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INTRODUCTORY NOTE TO THE ENGLISH TRANSLATION OF THE CIVIL CODE OF NORTH KOREA

Joseph Cho*

Often labeled a “hermit kingdom,”¹ many wonder if law and order exists and is in effect in the Democratic People’s Republic of Korea (“DPRK” or more commonly known as “North Korea”). In reality, the DPRK is subject to a codified system of law.² The Civil Code forms part of such legal system. More specifically, the Civil Code serves as an integrated body of rules governing private law in the DPRK.

I. HISTORY AND STRUCTURE OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA CIVIL CODE

The law of DPRK has evolved over the years in synchronization with ongoing transformations and developments of the country’s socioeconomic system. On the nature of law, Kim Il-sung, the founder of the DPRK, once posited, “[t]he law is not something immutable. Rather it evolves to reflect changes in the underlying socioeconomic system and also in the state of class conflicts.”³ Following the end of Japanese colonial rule over Korea in 1945, under the leadership of Kim, the North Korea regime attempted to purge Japanese colonial practices, while abrogating the vestiges of Japan’s colonial legal

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1. See generally Jihyun Kim, *Understanding the Hermit Kingdom as It Is and as It Is Becoming: The Past, Present and Future of North Korea*, 1 J. OF CONTEMPORARY ASIA 46 (2016).

2. For an online compilation of North Korean codified enactments in English, see North Korean Law in Translation, Columbia Law School Center for Korean Legal Studies. <https://perma.cc/Q4QF-XYCC> (Last visited July 15, 2022).

3. See Republic of Korea Ministry of Justice, Bughanminbeob Juseog (북한민법 주석) [Annotated North Korean Civil Code] 12 (2015) (hereinafter “Annotation”).

system.⁴ Meanwhile, the DPRK leadership embarked on various legislative initiatives to pursue the People's Democracy Revolution (인민민주주의혁명, "PDR").⁵

During the PDR phase, for instance, the DPRK enacted the Law on Land Reforms (토지개혁에 대한 법령) on March 5, 1946 based on a decision of the North Korean Interim People's Committee (북조선임시인민위원회, "NKIPC").⁶ The purpose of this particular piece of legislation was to expropriate, and without any compensation, the lands of Japanese colonialists, pro-Japanese figures, and landowners in the DPRK and to freely distribute expropriated lands to farmers with meager land ownership.⁷ Under this legal structure, the historical *métayage* system within the DPRK was permanently abolished.⁸ Meanwhile, a system of private land ownership for agricultural workers was firmly established, with the State claiming ownership to some of the lands, forests, and irrigation facilities expropriated, which paved the way for a Socialist state ownership regarding North Korean lands and resources.⁹

In addition, on August 10, 1946, based on the 58th decision of the NKIPC, "a law was enacted to nationalize key factories, firms, mines, power plants, transportation, the postal service, banking, commerce, and cultural organizations."¹⁰ Under the Law on Nationalization of Industry, Transit, Transportation, Postal Service, Banks etc. (산업 교통 운수 체신 은행 등의 국유화에 관한 법령), therefore, all key industrial and cultural facilities owned by Japan and pro-Japanese capitalists were expropriated without any

4. Patricia Goedde, *Law "Of Our Own Style": The Evolution and Challenges of the North Korean Legal System*, 27 *FORDHAM INT. LAW J.* 4 (2003), at 1269.

5. Annotation, *supra* note 3, at 13.

6. *Id.*

7. *Id.*

8. *Id.* Under the system of *métayage*, "the cultivator (*métayer*) uses land without owning it and pays rent in kind to the owner." See *Métayage Land Ownership*, BRITANICA. <https://perma.cc/L3NL-E9JT>. (Last Visited July 15, 2022).

9. *Id.*, at 14.

10. See *Brief History of NK*, KBS WORLD RADIO. <https://perma.cc/GHG3-GWQR> (Last Visited July 15, 2022).

compensation and subsequently nationalized, providing the legal basis for Socialist state ownership over the key industrial facilities.¹¹ Following these transitional legislative measures, which brought about visible offshoots of the PDR, the DPRK moved on to adopt more stringent measures to bend the country inexorably toward a Socialist society.

Following the onset of the Korean War in 1950, there appeared two draft Civil Code bills. Influenced by the Soviet Union's Civil Code, which was enacted in 1922, DPRK's first draft Civil Code in 1950 consisted of four books including General Principles, Law of Things, Law of Obligations, and Succession Law.¹² This draft was never passed into law.¹³ Meanwhile, DPRK's second draft Civil Code in 1958 contained six books consisting of General Principles, Law of Possession, Law of Indebtedness, Copyright Law, Law of Creative Inventions, and Law of Succession.¹⁴ Not unlike its predecessor, this draft was never enacted.¹⁵

In the meantime, the DPRK regime steadfastly "moved toward building an independent and industrialized Socialist nation" based on the philosophy of *Juche* or self-reliance and determination.¹⁶ Such efforts culminated in the inauguration of the Socialist Constitution in 1972, which replaced the DPRK's first Constitution promulgated in 1948.¹⁷ Under the 1972 Constitution, "private ownership was totally eliminated, ushering in the completion of the Socialist central economic planning system."¹⁸ The 1972 Constitution has been amended and supplemented on eight different occasions.¹⁹

11. Annotation, *supra* note 3, at 14.

12. *Id.*, at 11.

13. *Id.*, at 21.

14. *Id.*, at 20.

15. *Id.*, at 21.

16. Goedde, *supra* note 4, at 1269.

17. Joseon Minjujuui Inmin Gonghwaguk Sahoejuui Heonbeob (조선민주주의인민공화국 사회주의헌법) [North Korean Constitution] (1972). See Dae-Kyu Yoon, *The Constitution of North Korea: Its Changes and Implications*, 27 *FORDHAM INT'L L.J.* 1289 (2003).

18. *Id.*, at 1295.

19. See *Constitution of North Korea*, WIKIPEDIA. <https://perma.cc/C67B-DYZX>. (Last visited July 15, 2022). See also Juliana Dowling & Dae Un Hong, *The Enshrinement of Nuclear Statehood in North Korean Law: Its Implications*

Against the foregoing backdrop, the Civil Code of the DPRK (“DPRK Civil Code”) was enacted in 1990.²⁰ Being a relatively new legislation, it has been amended a total of three times to date.²¹ The DPRK Civil Code consists of four parts: General Part (Part 1), Law of Ownership (Part 2), Law of Obligations (Part 3), and Civil Liability and Prescription (Part 4).

Part 1 of the DPRK Civil Code is divided into three chapters: Chapter 1 addresses the basics of civil law, while Chapter 2 and Chapter 3 deal with the parties to civil legal relations and with civil juridical acts, respectively. Part 2 contains the general principles of ownership (Chapter 1), State ownership (Chapter 2), social cooperative ownership (Chapter 3), and private ownership (Chapter 4). In addition, Part 3 of the Civil Code consists of the general principles of obligation (Chapter 1) followed by contracts based on planning (Chapter 2), contracts not based on planning (Chapter 3), and enrichment without cause (Chapter 4). Lastly, Part 4 includes two chapters on civil liability (Chapter 1) and civil prescription (Chapter 2), respectively.

In light of how it is structured, the North Korean Civil Code is considered patterned after the *pandekten* system originated in Germany, with its own characteristics.²² Initially developed by Georg Arnold Heise and subsequently theorized and put to pedagogical use by Frederich Carl Von Savigny, the most salient feature of this German system of codification is placing general provisions of overarching implications at the forefront followed by more specific provisions.²³ In this regard, the North Korean Civil Code is similar to

for Future Denuclearization Talks with North Korea, 2021 U. ILL. L. REV. ONLINE 48 (2021).

20. Joseon Minjujuui Inmin Gonghwaguk Minbeop (조선민주주의인민공화국-민법) [Civil Code] (1990).

21. Annotation, *supra* note 3, at 23-24.

22. *Id.*, at 11-12.

23. See Helge Dedek, *Border Control: Some Comparative Remarks on the Cartography of Obligations*, in *EXPLORING CONTRACT LAW* 25 at 35 (Jason Neyers et al, eds., Hart 2009).

the Civil Code of South Korea, which has also embraced the *pan-dekten* system.²⁴

II. METHODS OF TRANSLATION AND RELEVANCE

The original text of the DPRK Civil Code is available online.²⁵ Based on that text, translating the DPRK Civil Code into English was a solo project. Throughout the process of crafting a draft translation, the Annotation proved to be an invaluable tool and was consulted to as needed as it helped with understanding the relevant context, syntax, and terminologies of certain clauses reflecting North-South differences in the Korean language including legal language. Subsequently, during the process of editing, Mariano Vitetta, Research Associate at the Center of Civil Law Studies of Louisiana State University, gave an expert hand in terms of adapting the text to civilian language under Professor Olivier Moréteau's graceful guidance.

As noted above, from a legal standpoint, private economic activities are considered illegal in the DPRK. Against this backdrop, it is noteworthy that the purpose of the civil law in the DPRK is to "strengthen the material and technological bases of the Socialist economy system based on civil regulation of property relations, thereby contributing to guarantee the People's self-reliant and creative lifestyle." It is hoped that this English translation may help readers understand and appreciate the constitutive elements of the civil law of the DPRK based on the above purpose and related details.

24. Wu Ying-Chieh, *Trust Law in South Korea*, in TRUST LAW IN ASIAN CIVIL LAW JURISDICTIONS 46 (Lusina Ho & Rebecca Lee eds., Cambridge U. Press 2013).

25. See *Sukjaro Bon Yangsime Ttareun Byeongyeokgeobu [Database on a Unified Korea's Legal System]*, Unification Legal Affairs Division, Ministry of Justice et. al. (2021). <https://perma.cc/5XV2-XWF2> (Last visited July 15, 2022).

