

Human Rights Without Frontiers Int'l

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Executive Summary

Human Rights Without Frontiers International (HRWF Int'l) is an independent, nongovernmental organization based in Brussels, Belgium, which also has branch offices in Hong Kong and Kathmandu and affiliated organizations in Armenia, Azerbaijan, Congo, Georgia, Hungary, Iraq, Japan, Moldova, Russia and South Korea. Since its founding in 2001, HRWF has focused much of its monitoring, documentation, civil society development and advocacy in international institutions on problems of religious freedom and on the protection of fundamental civil and political rights.

Among the issues taken up by HRWF Int'l, human rights in the Democratic Peoples Republic of North Korea (DPRK), and of North Korean refugees, have been a priority. In this submission, HRWF focuses on the degree to

which China has fulfilled its international legal obligations as regards protecting the human rights of North Koreans who have escaped from their country and sought asylum in other countries. The information presented herein is based in part on interviews with North Korean refugees in Seoul, South Korea in February 2013. It demonstrates that, in its treatment of North Korean refugees, China is seriously abrogating its obligations under the 1951 Refugee Convention as well as the Convention on the Rights of the Child and other international human rights standards. HRWF Int'l includes recommendations on how these failures can be addressed.

HRWF Int'l provides information about this issue under sections C and D (as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*):

In Section C, HRWF Int'l describes violations of China's international legal commitments as a signatory to the Convention Relating to the Status of Refugees (1951) and its Protocol (1967), and well as under the International Convention on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC) and the Convention Against Torture (CAT).

In Section D, HRWF Int'l provides recommendations to the Chinese authorities regarding how these problems might be resolved.

Section C

Based on objective and long-term observations, independent experts estimate that over the past 15 years, around 150,000 North Korean refugees have been arrested by Chinese authorities and forcibly repatriated. No official statistics are available, either from Chinese or DPRK authorities. Numerous interviews with refugees who have eventually reached South Korea, and the cross-checking and verification of accounts, a process that has been systematically undertaken by highly reliable nongovernmental organizations such as the North Korea Data Base, leave no doubt that those who have attempted to defect from the DPRK have done so on account of persecution, and, upon their forced return, have faced severe punishment. They are sentenced to prison terms in ordinary prisons, labor training camps, or concentration camps; some have been "disappeared." Credible evidence

from eyewitnesses indicates that between ten and thirty percent (10-30 %) of such prisoners die while incarcerated, from malnutrition, beatings and other violent punishments and torture, disease from lack of medical care, or execution.

North Koreans fleeing conditions of persecution and denial of basic human rights are thus entitled to refugee status under article 1, para 1 (a) of the Refugee Convention, which defines a refugee as one facing “well-founded fears of persecution.” The forced repatriation of North Koreans to the DPRK is a violation of the principle of *non-Refoulement* enshrined in Article 14 of the Universal Declaration of Human Rights. Chinese authorities have repeatedly claimed that North Koreans seeking refuge in China or in other countries are “economic immigrants” simply seeking more food or employment.¹ It is true that many are facing starvation and extreme poverty; furthermore, when interrogated by border police, defectors have often given the need for food as a motivation, either to gain sympathy or to attempt to mitigate punishments upon their forced return. To cite the denial of human rights as a reason for defection would mean immediate repatriation followed by harsher treatment. To claim the refugees are economic migrants implies that they have the support of their government, which is clearly no the case. But regardless of their eligibility for refugee status, repatriation is illegal because of persecution in North Korea.

Human Rights Without Frontiers Int’l has received information directly from North Korean refugees about their ill-treatment while detained in Chinese border prisons for “illegal immigrants,” as well as testimonies about their severe abuse in North Korea that validates their eligibility for refugee status, data that has been verified by its consistency with other testimonies. In China, defectors have been systematically beaten (often with electric batons), robbed, ill-treated, and deprived of food and medical care. They have also been raped and exposed to exploitation by human traffickers.

Abuse of women. Between 70-80 percent of North Koreans denied refugee status and forcibly repatriated have been women, and North Korean women defectors have been subject to disproportionate abuse when apprehended by Chinese police and border guards, and in North Korea where they have

subsequently been punished. HRWF has received detailed reports of rape, gang-rape, humiliating and dangerous body-cavity searches, being sold and re-sold to human traffickers, and other exploitation of defectors while in the custody of Chinese authorities. When repatriated to DPRK, they have been further beaten and searched, and subjected to forced abortions, experiences that have led them to defect again as persons seeking freedom from persecution by their governments.

Abuse of Children's Rights. Estimates of the number of children born to North Korean women living illegally in China after crossing the border range from 25,000 to as many as 100,000. Being "stateless" under Chinese regulations, they are denied education, health care, and any other state service. They can only be granted residence permits (*Hukuo*) if it is proven that their mothers were repatriated to North Korea. Some of these children have been abandoned by both parents and have learned neither Chinese nor Korean.

Aid workers seeking to assist North Korean refugees and their children have been prosecuted, jailed, expelled and ill-treated, some charged with "illegal religious activities" and providing social welfare assistance to those who are not officially registered. HRWF Int'l noted that the UNHCR is not allowed by Chinese authorities to visit provinces where North Korean defectors live and traverse under threat of ending the agency's 1995 agreement with China.

Defectors interviewed by HRWF Int'l in Seoul in February 2013 all refused to be named or photographed to protect relatives in the DPRK.

Witness Number 1, a former housewife who bears scars on her head and face from abuse in DPRK prisons, said conditions for North Korean defectors in the Tumen border prison were as bad as those in DPRK prisons. Detainees were beaten with electric clubs; subjected to humiliating body cavity searches in the presence of men; and robbed. Of 29 persons in her repatriation group, 3 died; she witnessed a 21-year-old man beaten to death. Her reason for defecting was starvation and because "I wanted to be treated like a human being." However, if defectors claimed they left DPRK for political freedom, Chinese authorities would put a red stamp on their documents to

alert DPRK authorities, resulting in the harshest punishments. **Witness Number 2** is a former military officer and businesswoman. When she was forcibly repatriated in November 2005, North Korean prison guards murdered her baby by leaving it to suffocate on its face in a facility for political prisoners located between Pyongyang and Kaechon. She later discovered the baby's corpse in a tool shed along with other bodies, all of which were being consumed by rats. She reported that North Korean women are often sexually abused in the Chinese border prison in Jian, Tonghua area. Many women are given a choice between being repatriated or sold to human traffickers, often to handicapped or old farmers. She said women would endure any abuse to avoid being returned to the DPRK. **Witness Number 3** worked as a nurse before her defection. In China, she was victimized by a criminal gang of human traffickers, including being gang-raped in the city of Osang (Heylungjang Province) in January 2005. After being repeatedly sold, she became the wife of a Chinese man but later fled. Upon her forced repatriation, she was sent to a labor training camp for administrative punishment. Between 80-90 percent of inmates had been repatriated or imprisoned for offenses such as speaking by telephone to relatives abroad. There was no medical care or sanitation, and inmates suffered from malnutrition, infections, and skin diseases. The hard labor regime lasted between 5:00 and 22:00 each day. These experiences convinced her that "the DPRK cares nothing for the welfare of its citizens," and again to defect. **Witness Number 4**, a widowed former statistician, made three attempts to defect. In 1997, at the time of her first defection, she and her two children were starving. After repatriation, she was homeless with her two children, and defected again out of desperation. Arrested and repatriated, she spent four months in the Chungjin police detention center. She witness 8 forced abortions. She reported that in China, almost every village has half-Korean, stateless children who receive no service or support. **Witness Number 5** was on the verge of death from beating received in a DPRK prison after being repatriated. Released to die at home, he recovered and was re-arrested. He escaped and immediately crossed the Chinese border seeking freedom.

Section D

HRWF Int'l recommends to the Chinese authorities:

- Abide by its international legal obligations under the Refugee Convention, and reconsider its policy of denying refugee status to DPRK defectors;
- Provide UNHCR with unimpeded access to refugee border prisons in Tumen Jilin Province) and Tandung (Liaoning Province), with special attention to children and pregnant women;
- Allow non-governmental aid workers access to refugees, and support their efforts;
- Appoint an independent commission to examine allegations of ill-treatment and exploitation of refugees, and prosecute those guilty of such abuses;
- Work with UNHCR and relevant civil society actors to train border police and judicial authorities about their international legal obligations.

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ⁱ For example, the statement by Chinese Foreign Ministry spokesman Hung Ray on 28 February 2012 in Beijing.