

‘We Just Do What We Think Is Right. We Just Do What We Are Told:’ Perceptions of Crime and Justice of North Korean Defectors¹

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Because of its enigmatic character North Korea is known as the “hermit kingdom.” There is little literature on North Korea’s criminal justice system due to the restricted access to information on North Korea. Much of the current information on North Korea’s society is obtained through North Korean defectors. This study uses a descriptive analysis of qualitative data obtained from interviews with North Korean defectors residing in South Korea to examine their perception of crime and justice in North Korea. In addition, published testimonies of North Korean defectors were incorporated in the analysis. The findings of this study are significant in understanding the North Korean society in relation to crime and give us a criminological insight into North Korea’s criminal justice system.

There has been very little research on North Korea’s criminal justice system. Although there is an increasing awareness of the human rights violations that occur within North Korea (Lee, 2008), especially in prisons and prison camps, there is little information on the systemic workings of the criminal justice system in North Korea. The official publications and statements made by the North Korean government concerning their criminal justice system may provide only a partial picture of the system and differ significantly from testimonies of North Korean defectors. In fact, the latter are an important source of information about the criminal justice system in North Korea. Their testimonies can be corroborated by multiple defectors and may be the most accurate source of information available.

Increasing numbers of North Koreans have been crossing the border from North Korea into China since the mid-1990s famine. Two to three million North Koreans died between 1994 and 1998 from starvation and hunger related illnesses (Natsios, 1999). Although leaving the country without permission is considered

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treason and deemed a capital crime, North Koreans cross the border for purposes of survival. Most leave North Korea not for political, but economic reasons. Although North Korean border-crossers in China initially maintain their allegiance to Kim Jong-Il, once they have contact with people from the outside, they usually experience a change in perception toward the North Korean regime after being exposed to news and governmental sources outside of the North Korean system.

North Korean border-crossers are recognized as refugees by human rights groups around the world except for China. Chinese authorities consider North Korean border-crossers illegal economic migrants (Sleeth & Butterworth, 2004) and that China possesses the right to deport them. North Korean border-crossers are unique in the recognition of their refugee status in that they are not escaping persecution when they leave North Korea. North Korean border-crossers are recognized as refugees because of the severe consequences they *will* face upon returning to North Korea as a result of illegally leaving the country. Leaving North Korea without permission is considered a capital crime and North Korean refugees are considered political criminals by the North Korean regime. When North Korean refugees are caught by Chinese authorities and repatriated back to North Korea, they may be subject to imprisonment, torture, and execution. The well-founded fear of being subject to these future acts of persecution qualify North Korean border-crossers as refugees, according to the definition of a refugee by the 1951 United Nations Convention and the 1967 Protocol Relating to the Status of Refugees.

Hundreds of thousands of North Koreans have crossed the border into China since the famine of the mid-1990s (Human Rights Watch, 2002). Due to the nature of the plight of North Korean border-crossers, it is difficult to have an accurate estimate of the number of North Koreans living in hiding in China. Many North Korean border-crossers decide to defect to South Korea in order to be free from persecution and from always living in fear of being caught in China. Because the South Korean constitution recognizes all North Korean citizens as South Korean citizens, North Koreans who seek asylum in South Korea will not be turned away if they reach South Korean territory. According to South Korea's Ministry of Unification, there are estimated to be 15,000 North Koreans who defected to South Korea since 1953.

Much of the contemporary information on North Korea comes from North Korean defectors. Because of extreme censorship of the information in North Korea, North Korean defectors are the best source of information for the outside world. To learn more about the criminal justice system in North Korea, this study uses information from interviews with North Korean defectors. This study aims to discover the general attitudes that North Koreans have toward the criminal justice system in North Korea.

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REVIEW OF LITERATURE

North Korea is the world's most enigmatic state. Even in the age of globalization, when most countries actively participate in the international community, the North Korean regime remains secretive and closed. North Korea still has ties and trading relationships with other communist countries; however, information flow to and from other countries is controlled and restricted. The closest ties and two biggest allies of North Korea are China and the Soviet Union. North Korea's political system was birthed from the Soviet Stalinist regime; however, Kim Il-Sung developed his regime to evolve into a unique and independent Stalinist state: currently, "the North Korean system is totally dependent on the personality cult of its supreme leader, Kim Jong-Il, one-party rule, and the brute force of its military and security apparatus" (Lee, 2008:8)

Although North Korea, like China, had modeled its political regime after the Stalinist Soviet regime, North Korea later broke from the former Soviet Union in the late 1950s after Stalin died, believing that the Soviets wanted to dominate North Korea by interfering in its domestic politics (Clough, 1982; Lankov, 2005). After Stalin died in 1953, a de-Stalinization campaign was launched by Nikita Khrushchev in an attempt to create a new and more humane model of Leninist socialism with the plan that the party must remain in permanent control both domestically and internationally in other Communist states (Lankov, 2005). The countries of the Communist world at that time had a varied and mixed reaction to the challenge of de-Stalinization taking place in Moscow. Some countries followed suit and became a more liberal post-Stalinist socialist state, although still restrictive. In other countries, the elite leaders chose not to follow suit and they "either embarked on more radical experiments and distanced themselves even further from the original Stalinist model, or they struggled even harder to preserve the old patterns and, in the process of doing so, occasionally proved themselves more Stalinist than Stalin" (Lankov, 2005:2). North Korea was one of the few Communist states, along with Albania, Romania, and China, to reject the de-Stalinization campaign and remain loyal to the old Stalinist pattern.

In order for North Korea to have its political independence from the Soviet Union and China and to stop being subservient to the two domineering communist superpowers as a satellite, Kim Il-Sung started promoting himself as leader. Kim Il-Sung maintained a policy of being equidistant from China and the Soviet Union to avoid taking sides in the Sino-Soviet schism (Ha, 2005; Lankov, 2002, 2005; Park, 1998). After eliminating political opponents who unsuccessfully attempted to replace Kim Il-Sung in the "August events" of 1956 – the only known open challenge to Kim Il-Sung's supremacy – Kim Il-Sung secured complete domestic domination and his victory marked the birth of Pyongyang's version of "national Stalinism" (Lankov, 2005). In turn, Kim Il-Sung was able to steer the country in a

new direction, “one that differed significantly from the political course followed by a majority of the Communist regimes of Eastern Europe” (Lankov, 2005:4).

Social and Political Control through *Juche*

Juche is a North Korean concept that refers to the idea of self-reliance (Kim, 2002). This concept plays an important role in the government’s attempt to control its citizens; a practice that is shared by many totalitarian states, but no other state has matched the level of control in North Korea (Kim, 2002). The ability to control the masses leads to shaping their belief system. Kim Il-Sung used both terror by force and consent of the people through indoctrination of *Juche* to control the North Korean people. According to Park (1998), the North Korean regime is unique in the sense that its legitimacy is not based on “human needs, economic prosperity, and political-civil liberties,” for then the collapse of the regime would be imminent, but rather is based on the ideology of *Juche*. Because Kim Il-Sung’s leadership was founded on the belief that he had liberated the nation from the Japanese colonial oppression, *Juche* was “originally conceived as an anti-foreign doctrine, promoting the belief that Korea cannot rely on any external power” (Park, 1998:227). The ideology of *Juche* affects all political, social, and economic aspects of life in North Korea. It has been used to provide a sense of nationalism and solidarity against foreign states, empowering North Korea (Kim, 2002) and legitimating Kim Il-Sung’s leadership.

A unique characteristic of North Korea is that the singular goal of political education and socialization has been to create charisma for both leaders as an integrated whole so that Kim Jong-Il could successfully succeed his father (Park, 1998). This made it possible for North Korea’s current regime to survive through *Juche* (Kim, 2002). According to Belke (1999), the primary goals of *Juche* include: the justification of Kim Jong-Il as dictator-god; hereditary power succession; xenophobic isolationism; national reunification (Kim Jong-Il’s rule over all Korea); and the export of the *Juche* system to the entire world.

Juche teaches that man is the beginning and end of all things and that interdependence brings disaster. The three Cardinal Principles of *Juche* are to be politically independent, economically self-sufficient, and to be self-reliable in military defense. It teaches that interdependence with other countries will bring disaster (Kim, 2002). In essence, *Juche* teaches totalitarian subordination of the individual to the nation, self-validation, and extreme national self-reliance, where the idea is to be able to stand alone in this world without relying on another country politically, economically, and militarily (Belke, 1999; Chung & Lee, 1998).

Juche is said to entail a personality cult, in which Kim Il-Sung is worshipped as a deity by the North Korean people. It also allowed for the dynastic succession of dictatorship through inherited legitimacy from Kim Il-Sung to his son, Kim

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Jong-Il, following a long-term preparation for power succession. North Korea is the only socialist regime that has been successful with this kind of transfer of power.

Information Control

North Korea's unique social and political setting is characterized by maintaining its system of isolation from external influence. Therefore, the regime has total control over information (Park, 1998). For instance, media in North Korea are highly censored by the government (Lee, 2005). Crime is never reported on the news, and news concerning international affairs is distorted so as to show North Korea in a favorable and advantageous light (Kim, 1993). Listening to foreign radio and watching illegally smuggled foreign films or dramas are strictly forbidden and those that are caught doing so have been sent to prison camps, although some have reported that recently harsh punishment has loosened (Lee, 2005; Park, 2007).

Travel in and out of North Korea is limited. The few foreigners that are allowed to visit North Korea are usually restricted within the limits of Pyongyang, the capital of North Korea, under the guidance and close surveillance of monitors (Yang, 2007). Mobile phones must be handed in on landing at the North Korean airport, and photography is prohibited except in a few common tourist areas (Yang, 2007). Average North Korean citizens are not permitted to leave the country (Richardson, 2007).

North Korea's Criminal Justice System

North Korea's judicial system took a form similar to that of the Soviet Union, although it has undergone several modifications in recent years as a result of international criticisms (Lee, 2008). Hahm's (1969) observation of the North Korean legal system maintains that its matrix is that of the Soviet system of the 1930's and the early 1940's. As is the case in many communist countries, North Korean leaders and jurists describe their judicial system as "a weapon of the dictatorship of the proletariat for implementing and defending the policies of the Communist Party" (Cho, 1971:1167). According to Hahm (1969), the North Korean legal theory followed the Soviet model very closely, and North Korea's legal system was almost an exact replica of the Soviet system until the Soviets began to change course following Khrushchev's attack on Stalin. In 1956, when Khrushchev's attack on Stalin at the 20th Congress of the Communist Party occurred, North Korea was still very much dependent on the Soviet Union for ideological direction and military and economic aid. When de-Stalinization occurred in the Soviet Union, the reformist criticisms by anti-Party, factionalist, and modern revi-

sionist reactionaries were directed toward law and its administration, arguing for the independence of the judiciary. In response to this, Kim Il-Sung was reported to have lashed out arguing that “judges can never be unfair or partial when they follow the Party line and directives” (Hahm, 1969:78).

In addition to punishing the criminal, the courts of North Korea are also responsible for educating both the criminal and the public (Cho, 1971): “There are three levels of courts and two special courts: namely, the central court provincial(major city) courts, and people’s courts; and the two special courts, the military court and railroad court” (Lee, 2008:138-139). Article 158 of the Constitution states that “court cases shall be heard in public” (Democratic, 1998). However, a clause that follows provides that “hearings may be closed to the public as stipulated by law.” Trials are closed to the public when state secrets, public morality, individual intimacies are involved, or when otherwise provided by law, but the decision must be announced publicly (Cho, 1971). Public trials are conducted for educational and propaganda effect, especially when counterrevolutionary crimes are involved. North Korean officials use the court as a convenient forum for education and propaganda and to give the masses the opportunity to observe law and be loyal to the state (Lee, 2008). According to Cho (1971), “North Korean courts and judges appear to lack any independence whatsoever and are wholly subservient to the dictates of the Korean Workers’ Party, constitutional provisions notwithstanding” (p. 1181). Hahm (1969) also notes that the role of “the North Korean judge is to interpret the law not in a mechanical or formal manner, but on the basis of correct understanding of the judicial policies of the Party and Marxism-Leninism” (p. 91). Furthermore, “all judges, prosecutors, and attorneys lack professional qualifications because they are appointed by the state from among the graduates of law schools” (Lee, 2008:139).

Finally, while in theory North Korea has a version of jury trials, courts consist of a judge and two “people’s jury members,” the reality is that these jury members have no independence:

This system would appear, at least in its form, to follow somewhat the jury system of the Anglo-American courts. However, in reality it is a system employed to exercise the Party’s control over the judicial system. Qualifications to serve as “people’s jury” are limited to “workers” such as farmers and laborers. In fact, their primary role is not to provide fair and objective trials but to rubber stamp the conviction of the accused wrongdoer (Lee, 2008:144).

Procurators are exempt from subordination to local organs of state power and are responsible only to their own superiors within the procuracy in order to ensure that they are not influenced by local organs of the state. However, similar to the courts and judges, the procurators are always subject to the policy of the Workers’ Party. All investigatory activities, including arrests, detentions, inquiries, and pre-

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liminary investigations, are subject to the procurator's direction and supervision. Preliminary investigations of political crimes are exclusively conducted by the secret police, known as the State Security Agency (Lee, 2008:147). "Since the procurator has no control of the secret police in the arrest of those suspected of committing political crimes or the preliminary investigation thereof, it appears that the procurator has neither the actual power to determine the terms of the indictment drawn up by the secret police nor does he have any control over the prosecution of such crimes" (Cho, 1971:1174). This situation resembles the practices of the Soviet secret police during the Stalinist era which prevailed until the reform of the late 1950s. In further contrast to the tendency occurring in the Soviet criminal justice system to eliminate political terror, North Korea's elite continues to adhere to the "Stalinist-type terror which the secret police apparatus imposes upon the people" (Cho, 1971:1181).

Although available information on the function of lawyers in North Korea is limited, the Constitution (Article 158) provides that "the accused is guaranteed the right of defense" (Democratic, 1998). The lawyer has two major functions: 1) providing the public legal assistance orally by way of consultation and legal advice, and through preparing petitions, contracts, agreements, and other legal documents; and 2) acting as defense counsel for the accused, appellant, or petitioner in a criminal case or as a representative for the plaintiff or defendant (Cho, 1971). However, because of the unique nature of North Korea, the reality is often different:

In light of the nature of socialism in North Korea, observers would not predict an independent judiciary based on the principle of separation of powers. In fact, the mission of North Korean attorneys is to protect the policies of the Korean Workers' Party rather than the rights of the accused (Lee, 2008:138).

The increase of information in recent years through North Korean refugees on North Korea's criminal justice system reveals alarming reports of human rights violations, as well as crimes against humanity within the penal system (Lee, 2008). "North Korea is carrying out death sentences not only on political criminals and conscientious objectors, but also on routine social misdemeanors [sic]; [thus,] the right to life of its citizens is seriously threatened" (Suh et al., 2002:56). In North Korea, punishment for criminal behavior is determined by whether the type of crime is political or nonpolitical and by the status of the individual (Lee, 2008). There are indications of discriminatory prosecution, where the criminal law is applied differentially according to the accused person's class and category. The objective of the North Korean penal system is to return a reformed individual to an active societal role with the exception of political criminals. Political crimes are viewed more seriously since the person can be seen as a threat to the Kim Il-Sung regime and the communist party. Therefore, when political criminals are sent to a

prison camp, most people expect them not to survive their sentence because prison conditions are so harsh that prisoners usually die of starvation (Kang, Lee, Choi, & Ahn, 1998).

Considering its social and political situation, North Korea represents a unique research setting for criminal justice. In light of what is known about North Korea's criminal justice system, it is legitimate to analyze the perceptions that North Koreans have toward their country's criminal justice system. Moreover, the criminal justice system of North Korea is a relatively unexplored academic subject.

METHODOLOGY

Two types of data were used for this study. The primary data were qualitative in-depth interviews with North Korean defectors. The senior author interviewed 13 North Korean defectors in South Korea: 11 were interviewed in Seoul and two were interviewed in Changwon, South Korea. Snowball sampling was used to conduct interviews with new interviewees. In addition to the primary data, secondary data from published sources of North Korean defectors' testimonies and memoirs relating to North Korea's criminal justice system were used.

Approximately 15,000 North Koreans have defected to the South since the cease-fire of the Korean War in 1953, of which the vast majority came in recent years ("International Crisis," 2006; "North Korean," 2007). They live as naturalized South Korean citizens, and the South Korean government continues to monitor their progress for several years. Since their status is no different from other South Koreans who were born in South Korea, the most feasible way of coming in contact with North Korean defectors is through personal channels. Although North Korean defectors can be met in existing organizations that are involved in North Korea studies or activist groups concerning North Korean human rights, most North Korean defectors are wary of researchers with whom they have had no personal relationships. To be introduced to North Korean defectors, the senior author used personal acquaintances and friends who had personal relationships with the defectors. The objective of the interviews was to learn about the interviewees' perception of crime in North Korea and their understanding of the North Korean criminal justice system. Interviews were semi-structured, using the questions as a guide while allowing the interviewees to freely elaborate on their responses. For example, interviewees were asked if they considered North Korea to have a high level of crime; what kind of job they thought the police and courts did; and whether they have been a victim of any crime.

In addition to the interviews, secondary data were collected through published testimonies of North Korean defectors on criminal justice related issues in North Korea. Articles from *The Daily NK* were used as a data source for pub-

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lished testimonies. This online newspaper publishes eye-witness accounts of North Korean defectors' encounters with the criminal justice system in North Korea. Two autobiographical memoirs of life in North Korean prisons were also used as a secondary data source: *Aquariums of Pyongyang* by Kang Chul-Hwan (2001) and *Eyes of the Tailless Animals* (1999) by Soon-ok Lee.

Our data were collected exclusively from defectors, either through personal interviews or through secondary analysis of accounts published elsewhere. This brings up the possibility of bias in that our respondents might be biased in their assessments of North Korea and its criminal justice system. While we are aware of this potential bias and would have liked to interview both North Korean criminal justice professionals and North Korean citizens in North Korea, it is the very nature of this country that prevents us from doing so. The data reported here are the best we can obtain at this time and the bias they might entail is a problem, but is unavoidable at this time.

FINDINGS

Interviews with North Korean defectors generated several themes with respect to their perceptions: a high rate of survival crimes; a corrupt and unfair criminal justice system; citizens' knowledge of the criminal justice system; a sense of helplessness; prison as cruel and unusual punishment; and the influence of *Juche* in the criminal justice system.

High Rate of Survival Crimes

In the opinion of our respondents, the food shortage and starvation in North Korea was considered the biggest national problem, with 12 of 13 interviewees replying that it was famine. All of the interviewees were deeply concerned about the food crisis and hunger as the motivation for most crime in North Korea. Respondents said the political situation was the biggest factor leading to the famine. One interviewee responded that she saw hunger as a big problem, but that people living under propaganda and indoctrination was even a deeper problem. Interviewee #12 said hunger was a problem, but violations of human rights was even more of a problem in North Korea. There was a consensus that as a result of hunger, stealing was a rampant social phenomenon in North Korea. North Korean defectors all agree that crimes are economically based. The researchers labeled such crimes "survival crimes" – crimes that are economically motivated, but manifest in the forms of property crimes and violent crimes.

One defector said he left North Korea not because of political antipathy but for basic survival. He went to China so he could eat. He said there is crime in

North Korea now, but crime levels were lower before the 1990s. Several interviewees also mentioned that crime rates were lower before the mid-1990s or before Kim Il-Sung died in 1994.

When asked about the occurrence of robbery and murder, a 53-year-old male interviewee replied, “There is a lot of theft because life is hard. It’s a survival crisis, and it’s possible to give others death in order to live.” Similar to Interviewee #13, he related violent crimes to survival crimes. In North Korea, violence is a product of one’s basic survival instinct. If taking property from people by stealth did not work, some took it by force.

Violent crimes are very few, but survival crimes in this age of chaos, the age of chaos starting around ‘95, survival crimes are rapidly on the rise. Generally, when I’m speaking of survival crimes; because people want to eat and live since there is nothing to eat, people will enter other people’s houses and steal, or pick-pocket. You’re not supposed to take things from the national company you work at, but some people will find a way to steal products and take them out of the factory and sell them... Robbery will happen to people with some money. They’ll go into the person’s home, steal money, and kill the person. (Interviewee #13, personal communication, January 5, 2007)

In the following interview segment, another respondent illustrates the theft-ridden environment of North Korea.

The crime level was very high. Crime level was high because stealing is a crime. I can’t survive if I just sit there doing nothing. I have to go somewhere and steal something in order to live. It’s not much of an option if I can’t eat. I lived out in the country and had a garden of about 5 units and grew vegetables in it. So I didn’t steal, but I would’ve definitely stolen if I didn’t have that garden. (Interviewee #2, personal communication, December 13, 2006)

In sum, interviewees reported bleak conditions of food shortages, starvation, and famine. Meeting daily living needs preoccupied the lives of many North Koreans according to interviewees. Stealing was so common that most people reported to have been victims and offenders. Property crime and even homicide were reported to have occurred.

A Corrupt and Unfair Criminal Justice System

North Korea’s criminal justice system was viewed as corrupt and unjust. Bribery among police and judges were believed to be widespread. Those who were caught breaking the law could bribe the legal authorities or powerful families could influence them to get a lighter sentence or have the offense ignored alto-

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gether. One interviewee said that in North Korea people escape punishment if they possess money. Not only do the citizens use bribery to avoid punishment, but police seek bribes as well, as there is more profit in bribery than enforcing the law.

[The police] always try to get bribes from the residents... They are not afraid of anything because they are in a position of power. (Interviewee #12, personal communication, January 2, 2007)

The court system cannot be operated fairly as a result of bribery among police and judges being so widespread. The court system was seen more or less as a façade where officials go through the motions of carrying out legitimate trials when in fact, there is a predetermined verdict.

The courts don't do their job properly... You can't receive a fair trial. It's one-sided. The accused can't even say a word. (Interviewee #11, personal communication, December 30, 2006)

The views of several interviewees are matched by the personal experience of Lee Soon-ok, a female North Korean defector who was wrongly imprisoned for six years. In her prison memoirs, *Eyes of the Tailless Animals*, she describes the unfair trial process she experienced after she was falsely accused of a crime. Lee Soon-ok paid for the fabricated lies of corrupt higher officials, who needed a scapegoat to cover-up their illegal activities of embezzling goods, bribery, and using their influential positions to retaliate against those who refused to perform special favors.

Before my arrest, the Central Communist Party discovered the security chief's illegal behavior and wanted to remove him from his post. Instead, the security chief falsely accused me to try to cover his illegal activities so he could save his own neck. He deviously planned my entire arrest. (Lee, 1999:15)

Instead of being vindicated for lack of evidence, Lee was taken to an interrogation center where she was tortured for 14 months and finally signed a false confession. Lee Soon-ok gave a false confession so her husband and son would not suffer for her uncooperativeness with the corrupt officials. Falsified documents that incriminated Lee along with her false confession were transferred to the court system. The prosecutor represented the Communist party, of which Lee's lawyer was also a member. Lee perceived her lawyer to be no more than a mere puppet that went along with the prosecution and the judge.

In other criminal cases, if bribes are forthcoming, the defendant may be exonerated or receive a lighter sentence.

There are a lot of bribes. So trials are not operated according to law. Instead of murder or fraud, most crimes are theft, border-crossing into China, and smuggling goods that are restricted by North Korea. These crimes should be punished according to law, but let's say someone got caught smuggling something. If the person's uncle worked for the court system, or if the person's family had a lot of money and gave a lot of bribes or was from a powerful household, then the punishment would be lightened. Either that or the case wouldn't go to trial but it is settled before trial. (Interviewee #3, personal communication, December 21, 2006)

As indicated above, Interviewee #3 mostly talked about bribery to avoid punishment for crimes that are economic in nature, such as theft, border-crossing, or smuggling goods. Interviewee #9 said that bribery was used more for economic crimes than for political crimes.

Recently, people get out by giving bribes. Economic crimes can be forgiven if you invest. They say there are trials for political criminals but I don't know. It's not public. They're taken away secretly. (Interviewee #9, personal communication, December 30, 2006)

Kang Chul-hwan was a child prisoner in a prison camp for 10 years, from 1977 to 1987. In his memoir *Aquariums of Pyongyang: Ten Years in the North Korean Gulag* (2001), he recalls that his family was taken away to a prison camp by the secret police without any trial. Kang's grandfather had committed a political crime, although the details of the crime never became known to Kang or the family. "We weren't being sent to the camps as criminals but as relatives of a criminal..." (Kang & Rigoulot, 2001:40).

Some of the interviewees also pointed out that the criminal justice system is not run by the written law but more by the arbitrary rulings of the Communist party, the Korean Workers' Party of Korea (KWP).

Trials are not fair. The courts have no power. It's the Workers' Party that has power. The Workers' Party does whatever it wants. (Interviewee #4, personal communication, December 22, 2006)

In essence, the interviewees' views reflected the idea that North Korea's criminal justice system is not an impartial branch of government that sought to enforce the law fairly but served as an extended arm of the Communist party that functioned as a social control mechanism to keep the people subject to North Korea's political system.

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Citizens' Knowledge of the Criminal Justice System

There was a general lack of knowledge about the criminal justice system among the interviewees, who had been mostly common citizens in North Korea. It was clear that not many of the interviewees had given much thought to the operations of the criminal justice system. There was no standard or point of comparison from which to criticize or evaluate the criminal justice system. Some admitted that they did not even know whether the legal system was doing a good job or not. Interviewees' responses revealed how uninformed respondents were about the criminal justice system.

I don't know whether the trials are fair because I don't know the law very well.
(Interviewee #1, personal communication, December 7, 2006)

When asked whether residents who witnessed a public execution agreed with the penalty of the accused, one interviewee said most residents usually believe the allegations and seriousness of the offense as pointed out by the prosecutor. Their lack of knowledge about fair legal procedures and the law naturally make them accept what the state tells them about the criminal justice system.

Lee Soon-ok's (1999) memories of when she was falsely accused and sent to prison support this notion: "Until that time, I believed that the security bureau strictly followed North Korean laws. I did not know that they often illegally used their authority to commit wrongful acts against the people" (p.16). Her experience led her to acquire knowledge of the unfair and corrupt reality of North Korea's criminal justice system, altering her previous perception of it being effective.

There was a difference in the perception of North Korean defectors who had not been imprisoned and those who had been imprisoned. For those with no previous history with the law, there was a lack of knowledge about the operations of the court system and the prison system. Those who had experienced the criminal justice apparatus, however, possessed a different picture of North Korean courts and prison conditions. As a child prisoner, Kang Chul-hwan also realized that he had been blinded by North Korea's Juche propaganda.

For a long time I was angry at my grandfather. Only around 1983 did I begin to realize that not he but rather Kim Il-sung and his regime were the real causes of my suffering. They were the ones responsible for the camp and for filling it with innocent people. All during my childhood, Kim Il-sung had been like a god to me. A few years in the camp cured me of my faith. (Kang & Rigoulot, 2001, p. 136)

In sum, interviews and documented reports of the North Korean criminal justice system reveal two trends with defectors. One finding is that interviewees who experienced the horrors of the North Korean criminal justice system had knowledge of its brutality. These interviewees had their complete value system in Juche destroyed. On the other side were the interviewees who were lucky enough to have never experienced the North Korean criminal justice system. These interviewees only knew the information generated by the government's propaganda and through hearing stories from other people. These interviewees had few, if any, informed opinions, believing the system was operating successfully and legitimately.

A Sense of Helplessness

On the whole, the interviewees showed a lack of interest in responding to questions concerning North Korea's criminal justice system. While it was understandable that this apathy was a result of their lack of accurate knowledge about North Korea's criminal justice system, interviewees expressed feelings of helplessness about the system. The following quote illustrates how North Korean citizens' lack of efficacy is traced to their lack of knowledge.

I guess they do a good job in their own way. We don't know much about that so we wouldn't know if they were doing a good job or not. We don't learn much about the criminal justice system in school. We just do what we think is right. We just do what we're told. (Interviewee #6, personal communication, December 24, 2006)

As they recounted their experiences with the criminal justice system, the interviewees expressed a lack of efficacy concerning the whole system of government.

In North Korea, you don't have any power or the disposition and inclination to think whether something is right or wrong. If the government does it, then you think that it's by the law. I'm not in the situation or have the right to take legal action, so I'm just indifferent to it all. There's nothing we can do because the law is made for North Korea's power. There's nothing we can do but submit. (Interviewee #6, personal communication, December 24, 2006)

Prison as Cruel and Unusual Punishment

As the interviewees' experiences with North Korea's criminal justice system were limited, published testimonies of North Korean defectors who had experienced prison camps were used as secondary data in order to examine their per-

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ception of the system. Along with the firsthand eyewitness accounts recorded in the memoirs of Kang Chul-hwan and Lee Soon-ok, five defectors gave detailed accounts of the cruelty of North Korea's criminal justice system through interviews and testimonials published by *The Daily NK*, an online newspaper that focuses on North Korean affairs.

According to published testimonials, prison life in North Korea is extremely harsh and life expectancy for prisoners is very short. Prisoners are fed very little, clothed with very little even during the cold harsh winters, and expected to work hard each day to meet their production quotas (Ahn, 2006b, 2006c; Ahn, 2005b; Kang & Rigoulot, 2001). Children are also forced to meet labor quotas along with the adults (Kang & Rigoulot, 2001). Prison guards beat prisoners who rest or stop working because of an injury (Ahn, 2006c). Ahn Myung-Chul, a former prison guard, says that prison guards do not view or treat political prisoners as human beings (Ahn, 2005a, 2005k, 2005l, 2005m). If prisoners fail to meet their daily work quotas, steal corn, or have a defiant attitude, they are sent to punishment cells, where they survive on 100 grams of corn and beans and a small bowl of salt soup, which can also be reduced for minor offenses (Ahn, 2005g). They are only able to see sunlight once a week for 30 minutes (Ahn, 2005g). Humiliation, beatings, and killing prisoners are frequent everyday practices for prison guards (Ahn, 2005a, 2005b, 2005c, 2005d, 2005g, 2005j; Ahn, 2006a, 2006b; Seok, 2007).

There are reported cases of female prisoners being raped or tortured sexually by security officers (Ahn, 2006b; Ahn, 2005f, 2005h, 2005i). Women are not allowed to have babies in prison, for prisoners are considered anti-Communist, and Kim Il-Sung had ordered that all anti-Communists should be eliminated within three generations (Lee, 1999). Forced abortions are performed on women found pregnant and there are reports that newborn babies are killed shortly after birth. Reported testimonies by those who had witnessed baby killings reveal that newborn babies are sometimes kicked to death, stepped on, suffocated with plastic sheets, have their skulls pierced with scissors, and killed in other ways, including an instance where an infant was fed to a dog (Ahn, 2006c; Brooke, 2002; Lee, 1999; Lee & Kim, 2005).

Because North Korean refugees have given eyewitness accounts of crimes against humanity being committed in concentration camps, parallels have been drawn to the Nazi Holocaust. North Korean refugees who have defected to the South continue to corroborate these reports of how brutal and inhumane North Korea's criminal justice system remains.

The Influence of *Juche* in the Criminal Justice System

People have no concept of law. We don't know what kind of laws there are, or how it's applied in daily life, so that's why I say people have no concept of law.

What's important in that country is... not the provisions in law, but the Great Leader's teaching. Kim Jong-Il's word and Kim Il-Sung's word is supreme, the supreme ranking law. That's why there's no reason to really know the law. (Interviewee #7, personal communication, December 28, 2006)

The personality cult of Kim Il-Sung and Kim Jong-Il are in the minds and hearts of North Korean citizens. Even a word of criticism against Kim Il-Sung would be a crime. An act against Kim's Communism is a capital crime. Lee Soon-ok understood this, enduring 14 months of torture and interrogation for refusing to sign a false confession. She knew a confession would mean she had been disloyal to Kim Il-Sung (Lee, 1999:44)

The personality cults, spread by Juche propaganda, are ingrained in all aspects of North Korean life, including the criminal justice system. Kim Il-Sung's order of eliminating all anti-Communists within three generations is implemented by the criminal justice system: family members of political criminals are imprisoned in camps and newborn babies are killed in the prison camps. Lee Soon-ok and Kang Chul-hwan make clear that Kim's personality cult was constantly present in the prison camps. "In North Korea, whoever insults or complains about Kim Il-Sung is killed instantly" (Lee, 1999:46). Lee Soon-ok tells of a man held at her interrogation center being frozen to death for criticizing Kim Il-Sung. "He insulted Kim Il-Sung by saying, 'What did Kim Il-Sung do for me?'" (Lee, 1999:46). Lee also recalls that the first commandment of the Prisoners' Commandments that Lee Soon-ok had to memorize and abide by in prison was "Adore the authorities of Kim Il-Sung and Kim Jong-Il with all your heart. If you find any factor hurting their authority, you should fight it until death" (Lee, 1999:56).

Lee Soon-ok revealed that the prisoners labored to make birthday gifts that were to be distributed on Kim Il-Sung's birthday, April 15. In North Korea, there is a tradition of distributing gifts to students and workers on Kim Il-Sung's birthday, to show the generosity of Kim Il-Sung. Lee recalls the prisoners at her prison having to make 30,000 birthday presents for students and workers to be delivered by April 14: 10,000 student uniforms and 20,000 pieces of clothing for government workers. "From January to April 1992, the prisoners slept only two hours a night so they could complete Kim Il-Sung's birthday presents by April 15" (Lee, 1999:107).

Reeducation in prison camp also continues to establish Kim's personality cult in the minds of the prisoners.

To help advance our edification and reeducation, we also attended two classes a week to learn revolutionary songs and deepen our understanding of the life and thoughts of Kim Il-sung. (Kang & Rigoulot, 200:130).

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In sum, Juche, or Kim's personality cult, is the foundation upon which North Korea is built. Complaining about any aspect of the government would be an insult to Kim Il-Sung and Kim Jong-Il. Therefore, Juche allows the government to function through the charismatic power of fanatical leaders. It also gives the government and by extension, the criminal justice system, legitimacy to arrest, indict, try, convict, imprison, and execute citizens for complaining about the government. Juche remains the driving force that maintains the power and authority of the criminal justice system. In the end, the criminal justice system can be seen as a tool to maintaining Kim's personality cult regime.

DISCUSSION

Because North Korea's system was patterned after the Soviet system of Stalin's era, there are many similarities between North Korea's criminal justice system and that of the old Soviet Union and China. As in the old Soviet Union and in China's criminal justice systems, North Korea uses thought reform and forced labor to rehabilitate prisoners and use them as a resource for free labor (Kang, Lee, Choi, & Ahn, 1998; Jakobson, 1993; Jiang, Lambert, & Wang, 2007; Piacentini, 2004; Saunders, 1996). North Korean defectors also reported extensive corruption among the police and judges, a similar trait that can be found in both the Soviet Union and China (Dobek & Laird, 1990; Lu & Gunnison, 2003; Shelly, 1990; Terrill, 1992; Zhang, 2001). Distrust and fear was the general attitude that North Korean defectors had about North Korea's criminal justice system, a common trait that can be found in totalitarian socialist countries (Beck, Barenko, & Tatarenko, 2002; Berman, 1955; Mishler & Rose, 1997; Solomon, 1987). Another similar characteristic of North Korea's criminal justice system compared to China and the Soviet Union is the harshness and cruelty of punishment (Berman, 1955; Jakobson, 1993; Piacentini, 2004; Saunders, 1996; Solomon, 1987).

The food shortage crisis has pushed North Korean citizens to extreme measures in terms of committing crimes to survive. When hunger, a basic human need that must be met, becomes prevalent in society, committing crimes comes to be seen as a means of survival and law-abiding behavior is deemed inconsequential. Maslow's hierarchy of needs posits that meeting physiological needs, such as hunger and thirst are the most basic needs that humans must meet before they can consider safety needs, social needs, esteem needs, and self-actualization (Maslow, 1954). According to Maslow (1954), a threatening deprivation of these needs will have a multitude of effects, usually undesirable. Man's physiological needs are the most prepotent of all needs, meaning that a person who is lacking food, safety, love, and esteem would hunger for food more strongly than for anything else. Maslow (1954) stated that "if all the needs are unsatisfied, and the organism is

then dominated by the physiological needs, all other needs may become simply nonexistent or be pushed into the background... All capacities are put into the service of hunger-satisfaction, and the organization of these capacities is almost entirely determined by the one purpose of satisfying hunger” (p. 82). Other desires, such as pursuing social goals or creative interests, are forgotten or become of secondary importance. “For the man who is extremely and dangerously hungry, no other interests exist but food” (Maslow, 1954:82). Maslow further (1954) maintained that basic human needs are organized into a hierarchy of relative prepotency. Extreme physiological deprivation such as chronic hunger can become an active determinant and organizer of behavior, but once a person’s hunger is satisfied, other higher needs emerge and these needs dominate the person rather than physiological hunger. And when these needs are met, new and higher needs emerge and so forth.

Maslow’s theory is illustrated by the rise of survival crimes in North Korea. The perception of the interviewed North Korean defectors is that people in North Korea have no choice but to commit crimes in order to find the means to satiate their hunger. There is a skewed view of crime and justice in a society where crime is justified and becomes valid in order to meet the basic needs of survival. Crime no longer has the destructive image it should hold when reality bears an even more destructive certainty.

The North Korean interviewees’ lack of knowledge about the operations of North Korea’s criminal justice system (cf., Lee, 2008) was brought to light when it was shown that those who had been imprisoned in North Korea have a very different level of knowledge than those who had not been imprisoned, especially concerning prison camps. This lack of knowledge among North Korean citizens may be caused by two reasons: general apathy generated by feelings of lack of efficacy and/or a deliberate evasion on the part of the North Korean regime to keep their citizens from being informed about the criminal justice system. Although North Korean citizens know about the existence of prison camps in North Korea, the interviews showed that little specific knowledge existed among North Korean defectors about what goes on inside the prison camps unless they had been prisoners themselves. The extent of legal education that most North Korean citizens receive appears to be mostly through public trials and public executions which are used as political means to further propaganda and deter crime. It is understood by all that the Party’s policy is the ultimate authority in court and the concept of due process or fair legal representation by a lawyer is simply not a privilege most expect or think about.

The lack of efficacy that the North Korean defectors expressed is also associated with their lack of knowledge about the criminal justice system. The lack of efficacy they feel may be a cause for their lack of knowledge or the result thereof. The North Korean defectors expressed their inability to form an opinion or to

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have any hope for a future while living under the oppressive North Korean system. The helplessness felt as citizens under the North Korean socialist system is dealt with by becoming apathetic about the issues over which they have no control. Even though it was stated that corruption was widespread, and court hearings were known to be unfair and biased, the interviewees had no other thoughts or feelings on these subjects. The criminal justice system was merely accepted as is. Some felt it was useless to try to know anything about the criminal justice system or even form an opinion about it since they were powerless to change it. 'Going with the flow' was their means of survival in North Korea. There is a lack of literature on citizens' knowledge and sense of efficacy with respect to the criminal justice systems in the Soviet Union and China. However, there is some evidence that citizens in these countries have similar attitudes about their governments as do North Koreans (Goldsmith, 2005).

The personality cult present in North Korea's criminal justice system that evolved from Juche, is a very unique and interesting characteristic (cf., Lee, 2008). Crimes are viewed in relation to the people's loyalty to their Great Leader Kim Il-Sung and his son, the Dear Leader Kim Jong-Il. Just as political criticism such as anti-communism was deemed treason to the motherland in both the Soviet Union and China, they are also considered treasonous crimes in North Korea. However, all of North Korea's treasonous crimes are seen to ultimately point toward disloyalty to Kim Il-Sung and Kim Jong-Il, which is seen as a legitimate reason for extremely harsh punishment, including the death penalty.

The personality cult pervades in prison camps, where the reeducation that prisoners receive is political indoctrination to become loyal to Kim Il-Sung and Kim Jong-Il. Although a strong personality cult was very much present in the Soviet Union during Stalin's rule and in China under Mao Zedong's leadership, Stalin's and Mao's personality cults were rooted in Leninism-Marxism, where their persons were associated closely with the ideology of Lenin (Goldman, 1969; Larson, 1968; Schram, 1967; Tucker, 1979). Therefore, for prisoners in the Soviet Union and China, political reeducation was focused on ideology, and not on a cult of a person.

A common feature of authoritarian regimes is the building up of a charismatic leader – a creation of an elaborate mystique around the leader – resulting in large part from structural features of the political system in question (Gill, 1980). Robinson (1988) explains that "charismatic authority in modern societies must be understood as an emotional relationship between leaders and followers which is based on belief in the abilities, persona, or vision of the leaders" (p. 354). The fiftieth birthday of Stalin was the precipitating factor that launched the cult of Stalin in December of 1929. Stalin was seen as always closely associated with Lenin both during Lenin's lifetime and after his death. Stalin was portrayed as 'the staunch and consistent Leninist,' 'the true best pupil of Lenin,' and the closest and

constant companion of Lenin. In many ways, Stalin became the equal of Lenin by being perceived as “the incarnation of the power and genius of the great teacher,’ the embodiment of Lenin and his ideas, [and] the ‘Lenin of today’” (Gill, 1980:168).

A significant theme in this rising cult beside the myth of an unshakeable union between Lenin and Stalin, was attributing all successes achieved in the Soviet Union to Stalin as years passed. It was elaborated so that Stalin’s role was maximized and Lenin was overshadowed, so that responsibility for the establishment of the Soviet regime, its consolidation, and political achievements in building socialism was attributed directly to Stalin and his wise leadership (Gill, 1980). Stalin was seen as the ‘father of the great socialist family of peoples,’ and any quotations from writings or speeches of Stalin that were appropriate in context were sufficient in justifying any policies or actions that the government intended to implement (Gill, 1980).

Mao Zedong’s personality cult was originally centered on his nationalistic socialist ideology, called Mao Zedong Thought, which maintained that it was possible to be both a Chinese nationalist and a Marxist-Leninist (Goldman, 1969; Yuan, 1987). The emergence of a veritable Mao cult began in 1942, at the time of the ‘rectification campaign,’ before the People’s Republic of China was founded, and continued to carry to a higher and higher level throughout the Cultural Revolution. However, until the autumn of 1966, the cult was focused on Mao’s thought rather than on his person (Schram, 1967). The cult of Mao’s thought turned into the personality cult of Mao at the beginning of the Cultural Revolution. Mao was called “‘the great leader,’ ‘great teacher,’ ‘great supreme commander,’ and ‘great helmsman’” (Schram, 1967:383). Although Mao was hailed as the father figure and leader of China by the people, decisions were arrived at by the leadership of the Chinese Communist Party (CCP) collectively (Goldman, 1969).

The succeeding years after Stalin and Mao’s death brought harsh critiques and destruction of their personality cults (Larson, 1968; Robinson, 1988). Opposing factions that existed in their political realm made this possible. However, North Korea is unique in that it has had the first, and so far only, successful dynastic succession of leadership continuing with Juche’s personality cult. Kim Il-Sung made sure to eliminate all opposing factions in the mid-1950s and built a powerful personality cult so that the regime’s existence was dependent upon the cult of his person. The political systems of the Soviet Union and China survived the deaths of Stalin and Mao and continued to adapt to a new leadership. However, it would be difficult to imagine North Korea continuing its system without being contingent upon the persons of Kim Il-Sung and Kim Jong-Il, through preserving their leadership through another dynastic succession.

North Korea’s criminal justice system is characterized by its punitive severity and its subservience to political and ideological expedience (Hahm, 1969). The

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policies of the Workers' Party in North Korea, which extends to the legal system, are fully committed to their Dear Leader and his ideology, much like how Stalin's words were sufficient in bringing legitimacy to party's policy. Cho (1971) quotes Kim Il-Sung from a national conference of judicial and procuratorial workers in 1958, "As a matter of fact, those who obey the law are those who obey the Party. Those who obey the law alone and do not obey the Party are, in fact, those who do not obey the law either" (p.1179). Kim saw the law as a weapon to implement the policies of the state, which were the policies of the Workers' Party (Cho, 1971). In North Korea, law is subordinate to the Party's policies and can only be enforced through knowing the political line of the Party (Cho, 1971).

Articles 67, 68, and 69 of North Korea's Constitution clearly state that North Korean citizens are guaranteed to have democratic rights and liberties; freedom of speech; freedom of religious beliefs; freedom of residence and travel; entitlement to submit complaints and petitions; the right of defense in court, and so on (Democratic, 1998). However, North Korea does not extend these rights to its citizens. The testimonies of the North Korean defectors show that North Koreans are victims of a system that keeps them in the dark about the true nature of its regime, which depends on the criminal justice system as a tool to maintain its regime.

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