

## Unseen Laws: A Quantitative Approach to Developments in North Korea's Legal System

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### Abstract

While little North Korean legislation is available to scholars outside the DPRK, the legislative numbering usually given with every legal text allows us to measure the activity of all major institutions of the legal system. This study pioneers an approach to North Korean legal methods with a data set drawn from 4,000 legal changes enacted from 1945 to 2017 and collected from a large range of sources. Through this method, phases of higher activity can be identified for various institutions that were directly linked to reform efforts also reflected in other available evidence. Additionally, the position of Kim Il Sung (Kim Il-song, 김일성) and the effects of the succession to Kim Jong Il (Kim Chŏng'il, 김정일) can be traced through the legal system.

Key words: North Korean law, legal system, parliament, cabinet, Supreme People's Assembly, Presidium, Standing Committee, Supreme Commander, National Defense Commission, Kim Il Sung, Kim Jong Il

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## Introduction

The position of law in North Korean politics and society has been a long concern of scholars as well as politicians and activists. Some argue it would be more important to understand the extra-legal rules that run North Korea like the Ten Principles on the leadership cult as they supersede any formal laws or the constitution.<sup>1</sup> But the actual legal developments in North Korea, which eventually also mediate those leading principles and might even limit their reach, has so far been insufficiently explored.

It is easy to point to North Korean secrecy as a main reason for this lacuna. But the numerous available materials and references on North Korean legislation available today have, however, not been fully explored yet, which has severely impeded progress in the field. Even publications officially released by North Korea to foreigners offer surprisingly detailed information on legal changes and the evolution of the law-making institutions. This larger picture of legal developments already draws a more detailed picture of the institutional developments in North Korean law and the broad policy fields that had been regulated from early on in contrast to the often-assumed absence of legislation in important fields like copyright, civil law or investment. It also shows that different to a monolithic system, various law-making institutions exist and fulfil discernably different legal responsibilities.

Next to this limitation in content, scholars in the field currently also have not used all approaches legal developments in the North Korea could be analysed and interpreted with. Going beyond the reading of legal texts or speculating about known titles of still unavailable legislation, quantitative approaches can be applied ranging from the simple counting of laws to more sophisticated analysis of legislative numbering often provided with legislation. Understanding the various institutions as flexible in their roles and hence adoptable to shifts in leadership and policy agendas can also provide a more realistic picture of legal practices in North Korea.

After a short review of available scholarship, this article will trace the major

institutions in North Korea's legal system and their activity over time, including changes and parallels across several constitutional revisions. A longer review of available sources, what they include and what this says about governmental censorship and policy is followed by core of the article, a larger analysis of 4000 legal changes. For brevity's sake only the major legal institutions will be covered and other minor institutions like ministries or major institutions with few numbered decisions were excluded. Eight major institutions will be dealt with: North Korea's parliament, its Standing Committee and Presidium, the Presidency and its subordinated Central People's Committee, the Cabinet, the Supreme Commander, and finally the Military Commission created at the beginning of the Korean War.

Through combining the dense historical reading of legal and institutional developments with quantitative changes over time and thereby visible impact of politics on law-making but also its content, this study will offer a novel look on North Korean law and its system.

## **Review of the Literature**

Since North Korea first publicly released a range of new laws and regulations on foreign investment in the 1980s, Western academic interest has focused mostly on these.<sup>2</sup> Although several Korean scholars had both historically<sup>3</sup> and more recently<sup>4</sup> published on other aspects of the North Korean legal system in English, no further attention was given to these or the overall features of the system. Ten years ago a paper took a more multi-faceted look at North Korean law and its development, but it still did not examine the legal system in more detail.<sup>5</sup>

The current situation can perhaps be explained by several elements. North Korea's policy of releasing very little information is a major obstacle for research. Surprisingly, at times only official English translations of North Korean laws appear available instead of the Korean originals. In 2003 a South Korean scholar compared the original Environmental Protection Law of 1986 with the English translation of its 1999 amendment,<sup>6</sup> while in 1993 a South Korean book on North Korean law gave the full text of a regulation in English instead of the Korean original.<sup>7</sup> A bibliography on the topic published in the US could only reference the Japanese translation of a collection of ordinances published in the 1970s, while a South Korean bibliography of the same year only referenced the English translation published one year later.<sup>8</sup> Recently the magazine *Foreign Trade* released the translation of the March revision of the Law on Export and Import of Technologies, while the Korean original is not yet available.<sup>9</sup> Even the North Korean reports to the UN often include

legal information not released through other channels once providing a considerable part of a Regulation on Detention Cells Management in translation.<sup>10</sup> Considering the wealth of information revealed in the academic literature of North Korea otherwise unavailable, this points to both a contradictory censorship and information policy, but also the important role of North Korean institutions, publications and individuals in having information publicly released.

But even what is released in official law collections or referenced in other North Korean texts ranging from leadership speeches to scholarly writings has so far not been fully organized. Therefore the lack of research in the field and insufficient funding of libraries has to be pointed out.

Although a larger number of texts on North Korean law have been written in South Korea and by South Koreans on the topic, the author could not find any that took a more holistic approach and tried to map out in more detail the information that is now available. A decade ago that could have been blamed on South Korean censorship and access restrictions. But since then every South Korean, not only researchers or professors, has access to virtually all materials used to compile the list of legal changes the author used here.

A step in that direction was done by Yu Uk, a lawyer-cum-scholar that looked at the different means to produce legislation of the parliament, its standing committee and the cabinet.<sup>11</sup> But Yu left out other important institutions like the Presidency, which would have supported his claim that the various institutions in the North Korean legal system have partially overlapping legal powers and a comprehensive analysis would need to consider the output of all of those institutions.

On the question of different legal responsibilities and levels of authority of the various institutions only little information is available. In one available example an order of the party's Central Military Commission in 2004 was allowed to abolish Order No. 2 (June 1994) of the National Defense Committee confirming that party decisions can change legislation by state institutions.<sup>12</sup> In late 2012, the Law on Law Making (*pŏp chejŏng pŏp*, 법제정법) was adopted possibly largely laying down already established practices.

Last but not least, censorship of North Korean materials and restricted access in South Korea needs to be raised as well.

### **Institutions in North Korea's Legal System**

Although North Korea's constitution has changed significantly over the course of the last

seventy years and its thirteen revisions,<sup>13</sup> certain institutions and features have remained stable. First of all, as the highest law-making body North Korea's parliament, the Supreme People Assembly (SPA, *ch'oego inmin hoeïi*, 최고인민회의) has, since the nation's inception in 1948 adopted both ordinances (*põmnyõng*, 법령) and decisions, powers held by the People's Committee of North Korea before. Throughout North Korea's history a form of legislative standing committee existed similar to those in other socialist states. Originally called the Presidium (*sangim wiwõnhoe*, 상임위원회) of the SPA, but in literal translation the Standing Committee, it had the power to adopt decisions, directives and decrees with some of the latter formally approved later as an ordinance by the parliament. The Socialist Constitution of 1972 substituted this body with the Standing Committee (*sangsõl hoeïi*, 상설회의), literally the standing council, of the SPA, which now could only adopt decisions (*kyõlchõng*, 결정) frequently but not consistently translated by North Korea as resolutions. Additionally the Central People's Committee was created with the same legal instruments for its disposal as the previous Standing Committee. But in contrast to it, it was now under the direct guidance of the also newly created office of the President (*chusõk*, 주석). With this change the CPC became also in name the national equivalent of provincial People's Committees. The Socialist Constitution also abolished the possibility of the SPA approving important legislation of its standing body into an ordinance. The 1992 revision revised this change again.

As all three institutions were reelected in the first session of the new parliament, they also followed North Korean parliamentary practice in resetting legislative numbering every term. Because parliamentary elections were not held as regularly as demanded by the constitution, those legislative terms varied greatly in length and subsequently highlighted periods when the regime considered it not viable to hold an election. Particularly, the elections in 1957, 1998 and 2009 stand out. For all three cases, we know of factors that likely caused the delayed elections.<sup>14</sup> The original three-year SPA term prescribed in 1948 was expanded to four years with a constitutional revision in November 1954, but the next and first national election under the constitution occurred almost three full years later. That this four-year limit also was not met did not lead to a revision of the term length in the 1972 constitution. Instead a paragraph was introduced that if 'unavoidable circumstances render an election impossible' the term of the SPA could be extended, which would legalise any delay. Although the time between election dates had usually been slightly beyond five years, it was only in 1992 that also the constitution now prescribed this length of the legislative term. The

first time an election was held within the prescribed term limit of the SPA, calculated from election to election, was in 1990. In 2014 the election was called exactly five years after the last one. As in other countries, the North Korean parliament likely begins its new term with its first session and thereby several weeks to two months after the election. This would also put the 2003 elections into the prescribed window of five years.

**Table 1 – Elections of the SPA and Term Lengths**

SPA Term	Election Date	Length (days)
1 <sup>st</sup>	Aug 25, 1948	3289
2 <sup>nd</sup>	Aug 27, 1957	1868
3 <sup>rd</sup>	Oct 8, 1962	1877
4 <sup>th</sup>	Nov 28, 1967	1841
5 <sup>th</sup>	Dec 12, 1972	1795
6 <sup>th</sup>	Nov 11, 1977	1570
7 <sup>th</sup>	Feb 28, 1982	1708
8 <sup>th</sup>	Nov 2, 1986	1267
9 <sup>th</sup>	Apr 22, 1990	3017
10 <sup>th</sup>	Jul 26, 1998	1834
11 <sup>th</sup>	Aug 3, 2003	2044
12 <sup>th</sup>	Mar 8, 2009	1827
13 <sup>th</sup>	Mar 9, 2014	

The cabinet is another continuous pillar of North Korea’s legal system. When it was created in 1948 it had the power to issue decisions (*kyŏlchŏng*, 결정) and directives (*chisi*, 지시) with ministries and commissions subordinated to the cabinet able to issue ministerial orders (*sŏngryŏng*, 성령) and directives. In March 1955 the constitution was amended to allow the cabinet to issue orders (*myŏngnyŏng*, 명령) instead of directives. This likely was done to increase the cabinet’s level of authority also in comparison to lower level institutions’ instructions. A North Korean essay of 2004 claims this was done to realise the monolithic leadership of Kim Il Sung and to enforce an even wider participation of the masses in state affairs.<sup>15</sup> In fact, Kim Il Sung’s military background and possibly his perception that orders had a higher standing than simple directives likely had played a role. The 1972 constitution again reversed this change, changing the cabinet into the State Council or State Administration Council (SAC). Like the Standing Committee of the SPA, the SAC reverted to the form of its predecessor with the 1998 revision. The President’s office created with the 1972 constitution was given the power to issue presidential orders (*chusŏk myŏngnyŏng*, 주석 명령), partially similar to executive orders of presidents in other countries.<sup>16</sup> The transfer of this legislative power from the cabinet to the President further underlines that Kim Il Sung

understood orders to have a higher legal authority, which he wanted to monopolise.

While the presidency was created specifically for Kim Il Sung, the transition to Kim Jong Il led to a similar but gradual change. The National Defense Commission (NDC) had originally been subordinated to the Central People Committee, but was made an independent institution with the constitutional revision in April 1992 including the power to issue orders (*myǒngnyǒng*, 명령) and appointment by the Parliament mirroring the President (art. 91). Kim Jong Il had before been appointed its first vice-chairperson in May 1990 and acceded to the position of Supreme Commander in December 1991. In April 1993 Kim Jong Il was made its chairperson. The 1972 constitution still had prescribed that the president automatically became both the chairperson of the NDC and the Supreme Commander. The 1992 constitution did not include the position of Supreme Commander anymore.<sup>17</sup>

Thereby Kim Jong Il was given his own independent position and law-making privileges within the state system. The constitutional revision in 2009 then officially gave Kim Jong Il as chairperson of the NDC the power to ‘guide’ all state affairs and pronounced him the supreme leader of the country (art. 100 and 103). After Kim Jong Il died in late 2011, the 2012 revision renamed the position ‘First Chairperson.’ Presumably this was done to ease the transition of Kim Jong Un (Kim Chǒngūn) to the top as the title implied that he was only the first of several chairpersons. The 1992 revision had introduced the position of first vice-chairperson (as Kim Il Sung was still officially heading the NDC) also making Kim Jong Il then first among equals. The last constitutional revision only renamed the NDC into the State Affairs Commission and reversed the creation of the title of ‘First Chairperson’ making Kim Jong Un the sole chairman (art. 100-111).

Alongside these central institutions, a range of regional and military institutions exist that are also part of the legal system of North Korea. Provincial and local People’s Committees, for example, can enact specific legislation within their bureaucratic boundaries going beyond simple administrative tasks. As a criticism of Kim Il Sung on the prohibition of dog breeding in some areas showed, this legislation also might go unnoticed by the central leadership for some time and run counter to the leaders’ intentions.<sup>18</sup> However only three examples of legislation applying purely on a regional basis are known. Among the military institutions, the Supreme Commander of the Korean People’s Army and the Military Commission, founded at the beginning of the Korean War, have also greatly shaped North Korea’s legal system and its legal decisions are more frequently available. Information on several legal texts of the National Defense Commission and the Central Military Commission of the Korean Workers' Party are available, but the numbering offers no insights on changes

in activity over time.

## Sources and Dataset

### *North Korean Sources*

Since current knowledge North Korea's legal system is extremely incomplete a longer description of known and available sources seems in order. In contrast to the current regime's secrecy and disinterest in releasing core information, for almost two decades after its inception North Korea was relatively open about its legal system. Regular legal gazettes were published since at least fall 1946<sup>19</sup> in the post-Liberation transition and, after the founding of the DPRK in September 1948, this practice was continued through separate gazettes of the cabinet<sup>20</sup> and the Supreme People's Assembly. After a legal compilation was first published in 1947,<sup>21</sup> North Korea released official compilations for individual institutions as well as collections for laws of the SPA and decrees of the Presidium<sup>22</sup> as well as for specific areas.<sup>23</sup> Newspapers also frequently featured the full texts or at least descriptions of recent additions and changes to the legal system. Additionally North Korea's official Korea Central Yearbook gave important texts in full and listed major changes in the yearly chronicle.<sup>24</sup> Largely based on those yearbooks, a chronicle covering the period from 1945 to 1955 also included a more organised list of legal texts.<sup>25</sup>

In 1959 the North Korean leadership initiated the publication of a major review of enacted laws and regulations resulting in a selection of almost 600 legal texts published in five volumes in 1961.<sup>26</sup> It was pointed out by Cho Sung-yoon in his 1988 source guide on North Korean law that this collection has not been made available to researchers yet. While a table of contents is available in German translation in East German diplomatic documents, today only a single library in South Korea holds the original collection, which is still unexplored.<sup>27</sup> The greater openness regarding legal information at that time is underlined by the fact that this collection even included several entries with the title only while omitting the actual text for security reasons. Not available to researchers is the Collection of Cabinet Regulations published since the following year, and two collections by North Korea's parliament as well as several collections for specific policy fields.<sup>28</sup> After this 1961 collection was published, the data flow dries up, and little is known about further changes. A case in point is the surprising reference in a North Korean book that in December 1963 a land law had been adopted - in North Korean materials usually only the 1977 land law is mentioned.<sup>29</sup>

A reason for this gap in available information from the 1960s might be stricter

ensorship and control North Korea introduced around that time. The Cuban Crisis and the military coup in the South led the North Korean government to put more emphasis on military security and secrecy and limit exchanges with the outside world. Foreigners and citizens faced greater restrictions, investment largely flowed into heavy industries and the military, the release of official information on economics and populations virtually stopped.<sup>30</sup> Information on legal changes increased only slowly with North Korea releasing several ordinances of its parliament in the 1970s and new legislation on investment and trade in the 1980s.<sup>31</sup> Since 1993, the Social Science Publishing House and its Legal Research Institute was responsible for printing and distributing new legislation. Although North Korea had provided the full text of several laws it wanted to propagate in several of its publications, more concise information on lower level regulations by the cabinet only became available due to North Korean efforts to attract investment to the newly created free trade zone Rajin-Sonbong. It was also the Committee for the Promotion of External Economic Cooperation (CPEEC), which released a multi-volume collection of laws and regulations available to foreigners beginning in 1993.<sup>32</sup>

Following a change in governmental policy it was also this institution that published the first available broader *Compilation of Laws and Regulations for Foreign Investment* in English translation in 2003.<sup>33</sup> The first publicly available collection on legislation in all fields was published only in August 2004 now by the Legal Publishing House. As 'For Public Use' was printed on the cover, it was clear that not all legislation was included, which South Korean intelligence and scholars also raised shortly after publication. Although the collection published by North Korea in 2012 deleted this reference to public use, it still excluded several laws. A North Korean scholar referenced a legal compilation already published in 2000 without this suffix to be 'for public use' and might have included additional legislation. No other scholar within North Korea whose research is available to us today had referenced this volume, indicating that access was heavily restricted.<sup>34</sup> A Collection of Cabinet Regulations was also referred to the first time in the 2003 spring issue of Kim Il Sung University Journal for History and Law, which might imply that it has become more widely available to scholars at that time.<sup>35</sup> This change in policy also was reflected in education with a school book for the class 'Socialist Morals and Law' - previously the course was titled 'Socialist Morals' only - for fifth year students devoting its final quarter to the penal code.<sup>36</sup>

The following legal compilations were entrusted to the Legal Publishing House. The publications so far known include hardcover collections (*pŏpchŏn*, 법전) in 2004 and 2012 and paperback updates on new and revised legislation in 2006, 2008 and 2016.<sup>37</sup> Additionally

this publishing house also published several legal collections (*pŏpkyujip*, 법규집) specifically on economic legislation and economic zones. After a first general collection and collections for both the Kaesŏng and Kŭmgang Zone in 2005, translations into Chinese and English followed the next year. An updated collection including English translations was printed in November 2012 followed by another update in September 2014 with few new texts but with a Chinese translation. In January 2016 a smaller tri-lingual collection on the Rasŏn Zone was printed. Thanks to North Korea's report to the treaty body of the Convention on the Rights of the Child, a 'Handbook on the Laws and Regulations of the DPRK Impacting Persons with Disabilities,' which was published in 2012, is also known but has not been made available to researchers.<sup>38</sup>

Further information on changes in North Korea's legal system is also included in many North Korean publications ranging from journals to monographs to daily news to documents directly issued by the government. The newspaper of the cabinet and the Presidium of the SPA, *Minju Choson*, traditionally featured explanations on new regulations or laws, while reviews of policy in a particular field as journal articles or books often have included references to past legal changes. The *Journal of Kim Il Sung University on History and Law* especially frequently references past legislation, but sometimes more recent legislation is referenced as well. At the same time North Korea's government decided to release more legal information in 2003, an article in this journal revealed the existence of the Law on Administrative Oversight (*haengjŏnggŏmyŏlbŏp*, 행정검열법)<sup>39</sup> and in 2011 another article referred to the so far unknown Law on Institutions.<sup>40</sup> The journal *Research on Politics and Law* was created in 2003, possibly in response to the new policy on limited legal transparency, included little information not also available elsewhere.<sup>41</sup>

Although references to legislation are not uniform and might at times only be a title without any additional information, in their totality the writings of individual North Korean scholars provide important insights despite being cloaked by general governmental secrecy. While those writings show that North Koreans do have access to some parts of governmental legislation, it also reveals how many obstacles they seem to face to access more detailed information.<sup>42</sup> Another source underused so far is the content displayed in North Korean museums or show rooms of any North Korean institution that often include references to legislation or even copies of original, and apparently declassified, legal documents. The Jongsung Revolutionary Site, for example, displays a copy of a Presidium decree awarding Kim Il Sung the title Hero of the DPRK among many other documents. Larger museums like

the Victorious Fatherland Liberation War Museum (for the Korean War) display a correspondingly larger number of legal documents.<sup>43</sup> Secret documents that have been smuggled out of North Korea, of course, also reveal at times important legal changes otherwise not accessible. Several secret orders of the Workers' Party's Central Military Commission and directives of ministries and the cabinet have been uploaded to blogs and websites in the South.

### *South Korean sources*

A range of compilations for North Korean law are available in South Korea beginning with newspapers online sections like NKChosun<sup>44</sup> or online repositories run by the government. For the latter three parallel websites had existed, but today only one remains.<sup>45</sup> In print a range of other collections are available beginning with early, limited compilations that largely republished texts North Korea had itself published in newspapers, yearbooks or elsewhere. Although the South Korean government surely tried to follow legal developments in the North, the first collection by South Korean scholars was published only in 1969. Funded by the Ford Foundation, it was followed by the publication of a scholarly journal.<sup>46</sup>

The declassification of the captured North Korean documents in the US National Archives Record Group 242 in the late 1970s changed the situation further. About a decade later, based on those newly available records, South Korea's Institute of National History (INHK) organised legislation from the years of 1945 to 1947 into a volume of its series Historical Records Relating to North Korea.<sup>47</sup> Shortly after this publication two law professors at Korea University organised this and other information that had become available to South Korean academia into a list – ironically the first and last to be published.<sup>48</sup> In 1990 a large five volume collection of North Korean legal texts brought together those texts released by the Institute of National History with what had previously been compiled.<sup>49</sup> The gazettes of the cabinet also included in the captured documents were at that time apparently unknown to South Korean scholars and were only republished by the INHK in four volumes in 1995 and 1996.

In 1993 the Study Association for North Korea Law (*pukhanbŏp yŏn'guhoe*, 북한법연구회) was created as a small gathering of scholars, which, even four years later when it began to publish its journal, consisted of only 18 members.<sup>50</sup> Along with the journal, this association is also regularly publishing a collection of North Korean laws.<sup>51</sup> While it is the most easily, commercially available law collection, it tends to only republish legal texts

available elsewhere in North Korean legal collection or South Korean compilations. Many texts not published in North Korea's own law collections were, for example, first published in the law collections of South Korea's National Intelligence Service and then republished by the Study Association. Most of those laws had been revised in 1999 and accordingly were acquired afterwards, which implies that the greater exchanges through North Korea's economic reforms since then had allowed for a secret transmission of those legal documents intentionally not revealed to the public.<sup>52</sup> The Study Association for North Korean Law has neither published a comprehensive list of the various North Korean legal texts available or known today nor has it or any of its dozens of members made any part of their legal collections publicly available. Especially the non-existence of a legal database that allows for the search of the full text of all legal texts available is an unfortunate academic gap. The author hopes to fill this gap with an online database.<sup>53</sup>

This gap also has led to severe misinterpretations by scholars. For example, Lee Kyuchang, who then was only a KINU researcher but now heads the Office of Unification Policy Research, thought North Korea only had adopted the Administrative Control Law (*haengjŏnggŏmyŏlbŏp*, 행정검열법) in late 2009 when Kim Jong Un took over power because it was mentioned in a 2011 journal article.<sup>54</sup> Had Lee checked the journal in more detail he would have easily found three other articles quoting this law as early as early 2003.<sup>55</sup> Another possibility would have been to ask someone with access to the KPM database to check it for this law or to ask someone with greater knowledge of the North Korean legal system. In fact, a South Korean legal scholar had already quoted this law in 2010, referring to the 2003 journal article, underlining that the restrictions in information exchange between South Korean scholars poses similar issues to academic progress.<sup>56</sup>

Next to these limited efforts in collecting and organising North Korean legal texts, virtually endless number of dissertations and articles have been written by South Korean scholars on North Korean law, although virtually all of them had been focused on a single specific legislation, policy field or institution. But a handful of them included unique references to North Korean legislation including texts of the National Defense Commission or the Supreme Commander, the cabinet the author could not find elsewhere.

### *Diplomatic Documents*

Sometimes diplomatic documents also include information on North Korea's legal changes not publicly released by North Korea. This seems to be particularly the case for diplomatic

documents from the Soviet Union and the European socialist bloc. Based on documents in Hungarian archives, Balazs Szalontai gives several legal changes. Most of the ‘government decrees,’ as he labelled them, appear to be cabinet decisions with some available elsewhere, but one appears available only through his sources: A cabinet decision of June 21, 1955, which ‘rescinded the decree that banned the private grain trade.’<sup>57</sup> Andrei Lankov who presumably relied on Russian documents referred to a cabinet decree adopted in August 1958 that ‘prescribed a complete change in the market system (and) cereals, including rice, could not be sold and bought in a market.’<sup>58</sup> Another Romanian document includes a reference to an order of Kim Il Sung, presumably as Supreme Commander of the KPA, which made Kim Il Sung’s explicit permission necessary to engage the enemy in a response to the sinking of a South Korean military ship by North Korean forces.<sup>59</sup> Diplomatic documents of the GDR include revelations about North Korean regulations on international marriage and travel regulations for foreigners.<sup>60</sup>

### *Defector Testimonies*

Like diplomatic documents, testimony of high-level bureaucrats that have left North Korea also can yield further insides into legal changes. A former high-level official, for example, wrote of a decision by the Korean Workers Party in 1967 that reduced discrimination against religious believers.<sup>61</sup> Hwang Jang-yop who had chaired the Standing Committee from 1972 to 1983 and accordingly had detailed insights into the working and the legislation of this institution defected to the South in 1997. But the author could not yet identify any information Hwang might have relayed in this regard.

### **Dataset and Quantitative Developments in North Korean Law**

Although the number of North Korean sources that potentially contain information on the legal system is too large to be covered by any single individual, the author has endeavored to cover all major sources and review a large number of other so far unexplored sources and texts. While for the law collections this is a manageable effort, naturally only a part of the output of North Korean newspapers, journals and monographs could be reviewed. While the Korea Press Media database and databases in Seoul for newspapers and journals made the review of the materials easier, they came with their own limitations like limited searchability and limited coverage. To close those gaps, about three decades of the cabinet’s newspaper

*Minju Choson* and several hundred North Korean books were checked manually still leaving much for future exploration.

Through this extensive review of earlier studies and primary sources it was possible to collect information on more than 4000 legal changes in North Korea. The majority of the legislation gathered came from the cabinet with about 2000 cases and the standing bodies of the SPA with about 1500 cases. Information was, however, usually only partial leaving out some information on the title, the date, the adopting institution, the type of legislation or legislative numbering. Because the quantitative approach used here requires all information except the title, this meant that a larger part of the gathered information could not be used here. For sake of brevity, data on several institutions like the people's committees before August 1948 or individual ministries is not provided.

### *A Quantitative Approach to North Korean Law*

While it is possible to build an analysis solely on the information included in texts that North Korea makes public or the few that are smuggled out, using quantitative methods and the numbering displayed on North Korean legal documents provides another possibility to understand changes in the legal system and, in particular, the size of those changes. Of course, those numbers do not tell us what change occurred. Frequent revisions of minor points might appear like a significant increase in activity, while the abolition of laws also cannot be differentiated from the creation of new ones.<sup>62</sup> But this approach still allows for several additional insights into the activity of North Korea's legal system otherwise invisible or easily overlooked. While legislative numbers on legal documents have been available since 1945 in limited quantity, North Korea's release first of its economic legislation in the 1990s and then general law collections since 2004 has exponentially increased the amount of data available for this form of analysis. Although North Korea appears to have treated those numbers at times as a secret, now they are frequently released, with many legal texts published in newspapers or law collections.<sup>63</sup>

When dates of those numbered decisions are available as well, general activity within North Korea's legal system can be easily measured for every institution through calculating the amount of decisions adopted between the dates of two numbered documents. As decisions by all institutions appear to be numbered, organising available documents by their numbers also reveals gaps for documents we have no access to yet. Triangulating information on those legal changes then could make it possible to infer what had been adopted at that time. The

often referenced 'Cabinet Decree No. 149' that allegedly led to the deportation of thousands considered less reliable during a political campaign from 1956 to 1960 can be dated either to December 1956 (more likely) or 1958 (less likely) thanks to its number.

For institutions like the Standing Committee of the SPA (almost all of its decisions for the 1990s are available) this could provide a possibility to lobby the North Korean government and its legal scholars to release certain legal texts.<sup>64</sup> Eventually, those numbers might even tell us the exact ratio of legal texts of a particular institution for a particular period to which we have access. This could increase our trust in what we know of North Korea's legal system. Last but not least, a more organised list of North Korea's legal documents would reveal typographic errors or mistakes in North Korean materials that are also passed on into South Korean sources and compilations, while the many unsourced references that can be found in the literature today can be more objectively assessed. The known numbers of cabinet decisions, for example, make it very unlikely that a decision numbered 716 was adopted to make Kim Jong Il's birthday a 'temporary holiday' around 1974.<sup>65</sup>

Despite the additional insights gained through such an approach, this aspect of North Korea's legal system seems to have attracted no attention by the scholarly community so far, neither in South Korea or abroad, although similar work has been done on China.<sup>66</sup> An important problem of this approach is the sporadic North Korean practice of using the same legislative number to adopt several legal texts at the same time. Adoption of legislation usually happens through an adopting document, which, after an introductory part, explicitly states which legal texts are enacted. Especially for laws, the title of this document usually reads 'On Adopting the Law On ...'. Through this practice, of course, a certain amount of legislation will always remain hidden. But this appears to be significant only for decrees of the Presidium of the Supreme People's Assembly and the Central People's Committee. More than half of the about 600 legal texts available, excluding legislation awarding titles or other honors, had been part of a cluster of legal texts with the same number. In total, there were 96 clusters with mostly two to four laws having the same number, but it could be up to 19 different legal texts. The quantitative analysis of the numbers of those decrees is accordingly less reliable. But it nonetheless reveals certain changes in activity not undermined by this limitation.

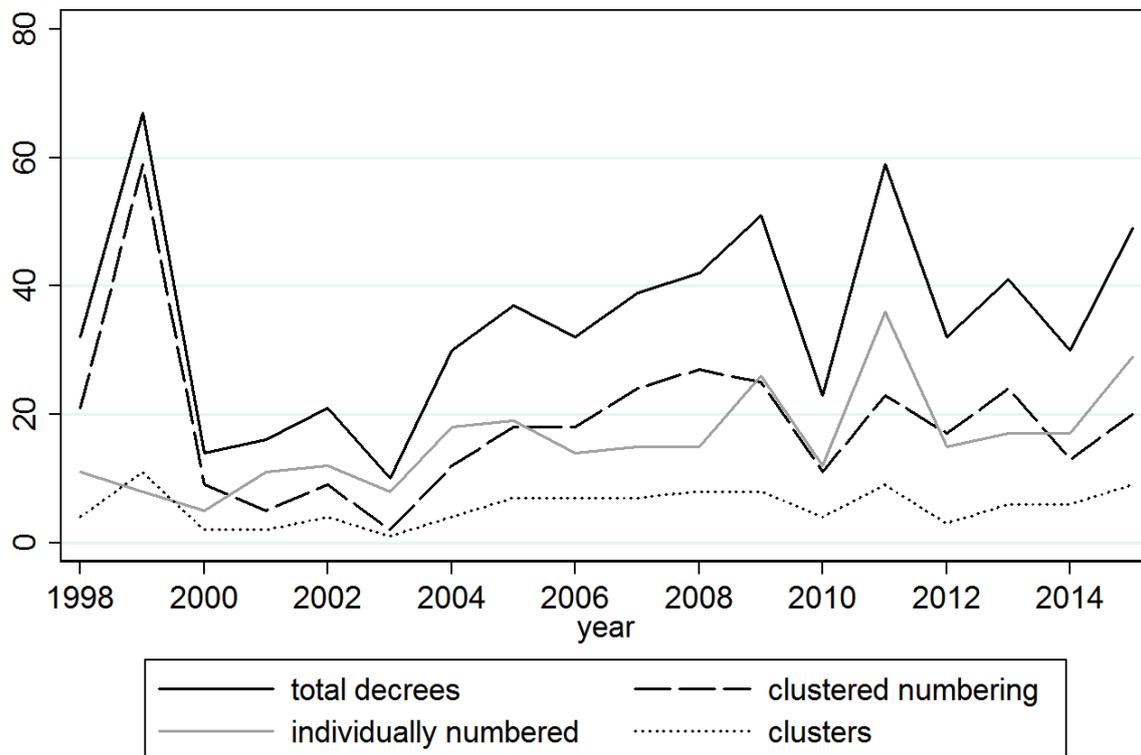


Figure 1 – Known Decree Clusters

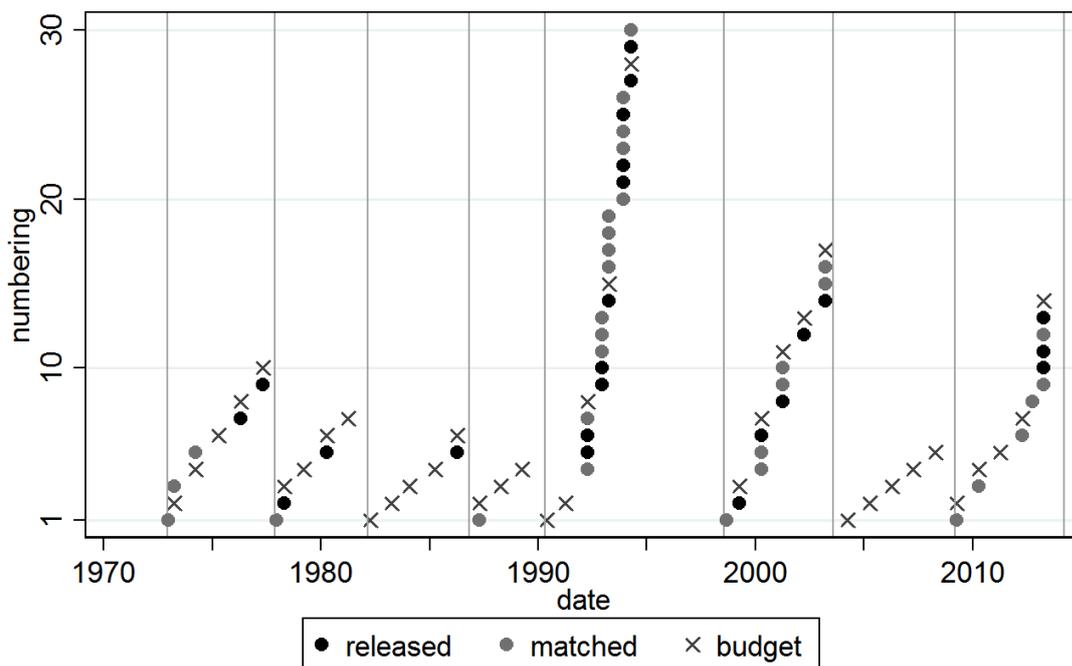
Similar to this blind spot of clusters, decisions adopted between the last available decision with a number and the end of the institution’s numbering time span, i.e. when the numbering is reset, also remain invisible to this method. This is especially problematic for legal decisions of the cabinet, which resets the numbering every year, with the exception of 1951 due to the Korean War. Possibly hundreds if not thousands of legal decisions became invisible to us because of this practice. Fortunately, the legal term of the SPA has not only been used for the counting of the parliament’s legal texts but also its Standing Committee and Presidium as well as the Central People’s Committee. Thanks to this longer numbering time span, more accurate inferences for these institutions could be drawn even when few numbered legal decisions were available. Two important institutions appear to have applied no time span to their numbering of legal texts. The Military Commission inaugurated at the beginning of the Korean War did not reset its numbering at least until January 1954, the last date of a known numbered legislation. Presidential orders (*chusŏk myŏngnyŏng*, 주석 명령) also did not follow the official legal term of the office and their numbers were never reset in

the twenty-two years Kim Il Sung held this position. The office of the Supreme Commander of the KPA, in contrast, had changed its practice from yearly resetting the numbering to maintaining the numbering in perpetuity, possibly when Kim Jong Il took this position in late 1991.

Another problem an analysis of the numbering of legislation faces is that rather frequently information on legal decisions given in North Korean but also South Korean texts is mistyped, which in the case of dates and legislative numbering, might drastically alter the outcome of the calculation. In most cases the information could be verified through multiple sources or comparison with legal decisions of the same period. But for some the information had to be relied on as it was found.

### *The Supreme People's Assembly*

Although the ordinances adopted by North Korea's parliament - or approved (*sŭngin*, 승인) in the case of decrees previously adopted its Presidium - today are usually publicly announced if not propagated, before the 1970s this was not always the case. In the North Korean state yearbook and the Dictionary of History, for example, references to 'approved decrees' instead any specific titles are more frequent with the exception of the adoption of the yearly budget that were also approved as ordinances.<sup>67</sup> Often the legislative numbering is not included where SPA laws are cited and the first numbering is only available for the 1976 Law on Educating and Upbringing of Children.<sup>68</sup> Despite the few legislative numbers available, it is still possible to reconstruct those numbers for all known laws from 1973 until March 2013 when the last law with a known number was adopted. Only for one ordinance number in 1991 no ordinance could be identified.<sup>69</sup>



note: election dates as grey lines

Figure 2 - SPA Ordinances

The above graph shows the vastly different activity of the SPA. The greater number of SPA ordinances is clearly visible for its 9<sup>th</sup> term continuing until the end of its 10<sup>th</sup> term in 2003. A North Korean book titled *Theory of Socialist Law Making* stated that since the constitutional revision in April 1992 that the Standing Committee was ‘executing law making power with the SPA’ as the text prescribed the approval of laws adopted by the Standing Committee.<sup>70</sup> The constitution also no longer included the limitation that only major legislation was to be approved into an ordinance as the 1948 constitution prescribed for Presidium decrees. As the SPA did not convene between May 1994 and September 1998 – likely due to the death of Kim Il Sung and the subsequent famine – no ordinances had been adopted during this period.

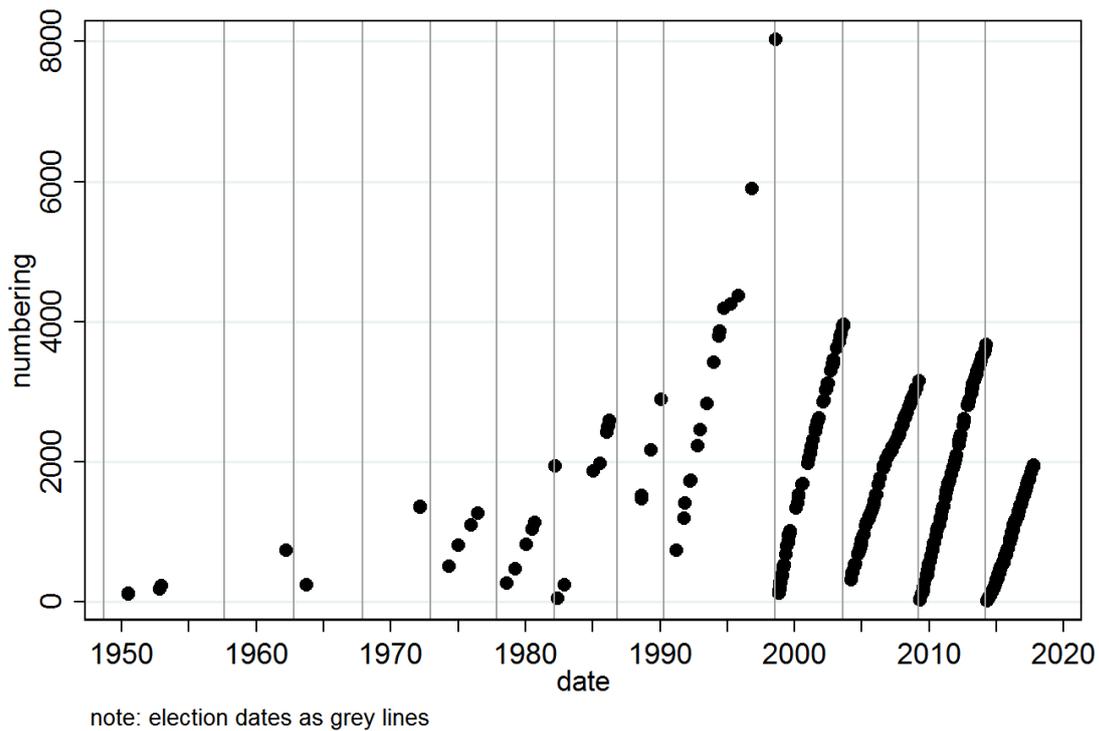
For the following term (2003-2009) no ordinances besides budgets are known and the German ambassador was told in 2005 that it had not been ‘necessary’ to adopt ordinances or approve legislation.<sup>71</sup> This deactivation of the SPA is in stark contrast with the greater stress on laws and legal transparency the regime initiated during this legislative term. The last law adopted before the election was the Law on Military Service, which could hint at a stronger

emphasis on military security and regime control and hence foreshadowed the withdrawal from reforms few years later. Possibly this was facilitated by a stricter interpretation of the constitution, which until 1972 and again since 1998 required only the approval of ‘important laws’ adopted by the Presidium to be approved into SPA ordinances. While this clause was more liberally applied between 1998 and 2003, since then no information is available on any approved Presidium decree. The seven known ordinances besides the state budgets and constitutional revisions that had been adopted since then also dealt only with important political projects or symbols of the state including, for example, the Law on the Kumsusan Palace of the Sun, the Law on Space Development or the Five-Year Strategy on National Economic Development.

Another period without substantial publication activity is visible for the period from 1978 until 1990 with only the Law on People’s Health and the Environmental Protection Law adopted in 1980 and 1986, respectively. While other institutions like the cabinet and presidency had shown a sharp rise in law making by the late 1970s, including in particular the adoption of new economic legislation, the SPA was not activated. For the decisions of the SPA, which are available in limited quantity no legislative numbers could be found and they are therefore not dealt with here.

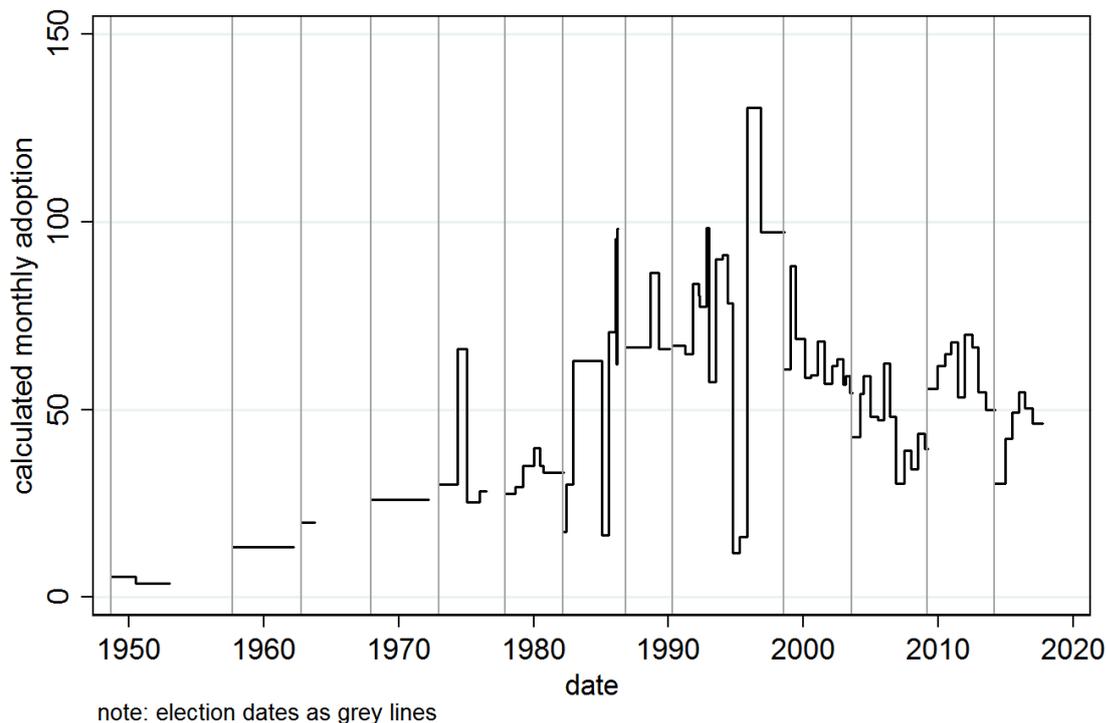
#### *Presidium and Standing Committee of the SPA and the Central People’s Committee*

During their respective times, these three institutions have played an important if not the most important role in North Korea’s legal system. In particular, their decrees (*chǒngnyǒng*, 정령) have been an important means to enact legislation and are publicly available in large quantity including numbering for every parliamentary term.



*Figure 3 - Decrees of PSPA and CPC*

Since the numbering is only reset after every parliamentary election, the average usage of the PSPA and CPC decrees can be calculated even for longer periods where no numbered legislation is available. Because decrees have become the main means to enact legislation in North Korea since the 1980s, this approach also can be used as a proxy for general legal reform. Before, only the limited usage of decrees during the Korean War and a moderate increase the following two decades is visible. Because during that time the cabinet still had some responsible for state awards and honors, possibly the percentage of substantial legislation was higher than during later periods. That in August 1974 the Central People's Committee had created a legal committee might explain for the sudden increase around that time clearly visible in the graph but compared to the legislative periods before and after no substantial overall change in activity occurred.<sup>72</sup>

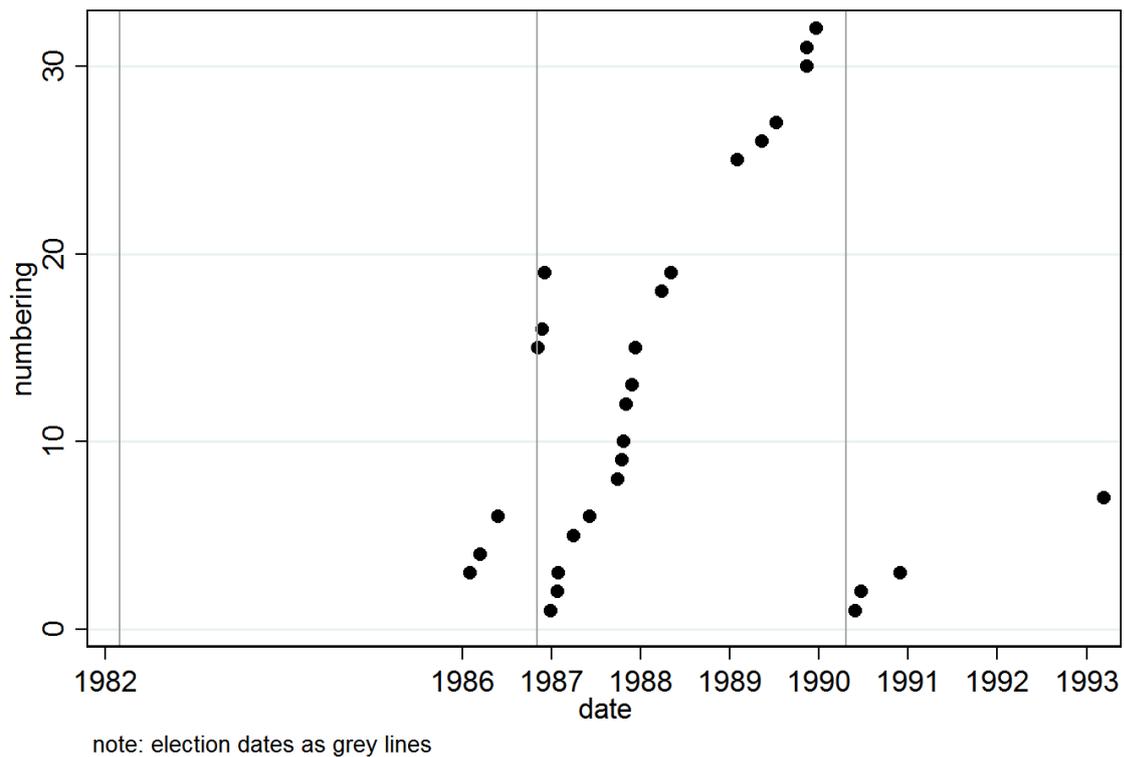


*Figure 4 - Calculated Monthly Decreases of PSPA and CPC*

The above graph also shows a clear increase in adopted legislation in 1985. A South Korean researcher even spoke of a ‘renaissance’ of earlier North Korean history with regards to legal scholarship around that time.<sup>73</sup> While North Korea had expanded its system of state decorations and awards around that time, which were all granted through decrees, actual legislation also certainly has contributed to this increase.<sup>74</sup> For example, both the Regulations on Civil Procedures and the Socialist Labor Law were adopted by CPC decrees in early 1986. For unknown reasons, the adoptions had dropped sharply in the first half of 1985 despite the greater activity before and after.

The increase in actual legal reform during the mid-1980s is also reflected in a sharp increase in meetings of the Central People’s Committee underlining the sudden importance this institution acquired in the legal system of North Korea.<sup>75</sup> Although the 7<sup>th</sup> SPA had been elected in 1982, the fourth session of the CPC for this legislative period was held only in March 1986. The same increase in legislative activity also can be seen in the greater amount of presidential decrees given by Kim Il Sung around the same time. As the CPC was chaired by Kim Il Sung in his position as president, it is not surprising that with the transfer of power to Kim Jong Il around 1992 the CPC also became less active. Before the CPC was dissolved

with a constitutional revision in 1998, the chairpersons of all provincial people committees had become members of this institution implying that after the death of Kim Il Sung or even before the CPC had begun to focus more on guiding the work of provincial government bodies than national law making.<sup>76</sup>



*Figure 5 - Meetings of the CPC*

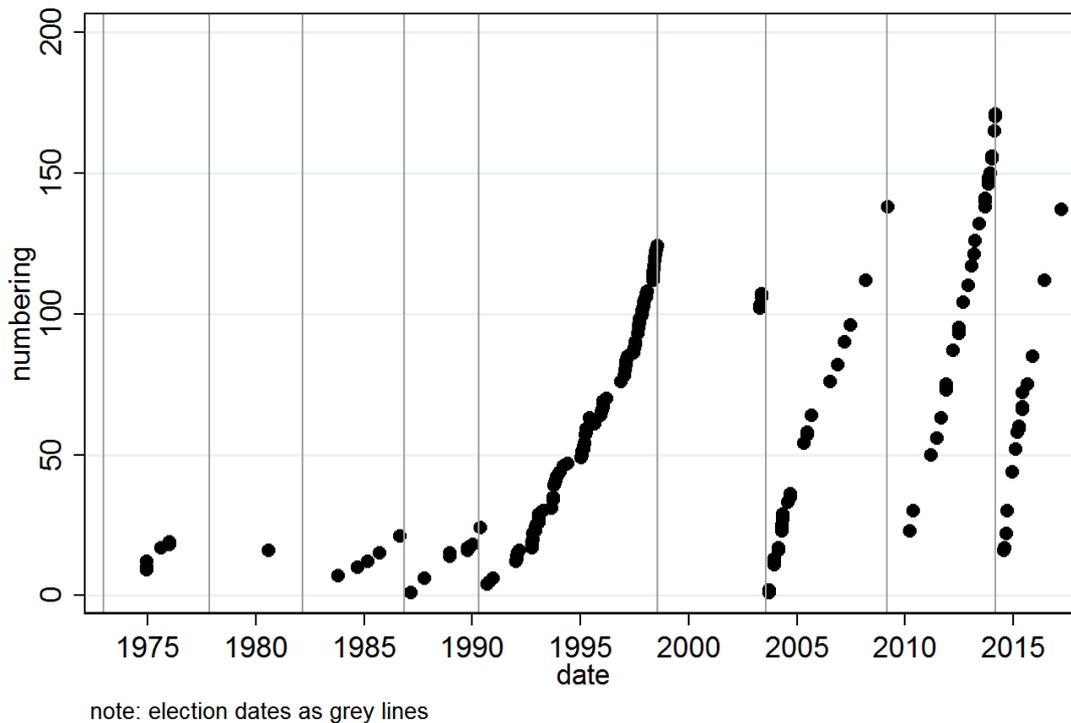
Also clearly visible is the sudden decrease of CPC decrees after the death of Kim Il Sung in July 1994. As Kim Il Sung chaired the CPC, this change was to be expected. During this period only two decrees were published in the state newspapers, both dealing with administrative matters, meaning that especially there was a reduction in the issuing of state honors. Thanks to the decree numbers displayed in award documents for lower state honors this drop in decree adoption also could be objectively confirmed.<sup>77</sup> The paralysis of the CPC did not last long, however, and eventually markedly surpassed previous levels. Shortly after the constitutional revision of 1998 merged the CPC and Standing Committee into the Presidium again, decree activity began to decrease again. This pattern supports a North Korean statement that many laws had to be amended to comply with the new constitution and

the underlying ideas of the revisions<sup>78</sup> instead of legal experts having received education abroad who then gave a new impetus to law making at the highest level.<sup>79</sup> The number of known decrees on actual legislation shows a sudden increase since 2004, but this was only due to the currently available legal collections and not reflective of the total amount of legislation adopted. Another low point was reached in 2006, interestingly when North Korea is claimed to have retreated from economic reform. By late 2009 further decrees had been adopted in greater number coinciding with major revisions of economic legislation and also new legislation relating to human rights. This increase in law making after the 2009 election contrasts with the sharp drop in decrees with known numbering (visible in Figure 1). This could be due to a larger number of titles and state honors being awarded to have Kim Jong Un build his own support base instead of actual legislation. But it also seems likely that sensitive and still unknown legislation was amended to have it confirm with the new text and the new ideas of the constitution.

Sufficient data is also available for the decisions of the Standing Committee and the Presidium. The Standing Committee only had the power to adopt decisions and therefore this measure was used to adopt general legislation as well as for administrative matters like calling the SPA into session or creating election commissions. A strong increase in adopted decisions is visible from the early 1990s. Presumably legislative activity had shifted from the CPC to the Standing Committee, as the CPC, which only Kim Il Sung could chair as president became less active with the transition to Kim Jong Il. With this shift of the law making center, the possibility also was introduced to give greater authority to the Standing Committee's resolutions by approving them into official ordinances of the SPA in 1992. But considering the different length of the SPA periods, this increase also can be detected for the 8<sup>th</sup> SPA period from 1986 to 1990, which was, with about 1,200 days, comparatively short.

Thanks to the usually released numbering of every decision we can easily identify gaps that might not be due to unannounced decisions of administrative nature. In particular, two larger gaps stand out: From 1978 to August 1980 fifteen decisions had been adopted on which no information is available. Possibly they were part of the general legal reform implied in the greater activity of other institutions like the cabinet, but too sensitive to be released or the regime had not decided for greater transparency then. Between March and November 1996 another gap of five consecutive decisions exists. As the famine in North Korea was at the peak around that time, those legal changes might have been a response to the challenges the regime faced and might therefore not have been released publicly. Legal changes to increase punishments of criminals or social control are things we also would expect in this

situation.



*Figure 6 - PSPA & Standing Committee Decisions*

While both institutions, the PSPA and the Standing Committee, used decisions to create electoral commissions or convene sessions of the SPA, the known decisions of the Presidium show that this measure was predominantly used to enact regulations for special economic zones. But the numbering shows that a large amount of legislation adopted through PSPA decisions, especially between 1998 and 2003, is not available to us and other important usages of this legal instrument likely remain hidden. A report of North Korea at the United Nations revealed, for example, that decisions of the PSPA were also used to interpret the constitution.<sup>80</sup> Interpretations of general laws were, in contrast, given as directives. The general legislation was enacted by the Presidium through decrees that have higher legal authority than its decisions.

Next to these types of legislation that are easily accessible to outsiders, two additional forms were mentioned in North Korean publications, CPC decisions and directives. Like the Presidium and Standing Committee, the CPC also was given the power to adopt decisions by

the constitution presumably used for less important legal acts. The only source for these decisions is a 2010 book, which also stands out through its citation of otherwise unavailable presidential orders.<sup>81</sup> Accordingly, it seems to have been the individual access to or involvement in the highest government of one of the authors that allowed this information to be included. Although the book included only three CPC decisions, Decision No. 12 adopted toward the end of the 7<sup>th</sup> SPA period (1982-1986) showed how few decisions had been adopted in the four years before. In contrast, CPC Decisions No. 25 and No. 30 were adopted in 1987 underline the frequent usage of this legal instrument in this term.

While no information is available on directives of the CPC, a secret document of North Korea's Ministry of Social Security published in 2009 cites six directives of the Presidium of the Supreme People's Assembly adopted beginning with Directive No. 69 in 2005 and ending with Directive No. 183 in 2008. As all those directives were adopted during the 11<sup>th</sup> SPA (2003-2009), no comparison can be done to other legislative periods. Adoption of directives appears to have been rare with three to four decisions every month and no significant changes in frequency during this period are visible.

### *The Cabinet and the State Administration Council*

Legislation by the cabinet and the SAC is available in greater quantity than any other institution numbering about 2000 known texts. This was due to the central role of this institution during the first fifteen years of the North Korean state but also thanks to the greater openness about legislation until the early 1960s, which mostly featured legislation of the cabinet. Despite the larger number of texts it was not always possible to correct wrong numbering and dates and only complete outliers were excluded in the figures, while smaller deviations were included.

As the figures for decisions and directives or orders show, less were adopted after 1959. The available evidence suggests that legislative activity was from then delegated to the parliament's presidium for higher legislation and individual ministries for lower legislation, which then was approved through cabinet approvals (*pijun*). By 1959, a purge of political opposition was concluded underlined by a secret by-election that revealed that a quarter of the parliament had exchanged.<sup>82</sup> Thereby, presumably the parliament and its Presidium became a more reliable institution to be used for law-making.

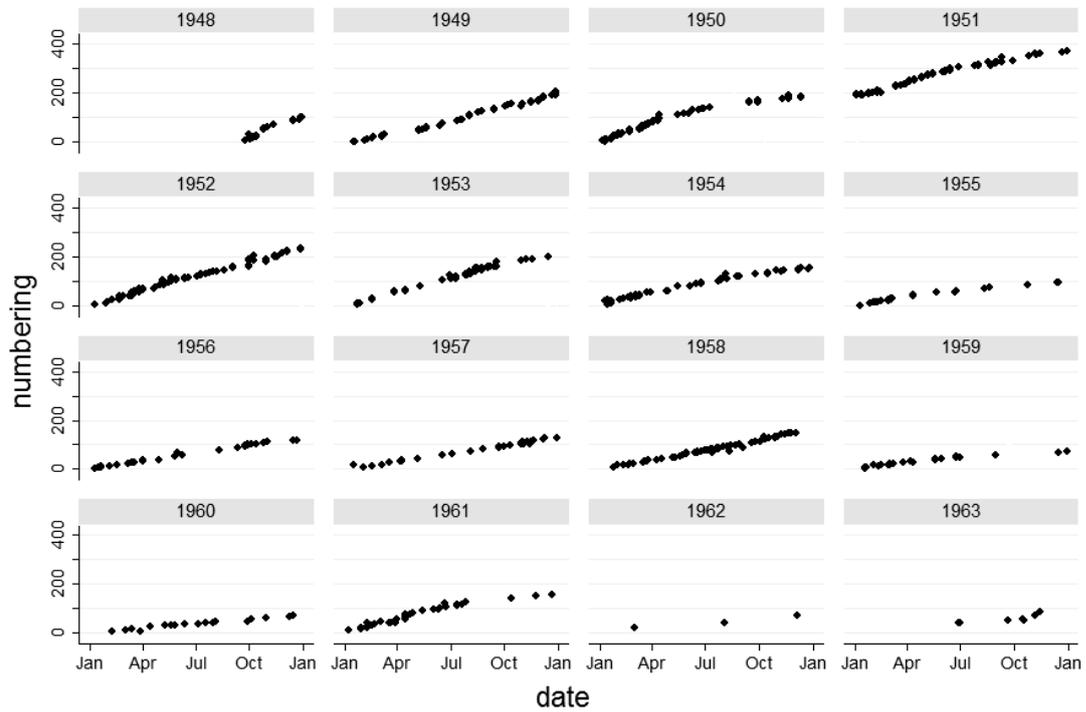


Figure 7 - Cabinet Decisions (1948-1963)

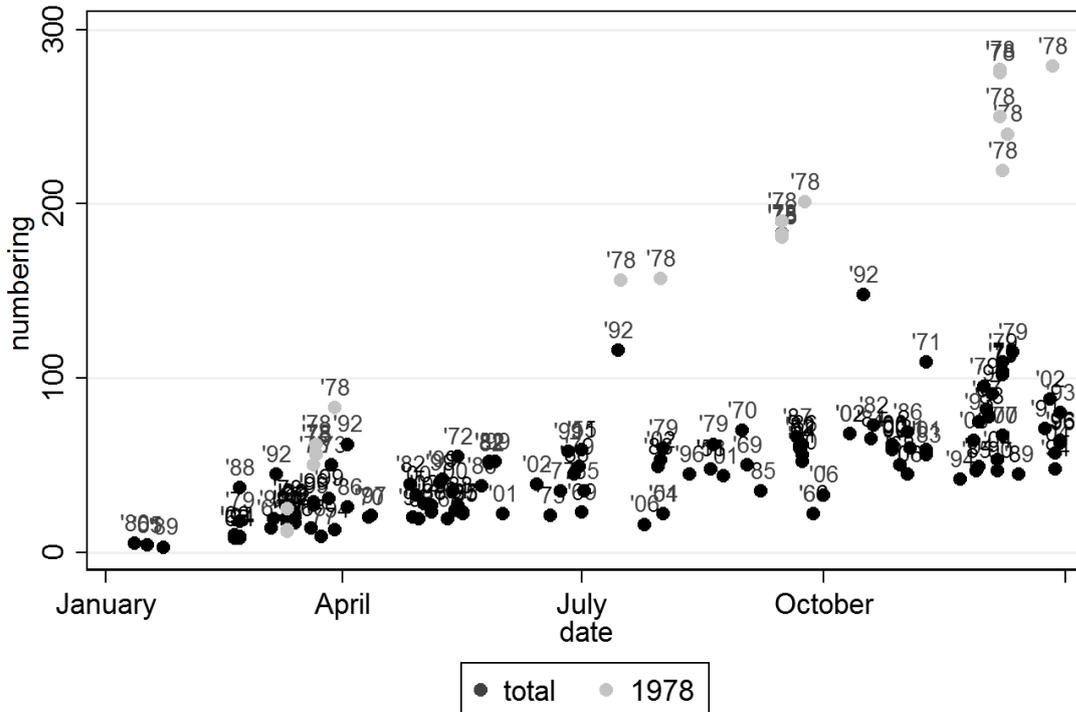


Figure 8 - Cabinet Decisions (1964-2015)

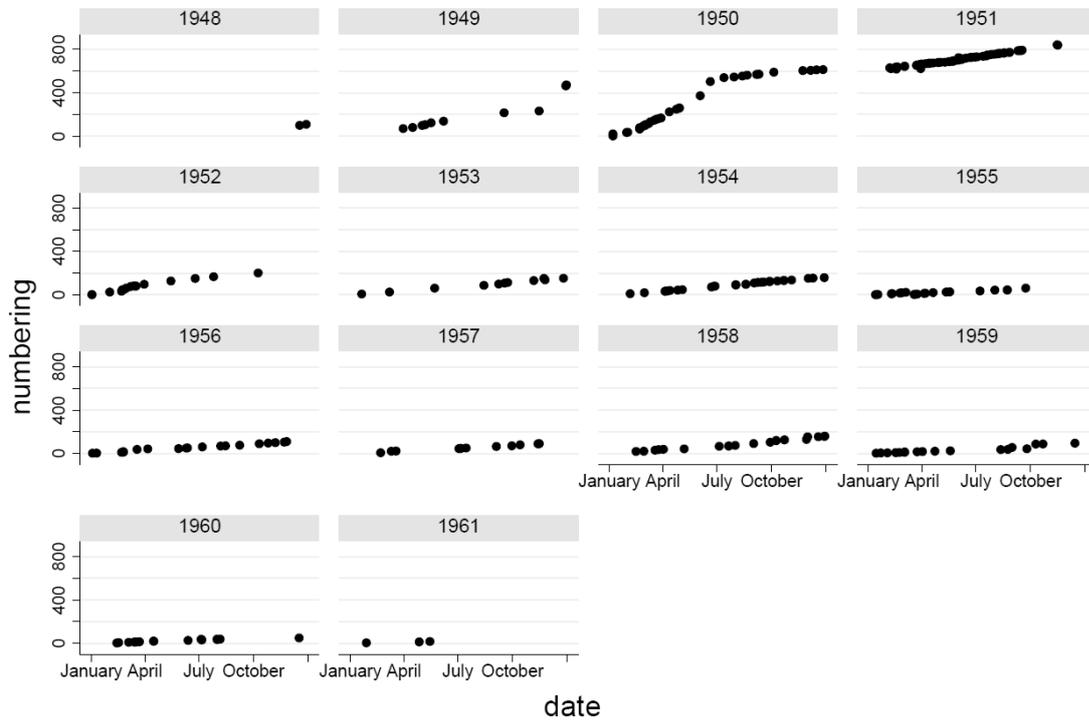


Figure 9 - Cabinet Directives and Orders (1948-1961)

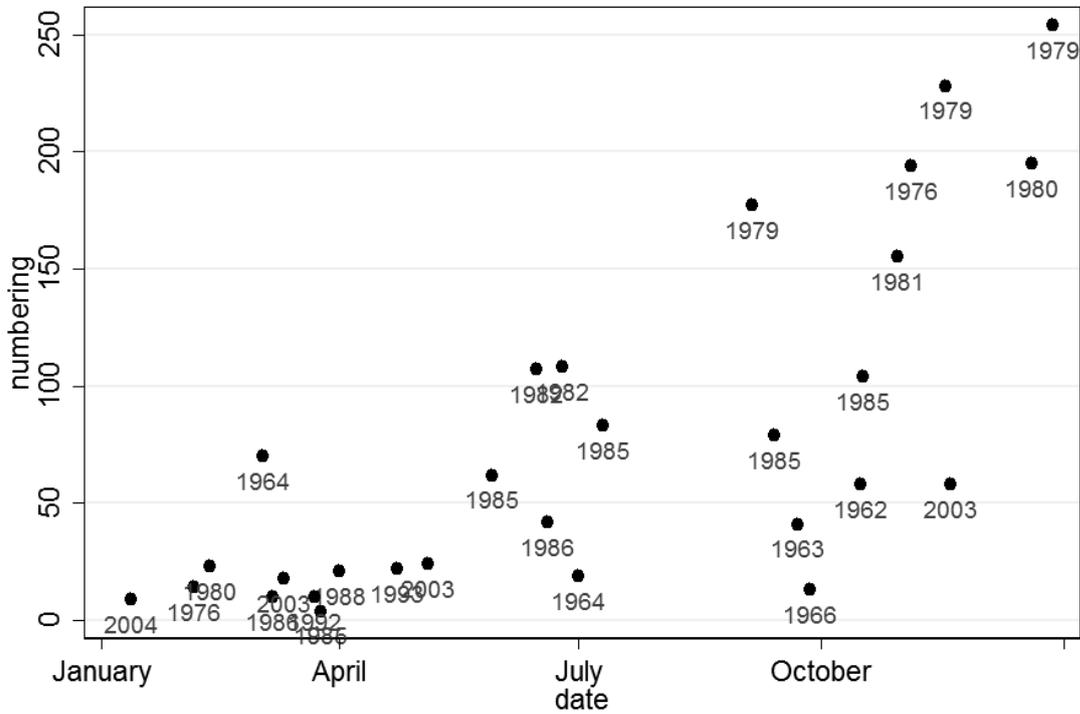


Figure 10 - Cabinet Directives and Orders (1962-2004)

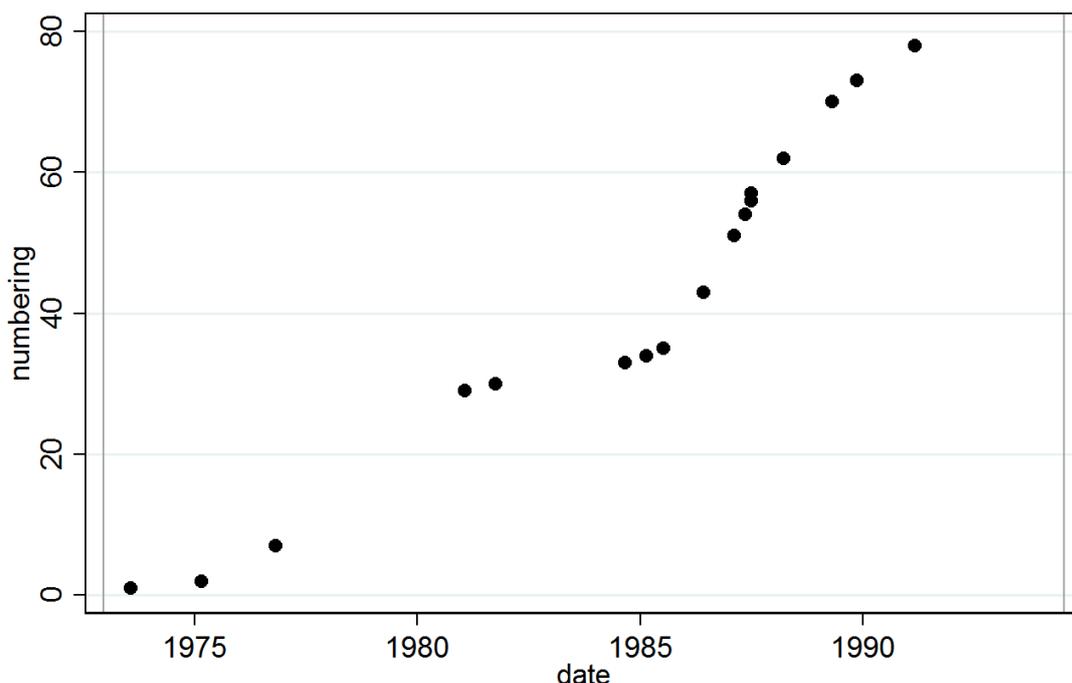
After North Korea became more secretive about legislation by the early 1960s, only small amounts of cabinet legislation was released, which limits the insights quantitative information can provide. But the cabinet's greater activity is clearly visible for the late 1970s. In particular, cabinet decisions in 1978 show the onset of legal reform beginning suddenly in March of that year. Other information also shows the increased focus on legal changes. North Korea's yearbook began from 1978 to include a section on legal information,<sup>83</sup> while greater activity in the various departments was also highlighted in an article of *Minju Chosun*, the organ of the Cabinet, around that time<sup>84</sup>. The available information for cabinet decisions and cabinet approvals suggests that activity also was greater during 1992 and 1999, respectively. During the early 1990s North Korea had engaged in further reform of its economy and human rights protection, which might explain this greater activity of the cabinet. After the constitutional revision in 1998 a range of new legislation was adopted including also about 100 cabinet decisions in 1999 requiring implementation regulations on the ministry level of which some again were approved by the cabinet.<sup>85</sup>

### *The President*

With the large constitutional revision in 1972, Kim Il Sung's position in government was elevated from prime minister to president. This office also was given the power to issue orders. As pointed out above, the power to issue orders also had been monopolised in the constitution before by Kim Il Sung in his function as prime minister of the cabinet since 1955. Accordingly, it likely transferred to the presidency through this constitutional revision. Symptomatic of North Korea's inconsistent secrecy and information policy, only very few of these presidential orders were released in the Complete Writings of Kim Il Sung, although some of them might be added in the expanded collection that began being published last year. Titles of unreleased orders cited in other North Korean publications show that many of these orders did not deal with sensitive information. Most of the known presidential decrees not released in Kim Il Sung's writings come from a single publication.<sup>86</sup>

Although the president had officially been reelected during the first session of every newly elected parliament, the legislative numbering of the orders was not reset. This has the benefit that no orders towards the end of presidential terms are hidden by the numbering. Looking at those seventeen orders that are available with date and legislative number, two periods of greater usage of the power to issue orders become visible. After Kim Il Sung used

this possibility to enact legal measures only sporadically during the beginning of his presidency, he used it more frequently towards the late 1970s – presumably at the same time when the cabinet embarked on a larger legal reform. Afterwards again presidential orders were adopted less frequently changing only in 1986 when also other legal bodies like the CPC and Presidium became more active. The reduction in activity at the beginning Kim Il Sung’s presidency should not surprise as he also had several other possibilities to directly give input to law making through the cabinet or the Korean Workers’ Party or the CPC. But it nonetheless shows that giving Kim Il Sung independent legislative power might have been less important in the creation of the constitution. This is in line with Kim Il Sung’s statement that the presidential system was introduced to divide ‘state work, Party work and economic work more efficiently’ between institutions and allow him to focus on ‘state work’ in his capacity as President.<sup>87</sup>

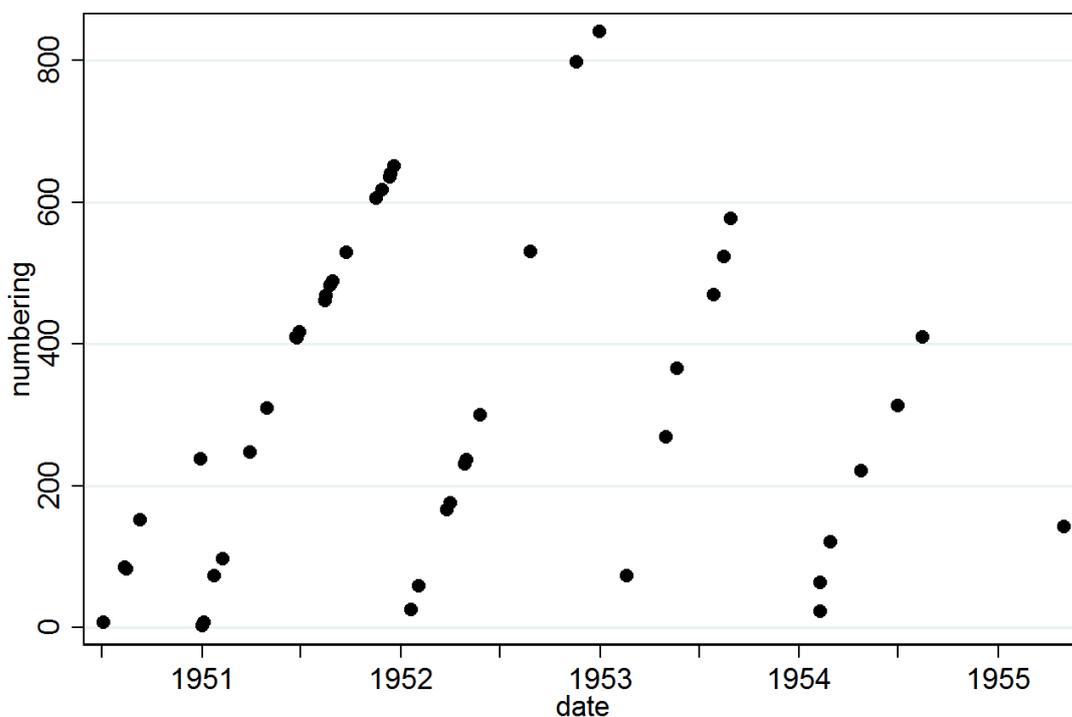


note: 1972 constitutional revision and death of Kim Il Sung as grey lines

Figure 11 - Presidential Orders

*The Supreme Commander of the Korea People's Army*

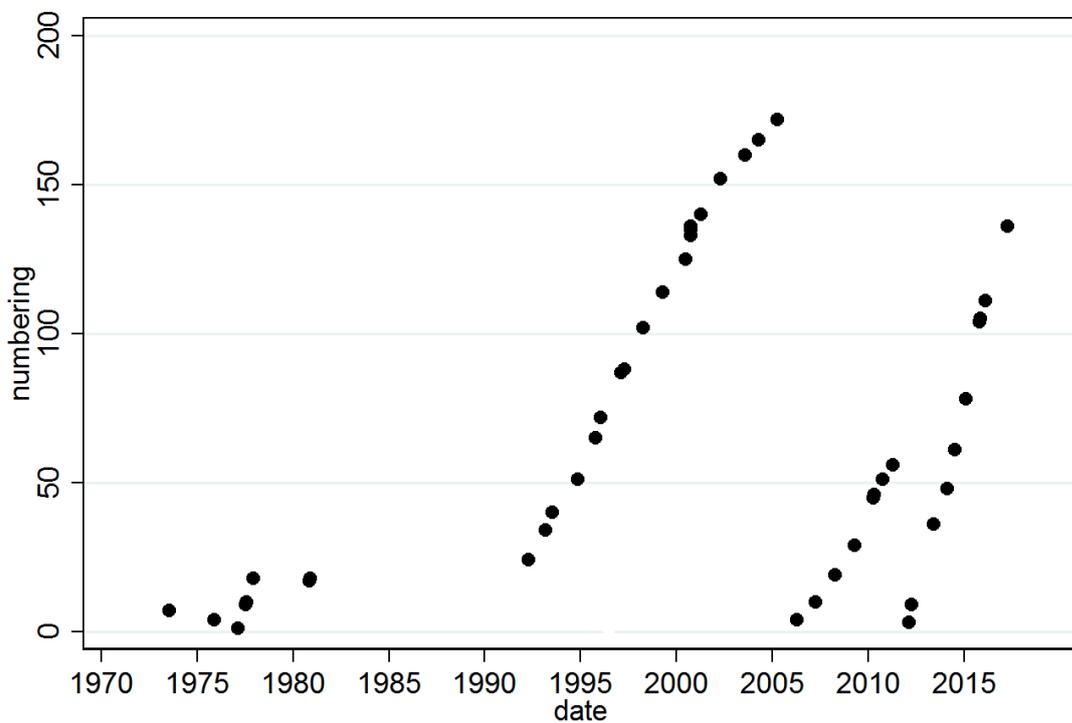
Kim Il Sung was made Supreme Commander of the North Korean army during the beginning of the Korean War. Despite the frequent references to orders by this institution in historical writings and propaganda, only few of their numberings were made available. For the time Kim Il Sung held this position it is only clear that he had issued a high number of orders following the signing of the armistice in July 1953, but had barely used them during the 1970s. The twenty years from 1955 to 1975 and the period from 1982 until Kim Jong Il took over this position in December 1991 provide no order numbers underlining that they had become less important.



*Figure 12 - Supreme Commander Orders (1945-1955)*

Differences between Kim Il Sung and Kim Jong Il are not visible because of the yearly resetting of the numbering under Kim Il Sung. Contrary to the different practice of not resetting the numbering when Kim Jong Il took over this position, it was reset once in March or April 2006. Order No. 4 was adopted on April 15, the anniversary of Kim Il Sung's birthday, and the resetting might have been related to this anniversary. The reason remains

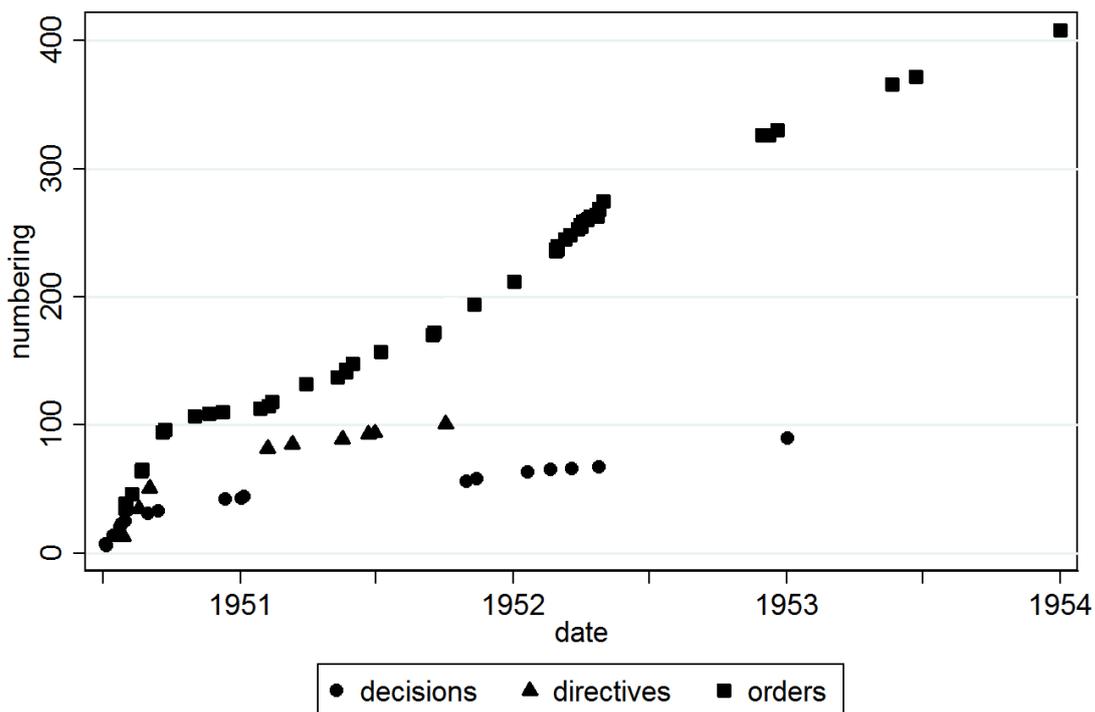
unknown, but it is noteworthy that few months later in October North Korea conducted its first nuclear test and the next revision of the constitution in 2009 now explicitly stated that the chairperson of the NDC becomes also the Supreme Commander.<sup>88</sup> This reintroduced the idea that both positions are to be held by the same person from the 1972 constitution. A comparison of orders adopted by Kim Jong Il and Kim Jong Un shows that the current North Korean leader has issued them more frequently. That Kim Jong Un reportedly reshuffled the military leadership could explain for the greater activity of this state institution under his rule.



*Figure 13 - Supreme Commander Orders (1970-2017)*

### *The Military Commission*

Formed on the second day of the Korean War, June 26, 1950, this institution was meant to enact legislation more efficiently under war time conditions. As the numbering of none its legal decisions was reset, even the fragmented information available of less than 100 texts allows inferences. Naturally, law making by this institution was highest during the first three months of the war. But as the numbers of the Commission's order show, from the time of the Incheon Landing in September 1950 and subsequent fall of Pyongyang, law making stagnated until Chinese troops helped to recapture the North Korean territory. The frequency of orders issued increased in early 1952. This could be linked to the spread in diseases, which eventually led North Korea to claim the USA had used biological weapons, but it also could point at attempts to check political opponents or increase domestic security and social control in wake of constant bombardments of the country.



## Conclusion

Although North Korea's legal system is closed to more detailed scrutiny, a larger review of what official law collections include and what North Korean scholars reference reveals important features. Firstly, as known from other socialist states, the role and importance of institutions laid down in the constitution can strongly change in practice to match political needs. In particular, the handing over of power from Kim Il Sung to Kim Jong Il has significantly shaped the North Korean legal system. With Kim Il Sung occupying the presidency, his son officially was elevated to the position of political leader presumably taking over most domestic affairs and eventually he took over military responsibilities from Kim Il Sung. That the Standing Committee of the SPA and the parliament itself became more active since this political change poses further questions on how Kim Jong Il controlled this institution and if it was able to give independent impulses to law-making outside of policy instructions from the Korean Workers' Party. The greater interest in rule-by-law and legal transparency visible since the early 1990s but also the early 2000s might also have been a result of this leadership transition. Information is not yet sufficient to identify changes under the Kim Jong Un period, but like the retiring of the National Defense Commission and his greater usage of the Supreme Commander's orders these features can likely provide further clues on the agenda of the regime.

Secondly, this article also hopes to show the severe contradictions and inconsistencies in North Korean censorship and release of information. While the information on 4000 legal changes used here was mostly sourced from North Korea's own publications, the North Korean government has not been proactive in helping foreign scholars to achieve access to them. Accordingly, engaging North Korea only on these problems of access to North Korean scholarship is just as important as engaging it on certain policy issues to overcome misunderstandings and prejudices. While a lot of government legislation might be formally declared a state secret, North Korea's museums and study halls clearly show that a mechanism exists to declassify this information even if it is only for propaganda reasons. Better understanding these processes, the institutions and people involved as well as the leverage individual North Korean scholars hold on accessing domestic legislation and publicly held information on them is another task that can help us to achieve greater access. As also the expansive legal translations offered by North Korea show, the leadership is willing to provide more information, but so far scholars were not able to ask specific enough questions to get a meaningful response. Eventually, the task also involves convincing North

Korea that greater transparency can also create benefits in its international standing.

Last but not least, the use of legislative numbering to identify periods of higher and lower activity allowed the author to match known evidence released by North Korea on legal reform that has not been acknowledged in the literature with verifiable, objective changes in law making and the legal system underlining these reforms. Eventually, knowledge that North Korea also is ruled by laws and regulations and a better understanding of them and their context will allow for new ways to engage North Korea on reform and human rights and other aspects but also to create those narratives that are a precondition for meaningful engagement. Although no longer analysis of the available information could be provided here because of the limitations of space, the available evidence suggests that both reforms in the economy and human rights have deeper institutional roots in the North Korean system than scholars are currently aware.

## Notes

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<sup>1</sup> See, for example, Christopher Green, 'Wrapped in Fog: On the DPRK Constitution and the Ten Principles' in *Change and Continuity in North Korean Politics*, eds. Adam Cathcart, Robert Winstanley-Chesters and Christopher Green (Routledge, 2017), 23-38.

<sup>2</sup> Greyson Bryan, Scott Horton and Robin Radin, 'Foreign Investment Laws and Regulations of the Democratic People's Republic of Korea,' *Fordham International Law Journal*, 21:5 (1997), 1677-1718; Brendon A. Carr 'Ending the Hermit Kingdom's Belligerent Mendicancy: New Openness and New Foreign Direct Investment Laws of the Democratic People's Republic of Korea,' *Asia Pacific Law Review*, 6:2 (1998), 29-55; Haksoo Ko, 'Foreign Investment in North Korea: An Assessment of Recent Laws and Regulation,' *Virginia Journal of International Law*, 38 (Winter 1998); Eric Yong-Joong Lee, 'Development of North Korea's Legal Regime Governing Foreign Business Cooperation: A Revisit under the New Socialist Constitution of 1998,' *Northwestern Journal of International Law & Business*, 21:1 (Fall 2000), 199-242; Roh Jeong-Ho, 'Making Sense of the DPRK Legal System,' in *The North Korean System in the Post-Cold War Era*, ed. Samuel S. Kim (Palgrave, 2001), 139-155; Patricia Goedde, 'Law 'Of Our Own Style': The Evolution and Challenges of the North Korean Legal System,' *Fordham International Law Journal*, 27:4 (2003), 1265-1288; Darren C. Zook, 'Reforming North Korea: Law, Politics, and the Market Economy,' *Stanford Journal of International Law*, 131 (2012), 131-183.

<sup>3</sup> Ipyong J. Kim, 'The Judicial and Administrative Structure in North Korea,' *The China Quarterly* 14 (April/June 1963), 94-104; Pyong Choon Hahm, Ideology and Criminal Law in North Korea,' *The American Journal of Comparative Law*, 17:1 (Winter 1969), 77-93; Kang Koo-Jin, 'Law in North Korea: An Analysis on Soviet and Chinese Influences Thereupon,' Harvard Law School S.J.D. dissertation, Cambridge, Mass., 1969; Chin Kim, 'North Korean Nationality Law,' *The International Lawyer*, 6:2 (1972), 324-329; 'Law of Marriage and Divorce in North Korea,' *The International Lawyer*, 7:4 (October 1973), 906-917; 'Recent Developments in the Constitutions of Asian Marxist-Socialist States,' *Case Western Reserve Journal of International Law*, 13:3 (1981), 483-500; Kim Un-Young, 'A Study of the Legal System of North Korea,' *Korea Observer*, 1:8 (1977). Two scholars, one a Harvard graduate and the other employed at the US Library of Congress, wrote several English articles on the topic. Koo-Chin Kang, 'An Analytical Study of Criminal Law in North Korea,' *Lawasia* (Sydney) 4:2 (November 1973); Koo Chin Kang, 'The North Korean Constitution' in *Jahrbuch des Öffentlichen Rechts der Gegenwart*, 27, ed. Gerhard Leibholz (Tübingen: J. C. B. Mohr, 1978). Kang also wrote several

English articles in South Korean journals. Kang Koo-jin ‘Comparison of Legal Systems Between North and South Korea,’ *Pōphak* (법학) 12:2 (1971) and 13:1 (1972); ‘The Judicial Structure in North Korea,’ *Korean Journal of Comparative Law*, 1 (1973); ‘Machinery of Justice in North Korea,’ *Korean Journal of Comparative Law*, 1 (1973); ‘Important Aspects of Criminal Procedure in North Korea,’ *Korean Journal of Comparative Law*, 1 (November 1975); ‘An Analytical Study on the North Korea Socialist Constitution,’ *Korea & World Affairs*, 2:1 (1978). Cho Sung-Yoon’s works include: ‘The Structure and Functions of the North Korea Court System,’ *The Quarterly Journal of the Library of Congress*, 26:4 (October 1969), 216-225; ‘The Judicial System of North Korea,’ *Asian Survey*, 11:12 (December 1971), 1167-1181; ‘Law and Justice in North Korea,’ *Journal of Korean Affairs*, 2 (January 1973); *The Judicial System of the Democratic People’s Republic of Korea*. (Washington, D.C.: Law Library of Congress, 1974).

<sup>4</sup> Dae-Kyu Yoon, ‘The Constitution of North Korea: Its Changes and Implications,’ *Fordham International Law Journal*, 27:4 (2003), 1289-1305; Sangmin Nam, ‘The Legal Development of the Environmental Policy in the Democratic People’s Republic of Korea,’ *Fordham International Law Journal*, 27:4 (2003), 1322-1342; Han In Sub, ‘The 2004 Revision of Criminal Law in North Korea: A Take-Off?,’ *Santa Clara Journal of International Law*, 5:1 (2006), 122-133.

<sup>5</sup> Marion P. Spina, Jr., ‘Brushes with the Law: North Korea and the Rule of Law,’ *Academic Paper Series KoreaEconomic Institute*, 2:6 (June 2007), accessed February 2, 2017, <http://www.keia.org/sites/default/files/publications/Spina.pdf>.

<sup>6</sup> Son Ki-ung, ‘Pukhan hwan’gyōng kwallyōn kich’o yōn’gu (북한환경 관련 기초연구),’ 2003 *T’ongilbu yongyōk pogosō* (통일부 용역 보고서) (July 2003), accessed February 22, 2017, [http://www.nl.go.kr/app/nl/search/common/download.jsp?file\\_id=FILE-00008504001](http://www.nl.go.kr/app/nl/search/common/download.jsp?file_id=FILE-00008504001).

<sup>7</sup> Choi Chong-go, *Pukhan bōp* (북한법). (Seoul: Pakyōngsa, 1993), 296-305.

<sup>8</sup> Choi Tal-gon and Sin Yōng-ho, *Pukhan pōmryul munhōn mongnok-kwa kŭ haeje* (북한법률문헌목록과 그 해제). (Kŭnsa ch’ulpansa, 1998), 24; Cho Sung Yoon, *Judicial System*, 234.

<sup>9</sup> *Commerce Exterieur*, 4 (2017), 26-28.

<sup>10</sup> Second Periodic Report of the Democratic People’s Republic of Korea on its Implementation of the International Covenant on Civil and Political Rights (UN document CCPR/C/PRK/2000/2).

<sup>11</sup> Yu Ok, ‘Pukhan-ūi bōp ch’ekye-wa pukhan bōp ihae pangbōp: Pukhan hōnbōp sang-ūi pōmryōng, chōngnyōng, kyōljōng tūng ibbōp hyōngsik-ūl chungsim ūrō (북한의 법체계와 북한법 이해방법: 북한 헌법상의 법령, 정령, 결정 등 입법형식을 중심으로),’ *T’ongil kwa Pōmryul* (통일과 법률), 6 (2011), 50-111.

<sup>12</sup> An Yun-sōk, ‘Jayu pukhan pangsong, nodongdang chungang kunsu wiwōnhoe chōldaepimil munsō ipsu konggae (자유북한방송, 노동당 중앙군사위원회 절대비밀 문서 입수 공개),’ *NoCutNews* (노컷뉴스) (4 August 2005), accessed February 22, 2018, [http://m.nocutnews.co.kr/news/67562#\\_enliple](http://m.nocutnews.co.kr/news/67562#_enliple).

<sup>13</sup> After the constitution was adopted on 8 September 1948, four smaller changes were introduced between 1954 and 1962 lowering. Both the voting age and the size of national electoral districts was lowered, while no institutional features of the state were changed. Only in December 1972 with the new ‘Socialist Constitution’ the institutional setting of the state was significantly altered. That the constitution was newly adopted instead of revised was to further underline the ideological importance of the text. Two decades later small, but significant changes were introduced followed by a major revision in 1998 which largely reversed the institutional changes of the 1972 Socialist Constitution. With the exception of 2011, the constitution was revised every year in April between 2009 and 2013 every time introducing small, but significant changes to the text. The last revision occurred in June 2016 only substituting the previous executive organ of the highest leader, the National Defense Commission, with the State Affairs Commission.

<sup>14</sup> In August 1956 Kim Il Sung had been challenged from within his party leading to large purges of political opponents. In the mid-1990s North Korea suffered a severe famine and in 2008 Kim Jong Il reportedly suffered a stroke. He reportedly suffered the stroke in August about when the new election was to be called.

<sup>15</sup> Paek Seong-il, ‘Uri nara inminjuūi hōnbōp-ūi kanghwa paljōn (우리 나라 인민주의헌법의 강화발전),’ *Kim Il Sung University Journal (History, Law)*, 3 (2004). The power to issue orders is not mentioned in the 1948 constitution for any institution and the subsequent change for the cabinet received virtually no attention in the academic discourse. A South Korean scholar provided the revised text of the respective article without mentioning the change in 1955 anywhere in his text. Kim Un-rŭng, ‘Hōnbōp chilsō- ūi iron-gwa silje (헌법질서의 이론과 실제),’ in *Pukhan pōmryul ch’egye yōn’gu* (북한법률체계연구), ed. Research Office on Communist States, East Asia Research Institute, (Seoul: Korea University Press, 1972), 75. While the cabinet had been able to issue only decisions and directives like the People’s Committee before 1948, lower level institutions like ministries were able to issue ministerial orders (*seongryeong*, 정령) or rules (*gyuchik*, 규칙) which before 1948 had been orders (*myōngryōng*, 명령) and directive orders (*jiryōng*, 지령).

<sup>16</sup> Different from the presidential systems of the USA or Russia, the North Korean presidency had no formal veto powers. Kim Il Sung’s presidential decrees were ranked only below the constitution and SPA ordinances, but they carried rather broad guidelines on policy than concrete and detailed prescriptions.

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<sup>17</sup> It has been claimed that only the president could become Supreme Commander under the 1972 constitution and Kim Jong Il taking this position was thereby unconstitutional. The constitution prescribes, however, that the president ‘becomes’ (*toeda*, 되다) the Supreme Commander – presumably upon election – instead of ‘being’ (*ida*, 이다) it. Formally, this could have meant the president can offer this position to someone else. It also appears extremely unlikely the North Korean leadership would risk a clear violation of the constitution only months before deleting the problematic article in a revision. For claims that the constitution was violated see, for example, Ken Gause, ‘The Role and Influence of the Military’ in *North Korea in Transition: Politics, Economy, and Society* (Lanham, MD: Rowman & Littlefield, 2013), eds. Kyung-Ae Park and Scott Snyder, 24; Kim Sung Chull, *North Korea Under Kim Jong Il: From Consolidation to System Dissonance* (State University of New York, 2006), 98.

<sup>18</sup> Kim Il Sung, Tasks of the Party Organizations in Ryanggang Province (August 16, 1963), *Works of Kim Il Sung 17* (Pyongyang: Foreign Languages Publishing House, 1984), 315-316.

<sup>19</sup> Those gazettes were captured during the Korean War and are also available through the online service of the South Korean National Library. The third issue is the first available and was published in October 1946. The Provincial People’s Committee of North Korea had issued decisions since February. But the late publication of the gazette is in line with the late creation of *Minju Choson*, in early June, then the organ of the committee. Institute on Revolutionary History of Comrade Kim Il Sung, Social Science Academy, *Ryōksa sajōn* (력사사건), Volume 3. (Pyongyang: Social Science Publishing House, 2001), 326.

<sup>20</sup> The gazettes of the North Korean cabinet up to July 1952 were captured with other documents by UN forces and have been organized and republished by the South Korean Institute of National History in their series ‘North Korea Related Source Materials’ (*bukhan gwangye saryojip*, 북한관계사료집). Despite the name those gazettes are only selections of major legal texts covering also the Supreme Commander of the People’s Army, the Military Commission and other institutions, and appeared every seven to ten days. The two gazettes North Korea published after the start of the Korean War are not available. While publication had been strictly bi-monthly since February 1950, the time between each issue was less stable once the Korean War began in late June. Due to the occupation of the North by UN forces the issue of September 30 was followed by the next one only three months later.

<sup>21</sup> Judicial Bureau of the People’s Committee of North Korea (ed.), *Collection of Laws of North Korea* (북조선법령집) (Pyongyang: Judicial Bureau of the People’s Committee of North Korea, 1947).

<sup>22</sup> Only two of at least three volumes are available at the North Korea Information Center in Seoul covering texts adopted between 1948 and 1950 and in 1954. Presidium of the SPA of the DPRK (ed.), *Chosōn minjujuūi inmin konghwaguk pōmyōng mit ch’oego inmin hoeūi sangim wiwōnhoe chōngryōngjip* (조선민주주의인민공화국법령및최고인민회의상임위원회정령집), volumes 1 and 3, republished by Haku sōbang (학우서방) in Japan in May 1955.

<sup>23</sup> Of an original two-volume collection on labor law only the second appears available. Research Institute of Labor Science, Ministry of Labor, DPRK (ed.), *Rodong pōpkyujip: rodong imgūmpyōn* (로동법규집: 로동임금편). (Pyongyang: Kungrip ch’ulp’ansa, 1955).

<sup>24</sup> Published by North Korea’s Korea Central News Agency (KCNA), the majority of the yearbook currently deals with the highest leader. In the first decades the chronicle in the appendix listed, however, not only important events or meetings of political institutions like the SPA but also references on adoptions of legislation by the cabinet or other bodies.

<sup>25</sup> Korea Central News Agency, *Haebang hu 10-nyōn ilgi : 1945-1955* (해방후 10년 일지 : 1945-1955). Pyongyang: Korea Central News Agency, 1955. This chronology references several legal texts not printed in the regular yearbooks that also have their own chronology and are published by KCNA as well. Same changes revealed in yearbooks are, however, excluded.

<sup>26</sup> ‘Chosōn minjujuūi inmin konghwaguk pōpkyujip-ūl ch’ulp’an (조선 민주주의 인민 공화국 법규집을 출판),’ *Rodong Sinmun*, September 7, 1961, 5.

<sup>27</sup> Naegak pōpkyu chōngni wiwōnhoe((내각 법규 정리 위원회), *Chosōn minjujuūi inmin konghwaguk Pōpkyujip* (조선민주주의인민공화국 법규집). (Pyongyang: Kuknip ch’ulp’ansa, 1961), 5 volumes. The library of Myungji University in Seoul holds an original copy which could have been found by other researchers or librarians easily through the website RISS which allows the search of almost all of the library holdings in South Korea.

<sup>28</sup> In 1963 law collections were published for legal texts on courts, agriculture, traffic and transport, city management, as well as for decrees of the Presidium of the SPA and texts adopted by the cabinet. Surprisingly the latter volumes were said to have been published by the Printing House for Higher Education Publications. The following year possibly separate collections for the ordinances of the SPA and decrees of its Presidium were published including texts as recent as June 1964. Ri Kyōng-ch’ōl, *Sahoejuūi bōpjejōng riron* (사회주의법제정리론). (Pyongyang: Social Science Publisher, 2010), 219-220; Ryōm Chong-nam, *Sahoejuūi pōp ch’egyhwa-e taehan yōn’gu* (사회주의법체제와 법체제화에 대한 연구), in *Pophak yōn’gu ronmunjip*

(법학연구론문집) 15 (Pyongyang: Social Science Publishing House, 2010), 415.

<sup>29</sup> Ri Ju-min, *Uri nara sahojuüi t'ojiböp yön'gu* (우리 나라 사회주의 토지법연구) (Pyongyang: Social Science Publishing House, 2010), 30.

<sup>30</sup> For the lack of statistics since that time see, for example, Daniel Schwekendiek, *A Socioeconomic History of North Korea* (Jefferson, NC: McFarland, 2011), 11 and Nicholas Eberstadt, 'Development, Structure, and Performance of the DPRK Economy: Empirical Hints,' in *North Korea in Transition: Prospects for Economic and Social Reform*, eds. Chang-ho Yoon and Lawrence J. Lau (Cheltenham: Edward Elgar, 2001), 30.

<sup>31</sup> Those ordinances were published with several other documents in a collection likely in 1978 but also had been released at the time of adoption in various North Korean magazines. Scholars appear to have had access only to the English or Japanese translations of the collection.

<sup>32</sup> Taewoe kyöngje hyömyöök ch'ujin wiwönhoe (대외경제협력추진위원회), *Hwanggum-üi samgagju: Rajin Sönbong pöpkyujip* (황금의 삼각주, 라진-선봉 법규집), 8 volumes (1993-1998).

<sup>33</sup> This compilation was made available through the blog North Korea Economy Watch in March 2013, a decade after it was officially released. (<http://www.nkeconwatch.com/nk-uploads/Compilation-of-laws.pdf>). Neither information on the person that supplied the collection to the owner of the blog nor information on how the collection was acquired is released.

<sup>34</sup> Ryeom Chong-nam, 'Sahoijuüi pöp chekye-wa pöp chekyehwa-e taehan yön'gu', (사회주의법체계와 법체계화에 대한 연구), in *Pophak yön'gu ronmunjip* (법학연구론문집) 15 (Pyongyang: Korea Social Science Publishing House, 2010), 421.)

<sup>35</sup> Ri Myöng-il, 'Haengjöngböp-üi t'ükching-gwa wönc'h' ön (행정법의 특징과 원천),' *Kim Il Sung University Journal* (History, Law), 1 (2003).

<sup>36</sup> Kim Kyong-su, Kim Wan-sön and Kim Ch'ön-il, *Sahoejuüi todög-gwa pöp* (사회주의도덕과 법) 5 (Pyongyang: Kyoyuk tosö ch'ulp'ansa, 2005).

<sup>37</sup> The author was only made aware of the existence of the 2008 volume through Chang Myeong-bong, 'Pukhan-üi ch'oegün sahoejuüi pöpche saöb tonghyang: 2008 nyön pöpchön (taechungyong)-ül chungsim-üro (북한의 최근 사회주의법제사업 동향: 2008년 법전 (대중용)을 중심으로),' *Pukhan pöp yön'gu* (북한법연구), 12 (February 2010). The library of Yonsei University appears to be the only South Korean library that holds a copy of this 2008 update on North Korea's law collection. It is not known if North Korea also published an update in 2010 and 2014 in line with previous practice to publish an update all two years. The 2010 update would have been especially important to verify the claim of North Korea made in a report to the UN early 2014 that the penal code had been amended to further reduce maximum sentences. Currently only the 2012 revision is available. UN document A/HRC/WG.6/19/PRK/1, 4.

<sup>38</sup> Fifth state report of the DPRK to the Committee of the Rights of the Child (CRC/C/PRK/5), para. 127.

<sup>39</sup> Ri Myöng-il, 'Haengjöngböp.' This issue went into print in early February 2003. Ri Myöng-il held a PhD and assistant professorship at that time which could mean that he had received access to this otherwise unavailable document for research purposes. An article in 2006 in the same journal revealed that he had become full professor by then.

<sup>40</sup> Kim Kyeong-hyeon, 'Haengjöng pöpkyu chejöng-e taehan koch'al (행정법규제정에 대한 고찰),' *Kim Il Sung University Journal* (History, Law), 4 (2010). Although this law was adopted already in 2004, it was only this researcher who referenced it in 2010 in contrast to the Law on Administrative Oversight, which was cited earlier.

<sup>41</sup> One recent example with unique information released through this journal is Ri Yöng-myöng, 'Uri nara-esö chaengaeja poho chedo-üi palsaeng paljön (우리 나라에서 장애자보호제도의 발생발전),' *Chöngch'i pömyryul yön'gu* (정치법률연구), 3 (2016).

<sup>42</sup> A case in point would be the adoption of the Civil Procedure Regulations (민사규정) adopted by the Central People's Committee by a decree in 1986. While this is widely known, no scholar in South or North Korea was able to cite the actual decree number which usually is given with the title. Only recently a single female scholar on North Korea's legal system of marriage was able to unearth this number. Ri Song-nyö, 'Chosön minjuüi inmin konghwaguk kyörhon chedo (조선민주주의인민공화국 결혼제도),' in: *Pophak yön'gu ronmunjip* (법학연구론문집) 3, (Pyongyang: Social Science Publisher 2010), 97.

<sup>43</sup> This can be gleaned from low resolution picture albums released through the website of North Korea's foreign publishing house, [www.Naenara.com.kp](http://www.Naenara.com.kp). Videos released by North Korea or visitors also sometimes show close-ups of legal documents. This can also be only a reference like to Decision No. 6 of Pyongyang City Administrative Committee in August 1978 as founding Pyongyang Mirim School.

<sup>44</sup> [http://nk.chosun.com/bbs/list.html?table=bbs\\_12](http://nk.chosun.com/bbs/list.html?table=bbs_12).

<sup>45</sup> Originally, the website of the North Korean Information Center under the Ministry of Unification ([www.unibook.unikorea.go.kr](http://www.unibook.unikorea.go.kr)) had also included a section for legal texts, but it went offline in 2015. Around the same time a website was opened by the World Law Information Center ([www.world.moleg.go.kr/KP/law](http://www.world.moleg.go.kr/KP/law)) under the Ministry of Government Legislation (MOLEG) which now also is unavailable. Currently only the

Unification Law Database ([www.unilaw.go.kr](http://www.unilaw.go.kr)), a cooperation of the MOU, MOLEG and the Ministry of Law is still online. Like the previous MOLEG database most of its content was uploaded in mid-2014 and in late 2017 new content was added. Most of the 239 texts available are simple scans without OCR of texts from official DPRK collections and often no or not all available revisions of a given law are included.

<sup>46</sup> Ch'a Nak-hun and Chŏng Kyŏng-mo, *Pukhan pŏmryŏng yŏnhyŏkch'ip* (북한법령연혁집) (Seoul: Korea University Publishing, 1969). The first issue of the journal *Law and Public Administration in North Korea* (북한법률행정논총) published by the Research Institute on Law and Administration of Korea University appeared in 1970. Because of a lack of funding and lack of access to new sources, it took three years for the next issue to appear and another six for the third. In the 1980s publication became more regular with about one issue every two years until it was discontinued after its tenth issue in 1995.

<sup>47</sup> Korea Institute for National History, *Pukhan kwangye saryojip* (북한관계사료집) 5 (Kwachon: National Institute of Korean History, 1987).

<sup>48</sup> Ch'oe Dal-gon and Shin Yŏng-ho, 'Pukhan pŏmryŏng nyŏnp'yo (북한법령 년표)' *Law and Public Administration in North Korea* (북한법률행정논총), 8 (December 1990), 325-435. A slightly updated version of the list was several years later also published as part of a monograph. The Sejong Institute (ed.), *Pukhan pŏp ch'egye-wa t'ŭksaek* (북한법 체계와 특색) (Seoul: The Sejong Institute, 1994).

<sup>49</sup> Ch'oi Dal-gon and Chŏng Kyŏng-mo, *Pukhan pŏmryŏngjip* (북한법령집), 5 volumes (Seoul: Taeryak yŏn'guso, 1990).

<sup>50</sup> *Pukhan pŏp yŏn'gu* (북한법연구), 1 (December 1997), 122.

<sup>51</sup> It published legal collections with increasingly redundant content in 2005, 2006, 2008, 2011, 2013, 2015, and 2018. Since late June 2017 it has a website, [www.nkls.or.kr](http://www.nkls.or.kr), but has not uploaded any legal texts yet.

<sup>52</sup> Among those laws are, for example, the Law on Social Security Control (사회안전단속법), the Law on Secrets (기밀법), the Law on Controlling the Prosecution (검찰감시법), the Law on Administrative Punishments (행정처벌법), and the Law on Publications (출판법).

<sup>53</sup> Tentatively titled the North Korean Information Project ([www.nkip.org](http://www.nkip.org)), the website will allow the search of known legislation in fulltext. Further search functions and other features will be added over time.

<sup>54</sup> Lee Kyu-chang, Revising North Korea's Legislation on Controlling the People and Maintaining the System, Online Series CO 12-45, Korea Institute of National Unification (Seoul: KINU, 2013), <http://lib.kinu.or.kr/wonmun/003/0001453783.pdf>. The Korean original appeared the year before, and in 2014 Lee still insisted on his claim. Lee Kyu-chang, 'Pukhan pŏpche-ui pyŏnhwa-wa nambuk kangwŏndo hyŏmryŏk (북한법제의 변화와 남북강원도 협력),' presentation given at the Kangwŏn Paljŏn Yŏn'guwŏn Kangwŏn Forum, 13 April 2014.

<sup>55</sup> Ri Myŏng-il, 'Haengjŏngbŏp-ŭi t'ŭkching-gwa wŏnch' ōn (행정법의 특징과 원천)', *Kim Il Sung University Journal* (History, Law), 1 (2003) and 'Haengjŏng pŏmryul kwangye-e daehan rihae,' *Kim Il Sung University Journal* (History, Law), 4 (2004); Kim Kyŏng-hyŏn, 'Haengjŏng pŏpkyu chejŏng-e taehan koch'al (행정법규제정에 대한 고찰),' *Kim Il Sung University Journal* (History, Law), 4 (2010) and 'Konghwaguk haengjŏng pŏp-ŭi wŏnch' ōn (공화국행정법의 원천),' *Kim Il Sung University Journal* (History, Law), 4 (2011).

<sup>56</sup> Pak Chŏng-wŏn, 'Nambuk haengjŏng pŏmryŏng chedo byŏl yŏn'gu hyŏnhwang mit kwaje (남북 행정법령 제도별 연구현황 및 과제),' in: *2010 Nambuk pŏpche yŏn'gu pogosŏ* ((2010년) 남북법제연구보고서), ed. Pŏp chech' ō pŏpche ch'ongkwat tamdang kwansil (법제처 법제총괄담당관실) (Seoul: Pŏp chech' ō pŏpche ch'ongkwat tamdang kwansil (법제처 법제총괄담당관실), 2010), 231.

<sup>57</sup> Balazs Szalontai, *Kim Il Sung in the Khrushchev Era: Soviet-DPRK Relations and the Roots of North Korean Despotism, 1953-1964* (Redwood City, CA: Stanford University Press, 2006), 73.

<sup>58</sup> Andrei Lankov, *North of the DMZ: Essays on Daily Life in North Korea* (Jefferson, NC: McFarland & Co., 2007), 315.

<sup>59</sup> 'Telegram from Pyongyang to Bucharest, No.76.075, TOP SECRET, March 1, 1967,' March 01, 1967, History and Public Policy Program Digital Archive, Archive of the Romanian Ministry of Foreign Affairs. Obtained and translated by Eliza Gheorghe. <http://digitalarchive.wilsoncenter.org/document/116689>.

<sup>60</sup> Liana Kang-Schmitz, 'Nordkoreas Umgang mit Abhängigkeit und Sicherheitsrisiko: Am Beispiel der bilateralen Beziehungen zur DDR' (North Korea's Path with Unification and Security Risks: An Example of the Relationship with East Germany), dissertation at the University Trier (2010), [http://ubt.opus.hbz-nrw.de/volltexte/2011/636/pdf/Nordkorea\\_DDR.pdf](http://ubt.opus.hbz-nrw.de/volltexte/2011/636/pdf/Nordkorea_DDR.pdf), 268-269.

<sup>61</sup> Sin P'yŏng-gil, 'Nodongdang-ŭi panchonggyo chŏngch'aek chŏngae kwajŏng (노동당의 반종교 정책 전개 과정),' *Pukhan* (북한), July 1995, 59.

<sup>62</sup> A less academic South Korean book even claimed it would be meaningless to use these numbers for analysis for this reason. Kwon Yŏng-t'ae, *Nam-do puk-to morŭnŭn pukhan pŏp iyagi* (남도북도 모르는 북한법 이야기) (Seoul: Imaejin, 2011), 18-19.

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<sup>63</sup> In the first seven volumes of Golden Triangle: Rajin-Sonbong Collection of Law and Regulations, for example, all the numbers of the decisions of the State Administration Council had been excluded. Only its last volume in 1998 provided those numbers as well. Much later in 2007 the decision was made to also publish the numbers of the SPA Presidium decrees in 2007 whenever they were published in state newspapers. In one case in 2012 two decrees amending earlier legislation published in the 1970s were publicly released that included those decrees' numbers in its text. Those decrees updated the design of the Kim Il Sung Medal for the Youth Honor Prize (Kim Il Sung ch'öngnyön yöngye sang medal, 김일성청년영예상메달) and Kim Il Sung Batch for the Children Honor Prize (Kim Il Sung sonyön yöngye sang hwijang, 김일성소년영예상회장).

In an unintelligible decision, North Korea's news agency KCNA suddenly also reported on decisions of the National Defense Commission including its numbering twice in 2010 after it had already referenced two decisions of this commission on economic matters without the numbering the same year. But this practice did not continue.

<sup>64</sup> Although the North Korean regime is usually perceived as being very secretive and unresponsive to requests for information, this is not completely true. A member of Amnesty International who attended the meeting of the International Parliamentary Union in Pyongyang in 1991 could press his guides for a copy of the new penal code becoming the first foreigner to acquire the text of the new 1987 penal code. This source was also noted by the South Korean government but, ironically, no evidence appears available on whether it was checked if the revisions of 1990 already had been included. Shortly after a Japanese legal scholar could also acquire this legal text during a visit to the North. Another Japanese scholar on trade who regularly visited the North told the author that one of the North Korean officials he met carried a list of laws and regulations with him, but when asked about it refused to show its content. A more specific inquiry might, however, allow for a more constructive exchange like the case of the Amnesty International official showed. Asking only for few legal texts is more likely to be successful than asking the North Korean government to make its whole legal system public. As the tourism agency Korea Konsult was surprised to learn recently, there were no problems to arrange meetings with judges at the Central Court for interested persons possibly leading to further insights and access in the future.

<sup>65</sup> 'Kim wiwönjang saengil 'myöngjöl' ro chejöng toen kyöngwi (김 위원장 생일 '명절'로 제정된 경위), *Tongil News* (15 Feb 2002), <http://www.tongilnews.com/news/articleView.html?idxno=16138>.

<sup>66</sup> Conversations with two members of South Korea's Association of North Korean Legal Studies revealed that this approach and its possible insights are something scholars in South Korea are well aware of. But the author could not find a single study mentioning this approach or applying it. For China efforts seem to have focused mostly on Central Documents (zhongfa, 中发) with little numbering released with other legal text. While the Maoist Legacy Project (<http://www.maoistlegacy.uni-freiburg.de/en/2017/03/06/zhongfa-directory/>) offers a dataset from 1954 through 1986 for these texts, more recent policy documents from various high-level institutions were compiled by a researcher group around Jessica Batke (<https://github.com/jessicabatke/policydocuments>). These datasets were already used to challenge the authenticity of unverifiable documents. Ryan Manuel, 'China and North Korea: Following the Paper Trail,' *The Interpreter* (5 Jan 2018), <https://www.lowyinstitute.org/the-interpreter/china-and-north-korea-following-paper-trail>.

<sup>67</sup> Korea Central News Agency, *Chungang nyöngam* (중앙년감) (Pyongyang: Korea Central News Agency, 1964), 147; *Ryöksa sajön* (력사사전) Volume 4, 368-372.

<sup>68</sup> A South Korean collection published in 1990 had claimed a law of October 1954 had carried the number 72. But this was the number of the legal gazette of the SPA it had been published in. Another South Korean table of North Korean laws published shortly before also had claimed three decrees of the PSPA in the second half of 1954 had been numbered 68, 69 and 75 also confusing the gazette with the actual legal document. The North Korean books always clearly stated whether the number was the numbering of the decree or the legal gazette.

<sup>69</sup> Another discrepancy could be found for the ordinances of March 2003. While North Korea's central yearbook only provides information on three ordinances, the law collection of South Korea's National Intelligence Service gives two additional ordinances. But the numbers provided with them do not match the actual number of ordinances adopted prior to them and were therefore excluded.

<sup>70</sup> Ri Kyöng-ch'öl, *Sahoejuüi*, 56.

<sup>71</sup> Doris Hertrampf, 'Entwicklung und Perspektiven der Beziehungen Deutschlands zur Demokratischen Volksrepublik Korea (Development and Possibilities of German Relations with the Democratic People's Republic Korea),' in: *Deutschland, Korea – Geteilt, Vereint* (Munich: Olzog, 2005), Harmut Koschyk, ed., 279.

<sup>72</sup> Kim Söng-ok, 'On sahoe-üi chuch'e sasanghwa-üi yogu-e matke sahoe saenghwar-ül t'ongiljök-üro chido kwalli haki wihan widaehan suryöng Kim Il Sung dongji-wa widaehan ryöngdoja Kim Jong Il dongji-üi hyönmyöngghan ryöngdo (온사회의 주체사상화의 요구에 맞게 사회생활을 통일적으로 지도관리하기 위한 위대한 수령 김일성동지와 위대한 령도자 김정일동지의 현명한 령도),' *Ryöksa kwahak* (력사과학), 4 (1995). The 1972

constitution had explicitly prescribed the existence of a Jurisdiction-Security Committee (saböp anjõn wiwõnhoe, 사법안전위원회) but not a legal committee. Another explanation could be that existing legislation was with some delay reviewed and revised to conform with the new Socialist Constitution. Kim Jong Il had instructed cabinet officials already in March 1973 to do so. But no cabinet legislation with numbering is available for that period to confirm the scope of legal changes. Kim Jong Il, ‘Sahoejuüi hönböp-e kich’ohan pöpkyuböm-gwa kyujõng chaksõng saõb-ül chal halde daehayõ (사회주의헌법에 기초한 법규범과 규정작성사업을 잘할데 대하여)’ (March 19, 1973), *Kim Jong Il Chõnjip* (김정일전집) 19 (Pyongyang: Korean Workers’ Party Publishing House, 2017), 431-433.

<sup>73</sup> Kim Dong-han, ‘Pukhan-ui pöp’hak yõn’gu tonghyang mit yõn’guja-dül’ (북한의 법학 연구동향 및 연구자들), *Pukhan pöp’hak yõn’gu* (북한법학연구), 9 (2006), 58.

<sup>74</sup> Martin Weiser, ‘Chests Full of Brass: A DPRK Political History in Orders, Medals, Prizes, and Titles’, *SinoNK*, <http://sinonk.com/2016/01/08/chests-full-of-brass-a-dprk-political-history-in-orders-medals-prizes-and-titles/>. Only the awarding of very important titles, orders or honors is released through publications available to us. Less important decrees can only be identified through their numbering on the awarding documents which can be a certificate for the Orders of Kim Il Sung and Kim Jong Il or a booklet for less important titles, orders and medals. While these booklets can be bought, it is unlikely that this approach could shed light on the ratio of awarding decrees to policy decrees even for shorter periods.

<sup>75</sup> The speeches in the Complete Collection of Kim Il Sung’s Writings also give the event at which they were given thereby also revealing the exact session of the CPC. The increasing importance of the CPC also is underlined in the fact that before only few speeches given in this institution were released.

<sup>76</sup> NKChosun, The Central People’s Committee, accessed February 22, 2018, [http://nk.chosun.com/bbs/list.html?table=bbs\\_23&idno=3719&page=11&total=247&sc\\_area=&sc\\_word=>](http://nk.chosun.com/bbs/list.html?table=bbs_23&idno=3719&page=11&total=247&sc_area=&sc_word=>).

<sup>77</sup> Most of those decree numbers were taken from reproduced award booklets in Warren Sessler and Paul D. McDaniel Jr., *Military and Civil Awards of the Democratic People’s Republic of Korea (DPRK)* (Nevada: Incorporated, 2009).

<sup>78</sup> Ri Kyõng-ch’õl, *Sahoejuüi*, 24.

<sup>79</sup> Spina, ‘Brushes with the Law’, 4. Nonetheless this transmission from foreign examples or experiences might occur as for both human rights and economy and trade North Korea reportedly sends scholars abroad.

<sup>80</sup> CCPR/C/PRK/2000/2, para. 24.

<sup>81</sup> An Ch’ õn-hun, Ri Yong-ho, and Kim Sõn-hüi, *Widaehan Suryong Kim Il Song dongji-kkeso chuch’e-üi pöp kõnsõl-esõ irukhasin pulmyõl-üi õppjõk* (위대한 수령 김일성동지께서 주체의 법건설에서 이룩하신 불멸의 업적) (Pyongyang: Social Science Publishing House, 2010).

<sup>82</sup> Fyodor Tertitskiy, ‘1959: Secret Elections in North Korea,’ *DailyNK* (September 9, 2017), accessed February 12, 2018, <http://english.dailynk.com/english/read.php?cataId=nk03600&num=14725>.

<sup>83</sup> Kim Dong-han, ‘Pukhan-üi pöp’hak yõn’gu tonghyang mit yõn’guja-dül’ (북한의 법학 연구동향 및 연구자들), *Pukhan pöp’hak yõn’gu* (북한법학연구), 9 (2006), 51.

<sup>84</sup> ‘Tosi kyõngyõng saõb-ül hyõnsil paljõn-üi yogu-e matkke – Tosi kyõngyõngbu-esõ (도시경영사업을 현실발전의 요구에 맞게 – 도시경영부에서),’ *Minju Choson* (민주조선) (November 22, 1978), 2.

<sup>85</sup> Only two cabinet approvals are available for the time after 1970. Next to Approval No. 214 adopted in February 2004 which allows no inference on overall yearly activity, an article on policies towards people with disabilities revealed the legislation creating the Committee for Supporting People with Disabilities in July 1999, Approval No. 1214. This was the highest number among all available approvals with numbering also showing that North Korea’s ministerial level legislation has become more diverse and complex.

<sup>86</sup> An Ch’ õn-hun et al., *Widaehan Suryong*.

<sup>87</sup> Kim Il Sung, ‘Managing the Economy Efficiently According to the Nature of a Socialist Economy’ (April 4, 1990), *Kim Il Sung Works* 42 (Pyongyang: Foreign Languages Publishing House, 1997), 246.

<sup>88</sup> This fact lends itself to speculations. While the position of Kim Jong Il in the regime does not appear to have been challenged, the decision to test a nuclear weapon and declare the country a nuclear-weapon state likely faced opposition in the regime. Kim Il Sung had several times stated his objection against nuclear weapons, publicly and in secret conversations with China, and a decision against this wish might have ended in a reelection of Kim Jong Il as Supreme Commander. If he had voluntarily put himself to vote, possibly with the decision to acquire nuclear weapons, is impossible to say.