of Bootleg Liquor)**

A person who commits production of bootleg liquor for sale or trade shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 155 (Violation of Measuring Instruments Regulations)**

A person who illegally changes the scale and standard of measuring instruments or uses them knowing that their scale and standard are incorrect shall be sentenced to training through labor for not more than one year.

**Article 156 (Violation of Production and Supply of Electricity Regulations)**

A person who violates the regulations for production and supply of electricity, resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 157 (Violation of Use of Electricity Regulations)**

A person who violates the regulations for electricity use, thereby squandering a large amount of electric power shall be sentenced to training through labor for not more than one year.

**Article 158 (Violation of Communications and Broadcasting Services Regulations)**

A person who violates regulations for communications and broadcasting services, resulting in serious consequences, shall be sentenced to reform through labor for not more than one year.

**Article 159 (Violation of the Maritime Affairs Supervision Regulations)**

A person who violates the regulations for maritime affairs supervision and irresponsibly conducts ship design review, ship registration and inspection, sailor registration or technical certification examination shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 160 (Evasion of Responsibility to Rescue)**

A person who is required to conduct rescue operations but does not rescue an endangered person, vessel or load, resulting in serious consequences, shall

be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 161 (Violation of Price Setting Regulations)**

A person who violates the regulations for price setting shall be sentenced to training through labor for not more than one year.

**Article 162 (Stealing Heat)**

A person who illegally uses heat, resulting in serious consequences in heat supply, shall be sentenced to reform through labor for not more than one year.

**Article 163 (Violation of Resident Fuel Supply Regulations)**

A person who fails to responsibly secure residential fuel or violates the regulations for its supply, resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

**SECTION 3. CRIMES OF VIOLATING THE REGULATIONS FOR LAND ADMINISTRATION AND ENVIRONMENTAL PROTECTION**

**Article 164 (Violation of Land Use Regulations)**

A person who violates regulations for land use shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 165 (Failure to Establish Flood Prevention Measures)**

A person who fails to establish flood prevention measures, resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 166 (Violation of Subterranean Resources Development, Mining, and Smelting Regulations)**

A person who violates regulations for subterranean resources development, mining, or smelting shall be sentenced to training through labor for not more than one year.

**Article 167 (Individual Collection and Smelting of Ores)**

A person who individually collects or smelts ores shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 168 (Violation of Regulations for Creation, Protection and Use of Forests Regulations)**

A person who violates the regulations for creation, protection or use of forests, resulting in great damage to forestry

resources, shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 169 (Damaging Forest Trees)**

A person who deliberately damages a forest shall be sentenced to training through labor for not more than one year. If a large number of trees or trees of designated important forests are damaged, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 170 (Forest Fire Caused by Negligence)**

A person who causes a large loss to forest resources by beginning a forest fire through negligence shall be sentenced to training through labor for not more than one year.

If a large number of trees or trees of designated important forests are lost, the sentence shall be reform through labor for not more than three years. If the offense is serious, the sentence shall be reform through labor for not less than three years and not more than eight years.

**Article 171 (Illegal Clearing of Forest)**

A person who illegally clears a forest shall be sentenced to training through labor for not more than one year.

**Article 172 (Violation of Marine, Animal, and Plant Resources Protection and Maintenance Regulations)**

A person who catches or collects fish and useful animals or plants without permission, during the closed season, in a prohibited area, or by banned means and methods, shall be sentenced to training through labor for not more than one year.

**Article 173 (Violation of Environmental Protection Regulations)**

A person who violates regulations for environmental protection and contaminates the air, water or soil to create pollution shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 174 (Damaging River Protection Facilities)**

A person who damages river protection facilities shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph results in serious consequences, the sentence shall be reform through labor for not more than five years.

**Article 175 (Violation of Road Maintenance Regulations)**

A person who fails to duly repair or maintain roads, thereby hindering

transportation service, shall be sentenced to training through labor for not more than one year.

## SECTION 4. CRIMES OF VIOLATING THE REGULATIONS FOR LABOR ADMINISTRATION

### **Article 176 (Failure to Provide Labor Protection and Labor Safety Facilities)**

A person who directs workers to work without providing labor protection and labor safety facilities, thereby causing serious injury, serious accidents, or financial damage, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes multiple deaths or serious injuries to multiple persons, the sentence shall be reform through labor for not more than five years.

### **Article 177 (Violation of Labor Safety Regulations)**

A person who violates the regulations for labor safety, thereby causing serious injury, accidents, or financial damage, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes multiple deaths, serious injuries to multiple persons, or particularly large amount of financial damage, the sentence shall be reform through labor for not more than five years.

### **Article 178 (Violation of Fire Prevention Regulations)**

A person who fails to take measures to prevent fire or explosions, resulting in serious accidents, death, or property loss, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes death, injuries to multiple persons, or a particularly large property loss, the sentence shall be reform through labor for not more than five years.

### **Article 179 (Traffic Accidents)**

A driver of a wheeled vehicle such as a car, who violates traffic safety regulations, thereby causing serious injury, accidents, or property loss, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes deaths, injuries to multiple persons, particularly large amount of property loss, or where the persons escapes, the sentence shall be reform through labor for not more than five years.

### **Article 180 (Violation of Socialist Distribution Regulations)**

A person who deliberately makes an inaccurate assessment of the quantity and quality of labor and makes an unjust

distribution of profits, living expenses, or prize money shall be sentenced to training through labor for not more than one year.

**Article 181 (Assigning Work to Minors)**

A person who assigns work to a minor under the working age shall be sentenced

to training through labor for not more than one year.

**Article 182 (Assigning Prohibited Work to Women)**

A person who makes a woman do the kinds of work prohibited by law shall be sentenced to training through labor for not more than one year.

## **CHAPTER 6 CRIMES OF IMPAIRING THE SOCIALIST CULTURE**

**Article 183 (Importation and Distribution of Decadent Culture)**

A person who, without authorization, imports, makes, distributes or illegally keeps drawings, photos, books, video recordings or electronic media that reflect decadent, carnal or foul contents shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times or committed in large quantities, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 184 (Conduct of Decadent Acts)**

A person who watches or listens to drawings, photos, books, video recordings or electronic media that reflects decadent, carnal or foul contents or who performs such acts himself or herself shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding

paragraph is committed habitually, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not more than two years.

**Article 185 (Listening to Hostile Broadcasting and Collecting, Keeping or Distributing Enemy Propaganda)**

A person who, without anti-state purposes, listens to an enemy's broadcasting that is hostile to the Democratic People's Republic of Korea, or collects, keeps or distributes enemy propaganda, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times or committed in large amounts, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 186 (Intentional Damaging of Historic Sites, Relics, Scenic Spots or Natural Monuments)**

A person who intentionally damages historic sites, relics, or natural monuments that are preserved and managed by the state shall be sentenced to training through labor for not more than one year. If the offense is serious, the sentence shall be reform through labor for not more than five years.

**Article 187 (Damaging of Historic Sites, Relics, Scenic Spots or Natural Monuments)**

A person who damages historic sites, relics, or natural monuments that are preserved and managed by the state shall be sentenced to training through labor for not more than one year.

**Article 188 (Robbing of Historic Sites)**

A person who robs an historic site shall be sentenced to reform through labor for not more than five years.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 189 (Smuggling and Illegal Trafficking of Historic Relics)**

A person who illegally smuggles or traffics an historic relic shall be sentenced to reform through labor for not more than one year.

If a national treasure is smuggled or trafficked or a quasi-national treasure, the sentence shall be reform through labor for not more than five years. If the offense is

serious, the sentence shall be not less than five years and not more than ten years.

**Article 190 (Dismissal of Writings, Inventions or Technical Innovations)**

A person who makes an incorrect assessment of writings, inventions or technical innovations and dismisses them out of greed, jealousy or other pernicious motives shall be sentenced to training through labor for not more than one year.

**Article 191 (Theft of Writings, Inventions or Technical Innovations)**

A person who publishes another person's writings, inventions or technical innovations under his or her own name for personal gain shall be sentenced to training through labor for not more than one year.

**Article 192 (Breaking into a Computer Network)**

A person who breaks into a computer network in the sectors of state administration, national defense construction, or technology and science shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 193 (Damaging Information)**

A person who damages important information stored in an information-processing device such as a computer shall be sentenced to reform through labor

for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 194 (Input and Distribution of False Information)**

A person who inputs or distributes false information into a computer network out of greed, jealousy or other pernicious motives, thereby causing confusion in information processing, shall be sentenced to reform through labor for not more than one year.

**Article 195 (Unjust Execution of Next Generation Cultivation Affairs)**

A person who unjustly executes recommendations for school, school admission, skills evaluation or school placement shall be sentenced to training through labor for not more than one year.

**Article 196 (Unjust Selection of Athletes)**

A person who does not rightly select athletes for important competitions, resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 197 (Violation of Child Protection and Care Regulations)**

A worker serving at a nursery or a kindergarten who violates the regulations for child protection and care, thereby seriously injuring or killing a child, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 198 (Medical Accident)**

A medical personnel, who irresponsibly treats and nurses a patient, thereby causing serious harm to the patient or causing the patient to die, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 199 (Refusal to Treat a Patient)**

A medical personnel who, without a special reason, refuses to visit a patient or to treat him or her, thereby causing the patient to die, shall be sentenced to reform through labor for not more than one year.

**Article 200 (Illegal Medical Service)**

A non-medical personnel who gives a patient medical treatment, or a medical personnel who gives a patient medical treatment while off duty for personal gain, thereby causing serious harm to the patient or causing the patient to die, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 201 (Production of Defective Medicine and Medical Instruments)**

A person who produces defective medicine or medical instruments, or irresponsibly inspects medicine or medical instruments, thereby causing serious harm to the patient or causing the patient to die, shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 202 (Production of Defective Medicine and Groceries)**

A person who produces and sells defective medicine or groceries shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes serious harm to the patient, disables the patient, or causes the patient to die, or a large amount of defective medicine or groceries is produced, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 203 (Failure in Disease Control Due to Negligence)**

If disease control measures are executed irresponsibly, resulting in serious consequences, the sentence shall be training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 204 (Irresponsible Border Quarantine)**

A person who irresponsibly executes the quarantine of persons, goods, flora or fauna, resulting in the spread of an epidemic or harmful insects, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 205 (Acquisition, Sales and Use of Human Organs, Fetus and Blood)**

A person who acquires a human organ, a fetus or blood to treat illness or for personal gain, shall be sentenced to training through labor for not more than one year.

If a human organ, a fetus or blood as provided in the preceding paragraph is used to treat illness, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 206 (Illegal Cultivation of Opium Poppies and Manufacturing of Drugs)**

A person who grows opium poppies or manufactures drugs illegally shall be sentenced to reform through labor for not more than one year.

If the amount of the opium poppies or drugs as provided in the preceding paragraph is large, the sentence shall be reform through labor for not more than five

years.

If the amount of the opium poppies or drugs as provided in the first paragraph of this article is particularly large, the sentence shall be reform through labor for not less than five years and not more than ten years. If the offense is serious, the sentence shall be reform through labor for not less than ten years.

If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be a life term of reform through labor or death.

**Article 207 (Illegal Use of Drugs)**

A person who illegally uses drugs shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 208 (Smuggling and Illegal Trafficking of Drugs)**

A person who smuggles or traffics drugs illegally shall be sentenced to training through labor for not more than one year.

If the quantity of drugs smuggled or trafficked as provided in the preceding paragraph is large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the quantity of drugs smuggled or trafficked as provided in the first paragraph of this article is particularly large, the sentence shall be reform through labor for not less than ten years.

If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be a life term of reform through labor or death.

**CHAPTER 7 CRIMES OF VIOLATING THE REGULATIONS FOR GENERAL ADMINISTRATION AND MANAGEMENT OF THE STATE**

**SECTION 1. CRIMES OF VIOLATING THE REGULATIONS FOR GENERAL ADMINISTRATION OF THE STATE**

**Article 209 (Collective Disturbance)**

A person who, as part of a group, fails to comply with the instructions of a state agency shall be sentenced to reform through labor for not more than one year.

A person who commits the offense as provided in the preceding paragraph with

the use of weapons or who causes death, serious injuries, destruction or other serious consequences through the offense as provided in the preceding paragraph, shall be sentenced to reform through labor for not more than five years. The mastermind and the principal culprits

of the offense as provided in the preceding paragraph shall be sentenced to reform through labor for not less than five years and not more than ten years.

**Article 210 (Interference with the Execution of Duty)**

A person who interferes with the execution of the duty of a management personnel by assaults, threats, or insults shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes disturbance to the affairs of the relevant sector, the sentence shall be reform through labor for not more than three years.

**Article 211 (Fabrication and Distribution of a False Rumor)**

A person who concocts a false rumor that may lead to distrust of the state and cause social disruption shall be sentenced to training through labor for not more than one year.

**Article 212 (Illegal Use and Fabrication of Official Seals and Government Seals)**

A person who makes an illegal use of an official seal or a government seal, fabricates such a thing, or uses a fabricated seal knowing that it is a fabrication shall be sentenced to training through labor for not more than one year.

**Article 213 (Illegal Disposal, Forging or Use of Documents and Certificates)**

A person who conceals, disposes of, or forges documents or other certificates, or passes on their counterfeits knowing that

they are counterfeits for personal gain or with pernicious motives, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 214 (Violation of Publication Regulations)**

A person who, in violation of the regulations for publication, prints, publishes or distributes publications, types or copies them, or violates the regulations for production and distribution of electronic media, thereby causing serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 215 (Illegal Production, Possession, Use or Transfer of Explosives and Poisonous Materials)**

A person who illegally makes, possesses or uses explosives or poisonous materials, or who transfers them to others, shall be sentenced to training through labor for not more than one year.

If the amount of the explosives or poisonous materials as provided in the preceding paragraph is large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 216 (Violation of Regulations for Transportation of Hazardous Materials)**

A person who violates the regulations for the transportation of radioactive, explosive, inflammable, or poisonous materials and carries, delivers or helps to deliver them, shall be sentenced to training through labor for not more than one year.

If the amount of the radioactive, explosive, inflammable, or poisonous materials as provided in the preceding paragraph is large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

#### **Article 217 (Violation of the Regulations for Guard Duty)**

A person who violates the regulations for guard duty by damaging the guarded object shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

#### **Article 218 (Negligent Performance of Individual Duty)**

A person who is not a manager and irresponsibly performs an individual duty, causing serious consequences, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

#### **Article 219 (Intentional Revealing of Secrets)**

A person who intentionally reveals state secrets shall be sentenced to reform through labor for not more than one year. If an important state secret is revealed or results in serious consequences, the sentence shall be reform through labor for not more than five years.

#### **Article 220 (Revealing of Secrets by Negligence)**

A person who reveals state secrets or loses classified state material by negligence shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

#### **Article 221 (Illegal Border Crossing)**

A person who illegally crosses a border of the Democratic People's Republic of Korea shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

#### **Article 222 (Illegal International Communication)**

A person who illegally communicates with someone overseas shall be sentenced to reform through training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than

five years.

**Article 223 (Trespassing on Territorial Airspace and Waters)**

A foreigner who enters or leaves the territorial airspace or waters of the Democratic People's Republic of Korea by airplane or by boat without permission, or violates designated courses or altitude, shall be sentenced to reform through labor for not more than three years.

**Article 224 (False Report and Testimony)**

A person who makes a false report concerning an offense or makes false testimony, assessment, interpretation or analysis during the investigation, preliminaries or trials, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 225 (Threatening a Witness)**

A person who assaults, threatens, conciliates, or deludes another to force him or her to make false testimony, assessment, interpretation or analysis shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 226 (Revenge)**

A person who beats, assaults or insults a

person involved in an incident in order to gain revenge shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than two years and not more than three years.

**Article 227 (Harboring of General Criminals)**

A person who harbors an offender subject to reform through labor for a definite period, or conceals the evidence of an offense, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is murder or robbery, the sentence shall be reform through labor for not more than three years.

**Article 228 (Failure to Report General Crime)**

A person who, having learned of the planning or committing of offenses under robbery of state property, intentional murder, or robbery of private property, and fails to report it to the relevant agency, shall be sentenced to training through labor for not more than one year.

**Article 229 (Flight)**

If a person who is in custody or in the middle of serving his or her term takes flight, the sentence shall be training through labor for not more than one year.

A person who, in the course of escaping, destroys facilities or commits violence, shall be sentenced to reform through labor for not more than three years.

**Article 230 (Bribery)**

A person who accepts bribes shall be sentenced to training through labor for not more than one year.

If the amount of the bribe as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 231 (Political Swindle)**

A person who commits a political swindle shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times or in collusion, or is extremely serious, the sentence shall be reform through labor for not more than five years.

**Article 232 (Illegal Usage and Disposal of Property Held as Security)**

A person who illegally disposes property

held as security shall be sentenced to training through labor for not more than one year.

**Article 233 (Unjust Complaints)**

A person who causes serious consequences by submitting exaggerated or fabricated complaints for personal gain or pernicious motives shall be sentenced to training through labor for not more than one year.

**Article 234 (Damaging the Prestige of the Democratic People's Republic of Korea in Foreign Countries)**

A citizen who damages the prestige of the Democratic People's Republic of Korea in foreign countries shall be sentenced to reform through labor for not more than three years.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than three years and not more than eight years.

**SECTION 2. CRIMES COMMITTED BY MANAGEMENT PERSONNEL IN COURSE OF OFFICIAL DUTY****Article 235 (Abuse of Authority)**

A management personnel who causes serious consequences by abusing his or her authority for personal gain shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 236 (Ultra Vires)**

A management personnel who exercises the authority of his or her superior without the superior's permission, thereby causing serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 237 (Dereliction of Duty)**

A management personnel who does not execute his or her superior's orders or

directions, or his or her normal duty, or executes the aforementioned in a careless manner, thereby causing serious consequences shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 238 (Placement of a Material Burden)**

A person who on the pretext of support, sponsorship, gift or a work guarantee, places a financial burden on an employee, shall be sentenced to training through labor for not more than one year.

If the amount of the financial burden as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 239 (Ignoring Petition and Complaint)**

A management personnel who deliberately ignores or wrongly deals with a petition or a complaint from citizens, resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 240 (Damaging the Prestige of State Agencies)**

A management personnel who, through acting unlawfully or misconduct, damages

the prestige of state agencies shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 241 (Illegal Law Enforcement)**

A legal-sector personnel who illegally detains, apprehends or arrests others, searches the body or the dwelling of a person, or confiscates or forfeits the property of a person shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times, or results in serious consequences, the sentence shall be reform through labor for not more than five years.

**Article 242 (Exaggeration and Falsification of Case)**

A legal-sector personnel who interrogates a person in an illegal way, exaggerates, or falsifies a case shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes such other person to die, sustain serious injuries, or become falsely convicted of an offense, the sentence shall be reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 243 (Illegal Release of Criminals and Whitewashing the Case)**

A legal-sector personnel who illegally releases a criminal or whitewash the case shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 244 (Unjust Decision or Judgment)**

A judicial personnel who reaches an unjust

decision or judgment shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 245 (Failure to Execute Decisions and Judgments)**

A person who fails to execute a final decision or judgment without a just reason shall be sentenced to training through labor for not more than one year.

**CHAPTER 8 CRIMES OF VIOLATING THE REGULATIONS FOR SOCIALIST COLLECTIVE LIFE**

**Article 246 (Vagrancy)**

A person who is guilty of vagrancy shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times or in collusion, the sentence shall be reform through labor for not more than five years.

A person who, through forming a gang, causes anxiety and fear to society, shall be sentenced to reform through labor for not less than five years and not more than ten years.

**Article 247 (Gang Fight)**

A person who, as part of a group, engages in a gang fight shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding

paragraph is committed using a lethal weapon or causes death, serious injuries, or serious consequences such as destruction of property, the sentence shall be reform through labor for not more than five years.

**Article 248 (Encouraging a Minor to Commit Crime)**

A person who encourages a minor under the age of seventeen to commit or take part in an offense and thus to become delinquent shall be sentenced to reform through labor for not more than three years. If the offense is serious, the sentence shall be reform through labor for not less than three years and not more than five years.

**Article 249 (Prostitution)**

A person who has engaged in prostitution multiple times shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 250 (Acts of Obscenity)**

If many men and women gather and engage in obscene activities, the sentence shall be reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than five years.

**Article 251 (Impersonation of Authority)**

If a person who is not a manager disguises him/herself as management or commits a socially dangerous act in the guise of a management personnel, or if a management personnel commits such act in the guise of another management personnel, the sentence shall be training through labor for not more than one year.

**Article 252 (Exercise of False Authority)**

A person who commits a socially dangerous act in the guise of censorship or inspection personnel shall be sentenced to training through labor for not more than one year.

**Article 253 (Exercise of Force)**

A person who unlawfully recovers his or her personal or property loss by force shall be sentenced to training through labor for

not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 254 (Usage of False Honor and Titles)**

A person who commits a socially dangerous act multiple times by exercising false state honor or titles for personal gain shall be sentenced to training through labor for not more than one year.

**Article 255 (Gambling)**

A person who gambles with money or goods shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 256 (Superstitious Activities)**

A person who engages in superstitious activities in exchange for money or goods shall be sentenced to training through labor for not more than one year.

If many people learn how to do the superstitious activities as provided in the preceding paragraph, or if the activities result in serious consequences, the sentence shall be reform through labor for not more than three years. If the offense is serious, the sentence shall be reform through labor for not less than three years and not more than seven years.

**Article 257 (Illegal Marriage and Breaking Up of Family)**

A person who for greedy or other pernicious motives marries multiple spouses or breaks up another person's family shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 258 (Neglecting the Responsibility to Protect Elderly and Children)**

A person who avoids taking care of an elderly person, a child or a person incapable of work that he or she is responsible for protecting, thereby resulting in serious consequences, shall be sentenced to training through labor for not more than one year.

**Article 259 (Violation of Regulations for Nursing Service for the Aged)**

A person, who violates regulations for nursing service for the aged shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be not more than three years.

**Article 260 (Mistreatment)**

A person who harms the health of a person under his or her protection by mistreating such person shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes handicap, injuries, deaths, or committing suicide, the

sentence shall be reform through labor for not more than three years. If the offense is serious, the sentence shall be reform through labor for not more than five years.

**Article 261 (Misappropriation of Lost Property)**

A person who keeps money or goods he or she has found without handing them over to the relevant state organ shall be sentenced to training through labor for not more than one year.

**Article 262 (Failure to Submit Reward and Profit to the State)**

A public official who does not submit to the state a large amount of rewards or profits that resulted from transactions, or that he or she received during transactions and takes it for his or her own, shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than three years.

**Article 263 (Trading Plundered Goods)**

A person who receives, buys or sells plundered goods in the knowledge that they are plundered shall be sentenced to training through labor for not more than one year.

**Article 264 (Damaging Graves)**

A person who intentionally destroys a serious shall be sentenced to training through labor for not more than one year. If many graves are damaged, the sentence shall be reform through labor for

not more than two years.

**Article 265 (Allowing Serious Consequences to Occur)**

A person who knows that a person's life is in danger or that a particularly large amount of damage may occur and does

not inform the relevant organ or person or does not take possible measures to save the person or avert the consequences, to cause death or a particularly large amount of damage, shall be sentenced to training through labor for not more than one year.

**CHAPTER 9 CRIMES OF IMPAIRING THE LIFE AND PROPERTY OF CITIZENS**

**SECTION 1. CRIMES OF IMPAIRING LIFE, HEALTH AND CHARACTER**

**Article 266 (Aggravated Murder)**

A person who intentionally murders another out of greed, jealousy, or other pernicious motives shall be sentenced to reform through labor for not less than ten years.

If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be a life term of reform through labor or death.

**Article 267 (Murder)**

A person who intentionally slaughters another without greed, jealousy, or other pernicious motives shall be sentenced to reform through labor for not less than three years and not more than ten years.

If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than ten years.

**Article 268 (Killing in the Heat of Passion)**

A person who kills another in the heat of

passion brought about by violence or serious insults from the victim shall be sentenced to reform through labor for not more than three years.

If many persons are killed by the offense as provided in the preceding paragraph, the sentence shall be reform through labor for not less than three years and not more than eight years.

**Article 269 (Unintentional Killing in Imperfect Self-Defense)**

A person who kills another by an act that goes beyond a measure of self-defense, or beyond the measure necessary for the performance of his or her duty or responsibility, shall be sentenced to reform through labor for not more than one year.

**Article 270 (Involuntary Manslaughter)**

A person who is guilty of accidental killing shall be sentenced to reform through labor for not more than one year.

If multiple persons are killed by the person

as provided in the preceding paragraph, the sentence shall be reform through labor for not more than five years.

**Article 271 (Intentional Infliction of Serious Bodily Injury)**

A person who intentionally inflicts serious bodily injury that endangers the life of another, who causes an eye, an ear, or another organ to lose its function, who causes bodily injury to the face that leaves a permanent scar, who causes a mental disorder or who causes bodily injury which will considerably impair the victim's working ability shall be sentenced to reform through labor for not more than five years.

If the offense as provided in the preceding paragraph causes the victim to die, is executed using brutal methods or causes serious injuries to multiple persons, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 272 (Infliction of Serious Bodily Injury in the Heat of Passion)**

A person who causes serious bodily injury to another in the heat of passion brought about by violence or serious insult from the victim shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph causes serious injuries to multiple persons, the sentence shall be reform through labor for not more than three years.

**Article 273 (Infliction of Serious Bodily Injury by Accident)**

A person who accidentally causes serious bodily injury shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than two years.

**Article 274 (Intentional Infliction of Light Bodily Injury)**

A person who intentionally causes light bodily injury to another shall be sentenced to training through labor for not more than one year.

**Article 275 (Battery)**

A person who batters another shall be sentenced to training through labor for not more than one year.

**Article 276 (Illegal Detainment of Freedom)**

A person who illegally detains other people, restricting their freedom, shall be sentenced to training through labor for not more than one year.

**Article 277 (Abducting or Concealing a Child)**

A person who abduct or conceals a child for personal gain or from the motive of revenge shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times, or in collusion, the sentence shall be reform through labor for not more than five years.

**Article 278 (Kidnapping)**

A person who kidnaps another for

personal gain shall be sentenced to reform through labor for not more than five years. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not less than five years and not more than ten years. If multiple persons are kidnapped, the sentence shall be reform through labor for not less than ten years.

**Article 279 (Rape)**

A man who rapes a woman by using violence or threats or by taking advantage of her helpless status shall be sentenced to reform through labor for not more than five years. If the offense is serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

If the offense as provided in the preceding paragraph is committed multiple times, or results in injuries or deaths, the sentence shall be reform through labor for not less than ten years.

**Article 280 (Forcing a Subordinate Woman to Have Sexual Intercourse)**

A man who forces a woman who is his

subordinate to have sexual intercourse with him shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is committed against multiple women, or when the woman concerned becomes depraved or commits suicide as a result of the offense as provided in the preceding paragraph, the offender shall be sentenced to reform through labor for not more than three years.

**Article 281 (Statutory Rape)**

A person who has sexual intercourse with a minor under the age of fifteen shall be sentenced to reform through labor for not more than one year.

If the offense as provided in the preceding paragraph is committed multiple times, the sentence shall be reform through labor for not more than five years.

**Article 282 (Insult and Defamation)**

A person who insults another or who slanders his or her good name shall be sentenced to training through labor for not more than one year.

**SECTION 2. CRIMES OF ENCROACHING ON PRIVATE PROPERTY**

**Article 283 (Stealing Private Property, Committed by Secret Stealing)**

A person who secretly steals the property of an individual shall be sentenced to training through labor for not more than one year.

If a large amount of private property is stolen by secret stealing, the sentence

shall be reform through labor for not more than three years.

If a particularly large amount of private property is stolen by secret stealing, the sentence shall be reform through labor for not less than three years and not more than eight years.

**Article 284 (Stealing Private Property, Committed by Open Stealing)**

A person who openly steals the property of an individual shall be sentenced to training through labor for not more than two years. If the offense as provided in the preceding paragraph is serious, the sentence shall be reform through labor for not more than one year.

If a large amount of private property is stolen by open stealing, or if open stealing is committed multiple times or in collusion, the sentence shall be reform through labor for not more than five years.

If a particularly large amount of private property is stolen by open stealing, the sentence shall be reform through labor for not more than five years.

**Article 285 (Stealing Private Property, Committed through False Pretenses)**

A person who cheats an individual of his or her property shall be sentenced to training through labor for not more than one year.

If a large amount of private property is stolen through false pretenses, the sentence shall be reform through labor for not more than two years.

If a particularly large amount of private property is stolen through false pretenses, the sentence shall be reform through labor for not less than two years and not more than seven years.

**Article 286 (Embezzlement of Private Property)**

A person who embezzles the property of an individual shall be sentenced to training through labor for not more than one year.

If a large amount of private property is embezzled, the sentence shall be reform through labor for not more than four years. If a particularly large amount of private property is embezzled, the sentence shall be reform through labor for not less than four years and not more than nine years.

**Article 287 (Stealing a Large Amount of Private Property)**

A person who steals a large amount of private property by committing offenses provided in Articles 283 to 286 shall be sentenced to reform through labor for not more than four years.

**Article 288 (Robbery of Private Property)**

A person who robs an individual of his or her property by battery or threats that endanger the lives and health of people shall be sentenced to reform through labor for not more than four years.

If the offense as provided in the preceding paragraph is committed multiple times, in collusion or with the use of weapons, or if a large amount of private property is taken, the sentence shall be reform through labor for not less than four years and not more than nine years.

If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be reform through labor for not less than nine years.

**Article 289 (Serious Forms of Stealing Private Property)**

A person who commits a serious offense of stealing private property shall be sentenced to reform through labor for not

less than ten years.

**Article 290 (Destruction of Private Property)**

A person who deliberately destroys the property of an individual shall be sentenced to training through labor for not more than two years.

If a large amount of private property is destroyed, the sentence shall be reform through labor for not more than four years. If a particularly large amount of private property is destroyed, the sentence shall be reform through labor for not less than four years and not more than ten years.

**CHAPTER 10 CRIMES OF MONEY LAUNDERING AND TERRORIST FINANCING**

**Article 291 (Illegal Transaction, Possession, and Use of Money)**

A person who deals with transactions of money illegally obtained for the purpose of disguising or concealing the origin or purpose thereof, or who knowingly possesses or uses any money illegally obtained shall be sentenced to reform through labor for not more than two years. If the amount of the money as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not less than two years and not more than five years.

**Article 292 (Providing Illegal Capital Accounts and Entering into Illegal Contracts)**

A person who illegally provides a capital account or enters into a life insurance contract or a trust contract shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph results in facilitation of a crime, the sentence shall be reform through labor

for not more than three years.

**Article 293 (Failure to Check the Origin and Purpose of Money and the Identity of the Person Who Makes the Transaction)**

A person who receives money of which origin and purpose has not been verified or who receives money from an unidentified person shall be sentenced to training through labor for not more than one year.

**Article 294 (Loss and Incineration of Documents Such As Identification Record of the Person Who Makes the Transaction)**

A person who loses or incinerates a document such as identification record of the person who makes the transaction, thereby interferes with supervision by the authorities shall be sentenced to training through labor for not more than one year.

If the offense as provided in the preceding paragraph results in serious consequences, the sentence shall be reform through labor for not more than two

years.

**Article 295 (Failure to Report Suspicious Transactions of Money)**

A person who is obliged to report a suspicious transaction of money to the financial intelligence unit but fails to do so in time shall be sentenced to training through labor for not more than one year. If the amount of the transaction of money as provided in the preceding paragraph is particularly large, the sentence shall be reform through labor for not more than two years.

**Article 296 (Securing and Delivering Money for Terrorists)**

A person who, without anti-state purposes, secures or delivers money for terrorists as a result of being manipulated by a foreign terrorist group or its members shall be sentenced to reform through labor for not more than five years. If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be reform through labor for not less than five years and not more than ten years.

**Article 297 (Failure to Cooperate with Investigation)**

A person who refuses to cooperate with the authorities regarding an investigation of money laundering or terrorist financing shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph seriously obstructs an investigation by the authorities, the

sentence shall be reform through labor for not more than two years.

**Article 298 (Failure to Freeze, Seize, and Confiscate Money)**

A person who fails to freeze, seize, or confiscate fund during an investigation of money laundering or terrorist financing shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be reform through labor for not more than three years.

**Article 299 (Disclosure of Data)**

A person who discloses data that was found in investigation of money laundering or terrorist financing shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph seriously obstructs an investigation of money laundering or terrorist financing, the sentence shall be reform through labor for not more than two years.

**Article 300 (Concealing of Money Laundering and Terrorist Financing)**

A person who conceals money laundering or terrorist financing shall be sentenced to training through labor for not more than one year. If the offense as provided in the preceding paragraph is particularly serious, the sentence shall be reform through labor for not more than five years.

## **ADDENDA**

### **(General Crimes)**

Adopted by Decree No. 2483 of the Standing Committee of Supreme People's Assembly on December 19, 2007

Adopted by Decree No. 1152 and Order No. 44 of the Standing Committee of Supreme People's Assembly on October 26, 2010

#### **Article 1 (Extremely Serious Form of Intentional Destruction of Weapons, Ammunition, Combat Technology Equipment, and Military Facilities)**

A person who intentionally destroys weapons, ammunition, combat technology equipment or military facilities in an extremely serious manner shall be sentenced to a life term of reform through labor or death.

#### **Article 2 (Extremely Serious Form of Stealing State Property)**

A person who steals state property in an extremely serious manner shall be sentenced to a life term of reform through labor or death, with confiscation of property.

#### **Article 3 (Extremely Serious Form of Robbery of State Property)**

A person who commits robbery of state property in an extremely serious manner shall be sentenced to a life term of reform through labor or death, with confiscation of property.

#### **Article 4 (Extremely Serious Form of Intentional Destruction of State Property)**

A person who an intentional destruction of state property in an extremely serious manner shall be sentenced to a life term of reform through labor or death.

#### **Article 5 (Extremely Serious Form of Currency Counterfeiting)**

A person who counterfeits currency in an extremely serious manner shall be sentenced to a life term of reform through labor or death.

#### **Article 6 (Extremely Serious Form of Smuggling and Illegal Trafficking of Precious and Non-Ferrous Metals)**

A person who smuggles or illegally traffics precious or non-ferrous metals in an extremely serious manner shall be sentenced to a life term of reform through labor or death, with confiscation of property.

#### **Article 7 (Particularly Serious Form of Flight of Person under Reformation)**

A person who is sentenced to a heavy punishment, is serving his or her term, and takes flight shall be sentenced to a life term of reform through labor or death.

**Article 8 (Extremely Serious Form of Kidnapping)**

A person who kidnaps a person in an extremely serious manner shall be sentenced to a life term of reform through labor or death.

**Article 9 (Particularly Serious Form of Rape)**

A person who rapes a person in a particularly serious manner shall be sentenced to a life term of reform through labor or death.

**Article 10 (Extremely Serious Form of Robbery of Private Property)**

A person who commits robbery of private property in an extremely serious manner shall be sentenced to a life term of reform through labor or death, with confiscation of property.

**Article 11 (Exceptional Application of Crimes which fall under Life-term Reform through Labor and Death)**

A person who commits multiple acts of offense in a particularly serious manner, or who has no chance of rehabilitation, shall be sentenced to a life term of reform through labor or death.

## Appendix 2. Provisions on Economic Crime in Special Part of the DPRK Penal Code

Code	Chapter	Section	Articles	Portion
1949 Draft	1. Crimes against State Authority		54–71	10.7%
	2. Crimes of Violating the Regulations for Administration of the State		72–147	45.2%
	3. Crimes Committed in Course of Official Duty (by Public Officials)		148–160	7.7%
	<b>4. Crimes of Encroaching on State Property or the Property of Cooperative Organizations</b>		<b>161–165</b>	<b>3.0%</b>
	<b>5. Crimes of Violating Labor Laws</b>		<b>166–171</b>	<b>3.6%</b>
	6. Crimes of Impairing People's Life, Health, Freedom and Dignity		172–197	15.5%
	<b>7. Crimes of Encroaching on the Private Property of Citizens</b>		<b>198–211</b>	<b>8.3%</b>
	8. Crimes of Impairing People's Health		212–216	3.0%
	9. Crimes Involving Violation of the Principle of the Separation of Religion and State		217–221	3.0%
	<b>Number of Provisions on Economic Crimes</b>			<b>25</b>
1950	13. Crimes against the Power of the State		64–81	8.0%
	14. Crimes of Violating the Regulations for Administration of the State		82–102	10.6%
	<b>15. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations</b>		<b>103–111</b>	<b>4.5%</b>
	16. Crimes against Persons		112–146	17.6%
	<b>17. Crimes of Encroaching on Private Property of Citizens</b>		<b>147–167</b>	<b>10.6%</b>
	<b>18. Crimes Involving Violation of Labor Laws</b>		<b>168–177</b>	<b>5.0%</b>

Code	Chapter	Section	Articles	Portion	
	19. Crimes Committed in Course of Official Duty		178–193	8.0%	
	<b>20. Economic Crimes</b>		<b>194–217</b>	<b>12.1%</b>	
	21. Crimes of Violating the Regulations for General Administration		218–258	20.6%	
	22. Crimes of Impairing People’s Health and Safety		259–264	3.0%	
	23. Military Crimes		265–301	-	
	<b>Number of Provisions on Economic Crimes (excluding military crimes)</b>		<b>64</b>	<b>32.2%</b>	
1974	Counterrevolutionary Crimes against the Power of the State and Socialism		51–62	9.2%	
	Counterrevolutionary Crimes against the National-liberation Struggle		63–64	1.5%	
	Crimes of Interfering with the Struggle with Counterrevolutionary Crimes		65–66	1.5%	
	<b>Crimes of Encroaching on the Socialist Economic System</b>		<b>67–110</b>	<b>33.8%</b>	
	Crimes of Impairing the Socialist Culture		111–117	5.4%	
	Crimes of Violating the Regulations for Administration of the State		118–148	23.8%	
	Crimes of Violating the Regulations for Socialist Collective Life		149–159	8.5%	
	<b>Crimes of Impairing the Life and Property of Citizens</b>	(Crimes of Impairing the Life, Health, and Character of Citizens)		160–173	10.8%
		<b>(Crimes of Encroaching on the Private Property of Citizens)</b>		<b>174–180</b>	<b>5.4%</b>
	Military Crimes		181–215	-	

Code	Chapter	Section	Articles	Portion
	<b>Number of Provisions on Economic Crimes</b> (excluding military crimes)		<b>51</b>	<b>39.2%</b>
1987/ 1999 Code	3. Crimes against the State	1. Crimes against the Power of the State	44–51	6.8%
		2. Crimes against the National-liberation Struggle	52–53	1.7%
		3. Crimes of Crimes of Concealing and Failing to Report a Crime against the State	54–55	1.7%
	4. Crimes of Encroaching on the Socialist Economic System	<b>1. Crimes of Encroaching on Socialist Property</b>	<b>56–65</b>	<b>8.5%</b>
		<b>2. Crimes of Violating the Regulations for Socialist Economic Management</b>	<b>66–83</b>	<b>15.3%</b>
		<b>3. Crimes of Violating the Regulations for Land Administration</b>	<b>84–91</b>	<b>6.8%</b>
		<b>4. Crimes of Violating the Regulations for Socialist Labor Administration</b>	<b>92–96</b>	<b>4.2%</b>
	5. Crimes of Impairing the Socialist Culture		97–102	5.1%
	6. Crimes of Violating the Regulations for General Administration of the State	1. Crimes of Violating the Regulations for General Administration	103–123	17.8%
		2. Crimes Committed by Management Personnel in Course of Official Duty	124–130	5.9%
	7. Crimes of Violating the Regulations for Socialist Collective Life		131–140	8.5%
	8. Crimes of Impairing Life and Private Property of Citizens	1. Crimes of Impairing the Life, Health, and Character of Citizens	141–154	11.9%
		<b>2. Crimes of Encroaching on the Private Property of Citizens</b>	<b>155–161</b>	<b>5.9%</b>
	<b>Number of Provisions on Economic Crimes</b>			<b>48</b>
	3. Crimes against the State	1. Crimes against the State	59–66	3.3%

Code	Chapter	Section	Articles	Portion	
2004		2. Crimes against the Nation	67–69	1.2%	
		3. Crimes of Harboring, Failing to Report and Neglecting of a Crime Against the State or the Nation	70–72	1.2%	
	4. Crimes of Violating the Regulations for Administration of National Defense		73–88	6.5%	
	<b>5. Crimes of Encroaching on the Socialist Economic System</b>	<b>1. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations</b>		<b>89–98</b>	<b>4.1%</b>
		<b>2. Crimes of Violating the Regulations for Socialist Economic Management</b>		<b>99–172</b>	<b>30.2%</b>
		<b>3. Crimes of Violating the Regulations for Land Administration and Environmental Protection</b>		<b>173–184</b>	<b>4.9%</b>
		<b>4. Crimes of Violating the Regulations for Socialist Labor Administration</b>		<b>185–192</b>	<b>3.3%</b>
	6. Crimes of Impairing the Socialist Culture		193–218	10.6%	
	7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State		219–245	11.0%
		2. Crimes Committed by Management Personnel in Course of Official Duty		246–257	4.9%
	8. Crimes of Violating the Regulations for Socialist Collective Life		258–277	8.2%	
	<b>9. Crimes of Impairing the Life and Property of Citizens</b>	1. Crimes of Impairing Life, Health, and Character		278–295	7.3%
		<b>2. Crimes of Encroaching on Private Property</b>		<b>296–303</b>	<b>3.3%</b>
	<b>Number of Provisions on Economic Crimes</b>			<b>112</b>	<b>45.7%</b>
July 2009	3. Crimes against the State	1. Crimes against the State	59–66	3.2%	
		2. Crimes against the Nation	67–69	1.2%	

Code	Chapter	Section	Articles	Portion
		3. Crimes of Harboring, Failing to Report and Neglecting of a Crime Against the State or the Nation	70–72	1.2%
	4. Crimes of Violating the Regulations for Administration of National Defense		73–88	6.3%
	<b>5. Crimes of Encroaching on the Socialist Economic System</b>	<b>1. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations</b>	<b>89–98</b>	<b>4.0%</b>
		<b>2. Crimes of Violating the Regulations for Socialist Economic Management</b>	<b>99–172</b>	<b>29.4%</b>
		<b>3. Crimes of Violating the Regulations for Land Administration and Environmental Protection</b>	<b>173–184</b>	<b>4.8%</b>
		<b>4. Crimes of Violating the Regulations for Socialist Labor Administration</b>	<b>185–192</b>	<b>3.2%</b>
	6. Crimes of Impairing the Socialist Culture		193–218	10.3%
	7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State	219–245	10.7%
		2. Crimes Committed by Management Personnel in Course of Official Duty	246–257	4.8%
	8. Crimes of Violating the Regulations for Socialist Collective Life		258–277	7.9%
	<b>9. Crimes of Impairing the Life and Property of Citizens</b>	1. Crimes of Impairing Life, Health, and Character	278–295	7.1%
		<b>2. Crimes of Encroaching on Private Property</b>	<b>296–303</b>	<b>3.2%</b>
	<b>Addenda<sup>773</sup></b>	<b>(Economic Crimes)</b>	<b>8–10, 18</b>	<b>1.6%</b>

<sup>773</sup> Article 23 in 2007 Addenda (Exceptional Application of Crimes which fall under Life-term Reform through Labor and the Death Penalty)—the same provision as Article 11 in 2010 Addenda—is not

Code	Chapter	Section	Articles	Portion
		(Non-economic Crimes)	7, 13, 16	1.2%
	<b>Number of Provisions on Economic Crimes</b>		<b>116</b>	<b>46.0%</b>
May 2012 <sup>774</sup>	3. Crimes against the State	1. Crimes against the State	60–67	3.5%
		2. Crimes against the Nation	68–70	1.3%
		3. Crimes of Harboring, Failing to Report and Neglecting of a Crime Against the State or the Nation	71–73	1.3%
	4. Crimes of Violating the Regulations for Administration of National Defense		74–90	7.4%
	5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations	91–100	4.3%
		2. Crimes of Violating the Regulations for Economic Management	101–163	27.3%
		3. Crimes of Violating the Regulations for Land Administration and Environmental Protection	164–175	5.2%
		4. Crimes of Violating the Regulations for Labor Administration	176–182	3.0%
	6. Crimes of Impairing the Socialist Culture		183–208	11.3%
	7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State	209–234	11.3%
		2. Crimes Committed by Management Personnel in Course of Official Duty	235–245	4.8%

counted because it is not regarding a specific crime and thus is considered a provision in the General Part, not the Special Part, of the DPRK penal code.

<sup>774</sup> Addenda is excluded in the 2012 and 2015 penal code because the 2010 Addenda to the penal code consists only of the provisions—except Article 11 mentioned in the previous footnote—that punish the same conducts as provided in the Special Parts and only provide heightened punishments for those conducts under aggravating circumstances.

Code	Chapter	Section	Articles	Portion
	8. Crimes of Violating the Regulations for Socialist Collective Life		246–265	8.7%
	<b>9. Crimes of Impairing the Life and Property of Citizens</b>	1. Crimes of Impairing Life, Health, and Character	266–282	7.4%
		<b>2. Crimes of Encroaching on Private Property</b>	<b>283–290</b>	<b>3.5%</b>
	<b>Provisions on Economic Crimes</b>			<b>100</b>
July 2015	3. Crimes against the State	1. Crimes against the State	60–67	3.3%
		2. Crimes against the Nation	68–70	1.2%
		3. Crimes of Harboring, Failing to Report and Neglecting of a Crime Against the State or the Nation	71–73	1.2%
	4. Crimes of Violating the Regulations for Administration of National Defense		74–90	7.0%
	<b>5. Crimes of Encroaching on the Socialist Economic System</b>	<b>1. Crimes of Encroaching on State Property or the Property of Social or Cooperative Organizations</b>	<b>91–100</b>	<b>4.1%</b>
		<b>2. Crimes of Violating the Regulations for Economic Management</b>	<b>101–163</b>	<b>26.1%</b>
		<b>3. Crimes of Violating the Regulations for Land Administration and Environmental Protection</b>	<b>164–175</b>	<b>5.0%</b>
		<b>4. Crimes of Violating the Regulations for Labor Administration</b>	<b>176–182</b>	<b>2.9%</b>
	6. Crimes of Impairing the Socialist Culture		183–208	10.8%
	7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State	209–234	10.8%
		2. Crimes Committed by Management Personnel in Course of Official Duty	235–245	4.6%

Code	Chapter	Section	Articles	Portion
	8. Crimes of Violating the Regulations for Socialist Collective Life		246–265	8.3%
	9. Crimes of Impairing the Life and Property of Citizens	1. Crimes of Impairing Life, Health, and Character	266–282	7.1%
		2. Crimes of Encroaching on Private Property	283–290	3.3%
	10. Crimes of Money Laundering and Terrorist Financing	(Money Laundering) <sup>775</sup>	291–295, 297–300	3.7%
		(Terrorist Financing)	296	0.4%
	<b>Number of Provisions on Economic Crimes</b>		<b>109</b>	<b>45.2%</b>

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<sup>775</sup> Articles 297 to 300, regulating both money laundering and terrorist financing, are classified as provisions on economic crimes in this dissertation as discussed in Chapter 1.

## Appendix 2-1. Structure of the Special Part of the Penal Code of Russia (the RSFSR)

Code	Chapter	Section	Articles
1926 Code (as amended up to April 1959)	1. State Crimes	(Counterrevolutionary Crimes)	58.1.–58.14.
		(Crimes Against Public Administration That Are Especially Dangerous for the USSR)	59.1.–59.13.
	2. Other Crimes Against Public Administration		60–108.1.
	3. Breach of Official Duty (Malfeasance)		109–121
	4. Violation of Regulations on the Separation of Church and State		122–127
	5. Economic Crimes		128–135
	6. Crimes Against the Life, Health, Freedom, and Dignity of the Individual		136–161
	7. Crimes Against Property		162–178
	8. Violations of the Rules of Public Health, Security, and Order		179–192-a.
	9. Military Crimes		193.1.– 193.32.
10. Crimes Constituting Survivals of the Tribal Way of Life		194–205	
1960 Code (as amended up to July 1996)	1. Crimes Against The State	1. Especially Dangerous Crimes Against The State	64–73
		2. Other Crimes Against The State	74–88.2.
	2. Crimes Against Socialist Ownership (abrogated in 1994)		89–101
	3. Crimes Against Life, Health, Freedom, and Dignity of the Person		102–131
	4. Crimes Against Political and Labor Rights of Citizens		132–143.1.
	5. Crimes Against Personal Ownership of Citizens		144–151
6. Economic Crimes		152–169.1.	

	7. Official Crimes		170.3.– 175.1.
	8. Crimes Against Justice		176–190
	9. Crimes Against the System of Administration		190.1.– 205.1.
	10. Crimes Against Public Security, Public Order, and Health of the Population		206–230.1.
	11. Crimes Constituting Survivals of Local Customs		231–236
	12. Military Crimes		237–269
1996 Code (as amended up to February 2019)	7. Crimes Against the Person	16. Crimes Against Human Life and Health	105–125
		17. Crimes Against Freedom, Honor, and Dignity of the Person	126–128
		18. Crimes Against Sexual Inviolability and Sexual Freedom of the Person	131–135
		19. Crimes Against Constitutional Rights and Freedoms of Man and Citizen	136–149
		20. Crimes Against Family and Minors	150–157
	8. Crimes in the Sphere of Economy	21. Crimes Against Property	158–168
		22. Crimes in the Sphere of Economic Activity	169–200.6.
		23. Crimes Against Interests of Service in Profit-making and Other Organizations	201–204.2.
	9. Crimes Against Public Security and Public Order	24. Crimes Against Public Security	205–227
		25. Crimes Against Public Health and Public Morality	228–245
		26. Environmental Crimes	246–262
		27. Crimes Against Traffic and Operation of Transport Safety	263–271.1.
		28. Crimes in the Sphere of Computer Information	272–274.1.
	10. Crimes Against State Power	29. Crimes Against the Fundamentals of Constitutional System and State Security	275–284.1.
		30. Crimes Against State Power and Interests of Civil Service and Service in Local Self-government	285–293
31. Crimes Against Justice		294–316	

		32. Crimes Against Administrative Order	317–330.2.
	11. Crimes Against Military Service	33. Crimes Against Military Service	331–352
	12. Crimes Against Peace and Security of Mankind	34. Crimes Against Peace and Security of Mankind	353–361

## Appendix 2-2. Structure of the Special Part of the Penal Code of the PRC

Code	Chapter	Section	Articles	
1979 Code	1. Crimes of Counterrevolution		90–104	
	2. Crimes of Endangering Public Security		105–115	
	3. Crimes of Undermining the Socialist Economic Order		116–130	
	4. Crimes of Infringing Upon the Rights of the Person and the Democratic Rights of Citizens		131–149	
	5. Crimes of Property Violation		150–156	
	6. Crimes of Obstructing the Administration of Public Order		157–178	
	7. Crimes of Disrupting Marriage and the Family		179–184	
	8. Crimes of Dereliction of Duty		185–192	
1997 Code (as amended up to November 2017)	1. Crimes of Endangering National Security		102–113	
	2. Crimes of Endangering Public Security		114–139.1.	
	3. Crimes of Undermining the Order of Socialist Market Economy	1. Crimes of Manufacturing and Selling Fake and Shoddy Goods		140–150
		2. Crimes of Smuggling		151–157
		3. Crimes of Disrupting the Order of Company and Enterprise Administration		158–169.1.
		4. Crimes of Undermining the Order of Financial Management		170–191
5. Crimes of Financial Fraud		192–200		

		6. Crimes of Endangering Collection and Management of Taxes	201–212
		7. Crimes of Infringing Upon Intellectual Property Rights	213–220
		8. Crimes of Disrupting Market Order	221–231
	4. Crimes of Infringing Upon the Rights of the Person and the Democratic Rights of Citizens		232–262
	5. The Crime of Encroaching on Property		263–276
	6. Crimes of Disrupting the Order of Social Administration	1. Crimes of Disrupting Public Order	277–304
		2. Crimes of Disrupting Justice	305–317
		3. Crimes of Disrupting Administration of the Territory (Border)	318–323
		4. Crimes of Disrupting Administration of Cultural Relics	324–329
		5. Crimes of Endangering Public Health	330–337
		6. Crimes of Undermining Protection of Environmental Resources	338–346
		7. Crimes of Smuggling, Trafficking, Transporting, and Manufacturing Drugs	347–357
		8. Crimes of Organizing, Forcing, Inducing, Housing, and Introducing Prostitutes	358–362
		9. Crimes of Manufacturing, Selling, and Spreading Obscene Publications	363–367
	7. Crimes of Endangering the Interests of National Defense		368–381
	8. Graft and Bribery		382–396
	9. Crimes of Dereliction of Duty		397–419
	10. Crimes of Violation of Duty by Military Personnel		420–451

### Appendix 3. Deleted and Added Provisions in Each Amendment to the DPRK Penal Code

Code	Economic crimes		Non-economic crimes	
	Deleted provisions in the previous code	Added provisions in the new code	Deleted provisions in the previous code	Added provisions in the new code
1974	33 (51.6%)	19 (37.3%)	52 (38.0%)	14 (17.7%)
1987	3 (5.9%)	-	8 (10.1%)	1 (1.4%)
1999	-	-	1 (1.4%)	1 (1.4%)
2004	1 (2.1%)	59 (52.7%)	-	66 (49.6%)
July 2009	3 (2.7%)	7 (6.0%)	-	3 (2.2%)
May 2012	19 (16.4%)	8 (8.0%)	10 (7.4%)	3 (2.3%)
July 2015	1 (1.0%)	10 (9.2%)	2 (1.5%)	2 (1.5%)
Average	<b>11.2%</b>	<b>16.2%</b>	8.3%	10.8%
Average (since 2000)	<b>5.3%</b>	<b>19.0%</b>	2.4%	13.9%

## Appendix 4. Corresponding Provisions between Special Part of the Penal Codes of the DPRK and Russia (formerly the RSFSR) and the PRC<sup>776</sup>

1949 DPRK Draft Code<sup>777</sup> (vs. 1949 RSFSR Code<sup>778</sup>)

Chapter	1949 DPRK Draft Code	1949 RSFSR Code	Chapter	1949 DPRK Draft Code	1949 RSFSR Code
1. Crimes against State Authority	54	58-1		79	83
	55	58-1a		80	59-9
	56	-		81	84
	57	58-8		82	59-10
	58	58-7		83	59-3b
	59	58-9		84	59-13
	60	58-14		85	59-3c
	61	58-13		86	79
	62	58-10		87	59-3e
	63	58-1a		88	59-4
	64	58-1b		89	59-3a
	65	58-1c		90	182
	66	58-12		91	78
	67	58-6		92	72
	68	58-5		93	-
	69	58-3		94	187
	70	58-11		95	-
71	58-12	96	60		
2. Crimes of Violating the Regulations for Administration of the State	72	-	97	-	
	73	59-2	98	62	
	74	59-8	99	63	
	75	59-13	100	73	
	76	59-8	101	73	
	77	59-8	102	76	
	78	59-8	103	-	

<sup>776</sup> This comparison is based on whether a specific act is stipulated as a crime. Other factors such as the degree of punishment and aggravating circumstances are not considered.

<sup>777</sup> The Draft DPRK penal code as of October 1949.

<sup>778</sup> The 1926 RSFSR penal code as amended up to July 12, 1949.

Chapter	1949 DPRK Draft Code	1949 RSFSR Code	Chapter	1949 DPRK Draft Code	1949 RSFSR Code
	104	-		142	198
	105	108		143	199
	106	81		144	-
	107	82		145	-
	108	-		146	-
	109	92		147	81
	110	95		148	109
	111	96		149	110
	112	101		150	111
	113	104		151	-
	114	105		152	113
	115	107		153	114
	116	99	3. Crimes Committed by Public Officials	154	115
	117	108		155	121
	118	176		156	120
	119	190		157	117
	120	185		158	118
	121	182-1		159	128
	122	73-2		160	129
	123	74	4. Crimes of Encroaching on the State Property or the Property of Social or Cooperative Organizations	161	162
	124	191		162	-
	125	192-a		163	79
	126	90		164	-
	127	61		165	131
	128	79-1		166	133
	129	-	5. Crimes of Violating Labor Laws	167	133
	130	-		168	134
	131	85		169	135
	132	87		170	-
	133	87-a		171	133-a
	134	128-a		172	136
	135	128-a		173	137
	136	128-c	6. Crimes of Impairing People's Life, Health, Freedom and Dignity	174	138
	137	164		175	139
	138	177		176	141
	139	-		177	140
	140	196		178	140-a
	141	197		179	142

Chapter	1949 DPRK Draft Code	1949 RSFSR Code
	180	144
	181	-
	182	143
	183	145
	184	150
	185	146
	186	147
	187	149
	188	151
	189	152
	190	153
	191	155
	192	156
	193	157
	194	159
	195	160
	196	161
	197	-
	198	162
	199	162
	200	166
	201	165
	202	166-a
	203	167
	204	168
	205	174
	206	169
	207	169-a
	208	170
	209	173
	210	175
	211	178
	212	179
	213	180
	214	181
	215	171
	216	182
	217	122
7. Crimes of Encroaching on Private Property of Citizens		
8. Crimes of Impairing People's Health		

Chapter	1949 DPRK Draft Code	1949 RSFSR Code
9. Crimes of Violation of the Principle of the Separation of Religion and State	218	124
	219	125
	220	126
	221	127

1950 DPRK Code<sup>779</sup> (vs. 1949 RSFSR Code<sup>780</sup>)

Chapter	1950 DPRK Code	1949 RSFSR Code	Chapter	1950 DPRK Code	1949 RSFSR Code
13. Crimes against the Power of the State	64	58-1		97	59-9
	65	58-1a		98	59-11
	66	58-5		99	-
	67	58-3		100	-
	68	58-1a		101	59-7
	69	58-1b		102	59-13
	70	58-1c		15. Crimes of Encroaching on the State Property or the Property of Social or Cooperative Organizations	103
	71	58-6	104		-
	72	58-8	105		116
	73	58-7	106		162
	74	58-9	107		129
	75	58-14	108		169
	76	58-10	109		79
	77	58-10	110		-
	78	58-11	111		79-2
	79	58-13	16. Crimes against Persons		112
	80	58-12		113	137
81	58-12	114		136	
14. Crimes of Violating the Regulations for Administration of the State	82	59-3		115	138
	83	59-2		116	139
	84	59-8		117	139
	85	59-8		118	141
	86	59-8		119	140
	87	59-8		120	140-a
	88	59-3a		121	142
	89	59-3b	122	-	
	90	-	123	144	
	91	59-3c	124	143	
	92	59-3d	125	-	
	93	59-3e	126	145	
	94	59-4	127	146	
	95	59-10	128	150	
	96	83	129	147	

<sup>779</sup> The DPRK penal code first enacted on March 3, 1950.

<sup>780</sup> The 1926 RSFSR penal code as amended up to December 31, 1949.

Chapter	1950 DPRK Code	1949 RSFSR Code	Chapter	1950 DPRK Code	1949 RSFSR Code	
	130	147	18. Crimes Involving Violation of the Regulations for Labor Administration	168	133	
	131	149		169	133	
	132	148		170	133	
	133	156		171	133-a	
	134	-		172	108	
	135	157		173	108-1	
	136	151		174	-	
	137	152		175	134	
	138	153		176	135	
	139	154		177	-	
	140	155		19. Crimes by Committed in Course of Official Duty	178	109
	141	-			179	110
	142	158-1			180	111
	143	158			181	111
	144	159			182	112
	145	160			183	113
	146	161			184	114
147	162	185	115			
148	-	186	-			
149	165	187	120			
17. Crimes of Encroaching on Private Property of Citizens	150	167	188	121		
	151	166	189	-		
	152	-	190	-		
	153	166-a	191	117		
	154	-	192	118		
	155	168	193	119		
	156	-	20. Economic Crimes	194	128	
	157	168		195	131	
	158	169		196	129-a	
	159	174		197	61	
	160	169-a		198	87-a	
	161	-		199	101	
	162	173		200	128-a	
	163	171		201	128-a	
	164	175		202	128-c	
	165	176		203	108	
	166	177	204	-		
167	178	205	-			

Chapter	1950 DPRK Code	1949 RSFSR Code	Chapter	1950 DPRK Code	1949 RSFSR Code		
	206	-		244	185		
	207	-		245	182-1		
	208	99		246	73-2		
	209	104		247	74		
	210	179-a		248	90		
	211	105		249	164		
	212	86		250	-		
	213	60		251	87		
	214	-		252	-		
	215	62		253	196		
	216	63		254	197		
	217	85		255	198		
	21. Crimes of Violating the Regulations for General Administration	218		182	256	199	
		219		78	257	124	
		220		-	258	125	
		221		72	22. Crimes of Impairing People's Health and Safety	259	179
		222		187		260	180
223		-	261	181			
224		-	262	171			
225		170	263	182			
226		73	264	182			
227		73-1	23. Military Crimes	265		193-1	
228		-		266	193-2		
229		192-a		267	193-3		
230		84		268	193-4		
231		177		269	193-5		
232		73-1		270	193-5		
233		76		271	193-6		
234		-		272	193-7		
235		77		273	193-7		
236		81		274	193-7		
237		82		275	193-8		
238	-	276		193-7, 193-8			
239	92	277	193-7, 193-9				
240	95	278	193-10				
241	95	279	-				
242	95	280	193-12				
243	96						

Chapter	1950 DPRK Code	1949 RSFSR Code
	281	193-22
	282	193-14
	283	-
	284	193-15
	285	193-16
	286	193-17
	287	193-17
	288	193-19
	289	-
	290	193-20
	291	193-20
	292	193-21
	293	193-22
	294	193-23
	295	193-25
	296	193-25
	297	-
	298	193-26
	299	193-28
	300	193-27
	301	193-29

1974 DPRK Code<sup>781</sup> (vs. 1974 RSFSR Code<sup>782</sup>)

Chapter	1974 DPRK Code	1974 RSFSR Code	Chapter	1974 DPRK Code	1974 RSFSR Code
Counter-revolutionary Crimes against State Authority and Socialist System	51	64		77	87
	52	64		78	87
	53	64		79	88
	54	65		80	153
	55	66		81	78
	56	70		82	98, 99
	57			83	83
	58			84	85
	59			85	
	60	69		86	
	61	68		87	
	62			88	
Counter-revolutionary Crimes Against the National-liberation Struggle	63		89		
	64		90		
Crimes of Interfering with Struggle Against Counter-revolutionary Crimes	65	88-2	91	152	
	66	88-1	92		
Crimes of Encroaching on the Socialist Economic System	67	89	93		
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	72	93-1	98	167	
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	74	91	100	169	
	75	98	101	163	
	76	99	102	223	
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<sup>781</sup> The DPRK penal code amended on December 19, 1974.

<sup>782</sup> The 1960 RSFSR penal code as amended up to July 15, 1974.

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	107	211, 213		138	189
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Crimes of Impairing the Socialist Culture	111			142	171
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	113	141		144	
	114			145	175
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Crimes of Violating the Regulations for Administration of the State	118			149	206
	119	191, 191-1, 191-2, 192, 192-1, 193	Crimes of Violating the Regulations for Socialist Collective Life	150	210
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Chapter	1974 DPRK Code	1974 RSFSR Code
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	178	144, 145, 147
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1987 DPRK Code<sup>783</sup> (vs. 1986 RSFSR Code<sup>784</sup> and 1979 PRC Code<sup>785</sup>)

Chapter	Section	1987 DPRK Code	1986 RSFSR Code	1979 PRC Code
3. Crimes Against the State	1. Crimes Against the Power of the State	44	64	92, 95, 103
		45	66	94, 103
		46	70	97, 103
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		50	69	100, 103
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	2. Crimes Against the National-Liberation Struggle	52		
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	3. Crimes of Concealing and Failing to Report a Crime against the State	54	88-2	
55		88-1		
4. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on Socialist Property	56	89	
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	2. Crimes of Violating Economic Regulations	66	87	122
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		68	88	
		69	153	
		70	78	116, 118, 119
		71	85	113, 114
		72	152-1	
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<sup>783</sup> The DPRK penal code amended on February 5, 1987.

<sup>784</sup> The 1960 RSFSR penal code as amended up to August 1, 1986.

<sup>785</sup> The PRC penal code first enacted on July 6, 1979.

Chapter	Section	1987 DPRK Code	1986 RSFSR Code	1979 PRC Code	
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	3. Crimes of Violating the Regulations for Land Administration	84			
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	4. Crimes of Violating the Regulations for Labor Administration	91			
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5. Crimes of Impairing the Socialist Culture	96				
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6. Crimes of Violating the Regulations for General Administration and Management of the State	102	224, 225	171		
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	104	191, 191-1, 191-2, 192, 192-1, 193	157		
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	107	220	115		
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Chapter	Section	1987 DPRK Code	1986 RSFSR Code	1979 PRC Code
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	2. Crimes Committed in Course of Official Duty by Management Personnel	124	170	
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		130	173	185
7. Crimes of Violating the Regulations for Socialist Collective Life		131	206	
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8. Criminal Impairing Lives and Property of Citizens	1. Crimes of Impairing Life, Health and Personality	141	102, 103	132
		142	104	
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		144	106	133
		145	108	134
		146	110	
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	2. Crimes of Encroaching on Private Property	155	144	137, 151
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1999 DPRK Code<sup>786</sup> (vs. 1999 RSFSR Code<sup>787</sup> and 1997 PRC Code<sup>788</sup>)

Chapter	Section	1999 DPRK Code	1999 RSFSR Code	1997 PRC Code
3. Crimes Against the State	1. Crimes Against the Power of the State	44	279	103, 104, 113
		45	277	120
		46	280	105, 106
		47	275	108, 109
		48	276	110, 111
		49		107
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	2. Crimes Against the National-Liberation Struggle	52		
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	3. Crimes of Concealing and Failing to Report a Crime against the State	54		
		55		

<sup>786</sup> The DPRK penal code amended on August 11, 1999.

<sup>787</sup> The 1960 RSFSR penal code as amended up to May 31, 1999.

<sup>788</sup> The PRC penal code first amended on March 14, 1997.

Chapter	Section	1999 DPRK Code	1999 RSFSR Code	1997 PRC Code
4. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on Socialist Property	56		
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	2. Crimes of Violating Economic Regulations	66	186	170, 171
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	3. Crimes of Violating the Regulations for Land Administration	84		342
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		87	260	345
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Chapter	Section	1999 DPRK Code	1999 RSFSR Code	1997 PRC Code
	4. Crimes of Violating the Regulations for Labor Administration	94	264	133
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5. Crimes of Impairing the Socialist Culture		97	243	110-112
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6. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration	103	212	291
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		112	224, 225	129
	2. Crimes Committed in Course of Official Duty by Management Personnel	113		125, 127
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		115	283, 284	398
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		120	307	243, 305
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7. Crimes of Violating the Regulations for		123	313	316
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		132	150, 151	

Chapter	Section	1999 DPRK Code	1999 RSFSR Code	1997 PRC Code
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		136	156, 157	261
		137	110, 117	260
		138	125	
		139	244	328
		140	175	312
8. Criminal Impairing Lives and Property of Citizens	1. Crimes of Impairing Life, Health and Personality	141	105	232
		142	107	
		143	108	
		144	109	233
		145	111	234
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		147	118	235
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		149	116	289
		150	126	262
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		152	129, 130	246
		153	131, 134	236
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	2. Crimes of Encroaching on Private Property	155	158	264
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		158	160	270
		159	158, 161	264, 266–268
		160	162	263, 267
161		167	275	

2004 DPRK Code<sup>789</sup> (vs. 2004 Russian Code<sup>790</sup> and 2002 PRC Code<sup>791</sup>)

Chapter	Section	2004 DPRK Code	2004 Russian Code	2002 PRC Code
3. Crimes Against the State and the Nation	1. Crimes Against the State	59	278, 279	105
		60	205, 277	
		61	280	105
		62	275	108, 109
		63	276	111
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	2. Crimes Against the Nation	66		
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	3. Crimes of Harboring, Failing to Report and Neglecting a Crime Against the State or the Nation	69		
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	4. Crimes of Violating the Regulations for Administration of National Defense	73		
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80			380	
81			370	
82			375	
83		328	376	
84			379	
85			368	
86			372	
87		222	375	
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<sup>789</sup> The DPRK penal code amended on April 29, 2004.

<sup>790</sup> The 1996 Russian penal code as amended up to January 31, 2004.

<sup>791</sup> The PRC penal code amended on December 28, 2002.

Chapter	Section	2004 DPRK Code	2004 Russian Code	2002 PRC Code
5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on the State Property or the Property of Social or Cooperative Organizations	90		
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122	268	133		
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Chapter	Section	2004 DPRK Code	2004 Russian Code	2002 PRC Code	
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	3. Crimes of Violating the Regulations for Land Administration and Environmental Protection	173			342
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		178	260		345
		179	261		115
		180	260		
		181	256, 257		340
		182	246, 251, 252		338
	4. Crimes of Violating the Regulations for Labor Administration	183	250		
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		186	143		134
		187	264, 265		133
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6. Crimes of Impairing the Socialist Culture	191			244-1	
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	197	243		328	
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	200	146, 147		216, 217	
	201	272		285	
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	203			286	
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	205			418	
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229	222	125, 128, 130		
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231	283	398		
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241	313	316, 317		
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7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State			

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	2. Crimes Committed in Course of Official Duty by Management Personnel	246	285	397
		247	286	397
		248	293	397
		249		387
		250		399
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		252	301	245
		253	299, 302	247
		254	300	400
		255	305	399
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		257	290, 291	385, 386, 388
		8. Crimes of Violating the Regulations for Socialist Collective Life		258
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264	288			279
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266				303
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268				300
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270				258
271	125, 156			261
272	117			260
273				270
274				
275	175	312		
276	244	328		
277	125			
9. Crimes of Impairing the Lives and Private Property of Citizens	1. Crimes of Impairing Life, Health and Character	278	105	232
		279	105	232
		280	107	
		281	108	
		282	109	233
		283	111	234
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Chapter	Section	2004 DPRK Code	2004 Russian Code	2002 PRC Code
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		292	129, 130	246
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		295	134	236
	2. Crimes of Encroaching on Private Property	296	158	264
		297	161	264
		298	163	274
		299	159	266
		300	160	270
		301	161	267, 268
		302	162	263
		303	167	275

July 2009 DPRK Code<sup>792</sup> (vs. 2009 Russian Code<sup>793</sup> and 2009 PRC Code<sup>794</sup>)

Chapter	Section	2009 DPRK Code	2009 Russian Code	2009 PRC Code	
3. Crimes Against the State and the Nation	1. Crimes Against the State	59	278, 279	105	
		60	205, 277		
		61	280	105	
		62	275	108, 109	
		63	276	111	
		64			
		65		107	
	2. Crimes Against the Nation	66			
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	3. Crimes of Harboring, Failing to Report and Neglecting a Crime Against the State or the Nation	69			
		70			
		71			
	4. Crimes of Violating the Regulations for Administration of National Defense		72		
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74					
75			346	369	
76			347		
77					
78			222	125, 128	
79			225, 348		
80				380	
81				370	
82				375	
83			328	376	
84				379	
85				368	
86				372	
87	222	375			
	88				
	89				

<sup>792</sup> The DPRK penal code amended on July 21, 2009.

<sup>793</sup> The 1996 Russian penal code as amended up to April 28, 2009.

<sup>794</sup> The PRC penal code amended on February 28, 2009.

Chapter	Section	2009 DPRK Code	2009 Russian Code	2009 PRC Code
5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on the State Property or the Property of Social or Cooperative Organizations	90		
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		93		382, 384
		94		382, 384
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		97		115
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		100	186	172
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		103	187	177
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121	263, 271	116, 132		
122	268	133		
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	3. Crimes of Violating the Regulations for Land Administration and Environmental Protection	173			342
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		181	256, 257		340
		182	246, 251, 252		338
	4. Crimes of Violating the Regulations for Labor Administration	183	250		
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		185			135
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		187	264, 265		133
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6. Crimes of Impairing the Socialist Culture	191			244-1	
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7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State			

Chapter	Section	2009 DPRK Code	2009 Russian Code	2009 PRC Code
	2. Crimes Committed in Course of Official Duty by Management Personnel	246	285	397
		247	286	397
		248	293	397
		249		387
		250		399
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		252	301	245
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275	175	312		
276	244	328		
277	125			
9. Crimes of Impairing the Lives and Private Property of Citizens	1. Crimes of Impairing Life, Health and Character	278	105	232
		279	105	232
		280	107	
		281	108	
		282	109	233
		283	111	234
		284	113	

Chapter	Section	2009 DPRK Code	2009 Russian Code	2009 PRC Code
		285	114	
		286	118	235
		287	115	234
		288	116	
		289	126	262
		290	126	240
		291	127	238
		292	129, 130	246
		293	131	236
		294		
	295	134	236	
	2. Crimes of Encroaching on Private Property	296	158	264
		297	161	264
		298	163	274
		299	159	266
		300	160	270
		301	161	267, 268
302		162	263	
Addenda	(Economic Crimes)	8		151
		9		190
		10	216	137
		18		358
	(Non-economic Crimes)	7		
		13		
		16	294	

May 2012 DPRK Code<sup>795</sup> (vs. 2012 Russian Code<sup>796</sup> and 2011 PRC Code<sup>797</sup>)

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code	
3. Crimes against the State and the Nation	1. Crimes against the State	60	278, 279	105	
		61	205, 277		
		62	280	105	
		63	275	108, 109	
		64	276	111	
		65			
		66		107	
	2. Crimes against the Nation	67			
		68			
		69			
	3. Crimes of Harboring, Failing to Report and Neglecting a Crime against the State or the Nation	70			
		71			
		72			
	4. Crimes of Violating the Regulations for Administration of National Defense		73		
			74		
75					
76					
77			222	125, 128	
78			346	369	
79			347		
80					
81				368	
82			225, 348		
83			222	375	
84				380	
85				370	
86				375	
87			328	376	
88				379	
89				372	
90					

<sup>795</sup> The DPRK penal code amended on May 14, 2012.

<sup>796</sup> The 1996 Russian penal code as amended up to February 29, 2012.

<sup>797</sup> The PRC penal code amended on February 25, 2011.

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code
5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on the State Property or the Property of Social or Cooperative Organizations	91		
		92		
		93		
		94		271-1, 382, 384
		95		382, 384
		96		
		97		
		98		
		99		115
		100		115
	2. Crimes of Violating Economic Regulations	101	186	170, 172
		102	186	178
		103	187	177
		104		
		105		
		106		
		107	193	190
		108		
		109	198, 199	201
		110	198, 199	201
		111		
		112		
		113		175
		114		
		115		
		116		
117	180	213, 214, 215		
118	191			
119		151, 152, 153, 154, 155, 156, 157		
120		151, 152, 153, 154, 155, 156, 157		
121		167, 406		
122				
123				
124	263, 271	116, 132		
125	268	133		
126		117		

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code
		127		
		128		167, 224, 406
		129		
		130		136
		131		
		132		
		133		
		134		
		135		
		136		168
		137		
		138		414
		139		
		140		
		141		137
		142		
		143		
		144		
		145		
		146		
		147		
		148	249	330
		149		
		150		
		151		
		152		140
		153		
		154		
		155		
		156		
		157		
		158		
		159		
		160	270	
		161		
		162		
		163		
	3. Crimes of Violating the Regulations for	164		342
		165		

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code
	Land Administration and Environmental Protection	166	255	343
		167	255	343
		168	260	345
		169	260	345
		170	261	115
		171	260	
		172	256, 257	340
		173	246, 251, 252	338
		174		
	175			
	4. Crimes of Violating the Regulations for Labor Administration	176		135
		177	143	134
		178		139
		179	264, 265	133, 133-1
		180		
181			244-1	
182				
6. Crimes of Impairing the Socialist Culture	183	242, 242-1	363, 364	
	184		301, 365	
	185			
	186	243	324	
	187	243	324	
	188	243	328	
	189	190	325, 326, 327	
	190			
	191	146, 147	217	
	192	272	285	
	193		286	
	194		286	
	195		418	
	196			
	197			
	198		335	
	199	124	335	
	200	235	336	
	201	238	142	
	202	238	141, 144	
203	236	330, 409		
204	236	413		

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code	
		205		234-1, 333, 334	
		206	228, 228-1, 231	347, 351	
		207			
		208	188, 228-2	347	
7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State	209	212	290, 291	
		210	317, 318, 319, 320	277, 278	
		211			
		212	181, 327	280	
		213	292, 325, 327, 327-1	280	
		214			
		215	222, 234	125, 128, 130	
		216	218, 220	125, 136	
		217			
		218			
		219	283	398	
		220	283	398	
		221	322	322	
		222		288	
		223	322	322	
		224	306, 307	243, 305	
		225	296, 309	306	
		226	296, 309	308	
		227	316	310	
		228			
	229	313	316, 317		
	230	204, 290	385, 386, 388, 388-1		
	231	313	316, 317		
	232		224		
	233				
	234				
		2. Crimes Committed in Course of Official Duty by Management Personnel	235	285	397
			236	286	397
			237	293	397
			238		387
	239			399	

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code
		240		
		241	301	245
		242	299, 302	247
		243	300	399, 400
		244	305	399
		245	315	401
		246		293, 294
		247		292
		248	150	262-2
		249	240	359, 360
		250		301
		251	288	279
		252	288	279
		253		
		254		
		255	171-2	303
		256		300
		257		258
		258	125, 156	261
		259		
		260	117	260
		261		270
		262		
		263	175	312
		264	244	328
		265	125	
		266	105	232
		267	105	232
		268	107	
		269	108	
		270	109	233
		271	111	234
		272	113	
		273	118	235
		274	115	234
		275	116	
		276	127	238
		277	126	262
		278	126	240
8. Crimes of Violating the Regulations for Socialist Collective Life				
9. Crimes of Impairing the Lives and Private Property of Citizens	1. Crimes of Impairing Life, Health and Character			

Chapter	Section	2012 DPRK Code	2012 Russian Code	2011 PRC Code
		279	131	236
		280		
		281	134	236
		282		246
	2. Crimes of Encroaching on Private Property	283	158	264
		284	161	264
		285	159	266
		286	160	270
		287		264, 266, 270
		288	162	263
		289	161	267, 268
		290	167	275

July 2015 DPRK Code<sup>798</sup> (vs. 2015 Russian Code<sup>799</sup> and 2011 PRC Code<sup>800</sup>)

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
3. Crimes against the State and the Nation	1. Crimes against the State	60	278, 279	105
		61	205, 277	
		62	280	105
		63	275	108, 109
		64	276	111
		65		
		66		107
	2. Crimes against the Nation	67		
		68		
		69		
	3. Crimes of Harboring, Failing to Report and Neglecting a Crime	70		
		71		
		72		
		73		

<sup>798</sup> The DPRK penal code amended on July 22, 2015.

<sup>799</sup> The 1996 Russian penal code as amended up to March 30, 2015.

<sup>800</sup> The PRC penal code amended on February 25, 2011.

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
	against the State or the Nation			
4. Crimes of Violating the Regulations for Administration of National Defense		74		
		75		
		76		
		77	222	125, 128
		78	346	369
		79	347	
		80		
		81		368
		82	225, 348	
		83	222	375
		84		380
		85		370
		86		375
		87	328	376
		88		379
		89		372
	5. Crimes of Encroaching on the Socialist Economic System	1. Crimes of Encroaching on the State Property or the Property of Social or Cooperative Organizations	91	
92				
93				
94				271-1, 382, 384
95				382, 384
96				
97				
98				
99				115
100				115
2. Crimes of Violating Economic Regulations		101	186	170, 172
		102	186	178
		103	187	177
		104		
		105		
		106		
		107	193	190
		108		
109	198, 199	201		
110	198, 199	201		

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
		111		
		112		
		113		175
		114		
		115		
		116		
		117	180	213, 214, 215
		118	191	
		119		151, 152, 153, 154, 155, 156, 157
		120		151, 152, 153, 154, 155, 156, 157
		121		167, 406
		122		
		123		
		124	263, 271	116, 132
		125	268	133
		126		117
		127		
		128		167, 224, 406
		129		
		130	222-1	136
		131		
		132		
		133		
		134		
		135		
		136		168
		137		
		138		414
		139		
		140		
		141		137
		142		
		143		
		144		
		145		
		146		

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code	
		147			
		148	249	330	
		149			
		150			
		151			
		152		140	
		153			
		154			
		155			
		156			
		157			
		158			
		159			
		160	270		
		161			
	162				
	163				
	3. Crimes of Violating the Regulations for Land Administration and Environmental Protection	164			342
		165			
		166	255		343
		167	255		343
		168	260		345
		169	260		345
		170	261		115
		171	260		
		172	256, 257		340
		173	246, 251, 252		338
4. Crimes of Violating the Regulations for Labor Administration	174				
	175				
	176			135	
	177	143		134	
	178			139	
	179	264, 265		133, 133-1	
6. Crimes of Impairing the Socialist Culture	180				
	181			244-1	
	182				
		183	242, 242-1	363, 364	
		184		301, 365	
		185			

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
		186	243	324
		187	243	324
		188	243	328
		189	190	325, 326, 327
		190		
		191	146, 147	217
		192	272	285
		193		286
		194		286
		195		418
		196		
		197		
		198		335
		199	124	335
		200	235	336
		201	238	142
		202	238, 238-1	141, 144
		203	236	330, 409
		204	236	413
		205		234-1, 333, 334
		206	228, 228-1, 231	347, 351
		207		
		208	188, 228-2	347
		209	212	290, 291
		210	317, 318, 319, 320	277, 278
		211		
		212	181, 327	280
		213	292, 325, 327, 327-1	280
		214		
		215	222, 222-1, 234	125, 128, 130
		216	218, 220, 222-1	125, 136
		217		
		218		
		219	283	398
		220	283	398
7. Crimes of Violating the Regulations for General Administration and Management of the State	1. Crimes of Violating the Regulations for General Administration of the State			

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
		221	322	322
		222		288
		223	322	322
		224	306, 307	243, 305
		225	296, 309	306
		226	296, 309	308
		227	316	310
		228		
		229	313	316, 317
		230	204, 290	385, 386, 388, 388-1
		231		
		232		224
		233		
		234		
	2. Crimes Committed in Course of Official Duty by Management Personnel	235	285	397
		236	286	397
		237	293	397
		238		387
		239		399
		240		
		241	301	245
		242	299, 302	247
		243	300	399, 400
		244	305	399
245	315	401		
8. Crimes of Violating the Regulations for Socialist Collective Life	246		293, 294	
	247		292	
	248	150	262-2	
	249	240	359, 360	
	250		301	
	251	288	279	
	252	288	279	
	253			
	254			
	255	171-2	303	
	256		300	
	257		258	
	258	125, 156	261	

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
		259		
		260	117	260
		261		270
		262		
		263	175	312
		264	244	328
		265	125	
9. Crimes of Impairing the Lives and Private Property of Citizens	1. Crimes of Impairing Life, Health and Character	266	105	232
		267	105	232
		268	107	
		269	108	
		270	109	233
		271	111	234
		272	113	
		273	118	235
		274	115	234
		275	116	
		276	127	238
		277	126	262
		278	126	240
		279	131	236
	280			
	281	134	236	
	282	128-1	246	
	2. Crimes of Encroaching on Private Property	283	158	264
		284	161	264
		285	159	266
286		160	270	
287			264, 266, 270	
288		162	263	
289		161	267, 268	
290		167	275	
10. Crimes of Money Laundering and Terrorist Financing		291	174, 174-1,	191
		292	175	191
		293		191
		294		191
		295		
		296	205-1	120-1
		297		191

Chapter	Section	2015 DPRK Code	2012 Russian Code	2011 PRC Code
		298		191
		299		
		300		191

## Appendix 5. Corresponding Provisions in the Special Part in the Penal Codes of the DPRK and Russia (formerly the RSFSR) and the PRC<sup>801</sup>

Comparison with the Russian Penal Code					Comparison with the PRC Penal Code				
DPRK Penal Code	Category of Crimes	Total Provisions	Corresponding Provisions	Portion	DPRK Penal Code	Category of Crimes	Total Provisions	Corresponding Provisions	Portion
1949 Draft (vs. 1949 RSFSR)	<b>Economic</b>	25	22	<b>88.0%</b>	N/A				
	Non-economic	143	126	88.1%					
	Total	168	148	88.1%					
1950 (vs. 1949 RSFSR)	<b>Economic</b>	64	50	<b>78.1%</b>					
	Non-economic (& non-military)	137	119	86.9%					
	Total	201	169	84.1%					
1974 (vs. 1974 RSFSR)	<b>Economic</b>	51	31	<b>60.8%</b>					
	Non-economic (& non-military)	79	57	72.2%					
	Total	130	88	67.7%					
1987 (vs. 1986 RSFSR)	<b>Economic</b>	48	30	<b>62.5%</b>					
	Non-economic	70	53	75.7%	Non-economic	70	36	51.4%	
	Total	118	83	70.3%	Total	118	54	45.8%	
1999 (vs. 1999 Russia)	<b>Economic</b>	48	21	<b>43.8%</b>	1999 (vs. 1997 PRC)	<b>Economic</b>	48	23	<b>47.9%</b>
	Non-economic	70	52	74.3%		Non-economic	70	48	68.6%
	Total	118	73	61.9%		Total	118	71	60.2%
2004	<b>Economic</b>	112	35	<b>31.3%</b>	2004	<b>Economic</b>	112	43	<b>38.4%</b>

<sup>801</sup> Codes in this appendix are same as the ones in Appendix 4.

(vs. 2004 Russia)	Non-economic	133	78	58.6%	(vs. 2002 PRC)	Non-economic	133	93	69.9%
	Total	245	113	46.1%		Total	245	136	55.5%
July 2009 (vs. 2009 Russia)	<b>Economic</b>	116	36	<b>31.0%</b>	2009 (vs. 2009 PRC)	<b>Economic</b>	116	48	<b>41.4%</b>
	Non-economic	136	79	58.1%		Non-economic	136	93	68.4%
	Total	252	115	45.6%		Total	252	141	56.0%
May 2012 (vs. 2012 Russia)	<b>Economic</b>	100	29	<b>29.0%</b>	2012 (vs. 2011 PRC)	<b>Economic</b>	100	46	<b>46.0%</b>
	Non-economic	131	76	58.0%		Non-economic	131	92	70.2%
	Total	231	105	45.5%		Total	231	138	59.7%
July 2015 (vs. 2015 Russia)	<b>Economic</b>	109	32	<b>29.4%</b>	2015 (vs. 2011 PRC)	<b>Economic</b>	109	53	<b>48.6%</b>
	Non-economic	132	77	58.3%		Non-economic	132	92	69.7%
	Total	241	109	45.2%		Total	241	145	60.2%

## Appendix 6. Provisions on Economic Crimes Punishable by Death or up to Life Imprisonment in the DPRK Penal Code

Penal Code	Crimes Punishable by Death	Crimes Punishable by up to Life Imprisonment
1950	106 (Stealing of State or the Property of Social or Cooperative Organizations on an Especially Large Scale) 150 (Robbery of Private Property) 164 (Intentional Destruction or Damaging of Private Property of Citizens)	-
1974	72 (Stealing of State Property or the Property of Social or Cooperative Organizations on a Particularly Large Scale or Stealing of Particularly Important Property of the State or Social or Cooperative Organizations) 74 (Robbery of State Property or the Property of Social or Cooperative Organizations, Committed by Open Stealing) 77 (Currency Counterfeiting and Use of Counterfeit Currency) 82 (Destruction of Facilities and Equipment of National Importance) 83 (Destruction of Transportation Facilities) 84 (Violation of Regulations for Railroad, Water, and Air Transportation) 179 (Robbery of Private Property)	-
1987 / 1999	-	-
2004	-	94 (Extremely Serious Form of Stealing State Property) 302 (Robbery of Private Property)
July 2009	94 (Extremely Serious Form of Stealing State Property) 95 (Robbery of State Property or the Property of Social or Cooperative Organizations, Committed by Open Stealing) 97 (Extremely Serious Form of Intentional Destruction of State Property) 99 (Currency Counterfeiting) 115 (Smuggling and Illegal Trafficking of Precious and Non-Ferrous Metals) 302 (Robbery of Private Property)	121 (Violation of Regulations for Railroad, Water, and Air Transportation) 301 (Extremely Serious Form of Stealing of Private Property)

	Addenda 8 (Smuggling of National Resources) Addenda 18 (Robbery of Private Property)	
May 2012 / July 2015	Addenda 2 (Extremely Serious Form of Stealing State Property) Addenda 3 (Extremely Serious Form of Robbery of State Property) Addenda 4 (Extremely Serious Form of Intentional Destruction of State Property) Addenda 5 (Extremely Serious Form of Currency Counterfeiting) Addenda 6 (Extremely Serious Form of Smuggling and Illegal Trafficking of Precious and Non-Ferrous Metals) Addenda 10 (Extremely Serious Form of Robbery of Private Property)	-

## Appendix 6-1. Crimes Punishable by Death in the DPRK Penal Code

Penal Code	Economic Crimes			Non-Economic Crimes			Total
	Crimes Against State Property and The Property of Social or Cooperative Organization <sup>802</sup>	Other Economic Crimes	Sum	Crimes Against the State and the Nation <sup>803</sup>	Other Non-Economic Crimes	Sum	
1950	1 (11.1%)	2 (3.6%)	3 (4.7%)	10 (55.6%)	9 (7.6%)	19 (14.1%)	22 (11.1%)
1974	2 (20.0%)	5 (12.2%)	7 (13.7%)	13 (81.3%)	5 (7.9%)	18 (22.8%)	25 (19.2%)
1987	-	-	-	4 (33.3%)	1 (1.7%)	5 (7.1%)	5 (4.2%)
1999	-	-	-	4 (33.3%)	1 (1.7%)	5 (7.1%)	5 (4.2%)
2004	-	-	-	4 (28.6%)	1 (0.8%)	5 (3.8%)	5 (2.0%)
July 2009	3 (30.0%)	5 (3.3%)	8 (5.2%)	5 (35.7%)	8 (2.5%)	13 (5.9%)	22 (5.6%)
May 2012	3 (30.0%)	3 (3.0%)	6 (6.0%)	5 (35.7%)	6 (5.1%)	11 (8.4%)	18 (7.8%)
July 2015	3 (30.0%)	3 (2.7%)	6 (5.5%)	5 (35.7%)	6 (5.1%)	11 (8.4%)	18 (7.4%)

<sup>802</sup> Hereinafter “crimes against state property” throughout the appendices unless otherwise indicated.

<sup>803</sup> Hereinafter “crimes against the state” throughout the appendices unless otherwise indicated.

## Appendix 6-2. Crimes Punishable by Up To Life Imprisonment in the DPRK Penal Code<sup>804</sup>

Penal Code	Economic Crimes			Non-Economic Crimes			Total
	Crimes Against State Property	Other Economic Crimes	Sum	Crimes Against the State	Other Non-Economic Crimes	Sum	
1950	-	-	-	-	-	-	-
1974	-	-	-	-	-	-	-
1987	-	-	-	-	-	-	-
1999	-	-	-	-	-	-	-
2004	1 (10.0%)	1 (1.0%)	2 (1.8%)	1 (7.1%)	5 (4.2%)	6 (4.5%)	8 (3.3%)
July 2009	-	2 (1.9%)	2 (1.7%)	1 (7.1%)	1 (0.8%)	2 (1.5%)	4 (1.6%)
May 2012	-	-	-	-	-	-	-
July 2015	-	-	-	-	-	-	-

<sup>804</sup> Life imprisonment was not provided in the DPRK penal code before 2004.

## Appendix 7. Average Maximum Sentence for Crimes Not Punishable by Death or Life Imprisonment in the DPRK Penal Code

Penal Code	Economic crimes			Non-economic crimes			Average for Total Crimes
	Crimes Against State Property	Other Economic Crimes	Average	Crimes Against the State	Other Non-economic Crimes	Average	
1950	9.7	3.1	4.1	20.0	5.4	6.1	5.5
1974	7.6	4.3	4.9	12.3	4.2	4.6	4.7
1987	8.7	3.4	4.5	7.4	4.1	4.7	4.6
1999	8.7	3.6	4.7	7.4	4.1	4.7	4.7
2004	12.2	4.2	4.9	10.6	4.5	5.0	4.9
July 2009	13.9	4.2	4.8	10.6	5.2	5.5	5.1
May 2012	6.7	2.6	3.0	10.6	3.2	3.8	3.5
July 2015	6.7	3.0	3.3	10.6	4.0	4.4	3.9
Average	9.3	3.6	4.3	11.2	4.3	4.9	4.6

## Appendix 8. Changes in Sentence in Each Amendment to the DPRK Penal Code

Code	Category of Crimes	Subcategory	Deleted Provisions	Not Changed	Modified But Sentence Unchanged	Maximum Sentence Increased	Maximum Sentence Decreased	Cannot Decide	Total Provisions
1950 (in 1974 Amendment)	Economic	Crimes Against State Property	2 (22.20%)	-	-	4 (44.40%)	3 (33.30%)	-	9
		Other Economic Crimes	31 (56.40%)	-	1 (1.80%)	17 (30.90%)	6 (10.90%)	-	55
		<b>Total Economic Crimes</b>	<b>33 (51.60%)</b>	-	<b>1 (1.60%)</b>	<b>21 (32.80%)</b>	<b>9 (14.10%)</b>	-	<b>64</b>
	Non-Economic	Crimes Against the State	5 (27.80%)	-	-	13 (72.20%)	-	-	18
		Other Non-Economic Crimes	45 (38.50%)	-	2 (1.70%)	39 (33.30%)	69 (59.00%)	-	117
		<b>Total Non-Economic Crimes</b>	<b>50 (37.00%)</b>	-	<b>2 (1.50%)</b>	<b>52 (38.50%)</b>	<b>69 (51.10%)</b>	-	<b>135</b>
1974 (in 1987 Amendment)	Economic	Crimes Against State Property	-	-	-	-	10 (100%)	-	10
		Other Economic Crimes	3 (7.30%)	1 (2.40%)	1 (2.40%)	10 (24.40%)	26 (63.40%)	-	41
		<b>Total Economic Crimes</b>	<b>3 (5.90%)</b>	<b>1 (2.00%)</b>	<b>1 (2.00%)</b>	<b>10 (19.60%)</b>	<b>36 (70.60%)</b>	-	<b>51</b>
	Non-Economic	Crimes Against the State	4 (25.00%)	-	-	-	12 (75.00%)	-	16
		Other Non-Economic Crimes	4 (6.30%)	5 (7.90%)	-	6 (9.50%)	45 (71.40%)	-	63
		<b>Total Non-Economic Crimes</b>	<b>8 (10.10%)</b>	<b>5 (6.30%)</b>	-	<b>6 (7.60%)</b>	<b>57 (72.20%)</b>	-	<b>79</b>

Code	Category of Crimes	Subcategory	Deleted Provisions	Not Changed	Modified But Sentence Unchanged	Maximum Sentence Increased	Maximum Sentence Decreased	Cannot Decide	Total Provisions
1987 (in 1999 Amendment)	Economic	Crimes Against State Property	-	10 (100%)	-	-	-	-	10
		Other Economic Crimes	-	34 (89.50%)	1 (2.60%)	3 (7.90%)	-	-	38
		<b>Total Economic Crimes</b>	-	<b>44 (91.70%)</b>	<b>1 (2.10%)</b>	<b>3 (6.30%)</b>	-	-	<b>48</b>
	Non-Economic	Crimes Against the State	-	7 (58.30%)	2 (16.70%)	-	-	-	12
		Other Non-Economic Crimes	1 (1.70%)	55 (94.80%)	1 (1.70%)	2 (3.40%)	2 (3.40%)	-	58
		<b>Total Non-Economic Crimes</b>	<b>1 (1.60%)</b>	<b>62 (98.40%)</b>	<b>3 (4.80%)</b>	<b>2 (3.20%)</b>	<b>2 (3.20%)</b>	-	<b>70</b>
1999 (in 2004 Amendment)	Economic	Crimes Against State Property	-	-	-	9 (90.00%)	1 (10.00%)	-	10
		Other Economic Crimes	1 (2.60%)	1 (2.60%)	-	24 (63.20%)	8 (21.10%)	3 (7.90%)	38
		<b>Total Economic Crimes</b>	<b>1 (2.10%)</b>	<b>1 (2.10%)</b>	-	<b>33 (68.80%)</b>	<b>9 (18.80%)</b>	<b>3 (6.30%)</b>	<b>48</b>
	Non-Economic	Crimes Against the State	-	2 (16.70%)	1 (8.30%)	-	-	-	12
		Other Non-Economic Crimes	-	3 (5.20%)	-	36 (62.10%)	26 (44.80%)	2 (3.40%)	58
		<b>Total Non-Economic Crimes</b>	-	<b>5 (7.10%)</b>	<b>1 (1.40%)</b>	<b>36 (51.40%)</b>	<b>26 (37.10%)</b>	<b>2 (2.90%)</b>	<b>70</b>
2004 (in July 2009)	Economic	Crimes Against State Property	-	4 (40.00%)	1 (10.00%)	5 (50.00%)	-	-	10

Code	Category of Crimes	Subcategory	Deleted Provisions	Not Changed	Modified But Sentence Unchanged	Maximum Sentence Increased	Maximum Sentence Decreased	Cannot Decide	Total Provisions
Amendment)		Other Economic Crimes	3 (2.90%)	56 (54.90%)	11 (10.80%)	22 (21.60%)	10 (9.80%)	-	102
		<b>Total Economic Crimes</b>	<b>3 (2.70%)</b>	<b>60 (53.60%)</b>	<b>12 (10.70%)</b>	<b>27 (24.10%)</b>	<b>10 (8.90%)</b>	-	<b>112</b>
	Non-Economic	Crimes Against the State	-	13 (92.90%)	-	1 (7.10%)	-	-	14
		Other Non-Economic Crimes	-	55 (46.20%)	32 (26.90%)	27 (22.70%)	4 (3.40%)	1 (0.80%)	119
		<b>Total Non-Economic Crimes</b>	-	<b>68 (51.10%)</b>	<b>32 (24.10%)</b>	<b>28 (21.10%)</b>	<b>4 (3.00%)</b>	<b>1 (0.80%)</b>	<b>133</b>
July 2009 (in May 2012 Amendment)	Economic	Crimes Against State Property	1 (10.00%)	1 (10.00%)	-	-	8 (80.00%)	-	10
		Other Economic Crimes	17 (16.00%)	1 (0.90%)	-	4 (3.80%)	84 (79.20%)	-	106
		<b>Total Economic Crimes</b>	<b>18 (15.70%)</b>	<b>2 (1.70%)</b>	-	<b>4 (3.50%)</b>	<b>92 (80.00%)</b>	-	<b>116</b>
	Non-Economic	Crimes Against the State	-	12 (85.70%)	-	-	2 (14.30%)	-	14
		Other Non-Economic Crimes	11 (9.10%)	7 (5.80%)	1 (0.80%)	4 (3.30%)	62 (51.20%)	-	122
		<b>Total Non-Economic Crimes</b>	<b>11 (8.10%)</b>	<b>19 (14.10%)</b>	<b>1 (0.70%)</b>	<b>4 (3.00%)</b>	<b>101 (74.80%)</b>	-	<b>136</b>
May 2012 (in July 2015 Amendment)	Economic	Crimes Against State Property	-	9 (90.00%)	1 (10.00%)	-	-	-	10
		Other Economic Crimes	1 (1.10%)	76 (84.40%)	5 (5.60%)	8 (8.90%)	-	-	90

Code	Category of Crimes	Subcategory	Deleted Provisions	Not Changed	Modified But Sentence Unchanged	Maximum Sentence Increased	Maximum Sentence Decreased	Cannot Decide	Total Provisions
		<b>Total Economic Crimes</b>	<b>1 (1.00%)</b>	<b>85 (85.00%)</b>	<b>6 (6.00%)</b>	<b>8 (8.00%)</b>	-	-	<b>100</b>
	Non-Economic	Crimes Against the State	-	14 (100%)	-	-	-	-	14
		Other Non-Economic Crimes	2 (1.70%)	99 (84.60%)	2 (1.70%)	14 (12.00%)	-	-	117
		<b>Total Non-Economic Crimes</b>	<b>2 (1.50%)</b>	<b>113 (86.30%)</b>	<b>2 (1.50%)</b>	<b>14 (10.70%)</b>	-	-	<b>131</b>

## Appendix 9. Comparison of Punishment for Crimes Against State Property and Private Property

Penal Code <sup>805</sup>	Object of Crime	Theft (secret stealing)	Open Stealing	Swindling	Embezzlement	Any of the Left Four with Special Aggravating Circumstances	Extortion	Robbery	Intentional Destruction	Crimes Punishable by Death	Crimes Punishable by up to Life Imprisonment	Average Maximum Sentence <sup>806</sup>
1950 DPRK Code	State Property	8	15	5	20	Death	-	Death	8	2	0	11.2
	Private Property	4	7	2	2	8	5	Death	7	1	0	5
1949 RSFSR Code	State Property	5	-	5	10	-	-	Death	5	1	0	6.3
	Private Property	2	5	2	2	-	3	Death	10	1	0	4.0
1974 DPRK Code	State Property	10	10	5	10	Death	-	Death	8	2	0	8.6
	Private Property	8	5	4	2	10	-	Death	2	1	0	5.2
1974 RSFSR Code	State Property	15	15	15	15	Death	4	15	10	1	0	12.7
	Private Property	10	10	10	-	-	3	15	8	0	0	9.3
1987 DPRK Code	State Property	8	8	5	8	15	-	Death	15	1	0	9.8
	Private Property	5	6	4	2	10	-	15	2	0	0	6.3

<sup>805</sup> Codes in this appendix are same as the ones in Appendix 4.

<sup>806</sup> For crimes not punishable by death or life imprisonment.

1986 RSFSR Code	State Property	15	15	15	15	Death	4	15	10	1	0	12.7
	Private Property	10	10	10	-	-	3	15	8	0	0	9.3
1979 PRC Code	State Property	5	5	5	Death	15	7	Death	3	2	0	6.7
	Private Property	5	5	5	-	15	7	Death	3	1	0	6.7
1999 DPRK Code	State Property	8	8	5	8	15	-	Death	15	1	0	9.8
	Private Property	5	6	4	2	10	-	15	2	0	0	6.3
1999 Russian Code	State Property	10	12	10	10	15	15	15	5	0	0	11.5
	Private Property	No distinction										
1997 PRC Code	State Property	Life <sup>807</sup>	Life	Life	Death	Death	10	Death	7	3	3	8.5
	Private Property	No distinction			5	No distinction				2	3	7.3
2004 DPRK Code	State Property	15	15	15	15	Life	15	Life	Life	0	3	15
	Private Property	10	12	10	10	15	12	Life	10	0	1	11.3
2004 Russian Code	State Property	10	12	10	10	15	15	15	5	0	0	11.5
	Private Property	No distinction										
	State Property	Life	Life	Life	Death	Death	10	Death	7	3	3	8.5

<sup>807</sup> Life imprisonment.

2002 PRC Code	Private Property	No distinction				5	No distinction				2	3	7.3
July 2009 DPRK Code	State Property	15	15	15	15	Death	15	Death	Death	3	0	15	
	Private Property	10	12	10	10	Life	12	Life	10	0	2	10.7	
2009 Russian Code	State Property	10	12	10	10	15	15	15	5	0	0	11.5	
	Private Property	No distinction											
2009 PRC Code	State Property	Life	Life	Life	Death	Death	10	Death	7	3	3	8.5	
	Private Property	No distinction				5	No distinction				2	3	7.3
May 2012 DPRK Code	State Property	9	10	8	10	Death	-	Death	Death	3	0	9.3	
	Private Property	8	10	7	9	15	-	Death	10	1	0	9.8	
2012 Russian Code	State Property	10	12	10	10	15	15	15	5	0	0	11.5	
	Private Property	No distinction											
2011 PRC Code	State Property	Life	Life	Life	Death	Death	15	Death	7	3	3	11	
	Private Property	No distinction				5	No distinction				2	3	9.0
July 2015 DPRK Code	State Property	9	10	8	10	Death	-	Death	Death	3	0	9.3	
	Private Property	8	10	7	9	15	-	Death	10	-	0	9.8	
	State Property	10	12	10	10	15	15	15	5	0	0	11.5	

2015 Russian Code	Private Property	No distinction										
2011 PRC Code	State Property	Life	Life	Life	Death	Death	15	Death	7	3	3	11
	Private Property	No distinction			5	No distinction				2	3	9.0

## Appendix 10. Number of Records of (Former) Socialist States in East Asia in the United Nations Treaty Series Cumulative Index<sup>808</sup>

Issue No.	Registration Period	The DPRK	The PRC	Viet Nam <sup>809</sup>	Lao PDR <sup>810</sup>	Mongolia <sup>811</sup>
51–54	Oct. 1, 2010–Mar. 20, 2013	3	92	55	18	23
46–50	July 16, 2007–Oct. 21, 2010	5	111	70	27	20
41–45	Dec. 1, 2002–July 16, 2007	4	152	57	35	32
36–40	Dec. 11, 199–Dec. 6, 2002	3	184	75	24	42
31–35	Jan. 1, 1993–Dec. 11, 1996	1	175	43	16	29
26–30	Jan. 21, 1987–Dec. 31, 1992	7	188	11	17	14
19–25	Aug. 8, 1978–Jan. 21, 1987	48	278	82	44	46
13–18	Nov. 11, 1971–Aug. 8, 1978	15	69	25	14	75
6–12	Jan. 17, 1963–Nov. 9, 1971	2	7	2	-	83
1–5	Dec. 14, 1946–Jan. 17, 1963	19	26	11	-	21
Total		107	1282	431	195	385

<sup>808</sup> UNITED NATIONS, UNITED NATIONS TREATY SERIES CUMULATIVE INDEX, <https://treaties.un.org/PAGES/CumulativeIndexes.aspx?clang=en> (last visited July 29, 2019); This index contains status of each country in a variety of treaties (and agreements, protocols, regulations, declarations, and so forth). It relies on ‘voluntary’ reporting of the member states and thus is not comprehensive. However, not many treaties or other agreements are likely missing because 1) a country’s status in multilateral treaties are in most cases completely disclosed and 2) bilateral or plurilateral treaties are listed if any of the party states reports the treaty to the United Nations.

<sup>809</sup> The Democratic Republic of Vietnam before the collapse of Republic of Vietnam in 1975.

<sup>810</sup> Lao People’s Democratic Republic, or Lao PDR, became a socialist state in December 1975.

<sup>811</sup> Socialist state was abandoned in Mongolia on February 13, 1992.

## Appendix 11. Status of (Former) Socialist States in East Asia in Major International Treaties Against Crime, Drugs, and Terrorism

Category	Subcategory	Treaty	The Year of Joining the Treaty				
			The DPRK	The PRC	Viet Nam	Lao PDR	Mongolia
Crime-related treaties	Transnational Organized Crime	<b>1. United Nations Convention against Transnational Organized Crime, 2000</b>	<b>2016</b>	2003	2012	2003	2008
		2. A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)	-	2010	2012	2003	2008
		3. B Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000)	-	-	-	2003	2008
		4. C Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (2001)	-	-	-	2003	-
	Corruption	5. UN Convention against Corruption, 2003	-	2006	2009	2009	2006
Drug-related treaties		<b>1. Single Convention on Narcotic Drugs, 1961</b>	<b>2007</b>	1985	1997	2009	1991
		<b>2. Convention on Psychotropic Substances of 1971</b>	<b>2007</b>	1985	1997	1997	1999

		<b>3. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988</b>	<b>2007</b>	1989	1997	2004	2003
Terrorism-related treaties	Instruments regarding civil aviation (administered by the International Civil Aviation Organization (ICAO))	1. 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft	<b>1983</b>	1979	1980	1973	1990
		2. 1970 Convention for the Suppression of Unlawful Seizure of Aircraft	<b>1983</b>	1980	1979	1989	1971
		3. 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	<b>1980</b>	1980	1979	1989	1972
		4. 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	<b>1995</b>	1999	1999	2002	1999
		5. 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation	-	-	-	-	-
		6. 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft	-	-	-	-	-
		7. 2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft	-	-	-	-	-
	Instrument regarding the protection of international staff	<b>8. 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons</b>	<b>1982</b>	1987	2002	2002	1975

	Instrument regarding the taking of hostages	<b>9. 1979 International Convention against the Taking of Hostages</b>	<b>2001</b>	1993	2014	2002	1992
	Instruments regarding the nuclear material (administered by International Atomic Energy Agency)	10. 1980 Convention on the Physical Protection of Nuclear Material	-	1989	2012	2010	1987
		11. 2005 Amendments to the Convention on the Physical Protection of Nuclear Material <sup>812</sup>	-	2009	2012	-	-
	Instruments regarding the maritime navigation (administered by International Maritime Organization)	12. 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	-	1992	2002	2012	2006
		13. 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	-	-	-	-	-
		14. 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf	-	1992	2002	2012	2006
		15. 2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf	-	-	-	-	-
	Instrument regarding	16. 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection	-	-	-	2017	1999

<sup>812</sup> This amendment came into effect in 2016 and thus the years of ratification or acceptance are displayed instead of the years when the said treaty came into force in respective countries.

	explosive materials (administered by ICAO)						
	Instrument regarding terrorist bombings	17. 1997 International Convention for the Suppression of Terrorist Bombings	-	2001	2014	2002	2000
	Instrument regarding the financing of terrorism	<b>18. 1999 International Convention for the Suppression of the Financing of Terrorism</b>	<b>2013</b>	2006	2002	2008	2004
	Instrument regarding nuclear terrorism	19. 2005 International Convention for the Suppression of Acts of Nuclear Terrorism	-	2010	2016	-	2006

## Appendix 12. Status of (Former) Socialist States in East Asia<sup>813</sup> in the Treaties Administered by the World Intellectual Property Organization (WIPO)

### 1. Convention Establishing WIPO

Treaty	Date of Adoption / Entry into force	Contracting Parties <sup>814</sup>	Entry into force of the Treaty for the Contracting Party				
			The DPRK	The PRC	Viet Nam	Lao PDR	Mongolia
WIPO Convention <sup>815</sup>	July 14, 1967 / April 26, 1970	192	August 17, 1974	June 3, 1980	July 2, 1976	January 17, 1995	February 28, 1979

### 2. Treaties on IP Protection<sup>816</sup>

Treaty	Date of Adoption / Entry into force	Contracting Parties <sup>817</sup>	Entry into force of the Treaty for the Contracting Party				
			The DPRK	The PRC	Viet Nam	Lao PDR	Mongolia
Paris Convention <sup>818</sup>	March 20, 1883 / July 7, 1884	196 <sup>819</sup>	June 10, 1980	March 19, 1985	July 2, 1976	October 8, 1998	April 21, 1985

<sup>813</sup> Cambodia is excluded here because its one-party communist rule (Democratic Kampuchea) existed for too short a period—from 1976 to 1979—in the country.

<sup>814</sup> As of December 1, 2019.

<sup>815</sup> The Convention Establishing the World Intellectual Property Organization.

<sup>816</sup> This classification is according to the classification by WIPO. WIPO, WIPO-ADMINISTERED TREATIES, <https://www.wipo.int/treaties/en/> (last visited Aug. 1, 2019).

<sup>817</sup> As of December 1, 2019.

<sup>818</sup> The Paris Convention for the Protection of Industrial Property.

<sup>819</sup> According to the Stockholm Revision (1967) of the Paris Convention for the Protection of Industrial Property.

Berne Convention <sup>820</sup>	September 9, 1886 / December 4, 1887	187 <sup>821</sup>	April 28, 2003	October 15, 1992	October 26, 2004	March 14, 2012	March 12, 1998
Madrid Agreement <sup>822</sup> (Indications of Source)	April 14, 1891 / July 15, 1892	25 <sup>823</sup>	-	-	-	-	-
Rome Convention <sup>824</sup>	October 26, 1961 / May 18, 1964	93	-	-	March 1, 2007	-	March 1, 2007
Phonograms Convention <sup>825</sup>	October 29, 1971 / April 18, 1973	80	-	April 30, 1993	July 6, 2005	-	-
Satellites Convention <sup>826</sup>	May 21, 1974 / August 25, 1979	38	-	-	January 12, 2006	-	-

<sup>820</sup> The Berne Convention for the Protection of Literary and Artistic Works.

<sup>821</sup> According to the Paris Revision (1971) of the Berne Convention for the Protection of Literary and Artistic Works.

<sup>822</sup> The Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods.

<sup>823</sup> According to the Stockholm Revision (1967) of the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods.

<sup>824</sup> The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

<sup>825</sup> The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

<sup>826</sup> The Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite.

Nairobi Treaty <sup>827</sup>	September 26, 1981 / September 25, 1982	52	_828	-	-	-	August 25, 2002
Washington Treaty <sup>829</sup>	May 26, 1989 / not yet entered into force	3	-	-	-	-	-
Trademark Law Treaty	October 27, 1994 / August 1, 1996	54	-	_830	-	-	-
WIPO Copyright Treaty (WCT)	December 20, 1996 / March 6, 2002	103	-	June 9, 2007	-	-	October 25, 2002
WIPO Performances and Phonograms Treaty (WPPT)	December 20, 1996 / May 20, 2002	103	-	June 9, 2007	-	-	October 25, 2002
Patent Law Treaty	June 1, 2000 / April 28, 2005	42	August 22, 2018	-	-	-	-
Singapore Treaty on the Law of Trademarks	March 27, 2006 / March 16, 2009	50	September 13, 2016	_831	-	-	March 3, 2011

<sup>827</sup> The Nairobi Treaty on the Protection of the Olympic Symbol.

<sup>828</sup> The DPRK signed the treaty on June 28, 1983 but has not ratified it.

<sup>829</sup> The Washington Treaty on Intellectual Property in Respect of Integrated Circuits.

<sup>830</sup> The PRC signed the treaty on October 28, 1994 but has not ratified it.

<sup>831</sup> The PRC signed the treaty on January 29, 2007 but has not ratified it.

Beijing Treaty on Audiovisual Performances	June 24, 2012 / not yet entered into force	29 <sup>832</sup>	_833	_834	-	-	_835
Marrakesh VIP Treaty <sup>836</sup>	June 27, 2013 / Sept. 30, 2016	61	September 30, 2016 <sup>837</sup>	_838	-	-	September 30, 2016 <sup>839</sup>

### 3. Treaties on Global Protection System

Treaty	Date of Adoption / Entry into force	Contracting Parties <sup>840</sup>	Entry into force of the Treaty for the Contracting Party				
			The DPRK	The PRC	Viet Nam	Lao PDR	Mongolia

<sup>832</sup> The number of contracting parties that has either ratified or accessed the treaty. The treaty will enter into force three months after 30 eligible parties have deposited their instruments of ratification or accession. WIPO, SUMMARY OF THE BEIJING TREATY ON AUDIOVISUAL PERFORMANCES (2012), [https://www.wipo.int/treaties/en/ip/beijing/summary\\_beijing.html](https://www.wipo.int/treaties/en/ip/beijing/summary_beijing.html) (last visited Aug. 1, 2019).

<sup>833</sup> The DPRK ratified the treaty on February 19, 2016.

<sup>834</sup> The PRC ratified the treaty on July 9, 2014

<sup>835</sup> Mongolia signed the treaty on June 26, 2012 but has not ratified it.

<sup>836</sup> The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

<sup>837</sup> The DPRK ratified the treaty on February 19, 2016. The treaty entered into force on September 30, 2016, three months after 20 instruments of ratification or accession by eligible parties needed for entry into force were deposited on June 30, 2016. WIPO, SUMMARY OF THE MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED, OR OTHERWISE PRINT DISABLED (MVT) (2013), [https://www.wipo.int/treaties/en/ip/marrakesh/summary\\_marrakesh.html](https://www.wipo.int/treaties/en/ip/marrakesh/summary_marrakesh.html) (last visited Aug. 1, 2019).

<sup>838</sup> The PRC signed the treaty on June 28, 2013 but has not ratified it.

<sup>839</sup> Mongolia ratified the treaty on September 23, 2015.

<sup>840</sup> As of December 1, 2019.

Madrid Agreement (Marks) <sup>841</sup>	April 14, 1891 / July 15, 1892	56 <sup>842</sup>	June 10, 1980	October 4, 1989	July 2, 1976	-	April 21, 1985
Hague Agreement <sup>843</sup>	November 6, 1925 / June 1, 1928	73	May 27, 1992 <sup>844</sup>	-	September 30, 2019	-	April 12, 1997 <sup>845</sup>
Lisbon Agreement <sup>846</sup>	October 31, 1958 / September 25, 1966	30	January 4, 2005	-	-	-	-
Patent Cooperation Treaty (PCT)	June 19, 1970 / January 24, 1978	153	July 8, 1980	January 1, 1994	March 10, 1993	June 14, 2006	May 27, 1991
Madrid Protocol <sup>847</sup>	June 27, 1989 / December 1, 1995	106	October 3, 1996	December 1, 1995	July 11, 2006	March 7, 2016	June 16, 2001

<sup>841</sup> The Madrid Agreement Concerning the International Registration of Marks.

<sup>842</sup> According to the Stockholm Revision (1967) of the Madrid Agreement Concerning the International Registration of Marks.

<sup>843</sup> The Hague Agreement Concerning the International Registration of Industrial Designs.

<sup>844</sup> The DPRK later accessed the Geneva Revision (1999) of the treaty on June 13, 2016. The accession came into force on September 13, 2016. Both the 1999 Act and the 1960 Act of the Hague Agreement are currently in operation. WIPO, SUMMARY OF THE HAGUE AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS (1925), [https://www.wipo.int/treaties/en/registration/hague/summary\\_hague.html](https://www.wipo.int/treaties/en/registration/hague/summary_hague.html) (last visited Aug. 1, 2019).

<sup>845</sup> Mongolia later accessed the Geneva Revision (1999) of the treaty on October 19, 2007. The accession came into force on January 19, 2008.

<sup>846</sup> The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

<sup>847</sup> The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.

Budapest Treaty <sup>848</sup>	April 28, 1977 / August 19, 1980	82	February 21, 2002	July 1, 1995	-	-	-
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#### 4. Treaties on Global Protection System

Treaty	Date of Adoption / Entry into force	Contracting Parties <sup>849</sup>	Entry into force of the Treaty for the Contracting Party				
			The DPRK	The PRC	Viet Nam	Lao PDR	Mongolia
Nice Agreement <sup>850</sup>	June 15, 1957 / April 8, 1961	88	June 6, 1997	August 9, 1994	-	-	June 16, 2001
Strasbourg Agreement <sup>851</sup>	March 25, 1971 / October 7, 1975	62	November 21, 2002	June 19, 1997	-	-	March 16, 2002
Vienna Agreement <sup>852</sup>	June 12, 1973 / August 9, 1985	34	-	-	-	-	-
Locarno Agreement <sup>853</sup>	September 28, 1979 / November 23, 1981	57	June 6, 1997	September 19, 1996	-	-	June 16, 2001

<sup>848</sup> The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

<sup>849</sup> As of December 1, 2019.

<sup>850</sup> The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

<sup>851</sup> The Strasbourg Agreement Concerning the International Patent Classification.

<sup>852</sup> The Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks.

<sup>853</sup> The Locarno Agreement Establishing an International Classification for Industrial Designs.

## Appendix 13. Status of (Former) Socialist States in East Asia in Selected Multilateral Economic Treaties (As of December 1, 2019)

Treaty	Date of Adoption / Entry into force	Number of Contracting Parties <sup>854</sup>	Entry into force of the Treaty for the Contracting Party				
			The DPRK	The PRC	Viet Nam	Lao PDR	Mongolia
WTO Agreement <sup>855</sup>	April 15, 1994 / January 1, 1995	164 <sup>856</sup>	-	December 11, 2001	January 11, 2007	February 2, 2013	January 29, 1997
New York Convention <sup>857</sup>	June 10, 1958 / June 7, 1959	161 <sup>858</sup>	-	April 22, 1987	December 11, 1995	September 15, 1998	January 22, 1995
ICSID Convention <sup>859</sup>	March 18, 1965 / October 14, 1966	154 <sup>860</sup>	-	February 06, 1993	-	-	July 14, 1991
CISG <sup>861</sup>	April 11, 1980 / January 1, 1988	92 <sup>862</sup>	April 1, 2020	January 1, 1988	January 1, 2017	October 1, 2020	January 1, 1999

<sup>854</sup> As of December 1, 2019.

<sup>855</sup> The Marrakesh Agreement Establishing the World Trade Organization.

<sup>856</sup> WORLD TRADE ORGANIZATION, MEMBERS AND OBSERVERS, [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm) (last visited July 29, 2019).

<sup>857</sup> Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

<sup>858</sup> NEW YORK ARBITRATION CONVENTION, CONTRACTING STATES, <http://www.newyorkconvention.org/countries> (last visited July 29, 2019).

<sup>859</sup> Convention on the settlement of investment disputes between States and nationals of other States.

<sup>860</sup> INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES, DATABASE OF ICSID MEMBER STATES, <https://icsid.worldbank.org/en/Pages/about/Database-of-Member-States.aspx> (last visited July 29, 2019).

<sup>861</sup> The United Nations Convention on Contracts for the International Sale of Goods (CISG).

<sup>862</sup> UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL), STATUS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, [http://www.uncitral.org/uncitral/en/uncitral\\_texts/sale\\_goods/1980CISG\\_status.html](http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG_status.html) (last visited July 29, 2019).

## Appendix 14. Sub-Saharan African Countries That Established Diplomatic Relations with The Two Koreas<sup>863</sup>

Country	Diplomatic relations first established		Country	Diplomatic relations first established	
	The DPRK	The ROK		The DPRK	The ROK
Guinea	1958	1978	Botswana	1974 <sup>864</sup>	1968
Mali	1960	1990	Gabon	1974	1962
Uganda	1963	1963	Guinea-Bissau	1974	1984
Congo	1964	1963	Niger	1974	1961
Ghana	1964	1977	Kenya	1975	1964
Tanzania	1965	1992	Ethiopia	1975	1963
Burundi	1967	1991	Mozambique	1975	1993
Somalia	1967	1987	Liberia	1975	1964
Zambia	1969	1990	Cape Verde	1975	1988
Chad	1969	1961	São Tomé and Príncipe	1975	1988
Sudan	1969	1977	Comoros	1975	1979
Equatorial Guinea	1969	1979	Angola	1976	1992
Central African Republic	1969	1963	Nigeria	1976	1980
Sierra Leone	1971	1962	Seychelles	1976	1976
Cameroon	1972	1961	Zimbabwe	1980	1994
Rwanda	1972	1963	Lesotho	1980	1966
Senegal	1972	1962	Malawi	1982	1965
Burkina Faso	1972	1962	Côte d'Ivoire	1985	1961
Madagascar	1972	1962	Namibia	1990	1990
Democratic Republic of Congo	1972	1963	Djibouti	1993	1977
Togo	1973	1963	Eritrea	1993	1993
Benin	1973	1961	South Africa	1998	1992
Gambia	1973	1965	Eswatini	2007	1968
Mauritius	1973	1971	South Sudan	2011	2011

<sup>863</sup> Daniel Wertz, JJ Oh & Kim Insung, The National Committee on North Korea, *DPRK Diplomatic Relations*, (2016), [https://www.ncnk.org/sites/default/files/issue-briefs/DPRK\\_Diplo\\_Relations\\_August2016.pdf](https://www.ncnk.org/sites/default/files/issue-briefs/DPRK_Diplo_Relations_August2016.pdf) (last visited Sept. 15, 2019); MINISTRY OF FOREIGN AFFAIRS OF THE ROK, COUNTRIES & REGIONS, [http://www.mofa.go.kr/eng/wpge/m\\_4910/contents.do](http://www.mofa.go.kr/eng/wpge/m_4910/contents.do) (last visited Sept. 15, 2019).

<sup>864</sup> Botswana terminated diplomatic relations with the DPRK on February 20, 2014.

