Human Rights in North Korea
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I. Introduction

Around the world, people are trapped in vicious cycles of armed conflicts and underdevelopment and humanitarian crises, desperately awaiting an end to their problems. By global standards, North Korea may well be one of the worst cases. North Korea is notoriously known for its severe and systematic human rights violations including the use of arbitrary detentions, torture, ill and degrading treatments and prison camps. Looking at the 'repressive countries list' of Freedom House1, North Korea scored the lowest in terms of both civil and political rights. Freedoms are repressed at every level. In terms of religious freedom, North Korea is on the United States’ list of Countries of Particular Concern2 and is the penultimate country on the world index of press freedom, compiled by the French human rights organization, Reporters Without Borders3. Accordingly, it has been condemned by human rights organizations and international organizations for its gross violations of international human rights legal standards.

Despite this grave situation, pressure and sanctions have achieved very little and North Koreans continue to struggle to survive from political repression and suffer from hunger due to the failure of the centrally planned economy.

2 Country of Particular Concern is a designation by the United States Secretary of State (under authority delegated by the President) of a nation guilty of particularly severe violations of religious freedom under the International Religious Freedom Act (IRFA) of 1998 (H.R. 2431) and its amendment of 1999 (Public Law 106-55).
3 Report available on the website: www.rsf.org
This paper is an attempt to understand the socio-cultural and historical factors that have shaped the North Korean regime over the years. We will first summarize reports of human rights violations in the country.

II. Human Rights violations in North Korea

The concept of individual rights and freedom does not exist in the country. The state monitors and controls every aspect of life of the people, making people spy on each other, oftentimes even on their families. Above all, those who could potentially threaten the security of the regime face the worst punishment. Not only themselves, but their families have been reported to be sent to political prison camps, being stigmatized as traitors of the revolution. North Korea’s State Security Agency maintains a dozen political prisons and about 30 forced labor and labor education camps, mainly in remote areas. There is an estimated number of 200,000 political prisoners in North Korea. Once anyone is sent there, he/she suffers from torture, starvation, forced labor and many die prematurely. At worse, those accused of anti-revolutionary crimes can even face public execution.

Other convicts are neither in better condition. Application of the penal code is inseparable from politics. Judges often receive political guidance in determining sentence. However, due to the particularities of North Korea’s legal system, those facing sentencing are presumed guilty, making it very difficult for fair trials to take place.

Socio-economic and cultural rights are not guaranteed either. The failed economy coupled with murderous natural disasters in the early nineties led to widespread famine, which caused the death of an estimated 1.5 million people. In July 2002, the authorities attempted to undertake price reforms, which benefited the state but not the people. The North Korean authorities have not since been able to re-launch the economy and the country continues to suffer from severe food shortages. Many people have been able to cope, however, by cultivating their own land and selling the goods on markets. These markets constitute a great

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achievement for the North Korean economy and society as North Koreans have developed a sense of capitalism. Unfortunately, it also means that North Korean farmers have ceased to work for the common good and that the Public Distribution System (PDS) is no longer being supplied. The government regularly tries to clampdown on markets and, in December 2009, ordered the reevaluation of the North Korean Won, which caused many people to lose their savings. Every attempt by the North Korean authorities to control the markets is met with discontent and unrest and as many as 100 people were reportedly executed in the region of Wonsan for protesting against the 2009 reforms.

III. North Korean refugees and stateless children

Hunger has pushed an estimated 30,000-50,000 North Koreans to seek jobs and food across the borders to China. Most of them are women who fall in the hands of human traffickers. Women are being sold to Chinese men who are either too poor, too old or too disabled to find a Chinese wife. Many of these Korean women are aware of the risks before they leave but chose food over a bad marriage. The Chinese government does not recognize these North Koreans as refugees but as economic migrants. A secret bilateral agreement, which laid out regulations for the border area, was signed between China and North Korea in the early sixties. The agreement was further reinforced by another bilateral agreement signed in 1986, which provided for the repatriation of North Korean refugees and security protocols.

However, when a North Korean is found in China and repatriated to North Korea, he or she faces severe punishment: prison, beatings, torture, forced abortion and so on. Those who admit having been in contact with foreigners are punished even more severely. Women living with Chinese men do not benefit from any protection: if found, the woman is sent back to North Korea, many of whom subsequently disappear. These women often leave children behind, some then living in precarious conditions with fathers unable to look after them. They cannot be registered as Chinese citizens and therefore cannot access the Chinese education system. Some call them the “stateless children”, with a growing number of them in the Northern Eastern region of China.

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7 Note that they do not effectively get married but they are made to live together.
A certain number of North Korean refugees manage to make it to South Korea with the help of compassionate human rights activists or also with the help of brokers. Often, North Korean refugees receive humanitarian assistance from Christian missionaries and Christian Chinese-Koreans who take tremendous risks to help them flee North Korea and China. However, the absence of international monitoring, because of the illegal nature of their activities, opens the door to all sorts of abuses.

1. China’s responsibility towards North Korean refugees and violations of international conventions:

By repatriating North Korean refugees to their home country, China blatantly violates article 51 of the Convention on the Status of Refugees and its 1967 Protocol according to which:

[Any person] owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country of his last habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

China also fails to implement Article 33 regarding non-refoulement, which is of particular relevance in the case of North Korean’s crossing to China, as it applies to when a state proceeds to send persons back without having determined whether they were eligible for refugee status. In Article 38 the UN Convention also provides for the monitoring of its provisions through the Office of the United Nations High Commissioner for Refugees (UNCHR), which was founded in 1949 to facilitate implementation of the Convention. Along with the UNCHR, the Convention also offers legal means to settle disputes between parties via the International Court of Justice (ICJ), however China has made reservations regarding this part of the Convention. Joshua Kurlantzick and Jana Mason highlight the fact that even if China is not party to the whole convention, human rights lawyers have argued that the principle of non-refoulement is such a fundamental human right, that it has become part of customary international law which binds all States regardless of their adhesion to the

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Convention. They further contend that such practice can be considered *jus cogens* and therefore no state should derogate from it. China does not recognize them as refugees but as economic migrants and therefore persistently attempts to deal with their situation by ignoring the Convention. Moreover, China will not allow the UNCHR to conduct fact-finding missions on the China-North Korea border. Between 1997 and 1999, the UNCHR carried such investigations and declared that some North Koreans were “persons of concern”. China subsequently forbade the UN agency to make further visits to the border. In addition, China arrests and repatriates those who have attempted to claim asylum by either presenting themselves to the Chinese Foreign Ministry or by seeking to enter foreign embassies. China has tightened security on its borders and around foreign embassies. The UNCHR has also tried to argue with the Chinese authorities that North Koreans could be recognized as refugees *sur place*: even if they have not directly suffered from human rights violations inside North Korea, they can claim for refugee status because they might experience human rights violations upon their return. Moreover, discrimination based on “caste” they may have experienced, or fear to experience in North Korea, are sufficient grounds on which they can base their claim. Finally, because of the punishments provided by the North Korean penal code for border crossers, North Koreans are entitled to claim asylum and should be all considered refugees *sur place*. Kurlantzick and Mason also refer to the Convention against Torture (CAT), which China ratified in 1988, as another international text which can be used against China to criticize its treatment of North Koreans. Indeed the CAT also includes provisions against *non-refoulement* and highlights the responsibilities of the host country. Finally, according to Article 6 of the CEDAW, all parties are required to “take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women”. China ratified the Convention in 1980 but has failed to comply with it. As seen above, North Korean women find themselves extremely vulnerable to trafficking, sometimes kidnapped inside North Korea and sold to Chinese men or sent to prostitution networks.

IV. Human Rights Violations in North Korea

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9 Idem, p.35
10 Idem, p.41
A variety of factors explain the human rights and humanitarian crisis in North Korea: Confucian heritage and Japanese imperialism; Communist influence; and policies of regime survival, which translate into concerns over the national security of the nation.

1. Historical Legacy

It is generally argued that the North Korean leaders have perpetuated Confucian authoritarianism. A Confucian style leadership is characterized by a paternalistic state, elitism, father-to-son succession and self-sufficiency. Thus, according to liberal theorists, North Korea has never experienced a liberal democracy. Liberal theorists have analyzed concepts of power and political culture in Asia and argue that in fact Confucian societies “share a common denominator of idealizing benevolent, paternalistic leadership and of legitimizing dependency (...) where the West prizes ‘autonomy’ and ‘individual identity’, Asians desire ‘personal security’ in the form of childlike dependency. Where the West defines power as ‘participation’, Asians view it as the epitome of non-decision-making. Where the West seeks choice, Asians want just the opposite”. Under that theory, one can view the Chosun dynasty (1392-1910) as an absolute monarchy that wielded power based on Confucianism: putting emphasis on authority over freedom, hierarchy over equality, and collectivism over individualism.

Many scholars, such as Daniel Bell, claim that Confucianism is not incompatible with democracy. For example, the mechanism of check and balances established by Confucian scholars in the Choson period offer a valid alternative to liberal democracy. Adherents to the school of “Asian values”, such as the Chinese government, also suggest that Asians are willing to sacrifice some political rights to gain food security and greater economic stability. South Koreans’ decision to elect Lee Myung-bak as President of the Republic of Korea (ROK), in 2007, to address the economic crisis and ensure economic growth, seems to corroborate that claim.

However, one thing is certain, regardless of the theory we adhere to, it is clear that the Kim dynasty has failed the people of North Korea.
In 1910, the anachronistic and reclusive Chosun dynasty ended as a result of Japanese imperialism. During the colonial period (1910-45), the Koreans were ruthlessly exploited under a repressive rule. The colonial Japanese masters ruled Korea with the military, replacing traditional oligarchic polity with gendarmerie-based bureaucratic totalitarianism. From the Japanese, Koreans have retained the emphasis on military power.

After becoming independent in 1945, North Korea was occupied by the Soviet Union, with South Korea under the U.S Military Administration. Consequently, Communism had a substantial influence on North Korea. North Korea was structured into a Marxist-Leninist regime based on the totalitarian one-party system and a centrally planned economy. Multiple political parties are not allowed – only the Korean Workers' Party (KWP). The one-party State has molded the soul and morals of citizens, regulated every aspect of public and private life with party cells that penetrate into every nook and cranny of society, and disseminated political propaganda through the state-controlled mass media. People are classified into three different classes - core, wavering, and hostile - depending on their loyalty to the Leader. Such political stratification leads to political discrimination, with those only in the core class taking all the key positions in the government, economy, and military.

Finally, Kim Il Sung and his scholars established the Juche ideology to legitimize the necessity to isolate North Korea from the rest of the world. Economically, North Korea is supposed to be self-reliant. The Juche ideology—better known inside North Korea as Kim Il sung-ism—has been used as a political instrument to idolize leaders Kim Il Sung and Kim Jong Il. Kim Jong Il integrated the ideology into his thesis of "Immortal Social-Political Body" according to which the Leader, the Party and the people are regarded as an integrated and immortal socio-political body, like a 'single organic whole'. In such a monolithic power

structure, the Leader's directives are a supreme norm guiding the country, and the Party's decision is the order to realize the directives of the Leader.

3. The Socialist Command Economy

At the early stage, the socialist economy of North Korea led to rapid economic growth, creating success stories. However, over time it has been increasingly started to result in diminishing returns - and since the 1990s it has been faced with a tri-fold crisis, a shortage of food, foreign exchange, and energy.

4. National Security

With independence from Japanese colonial rule, Korea was divided along the 38th parallel. The two Koreas have since engaged into confrontations challenging each other’s identity and pursuing an arm race.

In doing so, the North Korean regime, obsessed with national security--de facto regime security, put an over-emphasis on the military. With the advent of Kim Jong II in particular, the regime has pursued military-first politics, aiming at capitalizing on the armed forces as a vanguard of protection for the socialist system. This led to a hyper-militarization of North Korea. Along the four-point military doctrine, the entire territory has been fortified and the whole populace has been armed. For example, North Korea spends as much as 40 percent of its GDP on the military, irrespective of its ever-diminishing national treasury. A sizeable portion of food grains have been stockpiled in warehouses for military use, while ordinary people have been starving to death.

With fear that its peoples' exposure to the outside world would bring down the regime, the state apparatus has also made significant efforts to blinker its people from foreign influences.

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Herein lies the rationale for why it punishes those who contact foreigners on a regular basis. Other human rights such as freedom of thoughts, belief, opinion, and association are also deprived, as the regime fears that such freedom could drive people to rebel against the regime.

As long as regime survival is at stake, the Kim Jong Il regime will continue to justify human rights violations in the name of national security, putting the regime's survival on top political priority.

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9) "North Korea Religious Persecution", VOA News (30 Sep 2008)


18) For more details, see EIU, Country Profile: South Korea North Korea 1996-97; Bank of Korea data base (www.bok.or.kr)


