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The Right to Survival in the Democratic People's Republic of Korea

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Abstract

For the past decade, the author has examined North Korean primary public documents and concludes that there have been changes of identities and ideas in the public discourse of human rights in the DPRK: from strong post-colonialism to Marxism-Leninism, from there to the creation of *Juche* as the state ideology and finally 'our style' socialism. This paper explains the background to Kim Jong Il's 'our style' human rights in North Korea: his broader framework, 'our style' socialism, with its two supporting ideational mechanisms, named 'virtuous politics' and 'military-first politics'. It analyses how some of these characteristics have disappeared while others have been reinforced over time. Marxism has significantly withered away since the end of the Cold War, and communism was finally deleted from the latest 2009 amended Socialist Constitution, whereas the concept of sovereignty has been strengthened and the language of duties has been actively employed by the authority almost as a relapse to the feudal Confucian tradition. The paper also includes some first-hand accounts from North Korean defectors interviewed in South Korea in October–December 2008. They show the perception of ordinary North Koreans on the ideas of human rights.

Keywords

North Korea; 'our style' human rights; military-first politics; virtuous politics; Confucianism

This paper seeks to discover the various sources of human rights ideas in the Democratic People's Republic of Korea (DPRK or North Korea) and analyse the socio-political outcomes in its domestic and foreign policies, especially after the end of the Cold War. Unknown to many people, the DPRK has been producing its own discourse on human rights since the end of the Second World War.¹ Presumably, the evolution of the North Korean understanding of

¹ Starting from the 1945 Programme of Action for People's Sovereignty, the authority enacted the 1946 Gender Equality Law, the 1946 Land Reform Law, the 1946 Regulation

human rights has taken a considerably different route from that of a Western society. Soon after the Japanese colonialists left Korea, the Soviet army arrived in North Korea. All Japanese remnants were denied and a new modern structure and institutions were built up under heavy Soviet military influence. Kim Il Sung, who became head of state, created his own ideology called *Chuch'e* which meant ideological self-reliance, economic self-sufficiency and military self-defence.² Kim Jong Il, the current leader and Kim Il Sung's son, developed this national ideology as 'our style' socialism along with 'virtuous politics' and 'military-first politics'. Beneath all this ideational transformation, the indigeneous political cultural traditions have played invisible but significant roles.

The concept of 'human rights' evolved from Western liberal ideas on personal life and property, and away from absolute power. The origins of liberal human rights are deeply related to the Lockean concept of personal liberty in an absolute monarchy, deeply rooted in Christianity³ and the tradition of positive law in Western countries. This liberal concept of the rights of man, in contrast to the rights of the citizen, was immediately challenged by conservatives like Edmund Burke or Thomas Hobbes. Karl Marx also denied the

for the Composition and Duties of Justice Ministry, Courts and Prosecution Offices, the 1946 Twenty-Point Party Platform, the 1946 Labour Law for Labourers and Office Workers and finally the 1948 People's Constitution, which all included provisions of human rights. The first Socialist Constitution in 1972 also contained the list of human rights and duties of citizens and the following amendments in 1992, 1998 and 2009 all allocated a section for rights and duties. The author examined the entire 47 volumes of *The Works of Kim Il Sung* and 13 of *The Selected Works of Kim Jong Il* as well as the monthly magazines of the Korean Workers' Party such as *Külloja* (Workers) and *Ch'öllima* (1,000-ri Horse) and the party's official newspaper, *Rodong Sinmun* (Workers' Daily) for her PhD and discovered a huge volume of North Korean primary documents on its own concepts of human rights.

² For a general history of the DPRK, see Dae-Sook Suh, *Korean Communism, 1945-1980: A Reference Guide to the Political System* (Honolulu: University Press of Hawai'i, 1981); Robert A. Scalapino and Chong-sik Lee, *Communism in Korea* (Berkeley: University of California Press, 1972); Dae-Sook Suh, *The Korean Communist Movement, 1918-1948* (Princeton, NJ: Princeton University Press, 1967); Dae-Sook Suh, *Kim Il Sung: The North Korean Leader* (New York: Columbia University Press, 1998); Bruce Cumings, *The Origins of the Korean War I: Liberation and the Emergence of Separate Regimes 1945-1947* (Princeton: Princeton University Press, 1981).

³ The role of Christianity was significant for the early formation of natural rights. See John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon, 1980); Micheline R. Ishay, *The History of Human Rights: From Ancient Times to the Globalisation Era* (Berkeley: University of California Press, 2004); Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1952); Jeremy Waldron, *Theories of Rights* (Oxford: Oxford University Press, 1984).

bourgeois concept of the rights of man as an egoistic individual.⁴ After the Second World War, these originally Western ideas of human rights have become internationalised and the debates have been more complex and sophisticated: civil/political rights vs socio-economic rights,⁵ universality⁶ vs cultural relativity,⁷ individual rights vs collective rights⁸ or rights vs duties.

⁴ Jeremy Waldron writes thought-provoking critiques of Bentham, Burke and Marx on rights. See Jeremy Waldron, *Nonsense upon Stilts: Bentham, Burke and Marx on the Rights of Man* (London: Methuen, 1987).

⁵ For the debate on the validity of socio-economic rights, see Maritain, *Man and the State*; Jean Rivero, *Human Rights, France and the United States of America* (New York: Center for the Study of Human Rights at Columbia University, 1984); Maurice Cranston, *What Are Human Rights?* (New York: Basic Books, 1964); Michael Freedon, *Rights* (Buckingham: Open University Press, 1991); Jack Donnelly, *Universal Human Rights in Theory and Practice*, second edition (Ithaca: Cornell University Press, 2003).

⁶ Jack Donnelly is the foremost proponent of the universality of human rights. See Neil Mitchell, Rhoda Howard and Jack Donnelly, 'Liberalism, human rights and human dignity', *American Political Science Review*, Vol. 81 (1987), pp. 924–927; Donnelly, *Universal Human Rights*; Jack Donnelly, *The Concept of Human Rights* (London: Croom Helm, 1985); Jack Donnelly, 'Human rights and Asian values: a defense of "Western" universalism', in Joanne R. Bauer and Daniel A. Bell (eds) *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999).

⁷ Dunne and Wheeler's book is a good start to understanding all major debates on contemporary human rights. An-Na'im suggests a constructive approach for cross-cultural dialogue. For more on cultural relativity, see A.J.M. Milne, *Human Rights and Human Diversity: An Essay in the Philosophy of Human Rights* (Albany, NY: State University of New York Press, 1986); Tim Dunne and Nicholas J. Wheeler, *Human Rights in Global Politics* (Cambridge: Cambridge University Press, 1999); Abdullahi Ahmed An-Na'im (ed.) *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992); James W. Nickel, 'Cultural diversity and human rights', in Jack L. Nelson and Vera M. Green (eds) *International Human Rights: Contemporary Issues* (Stanfordville, NY: Human Rights Publishing Group, 1980), pp. 43–56; James W. Nickel, *Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights* (Berkeley: University of California Press, 1987).

⁸ For collective rightists, see A.M. Honoré, 'Groups, laws, and obedience', in A.W.B. Simpson (ed.) *Oxford Essays in Jurisprudence* (Oxford: Oxford University Press, 1973), pp. 1–21; Michael McDonald, 'Should communities have rights? Reflections on liberal individualism', in Abdullahi Ahmed An-Na'im (ed.) *Human Rights in Cross-cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992), pp. 133–161. For communitarian idealists, see Richard E. Flathman, *The Practice of Rights* (Cambridge: Cambridge University Press, 1976); Thomas H. Green, 'Lectures on the principles of political obligation', in Paul Harris and John Morrow (eds) *T.H. Green Lectures on the Principles of Political Obligation and Other Writings* (Cambridge: Cambridge University Press, 1986); F.H. Bradley, *Ethical Studies* (London: Oxford University Press, 1927).

There was no room for Western liberal concepts or institutions of human rights in the DPRK. However, this does not mean that the DPRK's understanding of human rights is completely outside international debates on the concepts of human rights.

The paper first explains the background to Kim Jong Il's 'our style' human rights with its two supporting ideational mechanisms, named 'virtuous politics' and 'military-first politics'. Second, it elaborates on the contents of 'our style' human rights: strong post-colonial nationalism, some Marxist residue and indigenous Korean political cultures. Third, it analyses how some of these characteristics have disappeared while others have been reinforced over time. Finally, the paper also includes some of the first-hand accounts from North Korean defectors whom the author interviewed in South Korea in October–December 2008. They show the perception of ordinary North Koreans on the ideas of human rights.

Kim Jong Il's 'Our Style' Human Rights

'Our style' human rights first appeared in a *Rodong Sinmun* article published on 24 June 1995 under the title, 'For the protection of true human rights' (*ch'amdaun ingwŏn onghorŭl wihayŏ*). The article states that:

in order to protect and fully realise 'our style' socialism along with 'our style' human rights, one should thoroughly comprehend *Chuch'e* Ideology and be loyal to the Korean Workers' Party [KWP] and the leader, by whom the greatest rights and true human rights can be granted ... it is virtuous politics that can protect human rights to the highest degree.⁹

The main characteristics of 'our style' human rights are, therefore, citizens' duties and loyalty to the party and the leader, in return for the protection of basic subsistence rights and security. Second, it is the conception that rights are granted, not entitled inherently when a person is born, a concept generally understood in the Western liberal natural-law tradition. There are two metaphorical pillars to support Kim Jong-Il's 'our style' human rights: virtuous politics and military-first politics.

⁹ Anonymous, 'Ch'amda'un ingwŏn'ul wihayŏ' (For true human rights), *Rodong Sinmun* (24 June 1995).

'Virtuous Politics'

'Virtuous politics' (*indŏk chŏngch'i*) refers to the governing style of Kim Jong Il that focuses on the benevolent role of the leader. The DPRK government first introduced the term 'virtuous politics' in a *Rodong Sinmun* article on 28 January 1993, insisting that Kim Jong Il had implemented the best 'virtuous policies' with dignity and love for the people. Kim Jong Il explains that the origin of 'virtuous politics' derives from Kim Il Sung's anti-Japanese guerrilla movement in the 1930s, and is reflected in 'the Ten-Point Platform of National Liberation' (*choguk kwangbok sipdae kangryŏng*). The Platform stresses Kim Il Sung's 'believing in the people as in heaven', 'the best form of humanitarianism', which is the source of the granted human rights in the DPRK.¹⁰ Examples of 'virtuous politics' were listed, along with activities such as sending birthday gifts to those turning 60 or 70, congratulating parents on the birth of quadruplets, or delivering a special emergency service to remote areas. The condition to the realisation of 'virtuous politics' is, however, people's endless loyalty to the leader.

Kim Jong Il inherits the 'believing in the people as in heaven' tradition from his father, and made it the basis for his politics on human rights. The 'General' (i.e. Kim Jong Il) is 'the leader who believes in and worships his people like Heaven, always thinks of his people first, and treats their happiness and wounds like his own'.¹¹ Relating to a concept of anti-discrimination, Nada Dakasi defines 'virtuous politics' as a political belief 'to treat people with love and trust without any kind of discrimination' and 'to embrace even those who have made mistakes in the past'.¹² Kim Jong Il's 'virtuous politics' is arguably an equivalent concept to Plato's philosopher-king in *The Republic*, or the benevolent king in Confucianism.¹³ The claim of moral superiority over other political systems was also a prevalent theme in all previous socialist states. As Kim Jong Il argued:

¹⁰ Ch'oe Ch'ŏl Ung, '*Chuch'e sasang'un ch'ŏego'ui indojuui*' (*Chuch'e Ideology is the best humanitarianism*), *Ch'ŏrhak yŏngu* (Philosophical Studies), Vol. 1 (1998), p. 18.

¹¹ Ch'ŏrhakyŏnguso (Institute for Philosophy), *Sahoejuui Kangsŏngdaeguk Kŏnsŏl Sasang* (The Ideology on Construction of a Great Socialist State) (Pyongyang: Social Science Press, 2000), p. 15.

¹² Nada Dakasi, *Kim Jong Il Sidae'ui Chosŏn* (Korea in the Era of Kim Jong Il) (Pyongyang: Foreign Languages Publishing House, 2000), p. 115.

¹³ Jiyoung Song, 'Human rights and the DPRK after the Cold War: a constructivist approach', MPhil dissertation (Centre of International Studies, University of Cambridge, 2006), p. 41.

The virtuous politics of the Party ... would look after and encourage misbehaving people so that they can continue their socio-political lives eternally. For the implementation of 'virtuous politics', a political leader with endless love for his people must lead the socialist ruling party as a 'mother party'. Under this leadership, political freedom and human rights of the People can be genuinely protected.¹⁴

The caring role of a political leader can be traced back to *Chosŏn* Confucian tradition, as in the Mencian notion of a benevolent leader.¹⁵ It is found in Kim Jong Il's 'our style' human rights, much more noticeably than in Kim Il Sung's *Chuch'e* rights. Although the government officially denounces Confucianism as belonging to a negative feudal past, there are numerous examples of Confucian influence in contemporary North Korean rights thinking. For example, the protection of human rights is considered a reward bestowed by the leader. Kim Jong Il insists that

writers and artists ... enjoy high political trust and enormous care endorsed by the Great Leader. In the past, they were neglected and downgraded with no proper protection of fundamental human rights or freedom. Now, they are even given honorary titles as revolutionary artists

and, by implication, the protection of human rights is 'given' by the leader.¹⁶

The Confucian notion of 'virtuous politics' is prevalent in the North Korean constitution. The message of 'virtuous politics' is clear in the preface of the 2009 constitution, which stated that

Comrade Kim Il Sung regarded 'believing in the people as in heaven' [*inminwich' ōn*] as his motto, and that he was always with the people, devoted his whole life to them, took care of and guided them with a noble politics of benevolence, and turned the whole society into one big and united family.

Kim Jong Il pays tribute to the benevolent policies of his father, saying that *suryōng* (Head of State, i.e. Kim Il Sung) has set the principles for other major welfare legislation including the Law on Nurseries and the Upbringing of

¹⁴ Kim Jong Il, 'Sahoejuūimūn kwahagida' (Socialism is science), *Rodong Sinmun* (4 November 1994).

¹⁵ 'Chosŏn Confucianism' refers to the dominant governing philosophy shared among upper-class scholar-officials, the *yangban*, in the early to mid-*Chosŏn* dynasty (1392–1910).

¹⁶ Kim Jong Il, 'Yōnghwa ch'angjak'esō'ui saero'un yangyang'ul yirūkilde daehayō' (For the improvement of creativeness in movie-making), in *Selected Works of Kim Jong Il 2: 1970–1972* (Pyongyang: Korean Workers' Party Press, 1970–1972 / 1993), pp. 215–216.

Children, the Public Health Law, the Labour Law and the Land Law.¹⁷ Most of these laws were on socio-economic rights, and human rights are explained as duties of the virtuous leader.

Humanity was also the main theme in *Sirhak* (Practical Learning)¹⁸ and *Tonghak* (Eastern Learning).¹⁹ *Sirhak* scholars argued that learning had to enhance people's lives and relieve the plight of peasants.²⁰ *Tonghak* founded its philosophical ground on a belief that 'human beings are heaven' (*innaech'ön*).²¹ 'Virtuous politics' had been deeply embedded in indigenous Korean culture long before the arrival of Marxism in North Korea.

'Military-first politics'

'Virtuous politics' to protect people's basic subsistence rights failed in the mid-1990s. Millions of people died of hunger and malnutrition. The government was not able to feed its own people and asked for help from the international humanitarian community. In other words, Kim Jong Il has not been successful in performing his duty, as a virtuous leader, to guarantee the right to food, even within its own conceptualisation. At the same time, the government started to put greater emphasis on self-defence and sovereignty to unite and mobilise the hungry masses. 'Military-first politics' was born out of this context.

'Military-first politics' is now an official policy of the DPRK in the amended 2009 Socialist Constitution. It prioritises the Korean People's Army (KPA) in state affairs, and allocates national resources to the army first. Initially, the authority announced that 'military-first politics' began on 1 January 1995, when Kim Jong Il visited the Dabaksol military base. However, the DPRK

¹⁷ Kim Jong Il, 'Inmindaejung chungsimüi urisik saboejuüimün p'ülsüngbulp'aecida' (Our people-oriented socialism will never lose), in *Selected Works of Kim Jong Il II: January–July 1991* (Pyongyang: Korean Workers' Party Press, 1991 / 1997), p. 48.

¹⁸ *Sirhak* was a subdivision of *Chosön* Confucianism in the seventeenth–nineteenth centuries. *Sirhak* scholars proposed limited revolutionary ideas about social reform to abolish the hereditary slave system, and enhance commercial activities and the importing of science and technology from China and other civilised Western countries.

¹⁹ *Tonghak* was created by a failed aristocrat named Ch'oe Che-u in the 1860s, and later developed through nationwide peasants' uprisings. *Tonghak* has the most revolutionary ideas among all indigenous Korean cultural traditions.

²⁰ James B. Palais, *Confucian Statecraft and Korean Institutions: Yu Hyongwon and the Late Chosun Dynasty* (Seattle and London: University of Washington Press, 1996), p. 9.

²¹ Yong-ho Choe, Peter H. Lee and William Theodore De Bary, *Sources of Korean Tradition, Volume II: From the Sixteenth to the Twentieth Centuries* (New York: Columbia University Press, 2000), pp. 229–230.

retroactively moved the inauguration of ‘military-first politics’ to 25 August 1960, when Kim Jong Il accompanied his father to the Yukyöngsu tank division in order to legitimise its historical basis.²² According to a former North Korean security officer, since 2002 the central party has directed the local party apparatus to use ‘military-first politics’ instead of *Chuch’e* Ideology in official documents.²³ Another former North Korean diplomat also says *Chuch’e* Ideology had been completely replaced by ‘military-first politics’ by 2007.²⁴

Since the breakdown of state welfare and the famine of the mid-1990s, the ‘family’ metaphor in ‘virtuous politics’ has no longer been convincing to North Korean people. The government supplemented another set of ‘military’ metaphors, through ‘military-first politics’, in order to produce a sense of collectivity amongst the people and, more significantly, to induce absolute loyalty to their leader. On the international front, ‘military-first politics’ also serves as a tool to safeguard the security of the nation and the state. Like the use of familial images, militarising society prevents people from developing individual and liberal concepts of human rights. Still, the familial metaphor has not completely disappeared. It frequently reappears as ‘the people are fathers and mothers to the army and the army is sons and daughters to the people’.²⁵

In practice, the discourse of ‘military-first politics’ leads to extreme loyalist propaganda such as a ‘do-or-die spirit for safeguarding the leader’ (*suryöng kyölsa’onghwi chöngsin*) or ‘the spirit of guns and bombs’ (*ch’ongp’okt’an chöngsin*).²⁶ The DPRK demonstrates that, under ‘military-first politics’, human rights are fully protected by the ‘Great Leader’ and the party. In return, North Koreans should defend him by paying endless loyalty and showing filial piety to the ‘Great Leader’ and the ‘Dear Leader’.²⁷

²² Anonymous, ‘*Widaehan changgunnimüi söngun hyöngmyöng ryöngdo upjökül minjok’üi ch’eil kukboro bitne’ö nakaja*’ (Let us shine the great general’s military-first politics as the best national treasure), *Rodong Sinmun* (15 August 2005).

²³ All interviews with North Korean defectors quoted here were recorded confidentially, without full real names, for privacy and security reasons. Interview with Poo on 12 October 2008, Seoul, South Korea.

²⁴ Interview with Joo on 20 October 2008, Seoul, South Korea.

²⁵ Kim Chöl U, *Army-Centred Politics of Kim Jong Il* (Pyongyang: Foreign Languages Publishing House, 2002), p. 17.

²⁶ Ch’örhakyönguso, *Saboejuüi Kangsöngdaeguk Könsöl Sasang*, pp. 26–29.

²⁷ Chöng Kyöng Söb, *Chegukjuüjadüri Tröbörinün Ingwön Ongho’üi Pandongsöng* (The Reactionary Aspect of Imperialist Human Rights Protection) (Pyongyang: Korean Workers’ Party Press, 1992), pp. 74–75.

‘Military-first politics’ demonstrates two extreme types of behaviour within the field of human rights. Targeting a domestic audience, the regime stresses the role of the military leader to protect the security of the people, which was also a fundamental duty expected from a Confucian ruler of traditional Korean society, or from a strong and independent leader of a post-colonial state, rather than just a revolutionary Marxist leader. To the international human rights society, effectively limited to the UN so far, the government puts forward its efforts to change domestic legislation that are consistent with international human rights standards. This pragmatic approach to human rights equates to the DPRK’s tactical concessions for survival in international society without compromising its national security.

The main features of ‘our style’ human rights, drawn from primary North Korean documents over the past decade, are (1) the sovereign right to national survival, (2) diluted Marxist rights, (3) granted rights by the fatherly leader, and finally (4) the use of a duty-based language of human rights.

Sovereignty and the Right to National Survival

State Sovereignty Prior to Human Rights

The first characteristic of ‘our style’ human rights is the transformation of the concept of the right to self-determination from the country’s post-colonial experience to that of state sovereignty. The right to self-determination is an internationally recognised right supported by many other cultural relativists,²⁸ collective rights theorists²⁹ and communitarian idealists³⁰ as well as leaders of traditional communities. Later, the concept of the right to self-determination has been transformed as the right to development by third-world countries.³¹

Let us have a look at Kim Jong Il’s statement on the relation between state sovereignty and individual human rights in his article ‘Socialism is science’:

²⁸ An-Na’im, *Human Rights in Cross-Cultural Perspectives*; Ruth Benedict, *Patterns of Culture* (Boston: Houghton Mifflin, 1934); Melville J. Herskovits, *Man and His Works* (New York: Knopf, 1950); Charles Taylor, ‘Human rights: the legal culture’, in UNESCO (ed.) *Philosophical Foundations of Human Rights* (New York: UNESCO, 1986), pp. 49–57.

²⁹ Honoré, *Groups, laws, and obedience*, pp. 1–21; McDonald, *Should communities have rights?*

³⁰ Green, *Lectures*; Bradley, *Ethical Studies*.

³¹ Georges Abi-Saab, ‘The legal formulation of a right to development’, in R.J. Dupuy (ed.) *The Right to Development at the International Level* (Hague: Academy of International Law, 1980), p. 163; Philip Alston, ‘Revitalising United Nations work on human rights and

‘Human rights can never be realised without the defence of sovereignty. People under foreign rule can never achieve the fulfilment of true human rights. Human rights are the sovereign right of the People’.³²

Since 1945, the ‘sovereign right of the People’ (*inminüi chajujök kwöllli*) has become the main theme in the discourse of human rights in the DPRK, above all others. Strong post-colonial nationalism was often seen as more than revolutionary Marxism. Speaking on Marx and Engels’ Communist Manifesto, ‘Workers of the world, unite!’, the DPRK government supports an argument that ‘the world’ here meant capitalist countries only, merely reflecting workers’ unions in capitalist states, and excluded national liberation struggles in colonised countries.³³

This post-colonial rights thinking on the sovereign right has been reinforced by the trauma of national division after the Korean War; it often leads to a strong sense of victimhood. In a reply to the then UN Commission on Human Rights (now, the Human Rights Council) in 2004, DPRK representatives in Geneva stated that the North Korean people were ‘subject to the suffering of national division by foreign forces’ with constant security concerns coming from ‘never-ending threats and pressure from outside’.³⁴ To the DPRK, the realisation of the sovereign right of all peoples has become a natural priority.

The concept of man has always been communitarian in North Korea, and therefore that of the rights collective. Kim Jong Il develops his father’s concept of man as social being into one of a ‘socio-political being’ (*sahoe chöngch’ijök saengmyöngch’e*).³⁵ Kim Jong Il’s interpretation transforms the idea of the sovereign right of ‘man’, which still contains an individualistic aspect, but with a communitarian feature, into a more collective sense of a ‘socio-political being’. Kim Il Sung’s ‘man’ was somewhat similar to Marx’s ‘species-being’, but Kim

development’, *Melbourne University Law Review*, Vol. 18 (1991), p. 218; Jack Donnelly, ‘In search of the unicorn: the jurisprudence and politics of the right to development’, *California Western International Law Journal*, Vol. 15 (1985), p. 482.

³² Kim Jong Il, *Sahoejuünün kwahagida*.

³³ Dakasi, *Kim Jong Il Sidae’üi Chosön*, p. 118.

³⁴ UN Commission on Human Rights, ‘Questions of the violation of human rights and fundamental freedoms in any part of the world: situation of human rights in the Democratic People’s Republic of Korea’, 17 February 2004.

³⁵ Kim Jong Il, ‘Ch’öngnyönül chojik sasangjöküro kanghwa hanüendesö nasönün myötgaji kwa’öbe taebayö’ (On some problems in strengthening Ch’ongnyön organisationally and ideologically), in *Selected Works of Kim Jong Il 14: 1995–1999* (Pyongyang: Korean Workers’ Party Press, 1995–1999 / 2000), pp. 20–21.

Jong Il's 'socio-political being' is more advanced in terms of its collectivity and unity since it depicts the entire society as one organic entity and, by implication, man as each organ or cell.

Chŏng Kyŏng Sŏb, a North Korean rights theorist, elevates Kim Jong Il's idea of the sovereign right of a socio-political being to a state level. Chŏng insists that the struggle for the protection of human rights in the DPRK is to protect 'a right of the state' (*kuggwŏn*).³⁶ The idea of 'the right of the state' is similar to that of 'the right to state development' (*guojia fazhanquan*), or the 'right to national self-determination' in the Chinese discourse of human rights.³⁷ China has developed this collective idea of human rights in the sense that rights can be an entitlement not only of an individual but of a state or a nation. Pang Sen argued that 'if a nation is unable to enjoy the right to self-determination, the citizens of that nation will not be guaranteed their individual human rights'.³⁸ Similarly, in North Korea, it is still the collective nation and the state that are being emphasised rather than an individual.

The Right to National Survival

In Korean, 'subsistence' (*saengjon*) means 'existence' (*sara issŭm*) or 'survival' (*sara namŭm*). In North Korea, especially after the demise of the Soviet bloc, 'subsistence' is not only about food, but the very issue of 'survival'. One of the earlier North Korean human rights commentators, Kim Ch'ang Ryŏl, lists three major concepts of human rights that exist in the DPRK: (1) a right to human dignity, (2) a 'right to survival' (*saengjonggwŏn*), and (3) a right to political freedom. Among these three, the right to survival is the most distinctive.³⁹

In practice, the DPRK government has adopted two survival strategies: one is tactical concessions, the other the development of nuclear facilities, and both use the language of the sovereign right of the nation to survive. North Korea showed some behavioural change in its foreign policies by engaging with the international human rights community. These laws include:

³⁶ Chŏng Kyŏng Sŏb, *Chegukjuŭijadŭri Tŏbŏrinŭn Ingwŏn Ongho'ŭi Pandongsŏng*, p. 72.

³⁷ Robert Weatherley, 'Human rights in China: between Marx and Confucius', *Critical Review of International Social and Political Philosophy*, Vol. 3 (2000), p. 105.

³⁸ Robert Weatherley, 'The evolution of Chinese thinking on human rights in the post-Mao era', *Journal of Communist Studies and Transition Politics*, Vol. 17 (2001), p. 34.

³⁹ Kim Ch'ang Ryŏl, 'Chegukjuŭijadŭri ttŏbŏrigo itnŭn ingwŏn onghowa kŭ pandongjŏk ponjil' (Imperialists' protection of human rights and its anti-revolutionary roots)', *Kŭlloja*, Vol. 2 (1990), pp. 92–96.

- 2009 amended Socialist Constitution;
- 2004 amended Criminal Law and Criminal Procedure Law; and
- 1998 amended Law on Composition of the Court

as well as new legislation such as:

- 2005 Narcotic Drugs Control Law;
- 2005 Food Sanitation Law;
- 2005 Law on the Prevention of Communicable Diseases;
- 2005 Law on Protection of the Environment;
- 2004 Family Law;
- 2003 Law on the Protection of Persons with Disabilities;
- 2001 Public Health Law;
- 2000 Law on Complaints and Petitions;
- 2000 Law on Protection of Useful Animals;
- 1999 Law on Prevention of Sea Pollution;
- 1999 Labour Law;
- 1999 Law on Nurseries and the Raising of Children; and
- 1998 Law on Control for the Protection of Land and Environment.

It amended domestic legislation to comply with international human rights norms, a prerequisite to being part of international society according to the English School, and invited some UN officials and international humanitarian workers to visit or work in the country. This is what Thomas Risse, Stephen Ropp and Kathryn Sikkink call ‘tactical concessions’, from the denial stage in their five-phase spiral model (i.e. repression–denial–tactical concession–prescription–norm–consistence).⁴⁰ Based on their theory, activities of transnational networks are most significant in changing the government’s behaviour. However, with no such transnational network connecting North Korean people to the outside world, the abusive government retreated back to the previous stage in the late 1990s.

The DPRK government has become more persistent, adhering to its defensive mentality and ideas of sovereignty.⁴¹ The regime does not recognise the authority of the UN Special Rapporteur on the DPRK, saying that ‘the sovereign right and dignity are the life of the Republic’ (unofficial translation by the

⁴⁰ Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999).

⁴¹ Jiyoung Song, ‘Rights approaches to North Korea: combining criticism and constructive engagement’, LLM dissertation (University of Hong Kong, 2002); Jiyoung Song, *Human rights and the DPRK*.

author of the Geneva DPRK Mission's Statement regarding the Report of the Special Rapporteur, Vitit Muntarbhorn, at the second meeting of the Human Rights Council, 2006). At the same time, the North Korean regime sees nuclear development and missile technology as part of its sovereign right to survival. After the UN Security Council's resolution condemning North Korea's nuclear and missile tests, the DPRK started reprocessing spent fuel rods. The Korean Central News Agency says that

The DPRK, which regards the security of the country and the sovereignty of the nation as its life and soul, was compelled to take measures to bolster up deterrent for self-defence to cope with the increasing nuclear threat and military provocations of hostile forces.⁴²

Withering Away of Marxist Rights

Remaining Class Rights

Ideologically, socialism is still the closest political form to which the DPRK adheres. Marx resisted the concept of human rights in capitalist states, calling it 'obsolete verbal rubbish' or 'ideological nonsense'.⁴³ Similarly, Kim Jong Il insists that the original democratic ideas such as freedom, equality and human rights were 'transformed by capitalists into a form of bourgeois democracy, which was to further exploit and subordinate the working class by the use of capital'.⁴⁴

To the DPRK, Marx, Engels, Lenin and Stalin (but not Mao) were still, officially, advocates of the repressed working masses.⁴⁵ In 1995, the government explains the class-conscious conception of human rights and, notably, why there are human rights violations against political prisoners in the DPRK:

⁴² Anonymous, 'DPRK completes reprocessing of spent fuel rods', *Korean Central News Agency* (3 November 2009), available at <http://kcna.co.jp/index-e.htm> (accessed 30 March 2010).

⁴³ Karl Marx and Frederick Engels, *Selected Works in One Volume* (London: Lawrence and Wishart, 1968), p. 325.

⁴⁴ Kim Jong Il, 'Sahoejuü'e taehan haebang'ün hõyongdoelsu upda' (No intervention allowed towards socialism), in *Selected Works of Kim Jong Il 13: February 1992–December 1994* (Pyongyang: Korean Workers' Party Press, 1992–1994/1998), pp. 347–348.

⁴⁵ Kim Jong Il, 'Hyõngmyõng sõnbaerül chondae hanün kõssün hyõngmyõngkadürüi sungkohan todõk ürüida' (Respect for senior revolutionaries is a divine ethical comradeship), in *Selected Works of Kim Jong Il 14: 1995–1999* (Pyongyang: Korean Workers' Party Press, 1995–1999/2000), p. 123.

With regards to anti-revolutionary forces in socialist states, they are rebels and traitors against the People's interests and the scum of society, violating the human rights of the People. To these anti-revolutionaries, the term human rights itself is completely inappropriate. A socialist country is not a class-transcending society and there is no place for rebels to stay. As we do not conceal or lie about our partiality, we do not obscure our class-consciousness in the context of human rights. Socialist human rights are not class-transcending human rights to grant freedom and human rights to hostile enemies who oppose socialism, or to disobedient traitors who stand against the People's interests. Our human rights are the rights that legitimise the persecution of enemies of the class, violating human rights of the People, workers, peasants or intellectuals.⁴⁶

There is a group of North Korean scholars who take a classic Marxist stance on human rights: his denial of human rights under any capitalist system as a normative value and his idea of man as 'species-being'.⁴⁷ A North Korean Marxist rights theorist, Chŏng Sŏng Kuk, refuses to accept the ideas of human rights which, he believes, originated in the Western bourgeois tradition.⁴⁸ Chŏng says that an individual cannot exist apart from his class status. This class-conscious rights conception denies the 'universality' of human rights that many Western scholars as well as the United Nations declared in 1948. Human rights, in this context, are 'divine' rights of the 'social' human being 'who lives and develops his life independently and creatively'. Individual rights, according to him, are respected 'only when they coincide with collective interests and contribute to the subsistence and development of the society he belongs to'. Chŏng concludes that the most fundamental right above all, in a socialist society, is 'the sovereign right of the People', as a collective entity.

Chŏng also insists that the pursuit of life, freedom and happiness in the 1776 American Declaration of Independence, and the rights to freedom, property and security in the 1789 French Declaration, were all bourgeois concepts of

⁴⁶ Anonymous, *Ch'amda'un ingwŏn'ul wihayŏ*.

⁴⁷ Steven Lukes, 'Can a Marxist believe in human rights?', *Praxis International*, Vol. 1 (1982), p. 342; Karl Marx and Frederick Engels, 'The German ideology', in *Collected Works, Volume 5: Marx and Engels 1845-1847* (London: Lawrence and Wishart, 1976), p. 209; Richard Nordahl, 'A Marxian approach to human rights', in Abdullahi Ahmed An-Na'im (ed.) *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992), p. 164.

⁴⁸ Chŏng Sŏng Kuk, '*Puburiju'a ingwŏn rironŭi pandongjŏk ponjil*' (The reactionary nature of bourgeois human rights theories), *Ch'ŏrhak yŏngu* (Philosophical Studies), Vol. 2 (1995), pp. 41-42.

rights which reflected the interests of capitalists.⁴⁹ He explains that the American Declaration, for example, did not mention anything about anti-slavery or the emancipation of the working class from exploitation and repression. By the same token, the French Declaration included nothing about freedom of assembly or association. Similarly, an anonymous writer on socialist constitutional theory interprets that both the 1215 English Magna Carta and the 1789 French Declaration were to serve the material interests of the newly established ‘property-driven manipulative bourgeoisie’.⁵⁰ One of the KWP’s human rights commentators, Pak Tong Kün, refers to Shylock, the main character of Shakespeare’s *Merchant of Venice*, in order to describe the ‘greedy nature’ of capitalist society.⁵¹

Chŏng Kyŏng Sŏb interprets contemporary Western human rights from a Marxist perspective. Chŏng identifies Richard Flathman, Ronald Dworkin and Robert Nozick as bourgeois law scholars who represent the interests of imperialists by emphasising private property rights and abstract norms such as freedom and equality.⁵² He insists that, in a class society, there cannot be ‘classless’ concepts of freedom or equality; only those who possess national sovereignty and the means of production can enjoy a right to freedom and equality. Chŏng also criticises Cranston, Flathman, Strauss and Raphael as reactionary bourgeois scholars for they only recognise civil and political rights as true human rights, excluding socio-economic rights. Furthermore, Chŏng denies the Christian-based concept of human rights as rights that are given by God. Like Marx’s historical materialism, Chŏng argues that the protection of human rights depends on the socio-political structure of society. Chŏng concludes that human rights are an intrinsic value but are not automatically protected; people in society must have national sovereignty and the means of production for the true realisation of human rights.⁵³

⁴⁹ Chŏng Sŏng Kuk, *Puburiju’a ingwŏn rironüi pandongjök ponjil*, pp. 41–42.

⁵⁰ Anonymous, *Chuch’e’üi Saboejuüi Hŏnbŏp Riron* (The Socialist Constitutional Theory of *Chuch’e*) (Pyongyang: n.p., 1991), p. 60.

⁵¹ Pak Tong Kün, *Namchosŏn Saboenün Pu’ikbu, Pin’ikbinüi Pan Inminjök Saboe* (South Korean Society is ‘the Rich Get Richer, the Poor Get Poorer’ Anti-People Society) (Pyongyang: Korean Workers’ Party Press, 1989), pp. 8–9.

⁵² Chŏng Kyŏng Sŏb, *Chegukjuüijadüri Ttöbörinün Ingwŏn Ongho’üi Pandongsŏng*, pp. 16–25.

⁵³ Chŏng Kyŏng Sŏb, *Chegukjuüijadüri Ttöbörinün Ingwŏn Ongho’üi Pandongsŏng*, pp. 12–14.

In practice, North Korean education focuses on the growing gap between the rich and poor and human rights violations in Western countries.⁵⁴ A handful of books on human rights violations and cases of discrimination in the ROK and other Western countries have been published.⁵⁵ There is a small section on page 6 of *Rodong Sinmun* almost every day about human rights violations in the ROK and the US. All the North Korean defectors I interviewed in South Korea during October–December 2008 said in North Korea they had heard about racial discrimination in the US, hungry orphans being abandoned in South Korea, or American soldiers raping innocent young South Korean women.

Disappearance of Class Rights

Since the end of the Cold War, the DPRK government has given up lip service to its communist ideals and become more openly nationalistic. Kim Jong Il insists that dictatorship against ‘hostile forces’ in society is indeed ‘the protection of human rights’:

The dictatorship of the People’s regime against forces violating the interests of the People is indeed the protection of human rights ... ‘People’s Democratic Dictatorship’ is a powerful function of the People’s regime in an aim to guarantee democratic rights and freedom for the People as the master of state and society.⁵⁶

Kim Jong Il’s justification for his dictatorship is a post-colonial concept of the ‘People’s regime’ rather than an orthodox Marxist class claim. Indeed, strong post-colonial nationalism seems to overtake class-consciousness in the DPRK’s rights thinking (the DPRK prefers ‘socialist patriotism’ to ‘nationalism’). Kim Jong Il confirms this ideational shift, saying that politics are ‘not

⁵⁴ Kim Jong Il, *Ch’öngnyönül chojik sasangjöküro kanghwa hanüdesö nasönün myötgaji kwä’öbe taehayö*, pp. 20–21.

⁵⁵ Ingwön yöngu mit kyoryu hyöphoe (The Association for Human Rights Studies and Exchanges), *Namjosönüi Ingwön Silsang* (The Human Rights Situation in South Korea) (Pyongyang: Pyongyang Press, 1993); Oh Song Hak, *Kökkuro Doen Sesang* (The Upside Down World) (Pyongyang: Kumsöng Ch’öngnyön Ch’ulpansa [Gold Star Youth Publishing House], 1990); Pak Tong Kün, *Namchosön Saboenün Pu’ikbu*.

⁵⁶ Kim Jong Il, ‘Uri’inmin ch’önggwönüi wuwölsöng’ül tö’uk nopi palyangsik’ija’ (For the promotion of the superiority of the people’s regime), in *Selected Works of Kim Jong Il 13: February 1992–December 1994* (Pyongyang: Korean Workers’ Party Press, 1992–1994/1998), p. 274.

a struggle between different classes’, but a ‘political device to realise people’s sovereignty’.⁵⁷ Kim Jong Il states that:

Regardless of a person’s social class, i.e. no matter whether s/he is a communist or not, anyone can be trusted by the DPRK government and the government can cooperate with a person only if s/he has strong patriotism, sharing the same revolutionary interests as the DPRK.⁵⁸

This is Kim Jong Il’s so-called ‘virtuous politics’ or ‘broadly embracing politics’ (*kwangp’ok ch’ongch’i*). ‘Virtuous politics’ is so pragmatic that the DPRK government now cooperates with new post-Cold War partners such as South Korean capitalists like Hyundai. Kim Jong Il explains this:

The ideology that the DPRK can accept is no longer only socialism or communism. Anyone who loves our country, our people, and our nation is eligible for serving the People and ultimately for being a member of society. The Party believes that those from different classes or different social backgrounds, who can share the interests of our revolution, are not temporary companions but eternal partners.⁵⁹

This shift in the DPRK’s identification of partners and enemies resulted from the changing international environment after the Cold War.⁶⁰ After the collapse of the Soviet bloc, which meant a significant cut in trade and aid, the government had to cooperate with different actors in international society. Strict class-consciousness was of no use to the DPRK’s efforts to guarantee its right to survival. The DPRK almost completely departed from Marxism and turned its back on class rights. Class-consciousness in its rights thinking was replaced by loyalty-based ‘military-first politics’. The government finally deleted ‘communism’ from its 2009 amended constitution whilst retaining ‘socialism’ and adding ‘military-first politics’ as the official ideology. The DPRK is officially no longer a communist state.

⁵⁷ Nada Dakasi, *Kim Jong Il Sidae’üi Chosön*, p. 21.

⁵⁸ Kim Jong Il, *Sahoejuünün kwabagida*.

⁵⁹ Kim Jong Il, *Sahoejuünün kwabagida*.

⁶⁰ Jiyoung Song, *Human rights and the DPRK*.

Subsistence Rights

Subsistence Rights in 'Virtuous Politics'

Subsistence rights, or more generally welfare rights or socio-economic rights, are widely regarded fundamental international human rights.⁶¹ The DPRK prioritises subsistence rights over liberty-based rights. Kim Jong Il called for 'the right to basic subsistence' (*ch'obochōgin saengjonūi kwōlli*) in 1994:

Imperialists do not recognise the right to work of the unemployed, the right to eat and live of the homeless and orphans. Needless to say about a right to basic subsistence for workers, imperialists, who have anti-People policies, racial discrimination and colonial policies, are not qualified to speak about human rights.⁶²

Kim Jong Il uses *Chuch'e* ideas, adds the concept of the right to development at individual level, and finally defines human rights as the 'rights of a social human being to live and develop independently and creatively'.⁶³ Paek Mun Kyu, a writer for the monthly North Korean magazine *Ch'ōllima*, defines 'subsistence rights' (*saengjon'gwōn*) as the 'condition for a man to eat and consume'.⁶⁴ Paek makes distinction between 'the right to subsistence' and 'the right to life' (*saengmyōnggwōn*), which sound similar to each other in Korean. Paek explains that whereas the right to subsistence is 'what you need to sustain your life', such as food, housing and proper medical services, the right to life is 'what you need to protect your body and continue free activities'.⁶⁵ He then

⁶¹ For the supporters of socio-economic rights, see Christian Bay, 'Self-respect as a human right: thoughts on the dialectics of wants and needs in the struggle for human community', *Human Rights Quarterly*, Vol. 4 (1982), pp. 53–75; Maritain, *Man and the State*; Alan Gewirth, *Reason and Morality* (Chicago: University of Chicago Press, 1978); Raymond Plant, *Citizenship, Rights and Socialism* (London: Fabian Society, 1988); Rodney G. Peffer, *Marxism, Morality, and Social Justice* (Princeton: Princeton University Press, 1990); Reginald Herbold Green, 'Basic human rights/needs: some problems of categorical translation and unification', *Review of the International Commission of Jurists*, Vol. 27 (1981), pp. 53–58; Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (Princeton: Princeton University Press, 1980).

⁶² Kim Jong Il, *Inmindaejung chungsimūi urisik sahoejuūinūn p'isūngbulp'aeda*, p. 55.

⁶³ Paek Mun Kyu, 'Ingwōni muchami yurindoenūn miguk' (America where human rights are seriously violated), *Ch'ōllima*, Vol. 10 (1995), p. 114.

⁶⁴ Paek Mun Kyu, *Ingwōni muchami yurindoenūn miguk*, p. 114.

⁶⁵ Paek Mun Kyu, *Ingwōni muchami yurindoenūn miguk*, p. 115.

uses an example of the gun problem in the US, saying that ‘there is no legal guarantee for the right to life, not to be shot to death’.

Subsistence right is reconstituted from Kim Il Sung’s ‘right to basic living standards’ (*saenghwalgwŏn*) and the ‘right to a happy material life’ (*haengbokhan muljilsenghwalüi kwŏlli*) under *Chuch’e* Ideology. Kim Jong Il suggests that an 11-year free public education and state medical care are the institutional instruments of ‘virtuous politics’ for the DPRK’s subsistence rights.⁶⁶ Kim Chŏl, who writes for the party’s monthly magazine *Külloja*, also emphasises the important role of the motherly party in protecting the basic needs and interests of the people.⁶⁷

However, despite the fact that the DPRK prioritises subsistence rights, people in North Korea do not recognise this as a right that they are entitled to, but as something that can be granted by the government, depending on its capacity. When asked to define human rights, a 28-year-old North Korean defector, who fled North Korea in 2001, answered that

I think rights have limitations. Some rights should be restrained and others can be enjoyed. The fact that the [DPRK] government cannot provide enough food rations to its people is not a human rights violation. The government is just not capable of doing so.⁶⁸

The Post-Cold War Rights to Food and Education

The government propaganda on its superiority regarding the right to subsistence had reached its peak by the end of the Cold War, focusing particularly on food, education and medical treatment. Kim Il Sung was proud that:

Our socialism is the supreme form of any political ideology. We have no jobless people. The state guarantees all the necessary conditions for workers to eat, wear, consume and live. Most of all, we all have the right to food as a birthright. A rice ration for everyone is an important communist policy. We also have the right to education. Preschool children have the right to go to kindergartens and preschools. Children who reach school age have the right to receive a free 11-year compulsory education and the right to go on to university. All schools and universities are free of charge. We have free

⁶⁶ Haruki Wada, *Pukchosŏn* (North Korea) (Seoul: Dolbege, 1998), p. 247.

⁶⁷ Kim Chŏl, ‘*Inmindaejung’üi chuinürosŏ ch’egimgwa yökharül dabanün kösün saboejuüi chaedoüi wuwölsöng’ül palyangsikigi wihan chungdaehan yogu*’ (That the people as the master of the society take their duties and responsibilities is an important tool to enhance the superiority of our socialist system), *Külloja*, Vol. 8 (1990), pp. 24–29.

⁶⁸ Interview with Loo on 18 February 2004, Kyunggi, South Korea.

medical treatment so that no workers have worries about receiving proper medical treatment for their illnesses.⁶⁹

In an effort to appease his people, Kim Il Sung announced ‘the Government Ordinance to Raise the Living Expenses of All Workers and the Incomes of All Cooperative Peasants’ on 13 February 1992.⁷⁰ The ordinance aimed to provide more living expenses for workers, more scholarships for students, and higher incomes for peasants on collective farms. A series of economic reforms since July 2002, as well as opening up Mt Küm kang for tourism and the Kaesöng industrial complex, are also part of the leadership’s pragmatic concession to satisfy people’s material needs, although highly limited.

Kim Jong Il’s Failure to Protect Subsistence Rights

Despite all this propaganda, Kim Jong Il was not able to perform his duties to protect subsistence rights for his people, failing in his role of benevolent

⁶⁹ Kim Il Sung, ‘*Chuch’ëüi hyöngmyöngjök kachirül t’üt’üni kosuhamyö sahoejuüi könsörül himitke taküchilde taebayö*’ (On defending the revolutionary idea of *Chuch’e* and strengthening socialism), in *Works of Kim Il Sung 41: January 1988–May 1989* (Pyongyang: Korean Workers’ Party Press, 1988–1989 / 1995), p. 61.

⁷⁰ Kim Il Sung, ‘*Chönh’e rodongja, kisulja, samuwndürüi saenghwalbirül nopimyo hyöpdong nongmindürüi suibül nullinün sich’egül silsiham’eh taebayö*’ (On implementing the Government Ordinance to Raise the Living Expenses of All Workers and the Incomes of All Cooperative Peasants), in *Works of Kim Il Sung 43: January 1991–October 1992* (Pyongyang: Korean Workers’ Party Press, 1991–1992 / 1996), pp. 284–287. The full text of the Government Ordinance in 1992, translated by the author, is as follows:

The Central People’s Committee of the DPRK makes a decision on the ordinance today in order to meet the substantial needs for the establishment of socialism and to raise the living standards of the People in our country as follows:

- 1 The government will raise: the living expenses of all workers, engineers and office workers; the social pensions of all pensioners; the scholarships of all students; and the incomes of all cooperative peasants, as follows:
 - (a) the living expenses of all workers, engineers and office workers by 43.4 per cent;
 - (b) the social pensions of all pensioners by 50.7 per cent;
 - (c) the scholarships of all college and university students by 33 per cent; and
 - (d) the purchasing price for rice by 26.2 per cent, for corn and other crops by 44.8 per cent (the selling price will remain the same).
- 2 This ordinance will come into effect from 1 March 1992; and
- 3 The cabinet will set up practical administrative policies in order to implement this ordinance.

parental leader in ‘virtuous politics’. More than 50 per cent of North Korean defectors who fled the country and settled in South Korea between 2000 and 2004 said that they left primarily in search of food.⁷¹ At the beginning of the famine, only 8 per cent of a total of 1,694 North Korean asylum seekers attributed the food crisis of the mid-1990s to Kim Jong Il.⁷² Many of them said the economic crisis had been caused by natural disasters (38.6 per cent). Others still believe the country’s economic hardship is due to US economic sanctions or just bad luck for Kim Jong Il.⁷³

However, the situation has changed dramatically after the 2002 economic reforms. There has been widespread materialism and high expectation of economic development among ordinary North Koreans, some of whom direct their complaints against Kim Jong Il.⁷⁴ Signs of market mechanisms have been growing and the majority of North Koreans are now able to sell their products at market.⁷⁵ Slowly, North Korean collectivism has been replaced by individualistic materialism.⁷⁶ According to testimonies of North Korean defectors, there are three categories of contemporary rich people in the DPRK: *kanbu* (party cadres), *kwabu* (widows) and *öbu* (fishermen). A North Korean defector, Kang Hyokb explains that fishermen can always keep fish aside for themselves and sell it in the marketplace to make extra cash; widows are ‘free’ women and some of them are involved in prostitution to get money or food.⁷⁷

As the number of North Koreans defecting and crossing the border grew, people in North Korea started recognising the food crisis as a government failure. Many North Korean defectors, including Kim Sun Ae and Pak Ŭn Ch’öl who left North Korea in 2003 and 2001 respectively, say that the DPRK authorities failed in their ‘duties for the medical protection of their people’.⁷⁸

⁷¹ *T’albuk tongki yubyöng* (North Korean border crossing by types of motivation) (Division of Social and Cultural Exchange, Ministry of Unification, 2004), available at <http://unikorea.go.kr/kr/MIPT/MIPTBmain.jsp> (accessed 13 November 2009).

⁷² Good Friends, *Chungguk Tongbuk Aamsöng Chiyök 2,479kae Maül Hyönji Chosa (Fieldwork Research in 2,479 Villages of Northeastern China)* (Seoul: Good Friends, 1999).

⁷³ Interview with Hoo on 13 October 2008 and with Soo on 22 October 2008, Seoul, South Korea.

⁷⁴ Kim Pyöng Ro, ‘*Kim Jong Il sidae pukhan chuminü saenghwalgwa üsik pyönhwa*’ (Changes in the conception of North Korean citizens in the Kim Jong Il era), in Chöng Söng Chang (ed.) *Pukhanün Pyönhago Innünga* (Is North Korea Changing?) (Seongnam: Sejong Institute, 2008), pp. 121–130.

⁷⁵ Interview with Koo on 13 October 2008, Seoul, South Korea.

⁷⁶ Interview with Loo on 11 October 2008, Seoul, South Korea.

⁷⁷ Hyok Kang, *This Is Paradise* (London: Abacus, 2007), p. 109.

⁷⁸ Pukhan Ingwön Simin Yönhap (Citizens’ Alliance for North Korean Human Rights),

Many ordinary North Koreans condemned local cadres for the country's economic failure,⁷⁹ or indirectly expressed their dissatisfaction with the Kim Jong Il regime by saying, 'I miss the time when our *suryŏng* was alive.'⁸⁰ Those who live in Pyongyang, who know more about the regime or who have experience outside the country, have become even more critical of Kim Jong Il and his policies than non-Pyongyang citizens.⁸¹ North Koreans do not consider Kim Jong Il as a benevolent fatherly leader any more. They do not even use the honorific ending in normal conversation when referring to Kim Jong Il.⁸²

Duty-based Language of Human Rights

Citizens' Duties as the Offspring of Rights

The DPRK government adheres particularly to the idea of prioritising citizens' duties over rights, which existed in other socialist states as well as in the Korean indigenous political tradition. Duties as the offspring of rights also exist in Western countries as a form of preconditions for citizenship or of social contract.⁸³ In China, citizens' (*kongmin*) duties are described as their 'honour, conscience and loyalty'.⁸⁴ In Britain, New Labour's policy on anti-social behaviour

'Pukhan'ui 'uiryo chedo' (The medical system of North Korea), *NKHR Newsletter* (June 2008), p. 9.

⁷⁹ Interview with Koo in 13 October 2008, Seoul, South Korea.

⁸⁰ Anonymous, 'Han nyŏsŏng tang ilkkungwa'ui daehwa' (A conversation with a female party official), *Imjingang*, Vol. 2 (2008), pp. 182–183.

⁸¹ Yi Kyo Dŏk et al., *Saetŏmin'ui Chŭng'ŏnŭro Pon Pukhan'ui Pyŏnhwa* (Changes in North Korea Based on New Settlers' Accounts) (Seoul: Korean Institute for National Unification, 2007).

⁸² Choosing appropriate vocabulary is of real significance in Korean language culture. The same objects or actions have different vocabulary depending on who you are talking to (e.g. a meal is *pap* when you talk to a junior, but *siksa* or *chinji* to a senior). Therefore, you have to identify the relationship between the person you talk with and yourself. Similarly, 'did' is *hasyŏsŭmnida* when you refer to a past act of a person who is older than you or socially superior to you, whereas the same 'did' verb is *haessŭmnida* when referring to a person who is younger or has an equal or lower social status than you. In a confidential interview with a foreign diplomat who spent three years in Pyongyang, North Koreans used a non-honorific ending for Kim Jong Il, whereas an honorific form is still used for Kim Il Sung.

⁸³ Charles Tilly, 'A primer on citizenship', *Theory and Society*, Vol. 26 (1997), p. 600.

⁸⁴ Pang Myŏng Suk, 'Kongminjŏk ūmunŭn kongmin'ui young'ae imyŏ ryangsimigo ūri' (Citizens' duties are their honour, consciousness, and loyalty), *Ch'ŏrhak yŏngu* (Philosophical Studies), Vol. 1 (2004), p. 33.

stated ‘no rights without responsibilities’.⁸⁵ Similar to the Soviet rights scholars, a North Korean human rights commentator, Pang Myŏng Suk, argues that the destiny of society and that of its citizens are connected as one: if the interests of the collective society are realised well, those of an individual will be automatically realised.⁸⁶

Both Kim Il Sung and Kim Jong Il emphasised that duties should come before rights. The difference between the two is that Kim senior adhered to a Marxist notion whereas his junior was not keen to do so. Kim Il Sung, for example, stressed that ‘the superiority of a socialist system is realised not automatically but only if the People conduct their duties and responsibilities under the ruling party’s guidance’.⁸⁷ Kim Jong Il, on the other hand, does not refer to any socialist term while focusing more on the priority given to duties before rights: ‘Each individual must address his or her own social obligations *before* enjoying the respective rights and freedoms.’⁸⁸

The anonymous writer in North Korea explains that the rights and duties stated in its Socialist Constitution differ from one society to another: a cultural relativist perspective.⁸⁹ The author defines rights as the ‘permitted actions to realise people’s social needs, granted and protected by the state’ whereas duties are ‘obligations to follow based on the state’s demands’. In a nutshell, rights are for collective people to be granted their social needs only if they perform their duties based on the state’s demands.

The DPRK does not need a Marxist theory to buttress citizens’ duties: indigenous political traditions already serve this purpose. In traditional Confucian culture, which comprises role-based relational ethics and normative behaviour, each individual has respective duties towards every other in his/her multiple social relations. In a king–subject relation, a subject must pay his complete loyalty and duties towards his king in return for his needs and rights being granted by the king, for example.

⁸⁵ Anthony Giddens, *The Third Way: The Renewal of Social Democracy* (Cambridge: Polity Press, 1998), p. 66.

⁸⁶ Pang Myŏng Suk, *Kongminjŏk ūimunŭn kongminŭi young’ae imyŏ ryangsimigo ūiri*, p. 33.

⁸⁷ Kim Il Sung, ‘*Urinara sahoejuŭi uwŏlsŏng’ŭl tŏuk nop’i palyangsik’ija*’ (Stipulate the superiority of our socialism), in *Works of Kim Il Sung 42: June 1989–December 1990* (Pyongyang: Korean Workers’ Party Press, 1989–1990 / 1995).

⁸⁸ Kim Jong Il, *Sahoejuŭinŭn kwahagida*.

⁸⁹ Anonymous, *Chuch’ŕ’ŭi Sahoejuŭi Hŏnbŏp Riron*, p. 108.

Duties as a Correlative Term of Rights

Another usage of duties is the correlative term of human rights, the flipside of the same coin, noted by Alison D. Renteln and supported by many other rights theorists.⁹⁰ In other words, citizens' rights are duties of the government. The government's duties are included in a number of provisions in the constitution: the duties of the Cabinet and the Local People's Committee to guarantee citizens' rights, and the functions of the Public Procurator's Office and the court to protect personal rights. Kim Jong Il understands people's right to life and property as 'divine' duties of government officials.⁹¹

Kim Jong Il says 'protecting the political life of people and promoting the rights and interests of the People are the duties of party officials trusted by the party and *suryōng*'.⁹² Ryōm Kyōng Yun, who writes articles for *Kūlloja*, further insists that, on top of the duties of party officials, it is ultimately Kim Jong Il who guides and leads them. In this regard, Kim Jong Il introduced a political motto, 'Serve for the People!', to stress party officials' self-sacrificing attitudes towards the people and their 'motherly nature' in being selfless.⁹³ This is noteworthy in two aspects: first, Kim Jong Il distances himself from party officials so as to evade his duty to protect people's rights and, second, the nature of party officials' duties is depicted as being motherly.

To many people's surprise, Kim Jong Il admitted to human rights violations committed by law enforcement officers, village heads of the People's Committee, and party officials. Speaking to provincial secretaries of the party, Kim warned that he had known that some village heads of People's Committees abused their power and violated human rights in the name of 'the Commission for Socialistic Legal Guidance' (*sahoejuūi pōmmu saenghwal chido wiwōn-*

⁹⁰ Alison Dundes Renteln, *International Human Rights: Universalism Versus Relativism* (Newbury Park, CA: Sage, 1990), p. 43; Richard B. Brandt, *Ethical Theory: The Problems of Normative and Critical Ethics* (Englewood Cliffs, NJ: Prentice Hall, 1959), pp. 433–441; W.D. Ross, *The Right and the Good* (Oxford: Oxford University Press, 1930); Bradley, *Ethical Studies*.

⁹¹ Kim Jong Il, 'Sabōp kōmch'al s'ōbūl kaesōn kanghwahalde daehayō' (On strengthening the work of law enforcement and prosecution), in *Selected Works of Kim Jong Il 7: 1981–1983* (Pyongyang: Korean Workers' Party Press, 1981–1983 / 1996), pp. 314–315.

⁹² Ryōm Kyōng Yun, 'Saramdūrūi chōngch'ijōk saengmyōng'ul pobohago inmin'ūi kwōlliwa riikūl onghohanūn kōsūn tang ilkkun'ūi ponbun' (Protecting the People's rights is the duty of party officials), *Kūlloja*, Vol. 11 (1991), pp. 56–59.

⁹³ Ryōm Kyōng Yun, *Saramdūrūi chōngch'ijōk saengmyōng'ul*, p. 59.

hoe).⁹⁴ It is noticeable that Kim Jong Il has specifically mentioned the names of abusive ‘dictatorial’ state organs:⁹⁵ (1) guidance departments of the People’s Committee;⁹⁶ (2) party and security officers;⁹⁷ and (3) law enforcement and prosecution officers.⁹⁸ Details about specific incidents are unknown. Furthermore, it is also not very clear whether these comments were merely empty political rhetoric or whether Kim was referring to particular crimes for which state officials were punished.

There are conflicting opinions about Kim Jong Il’s actual involvement in human rights violations in the DPRK. Some, including the US State Department, believe that the worst human rights situation was due to Kim Jong Il’s repressive dictatorial policy.⁹⁹ Others, especially those who lived in Pyongyang and who were given all elite privileges before they left for South Korea, say Kim Jong Il may not know about most of the human rights violations and corruption committed by security forces and law enforcement officers.¹⁰⁰ It is widespread practice that many security officers accept bribes from those who commit petty crimes, such as watching South Korean movies, using mobile phones or fortune-telling, under North Korean laws.¹⁰¹

⁹⁴ Kim Jong Il, ‘*To, si, kun tang wiwönhoe sa’öbeso nasönün myötgaji munje’e taehayö*’ (On some problems with the party’s activities in provinces, cities, and villages), in *Selected Works of Kim Jong Il 5: 1975–1977* (Pyongyang: Korean Workers’ Party Press, 1975–1977/1995), pp. 447–448.

⁹⁵ In North Korea, security officers and prosecution officials are all called *pöbgwan* (law officers). Interview with Poo on 6 November 2008, Kyunggi, South Korea.

⁹⁶ Kim Jong Il, *To, si, kun tang wiwönhoe*, pp. 447–448.

⁹⁷ Kim Jong Il, ‘*Charyök kaengsaeng’üi hyöngmyöngjök kuhorül nop’i tulgo chöndang, chöminül irükyö*’ (Encouraging the party and the people under the motto of independent revival), in *Selected Works of Kim Jong Il 6: 1978–1980* (Pyongyang: Korean Workers’ Party Press, 1978–1980/1995), p. 10.

⁹⁸ Kim Jong Il, ‘*Tang’ül kanghwa hago kü ryöngdojök yökharül tö’uk nop’ija*’ (Let us strengthen the party and raise its leadership), in *Selected Works of Kim Jong Il 9: 1987–1989* (Pyongyang: Korean Workers’ Party Press, 1987–1989/1997), pp. 381–382.

⁹⁹ US Department of State, *2008 Human Rights Report: Democratic People’s Republic of Korea*, available at www.state.gov/g/drl/rls/hrrpt/2008/eap/119043.htm; Suzanne Scholte, ‘Tribunal for North Korea’, *Wall Street Journal* (14 July 2009), available at <http://online.wsj.com/article/SB124750605966533841.html> (accessed 30 March 2010); Ed Royce, ‘North Korean human rights: recommendations for the Obama administration and the US Congress’, The Heritage Foundation (5 May 2009), available at www.heritage.org/Research/asiaandthepacific/hl1121.cfm (accessed 15 November 2009).

¹⁰⁰ Interview with Poo on 6 November 2008, Kyunggi, South Korea.

¹⁰¹ Interview with Koo on 5 November 2008, Seoul, South Korea.

Kim Jong Il's criticism was certainly one of his many ambitious political strategies to please his father, who was in power at that time, and to seek to justify political legitimacy as the heir apparent. Kim Jong Il normally ended his comments with a similar remark to show his filial piety towards his father: 'You ... should conduct your ... work well and implement today's mission that I have just suggested, so that we all can relieve the Great Leader's concerns.'¹⁰² In other words, human rights have to be protected so as not to cause any worries to his father. Kim Jong Il was a more faithful son than anyone could ever have imagined.

The DPRK employs familial images to depict the entire society as one family. Some experts point out this particular Confucian familism in North Korea: Kenneth Jowitt's 'socialism in one family'¹⁰³ and Alexandre Mansourov's 'politics of filial piety'.¹⁰⁴ In Confucian 'familism' (*kajok chuüi*), human rights are granted by 'the parental leader' (*öbö'i suryöng*) and the 'mother party' (*ömönidang*). The masses are, by implication, the children of the family.¹⁰⁵

In societies like North Korea, where people were governed, successively, by feudal kings, Japanese colonists, an anti-Japanese guerrilla leader and finally his filial son, it is much easier to accept duties of the leader as a correlative term of rights than as a concept of inherent natural rights within a Western liberal tradition. Family is one of the most difficult and delicate areas in terms of implementing the concept of individual human rights, since it is a highly personal and private unit within a society and children are socially indoctrinated not to rebel against their parents. In North Korea, therefore, the privacy of the family works like the sovereignty of the state, caring and responsible parents as the leader who protects human rights, and filial children as the people who are to perform their duties in return for the protection of their human rights.

¹⁰² Kim Jong Il, *Tö, si, kun tang wiwönhoe*, pp. 447–448.

¹⁰³ Kenneth Jowitt, 'Moscow "Centre"', *East European Politics and Societies*, Vol. 1 (1987), pp. 296–348.

¹⁰⁴ Alexandre Y. Mansourov, 'Korean monarch Kim Jong Il: technocrat ruler of the Hermit Kingdom facing the challenge of modernity', *DPRK Briefing Book*, Nautilus Institute, available at www.nautilus.org/DPRKBriefingBook/negotiating/issue.html (accessed 13 November 2009).

¹⁰⁵ Charles K. Armstrong, 'The nature, origins, and development of the North Korean state', in Samuel S. Kim (ed.) *The North Korean System in the Post-Cold War Era* (New York: Palgrave, 2001), pp. 54–55.

The DPRK's Constitutional Changes of Rights and Duties

The DPRK's constitutional changes normally occur to mark the end of one era rather than the beginning of a new one. As shown in Figure 1, there have been four constitutional changes since the first People's Constitution in 1948. The biggest change from the 1948 People's Constitution to the 1972 Socialist Constitution, in terms of rights and duties, was the deletion of the limited rights to pro-Japanese elements. The 1998 constitution included the freedoms of residence and travel (Art. 75). The latest amendment, in April 2009, was to include 'the respect and protection of human rights' (Art. 8).

Some notable changes were made in the duty section as well. Tax payments (Art. 29) and protection of ethnic minorities (Art. 31) were deleted in the 1972 Socialist Constitution.¹⁰⁶ The 1972 constitution added duty to military service and the criminalisation of betrayal of the Fatherland (Art. 72). The 1992 constitution made national unity the first duty (Art. 80). The most important notion was that betrayal of the Fatherland as a most heinous crime disappeared in the 1998 constitution.

¹⁰⁶ Although the regime officially insists that there are no ethnic minorities, it accepts the fact that there are around 1,000 Korean-Chinese living in the DPRK and they have full access to public education and medical services. Kang Yun Sok, Director-General of the Department of Legislation, DPRK Supreme People's Assembly, and Chairman of the National Coordination Committee for the implementation of the Convention on the Rights of the Child, at the CRC DPRK third and fourth combined review sessions, 23 January 2009.

Fig. 1. Rights and Duties in the DPRK Constitutions

1948 People's Constitution	1972 Socialist Constitution
[Rights]	[Rights]
Article 11. Equal rights irrespective of sex, nationality (or race), religion, skill, property, and educational level	Article 49. Collective principle 'all for one, one for all'
Article 12. Right to vote and stand for election (age of 20 or over) irrespective of sex, nationality, social origin, religion, length of residence, property or education (persons deprived of the electoral right by the decision of a court, insane persons, and pro-Japanese elements, not included)	Article 50. True democratic rights and freedom, happy material and cultural lives
Article 13. Freedom of speech, the press, association, assembly, mass meetings and demonstrations	Article 51. Equal rights in every political, economic, cultural sphere
Article 14. Freedom of religious belief	Article 52. Right to vote and stand for election (aged 17 or over) irrespective of sex, nation (race), occupation, length of residence, property or education, political party, political opinion and religion (persons deprived of the electoral right by the decision of a court, and insane persons, not included)
Article 15. Right to equal pay for equal work	Article 53. Freedom of speech, publication, assembly, association and demonstration
Article 16. Right to rest	Article 54. Freedom of religious belief
Article 17. Right to material assistance (benefit of social insurance)	Article 55. Right to appeal and petition
Article 18. Right to education	Article 56. Right to work and right to be paid according to quantity and quality of work
Article 19. Freedom to maintain medium and small-size industrial and commercial enterprise	Article 57. Right to rest
Article 20. Freedom to engage in scientific and artistic pursuits	Article 58. Right to free medical services
Article 21. Inviolability of the home of the citizen and privacy of correspondence	Article 59. Right to education
Article 22. Women's equal rights with men	Article 60. Freedom to engage in scientific and artistic pursuits and right to intellectual property and invention
Article 23. Protection of marriage and the family	Article 61. Special protection for revolutionary fighters and their families
Article 24. Inviolability of persons and protection from arbitrary arrest	Article 62. Women's equal rights with men
Article 25. Right to petition	Article 63. Protection of marriage and the family
Article 26. Protection of foreign citizens	Article 64. Inviolability of persons and their home and privacy of correspondence and protection from arbitrary arrest
	Article 65. Legal protection of overseas Koreans
	Article 66. Protection of foreign refugees
[Duties]	[Duties]
Article 27. Abiding by the Constitution and socialist principles	Article 67. Abiding by the Constitution and socialist principles
Article 28. Defence of the Fatherland	Article 68. Respect for collective spirit, sacrifice for the interests of the People, the Fatherland, and revolution
Article 29. Payment of taxes	Article 69. Labour as the divine duty
Article 30. Engagement in work	Article 70. Preservation of public assets
Article 31. Protection of minority nationalities within the DPRK	Article 71. Revolutionary spirit and protection of national secrets
	Article 72. Defence of the Fatherland and duty to do military service/treason against the Fatherland and the People

1992 amended Socialist Constitution	1998 amended Socialist Constitution*
[Rights]	[Rights]
Article 62. Protection of <i>kongmin</i> under the nationality law.	Article 62. Protection of <i>kongmin</i> under the nationality law.
Article 63. Collective principle 'all for one, one for all'	Article 63. Collective principle 'all for one, one for all'
Article 64. True democratic rights and freedom, happy material and cultural lives	Article 64. True democratic rights and freedom, happy material and cultural lives
Article 65. Equal rights in every political, economic, cultural sphere	Article 65. Equal rights in every political, economic, cultural sphere
Article 66. Right to vote and stand for election (aged 17 or over) irrespective of sex, nation (race), occupation, length of residence, property or education, political party, political opinion and religion (persons deprived of the electoral right by the decision of a court, and insane persons, not included)	Article 66. Right to vote and stand for election (aged 17 or over) irrespective of sex, nation (race), occupation, length of residence, property or education, political party, political opinions and religion (persons deprived of the electoral right by the decision of a court, and insane persons, not included)
Article 67. Freedom of speech, publication, assembly, demonstration and association	Article 67. Freedom of speech, publication, assembly, demonstration and association
Article 68. Freedom of religious belief	Article 68. Freedom of religious beliefs
Article 69. Right to appeal and petition	Article 69. Right to appeal and petition
Article 70. Right to work and right to be paid according to quantity and quality of work	Article 70. Right to work and right to be paid according to quantity and quality of work
Article 71. Right to rest	Article 71. Right to rest
Article 72. Right to free medical services	Article 72. Right to free medical services
Article 73. Right to education	Article 73. Right to education
Article 74. Freedom to engage in scientific and artistic pursuits and right to intellectual property and invention	Article 74. Freedom to engage in scientific and artistic pursuits and right to intellectual property, invention rights, and patent rights
Article 75. Special protection for revolutionary fighters and their families	Article 75. Freedom of residence and travel
Article 76. Women's equal rights with men	Article 76. Special protection for revolutionary fighters and their families
Article 77. Protection of marriage and the family	Article 77. Women's equal rights with men
Article 78. Inviolability of persons and the home and privacy of correspondence and protection from arbitrary arrest	Article 78. Protection of marriage and the family
Article 79. Protection of foreign refugees	Article 79. Inviolability of persons and the home and privacy of correspondence and protection from arbitrary arrest
	Article 80. Protection of foreign refugees
[Duties]	[Duties]
Article 80. Safeguard politico-ideological unity and solidarity	Article 81. Safeguard politico-ideological unity and solidarity and sacrifice for the interests of society and the People
Article 81. Abiding by the Constitution and socialist principles	Article 82. Abiding by the Constitution and socialist principles
Article 82. Respect for collectivism, sacrifice for the interests of the People, the Fatherland, and revolution	Article 83. Labour as a divine duty
Article 83. Labour as a divine duty	Article 84. Preservation of public assets
Article 84. Preservation of public assets	Article 85. Revolutionary spirit and sacrifice for national security
Article 85. Revolutionary spirit and sacrifice for national security	Article 86. Defence of the Fatherland and duty to military service
Article 86. Defence of the Fatherland and duty to do military service/ treason of the Fatherland and the People	

Note: * Unchanged in the 2009 amended Socialist Constitution.

Conclusion

From a constructivist perspective, this paper has shown that North Korea's 'our style' human rights have been evolving and are multi-faceted: they have been transformed from and by post-colonial nationalism, Marxism and traditional Korean political cultures. North Korea's right to national survival has been reconstituted from the post-colonial sovereign right of the people. Kim Il Sung's *Chuch'e* Ideology transformed this idea into the concept of the sovereign right of man and the nation, and Kim Jong Il subsequently reconstituted it as the sovereign right of the state, i.e. sovereignty, which is no longer a human right. In practice, the DPRK's adherence to sovereignty has been so rigid and defensive that it has made North Korea even more isolated from the international community. On the other hand, the DPRK's sovereign right to independent national survival has led the leadership to make some pragmatic concessions in the field of human rights.

Marxism was of no use for the DPRK's national survival in the changing post-Cold War environment, and therefore it was replaced by more flexible nationalistic approaches towards capitalists. The DPRK government deliberately converted the formal identities of enemies and partners, and consequently altered its policy behaviour to cooperate with anyone 'who loves the country and the nation', i.e. no matter whether he is a capitalist or not. The government opened up Mt Kūmgang and Kaesŏng to work with South Korean entrepreneurs such as Hyundai.

'Our style' human rights under 'virtuous politics' is a relapse to indigenous Korean cultures. The role of a benevolent government taking care of people's material well-being came from the country's indigenous political tradition including Confucianism. All the main features in 'our style' human rights of the DPRK, i.e. its usage of familial images such as parental leader and motherly party, people's filial piety and absolute loyalty to the leader, and the protection of human rights as rewards bestowed by the leader, owe much to Korea's Confucian values. After the end of the Cold War, however, the fatherly leader, Kim Il Sung, has gone, and his filial son was seen failing in his 'heavenly' duties to take care of his people. This failure has led to a greater emphasis on 'military-first politics', which uses military images depicting Kim Jong Il, who never served in the army, as 'General', and the citizens as his subservient loyalists. Accordingly, citizens' duties are framed as loyalists' mission to protect the nation and Kim's leadership. No room for any individual or liberal concept of human rights.

On the one hand, the government cooperates with the international human rights society for the right to national survival and, on the other, it builds nuclear/missile facilities for the sovereign right of the state to defend itself from foreign powers. These two contrasting behaviours, as well as public discourses, demonstrate that it is in a core process of ideational and behavioural transformation, moving back and forth within the field of human rights. Survival is and will remain the main theme in the discourse of human rights in North Korea for the time being.

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