

The DPRK's Nuclear Constitution



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On May 30, 2012, the DPRK official website "My Country" issued a revised North Korean constitution. (Intriguingly, the text appeared only in Korean).

The new preamble asserts that Kim Jong Il made the DPRK into an indomitable and nuclear state, viz:

"Amid the collapse of the world's socialist system and the vicious anti-Republic oppressive offensive by the imperialists' joint forces, Comrade Kim Jong Il honorably defended the gains of socialism which is Comrade Kim Il Sung's lofty legacy through military-first politics; changed our fatherland into a politically and ideologically powerful state that is invincible, a nuclear state [haekboyuguk], and a militarily powerful state that is indomitable; and paved a brilliant main road in building a powerful state [kangso'nggukka]."

However, specialists note that the phrase in original Korean, "핵무력국가", can be translated as nuclear state, state in possession of nuclear power, nuclear-powered state, or nuclear power.

As the *opinio juris* of one state contributing to states practice under international law, albeit offset by that of most other states, and objectionable because it blurs lines that states want to demarcate between nuclear and non-nuclear weapons states, the phrase has legal weight.

The United States translates this text as "nuclear power," and has declared that it will never recognize the North as a nuclear state. At stake are the legal categories of "nuclear weapons state" and "non-nuclear weapons state" in the Nuclear Non-Proliferation Treaty, which lend legitimacy to states in either category—but not to North Korea which withdrew from the NPT in 2003.

Translated literally, the phrase used by North Korea does not really say "weapon" or "arms." It does not appear to claim NPT-"nuclear weapons state"-hood. Rather, it asserts that the DPRK wears its NPT-outlaw badge with pride. Also, like Article 26, which avers that the DPRK's "self-supporting national economy...is a firm foundation for the happy socialist lives of the people and for the affluence and prosperity of the fatherland," its constitutional nuclear statehood may be primarily aspirational.

Some pundits suggest the phrase substitutes for a nuclear test after the April 12 rocket launch debacle. Others viewed it as solidifying the DPRK's commitment to keep forever its nuclear weapons, or, creating a new slice of salami to cut off later in revived negotiations.

My intuition is that the change reflects a widely held conviction in North Korea's elite that Kim Jong Il's signal, perhaps only achievement was to get nuclear weapons in spite of two decades of US-led opposition. Like the 2004 fusion in DPRK statements of the party center with the Bomb, the nation itself and nuclear weapons have been combined in a condensed symbol of intention.

The change signals, therefore, that the road to denuclearize the DPRK will be long, slow and arduous, just as the DPRK's nuclear breakout was slow motion and tortuous.

—[Peter Hayes](#), NAPSNet Contributor

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