

# North Korean Human Rights: A Story of Apathy, Victims, and International Law

**David S. Lee**

*UCLA School of Law and Harvard University*

## Introduction

On July 25, 2003, I moderated a presentation on North Korean human rights at Yonsei University's Graduate School of International Studies.<sup>1</sup> As I gazed across the auditorium, I realized that everyone was mesmerized by the testimony being given by the North Korean defector sitting before them. He spoke very simply, yet the experience he described was powerfully tragic. He had endured two North Korean prison camps, eluded armed border guards, and staved off starvation by eating grass. In every way, he was a survivor, and yet he looked "normal"—there was nothing to distinguish him from any other twenty-year old Korean walking the streets of Seoul. Nothing indicated that just three years ago, he was living in the most brutal, totalitarian state in the world, located just forty miles away.

Human rights is about stories. The goal of this article is to advance the story of human rights in North Korea to a space where it can be exposed, digested, and retold. Unfortunately, the situation has been marginalized due to continuing tension over

North Korea's nuclear program. The severity of that problem notwithstanding, it is almost unbelievable how little attention human rights in North Korea receives. Indeed, the international community's silence has been deafening.<sup>2</sup>

North Korean human rights issues consist of two connected strands. The first deals with the actual conditions within North Korea, specifically inside the prison camps. The second is the status of refugees; approximately 200,000 or so are currently hiding in China,<sup>3</sup> and an ever-growing number of new refugees cross from North Korea into China daily. Both of these issues will be addressed in detail. Initially, this article will look at the development of the United Nations human rights regime and its role in the North Korean human rights problem. With this framework in hand, I will explore human rights violations and prison conditions in North Korea. Next, the plight of refugees, including issues of repatriation and the role of NGOs and human rights activists in assisting North Korean refugees, will be discussed. Finally, this article will address the role of the South Korean govern-

<sup>1</sup> During the summer of 2003, I was fortunate enough to receive the James West Fellowship and had the opportunity to intern at the Citizens' Alliance for North Korean Human Rights. It is within this capacity that I was moderating the presentation. Additionally, I was also able to research North Korean issues at the Korea Institute for National Unification and Kyungnam University's Graduate School of North Korean Studies.

<sup>2</sup> See, for example, James Seymour, "China and the International Asylum Regime: The Case of the North Korean Refugees in China," *Life & Human Rights in North Korea*, issue 18 (Winter 2000), 28, 30.

<sup>3</sup> There is no exact count of how many North Korean refugees are in China. The numbers are constantly in flux due to new arrivals and repatriations. Most estimates place the number of refugees between 100,000 and 200,000.

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Korea ment in the North Korean human rights problem and the significance of recent legislation passed by the South Korean legislature to address the issue.

### The United Nations and North Korean Human Rights

In order to analyze the North Korean human rights situation, it is important to view it through an international human rights framework. The idea of protection for human rights by an international organization originated in philosophical, social, and political movements, as well as in diverse legal doctrines that have evolved over the last few centuries.<sup>4</sup> As a product of this development, the United Nations from its inception has focused on human rights and has played a central role in advancing human rights in the modern era. The Charter of the United Nations was the first international treaty that was expressly based on a universal respect for human rights.<sup>5</sup>

Expanding upon the Charter's original intent, the Universal Declaration of Human Rights (UDHR) advanced the fundamental principle that human rights are based on "inherent dignity."<sup>6</sup> The UDHR also recognized that a stable social order, both domestically and internationally, is needed so human rights can be fully realized.<sup>7</sup> Though the UDHR is not technically legally

binding,<sup>8</sup> it has exerted a great deal of influence in normalizing, legitimizing, and developing an international human rights regime.<sup>9</sup>

The next major advancement came with the adoption of the International Covenants on Human Rights, arguably the most important set of international human rights treaties.<sup>10</sup> There are two covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). These two covenants not only enumerate certain rights, but more importantly, they create a mechanism within the United Nations to deal with human rights violations.<sup>11</sup> The Covenant on Civil and Political Rights authorizes the formation of a Human Rights Committee, which has played a crucial role in organizing and institutionalizing a standard procedure by which human rights violations are reported and investigated.<sup>12</sup>

Most recently, the United Nations created the Office of the United Nations High Commissioner for Human Rights (UNHCR).<sup>13</sup> The UNHCR is an institutionalized body that is essential in combating human rights violations. Its regional offices are tasked with monitoring and investigating human rights.<sup>14</sup> Additionally, the UNHCR certifies people as refugees in order to facilitate their protection under international

<sup>4</sup> Sung Chul Choi, *Human Rights and North Korea* (Seoul: The Institute of Unification Policy, Hanyang University, 1999), 42.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, 49.

<sup>7</sup> *Ibid.*, 50.

<sup>8</sup> It passed only as a General Assembly resolution; however, there are international legal scholars that claim the UDHR has binding force.

<sup>9</sup> Choi, *Human Rights and North Korea*, 54.

<sup>10</sup> *Ibid.*, 55.

<sup>11</sup> Sung Chul Choi, "Human Rights in North Korea in the Light of International Covenants," in *International Community and Human Rights in North Korea* (1996), 53, 73.

<sup>12</sup> *Ibid.*

<sup>13</sup> The UNHCR as it stands today was created on September 15, 1997, though there were various permutations of it before. See <<http://www.unhchr.ch/html/hchr.htm>>.

<sup>14</sup> See generally <<http://www.unhchr.ch/html/menu2/5/field.htm>>.

<sup>15</sup> *Ibid.*

law.<sup>15</sup> Within the UNHCR, there are also working groups and special rapporteurs that focus on specific themes such as torture or religious intolerance.<sup>16</sup>

Though not nearly exhaustive, the preceding overview of the United Nations human rights framework provides a broad outline from which to examine the North Korean human rights crisis. Unfortunately, the United Nations has often been a source of frustration for activists.<sup>17</sup> Though the April 15, 2003 adoption of the United Nations Resolution on North Korea by the Commission on Human Rights was viewed as a watershed moment, in actuality the Resolution was nothing more than a symbolic gesture.<sup>18</sup> Its significance was dulled considering that even South Korea abstained from the vote.<sup>19</sup> In essence, the Resolution simply condemned the North Korean government for its behavior and then encouraged the United Nations and its member states to act. Indeed, the United Nations has not only been ineffective, but also tardy in calling attention to the plight of those North Koreans hiding in China or imprisoned in their own country.

Timothy Peters, a leading North Korean human rights activist, expressed a sentiment that appears widespread by those who assist North Korean refugees:

“ THOUGH THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA WAS FOUNDED IN 1948, THE NORTH KOREAN REGIME HAS OPERATED PRISON CAMPS SINCE 1947. ”

[Using the analogy of a game,] it seems like the United Nations is sitting in the grandstands as an observer while the amateurs [referring to human rights activists and NGOs] are on the playing field. The UNHCR are the professional players in terms of training, facilities, etc. Their exclusive mission is to monitor and deal with the human rights of refugees, but it’s like they are a toothless lion.<sup>20</sup>

**Prison Camps in North Korea**

Prison camps and gulags have traditionally played an infamous role in the history of countries that adopt communism, and North Korea is no different. Though the Democratic People’s Republic of Korea was founded in 1948, the North Korean regime has operated prison camps since 1947.<sup>21</sup> The original purpose of the camps was to detain landowners, the religiously active, and those who collaborated with the Japanese during the occupation. Immediately following the Korean War, the camps were used mainly to hold those that assisted the United States and South Korea.<sup>22</sup> Only from the late 1950s onward did the camps adopt a more sinister role in enforcing strict adherence to the cult of Kim Il-Sung and Kim Jong-Il.<sup>23</sup> Those unfortunate enough to

<sup>16</sup> Jae Chun Won, “The UN Resolution on North Korea: The Test Ahead,” *Life & Human Rights in North Korea*, issue 28 (Summer 2003), 8-17.  
<sup>17</sup> Interview with Timothy Peters, founder and director of Helping Hands Korea, Seoul, South Korea. (October 23, 2003).  
<sup>18</sup> United Nations Resolution on North Korea, April 15, 2003, United Nations Commission on Human Rights, <<http://www.hrnk.org/documents/Geneva03-EUResFinal2.doc>>.  
<sup>19</sup> Don Kirk, “South Korea Abstains From Vote Assailing North on Rights,” *The New York Times*, April 16, 2003. South Korea abstained from voting because it did not want to disrupt forthcoming multilateral talks with North Korea.  
<sup>20</sup> Interview with Timothy Peters.  
<sup>21</sup> Choi, *Human Rights and North Korea*, 277.  
<sup>22</sup> Ibid.  
<sup>23</sup> Kim Il-Sung was the leader of North Korea from 1948 until his death in 1994, at which point his son, Kim Jong-Il, succeeded him and remains currently in power.

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be branded “anti-revolutionaries” were routinely sent to prison camps or executed.

The US Committee for Human Rights in North Korea recently released a comprehensive report detailing the structure of North Korean prison camps. Though the report examines different types of camps and detention centers,<sup>24</sup> the long-term labor camps – or *kwan-li-so*<sup>25</sup> – are identified as sites of the most egregious human rights violations in North Korea. Most of the *kwan-li-so* are located in the mountainous regions of North Korea’s hinterland,<sup>26</sup> in isolated valleys, which makes both access and escape difficult.<sup>27</sup> These prison camps are often thought of as penal colonies and are similar in size to small towns.<sup>28</sup> The exact number of *kwan-li-so* is uncertain, but it is believed that the number has decreased from around a dozen to six or seven.<sup>29</sup> It is important to note that even though the number of camps has decreased, the total number of prisoners has remained the same. Each camp is believed to hold approximately 5,000-50,000 prisoners, with the total number of prisoners in North Korea believed to be approximately 150,000-200,000.<sup>30</sup>

The prisoners sent to a *kwan-li-so* are not

entitled to even a façade of normal trial procedures. The State Security Agency (SSA) has the power to unilaterally decide the fate of political prisoners without any sort of judicial review or appeal process.<sup>31</sup> The SSA procedures, however, seem benign when compared to the more common method employed by security and police forces: detention of the alleged offender, subjection of the individual to torture until a confession is extracted, and then the transfer of that person directly to the *kwan-li-so* based on the confession.<sup>32</sup> The severity of punishment and the dearth of sound legal procedure are especially apparent when the North Korean idea of “collective responsibility” is applied.<sup>33</sup> Not only is the political prisoner

sent to a *kwan-li-so*, so are up to three generations of that person’s family. This includes parents, siblings, children, and sometimes even grandchildren, depending on the severity of the offense.<sup>34</sup>

Once the political prisoner and their family members are sent to a *kwan-li-so*, survival becomes a daunting task. Prisoners

experience extremely difficult manual labor while being given only minimal rations, if any. Often, prisoners are forced to

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<sup>24</sup> There are both short-term and long-term camps and detention centers. Some of these camps are used to punish common criminals while others are used to incarcerate political prisoners. There are also centers for those who were unsuccessful in fleeing North Korea and were forcefully repatriated from China.

<sup>25</sup> The literal translation of *kwan-li-so* is “management center;” however, in the context of North Korea’s prison camps it is taken to mean the largest political prison camps or penal colonies.

<sup>26</sup> These regions include Hamgyong, Pyongan, and Changan provinces. Choi, *Human Rights and North Korea*, 280.

<sup>27</sup> David Hawk, *The Hidden Gulag: Exposing North Korea’s Prison Camps* (Washington, DC: US Committee for Human Rights in North Korea, 2003), 24.

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*, 11. The *kwan-li-so* near the Chinese border have been closed, in part, to limit exposure to the outside world.

<sup>30</sup> *Ibid.*, 24.

<sup>31</sup> Choi, *Human Rights and North Korea*, 280.

<sup>32</sup> Hawk, 25.

<sup>33</sup> *Ibid.*, 24.

<sup>34</sup> *Ibid.* This idea of imprisoning up to three generations of a prisoner’s family is rooted in a statement Kim Il-Sung made in 1972: “Factionalists or enemies of class, whoever they are, their seed must be eliminated through three generations.”

supplement their diet by eating such things as tree bark, grass, and rodents.<sup>35</sup> The food situation was further exacerbated during the 1990s due to the famine-like conditions that gripped North Korea.

In addition to the meager sustenance, prisoners are engaged in arduous physical tasks such as mining, farming, and logging.<sup>36</sup> The workday often exceeds 12 hours and runs seven days a week, with national holidays as the only days of rest.<sup>37</sup> Prisoners are forced to work until exhaustion, and are severely punished if caught resting or otherwise breaking prison rules. Additionally, public executions are commonly used to instill fear within the prison populace.

Ahn Hyok, a former prison guard that defected to South Korea, related this story:

One winter day in 1988, some security officers were returning from hunting when they discovered some old prisoners taking a rest at the foot of a hill below. There were three large logs on the top of the hill. The security officers quietly kicked the logs downhill. The logs rolled down on the old prisoners without making any noise because the snow was deep. As they kicked the last log, they shouted, "You s.o.b.! How dare you stop working, eh?" The old people were startled and were about to get up when the first log rolled over them. Some were bleeding from the head, some suffered

broken backs, legs, and arms, and others just fainted from being startled . . . Usually the wounds sustained from this type of accident would develop frostbite in the winter and begin to rot.<sup>38</sup>

### Refugees, Repatriation, and Life in China

North Korea experienced a gradual decline of food availability in the early 1990s. Food and crude oil subsidies from China and the former Soviet Union, which North Korea had previously relied on, were abruptly withdrawn.<sup>39</sup> This led to a sharp decline in agricultural and industrial production, which resulted in the North Korean government's two-meal a day campaign.<sup>40</sup> The withdrawal of food subsidies and the subsequent decline in agricultural production were exacerbated by natural disasters from 1995 to 1997.<sup>41</sup> This included nationwide flooding, followed by a severe drought in major agricultural areas.<sup>42</sup> Faced with an increasing food shortage,<sup>43</sup> the North Korean government allotted a majority of the country's domestic food supply and international food aid to the military and to the government in order to ensure the regime's survival.<sup>44</sup> The government's preservation policy, coupled with several untimely natural disasters, resulted in the deaths of 2-3 million people, which was then approximately ten percent of the North Korean population.<sup>45</sup>

Even without the famine, there was already an exodus of people from North

<sup>35</sup> Hawk, 25.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Citizens' Alliance for North Korean Human Rights, "Old Prisoners Killed for Stopping Work," <[http://nkhumanrights.or.kr/NKHR\\_new/index\\_eng\\_new.htm](http://nkhumanrights.or.kr/NKHR_new/index_eng_new.htm)>.

<sup>39</sup> Presentation at the Graduate School of International Studies, Yonsei University, University Awareness Program, Citizens' Alliance for North Korean Human Rights, July 25, 2003.

<sup>40</sup> Ibid.

<sup>41</sup> Natural disasters were responsible for 15-20 percent of North Korea's food deficit.

<sup>42</sup> Ibid.

<sup>43</sup> Experts referred to North Korea's atrophy as "slow-motion" famine.

<sup>44</sup> Ibid.

<sup>45</sup> During the mid-1990s, the North Korean population was estimated to be 20-22 million.

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Korea to China.<sup>46</sup> The pre-famine migration was principally composed of able-bodied males who were often used for labor.<sup>47</sup> As the effects of the famine spread in the late 1990s, malnourished children and women began to pour into China's Yanbian region.<sup>48</sup> China did not view the initial migration of North Koreans as a problem; however, unemployment caused by the privatization of state-owned enterprises in the region, coupled with the growing number of North Korean refugees, eventually posed a problem for the Chinese government.<sup>49</sup>

Escaping from North Korea is a difficult, dangerous task. Refugees often are required to traverse mountainous paths and fast-moving rivers. During the winter, frigid temperatures and snow add to the rough terrain, making escape attempts even more dangerous. In addition to physical concerns, refugees are faced with guards on both the Chinese and North Korean sides of the border. North Koreans attempting to flee often bribe North Korean border guards, with the reported rate being three months' salary.<sup>50</sup> Bribing border guards, however, is no guarantee of safe passage, since many recent refugees report that guards

have been given orders to "shoot to kill" any North Korean attempting to cross the border.<sup>51</sup>

Alternatively, if caught by Chinese border guards, North Koreans will likely be repatriated back to North Korea, or pay a fine ranging from RMB 2,000-5,000 at the very least (a sum so large that most refugees are unable to pay).<sup>52</sup> North Koreans are often tortured before being repatriated, if captured by the Chinese.<sup>53</sup>

Being repatriated to North Korea is equivalent to a prison sentence, if not an execution.<sup>54</sup> In the North Korean Criminal Code, Article 117 states that "one who crosses the border without permission shall be punished by a sentence of three years or less [of] re-education."<sup>55</sup>

Those who are repatriated are often held in detention/interrogation facilities along the Chinese-North Korean border, which are used specifically to question repatriated North Koreans.<sup>56</sup>

Detainees are subjected to intense interrogation<sup>57</sup> to ascertain their exposure to South Korean media and

Christianity, as well as their original intent for leaving North Korea.<sup>58</sup> Depending on the answers given in interrogation, one could be

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<sup>46</sup> Seymour, 30.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid. Yanbian is an autonomous prefecture that is heavily populated by ethnic Koreans and is part of China's border with North Korea. Koreans comprise roughly forty percent of the population in Yanbian, thus making it a prime destination for refugees trying to flee North Korea.

<sup>49</sup> Ibid.

<sup>50</sup> Presentation at the Graduate School of International Studies, Yonsei University.

<sup>51</sup> Ibid.

<sup>52</sup> Seymour, 33.

<sup>53</sup> "North Korean Refugee Describes Abuse in Chinese Custody," *Radio Free Asia*, <<http://origin.rfaweb.org/front/article.html?service=eng&encoding=10&id=113459>>.

<sup>54</sup> Presentation at the Graduate School of International Studies, Yonsei University. Reports from refugees have stated that defection or attempted defection—including attempts to gain entrance to a foreign embassy—have led to capital punishment.

<sup>55</sup> Ibid.

<sup>56</sup> Hawk, 58.

<sup>57</sup> Interrogations usually lasted anywhere from ten days to two months.

<sup>58</sup> Hawk, 58. The questioning is used to identify the motivation for leaving North Korea. If it was purely economic, then punishment is generally lighter; however, for those that were gone for over a year, had political motivations for leaving, or had attempted escape previously, the punishment is either life in prison or execution.

sent to a *kwan-li-so* or executed.<sup>59</sup> Those not sent to a *kwan-li-so* or executed are often detained in a separate labor camp, in order to minimize their exposure to those who have not been outside of North Korea.<sup>60</sup>

Besides the physical torture that occurs during interrogation, there are also reports of ethnically motivated infanticide and abortion by North Korean prison and security officials. Based on interviews of refugees now in South Korea, North Korean women who became pregnant in China were either forced to have abortions or their babies were killed after labor was induced.<sup>61</sup>

Choi,<sup>62</sup> a former prisoner, reported this experience:

Among the detainees were ten pregnant women, three of whom were in the eighth to ninth month of pregnancy. Choi and two other non-pregnant women were assigned to assist these three pregnant women, who were too weak to walk alone, in walking to a military hospital outside the detention center. The woman assisted by Choi was given a labor-inducing injection and shortly thereafter gave birth. While Choi watched in horror, the baby was suffocated with a wet towel in front of the mother, who passed out in distress. When the woman regained consciousness, both she and Choi were taken back to the detention center. The two other non-pregnant women who assisted the two other pregnant detainees told Choi that those newborns were also suffocated in front of their mothers. The explanation was that “no half-Han [Chinese] babies” would be tolerated.<sup>63</sup>

An elderly female prisoner, referred to here as Former Detainee No. 24, was held at a different detention center for repatriated North Koreans but also recounted a similar experience:

The first baby was born to a 28-year old woman named Lim, who had been happily married to a Chinese man. The baby boy was born healthy and unusually large, owing to the mother’s ability to eat well during pregnancy in China. Former Detainee No. 24 assisted in holding the baby’s head during delivery and then cut the umbilical cord. But when she started to hold the baby and wrap him in a blanket, a guard grabbed the newborn by one leg and threw it in a large, plastic-lined box. A doctor explained that since North Korea was short on food, the country should not have to feed the children of foreign fathers. When the box was full of babies, Former Detainee No. 24 later learned, it was taken outside and buried.<sup>64</sup>

Returning to North Korea through repatriation almost certainly guarantees a grim life. But life for North Koreans hiding in China is not any easier and often fraught with danger and exploitation.

North Korean refugees who make it to Yanbian and other areas of China attempt to blend in with local ethnic Koreans by changing their dress and wearing makeup.<sup>65</sup> They do this in order to avoid both Chinese police as well as North Korean agents. Those fortunate enough to link up with Christian groups or missionaries are often provided

<sup>59</sup> Ibid.

<sup>60</sup> Ibid., 59.

<sup>61</sup> Ibid.

<sup>62</sup> In order to protect the families of prisoners still in North Korea, only the surname or former detainee numbers are used to identify North Koreans that were interviewed.

<sup>63</sup> Hawk, 61.

<sup>64</sup> Ibid., 62.

<sup>65</sup> Seymour, 30.

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with work and housing. However, businesses caught employing North Koreans can be subject to fines of up to RMB 30,000.<sup>66</sup> Additionally, police often threaten Christian groups and other individuals that assist North Korean refugees.

There are numerous Christian as well as Buddhist NGOs operating in northeastern China that work with North Korean refugees. Over the last few years, the Chinese government has shown an increasing propensity not to expel activists, but to imprison them. Most recently, South Korean Reverend Choi Bong-II was arrested assisting North Korean refugees and was sentenced by a Chinese court in Yanji to serve a nine-year sentence.<sup>67</sup> China even imprisoned a *New York Times* photographer for shooting pictures of North Korean refugees attempting to escape.<sup>68</sup> Due to the danger, both activists and refugees attempt to be discrete. Refugees are constantly moving from safe house to safe house and trying to stay inside whenever possible.<sup>69</sup>

Another unfortunate consequence of the North Korean refugee crisis is human trafficking. Approximately 75 percent of all recent North Korean refugees are women. These women are often exploited after they

arrive in China. Women are raped in the workplace since they cannot report the crime to authorities. Some become sex slaves at the mercy of “bride traffickers.” These bride traffickers often rape the women and then sell them to other men, who are ostensibly seeking brides; however, these men typically sell their “bride” off to someone else.<sup>70</sup>

Due to the precarious situation in China, the ultimate goal of many refugees is to eventually make it to South Korea, though only a small number actually attempt to leave China.<sup>71</sup> This can be accomplished generally by one of two methods. The first is to simply rush into a foreign embassy or consulate. This method is very ineffective considering the fact that Chinese police heavily patrol

these areas.<sup>72</sup> Additionally, making it into an embassy or consulate is no guarantee of safety, since Chinese police will often enter the compound and drag the refugees out.<sup>73</sup> Furthermore, even if a refugee is granted safe haven in the embassy or consulate, a series of

negotiations and international pressure is often required for the Chinese government to allow the a refugee to leave China.

The second method of ferrying North Koreans out of China is through the “underground railroad” that is operated by

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<sup>66</sup> Ibid.

<sup>67</sup> “Korean Pastor Jailed for Aiding Refugees,” *The Korea Herald*, December 11, 2003, <[http://www.koreaherald.co.kr/SITE/data/html\\_dir/2003/12/13/200312130031.asp](http://www.koreaherald.co.kr/SITE/data/html_dir/2003/12/13/200312130031.asp)>.

<sup>68</sup> Robert Marquand, “China Holds Journalist Captive,” *Christian Science Monitor*, April 22, 2003, <<http://www.csmonitor.com/2003/0422/p06s01-woap.htm>>.

<sup>69</sup> Seymour, 30.

<sup>70</sup> Ibid.

<sup>71</sup> This is partly due to the fact that the total cost of bribes, shelter, transportation, false papers, and cost for guides runs from US\$10,000 to US\$30,000, as reported by recent asylum seekers. NGOs and activists often help with these costs.

<sup>72</sup> Reportedly the Chinese government has tightened security around foreign embassies by increasing patrols and erecting barbwire cordons. Additionally, China has used diplomatic memoranda to warn foreign embassies of asylum seekers according to Human Rights Watch.

<sup>73</sup> Presentation at the Graduate School of International Studies, Yonsei University. Chinese police have been recorded and photographed entering the Japanese consulate in Shenyang and dragging out five North Korean refugees. See also, <<http://www.chosunjournal.com/editorial29.html>>.

NGOs and human rights activists.<sup>74</sup> This system is not one large consolidated network, but a loose connection of individuals who serve as guides for ferrying North Koreans out of China.<sup>75</sup> The underground railroad generally leads refugees out of China via two main routes: either over the Mongolian border, or to Yunnan and over the border to the Mekong River, usually transiting through Cambodia, Vietnam, Laos, and sometimes Burma before eventually reaching Thailand.<sup>76</sup> Thailand is a preferred destination because it treats North Koreans as asylum seekers.<sup>77</sup> Though the destination of refugees generally remains the same, the actual paths constantly change due to interdiction by Chinese security forces.<sup>78</sup>

The underground railroad, though clandestine, does expose refugees to a high degree of risk because they are required to travel within China. Since North Korean refugees do not have *hukou* registration cards or other forms of government documentation, traveling in China is very risky.<sup>79</sup> Kim, a North Korean refugee now in Seoul, said, “A *hukou* is the one thing that every refugee wants, but they are very expensive, about RMB 2,000. Those [North Korean refugees] that traveled on trains but did not have *hukou* would pretend to be asleep and hope that the person checking would not wake them.”<sup>80</sup> Kim further added, “Some of the higher profile refugees or those with family in South Korea would occasionally try to buy fake passports and fly out of China, but the passports are even more expensive, costing about RMB 60,000.”<sup>81</sup>

Travel within China is not the only danger faced by those using the underground railroad. Another threat to refugees consists of informants who receive cash awards for notifying the Chinese police regarding movements of North Korean refugees. Peters related one particular incident: “Members of the underground railroad had arranged for approximately sixty North Korean refugees to be taken by boat from Yantai to South Korea. The Chinese security forces were tipped off, however, and the refugees were detained . . . We think the person that tipped the Chinese off was an ethnic Korean living in China who probably couldn’t pass on the money.”<sup>82</sup> Tarik Radwan, a law professor in South Korea, reports that China offers a “bounty of approximately one month’s salary on the head of each North Korean captured . . . and a further bounty of approximately ten times that – one year’s salary – is offered on the head of anyone found providing assistance to these refugees.”<sup>83</sup>

Refugees escaping China through the underground railroad usually attempt to make it to a third country where they then locate a South Korean embassy or consulate and declare their desire to defect. The journey out of China requires traveling thousands of miles, and besides the danger of informants and security police, the physical hardship of traveling through hostile environments can prove fatal. One defector shared his experience:

Our group consisted of 12 people. We all gathered together and were told we

<sup>74</sup> Interview with Timothy Peters, 18.

<sup>75</sup> Ibid.

<sup>76</sup> Presentation at the Graduate School of International Studies, Yonsei University.

<sup>77</sup> Ibid.

<sup>78</sup> Interview with Timothy Peters, 18.

<sup>79</sup> *Hukou* registration cards are required for Chinese citizens to travel within China.

<sup>80</sup> Interview with Kim, North Korean refugee granted asylum in Seoul, South Korea, October 23, 2003.

<sup>81</sup> Ibid.

<sup>82</sup> Interview with Timothy Peters.

<sup>83</sup> Tarik Radwan, “China’s Impermissible Abuse of North Korean Refugees,” The Jubilee Campaign, November 15, 2002, <<http://www.jubileecampaign.co.uk/world/mark10.htm>>.

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would have to walk for almost two days through a desert to make it to Mongolia. . . We started walking and it was very hot. All of us had bloody feet from walking so long and from the heat. We finally made it, but a little boy who was in our group died in the desert.<sup>84</sup>

### South Korean Balancing Act: Human Rights, Nukes, and Unification

This article has focused on North Korea thus far; however, the country that may be the most influential regarding the North Korean human rights situation is South Korea. Unfortunately, human rights issues are often subsumed by the tension surrounding North Korea's nuclear weapons program. Indeed, the sensitive geopolitical balance in the region relegates human rights to the backseat. This is further compounded by the fact that most South Koreans are either ignorant or apathetic toward the current human rights situation in North Korea.<sup>85</sup> Due to the lack of domestic pressure, the South Korean government has tried to tread lightly around the topic.<sup>86</sup> Peters states, "If 'hostile' is the word to describe China's attitude toward North Korean human rights, then 'passive' is the word to describe South Korea."<sup>87</sup>

Despite conflicting views in the South Korean government – as well as within South Korean society<sup>88</sup> – regarding what should be done to solve the human rights situation in North Korea, there has been growing activism

by the government to assist those refugees who have fled the North and have successfully made it to South Korea. With this goal in mind, the Act on the Protection and Settlement Support of Residents Escaping from North Korea was amended in 2001 (hereafter referred to as the Act).<sup>89</sup> The purpose of the Act "is to provide such matters relating to protection and support as are necessary to help North Korean residents escaping from the area north of the Military Demarcation Line, and desiring protection from the Republic of Korea, as quickly as possible to adapt themselves to and settle down in all spheres of their lives, including political, economic, social, and cultural spheres."<sup>90</sup>

This Act is important for two major reasons. First, it lays out a concrete procedure by which North Korean refugees can petition for protection. Article 7 of the Act states, "Any person who has escaped from North Korea and desires to be protected under this Act, shall apply for protection to the head of an overseas diplomatic or consular mission, or the head on any administrative agency."<sup>91</sup> Though this procedure still requires that refugees risk being captured by traveling to or entering an embassy, it does provide concrete legal protection under South Korean law once someone has applied for protection. Thus, it guarantees that North Korean refugees will have safe travel to South Korea and will not be repatriated.

<sup>84</sup> Presentation at the Graduate School of International Studies, Yonsei University.

<sup>85</sup> I conducted informal interviews during the summer of 2003, and uniformly interviewees responded with one of two answers, either: 1) I didn't know the problems in North Korea was that bad; or 2) I really don't care about what is going in North Korea. Those that responded with the first answer were often middle-aged and married. Those that responded with the second answer were overwhelmingly university-aged and single.

<sup>86</sup> Seymour, 36.

<sup>87</sup> Interview with Timothy Peters.

<sup>88</sup> Historically, South Korean news outlets have been discouraged from reporting on the situation in North Korea. This has changed in the last few years as major Korean television channels have aired documentaries detailing the hardships of North Koreans in China.

<sup>89</sup> The Act is relatively recent, having been promulgated in 1997. It has been amended three times, most recently in 2001.

<sup>90</sup> Act on the Protection and Settlement Support of Residents Escaping from North Korea, Article 1, South Korean National Assembly, May 24, 2001, <<http://www.klri.re.kr/lawdb/cgi>>.

<sup>91</sup> *Ibid.*, Article 7.

Second, the Act provides financial means and support in assisting North Korean refugees to become quickly acclimated and self-supporting once they arrive in South Korea. Article 10 of the Act provides that the “Minister of Unification shall set up and operate settlement support facilities to provide protection,” and Article 11 states that refugees may be given “money and other articles” as deemed necessary.<sup>92</sup> After leaving the settlement support facility, individuals are provided with financial support for up to five years.<sup>93</sup> Additionally, Article 15 of the Act provides education in order to facilitate social adaptation to South Korea, while Article 16 allows for vocational training.<sup>94</sup> The Act even affords employment opportunities to defectors and gives employers subsidies for employing North Koreans.<sup>95</sup>

The support aspect of the Act provides tangible assistance to North Korean refugees.<sup>96</sup> When North Koreans first arrive in South Korea, they are housed in a government sponsored resettlement center called the Hanawon. Though the Hanawon is supported by government funds, many of the workers who assist the refugees come from various NGOs and human rights groups in Seoul. North Korean defectors are kept in the

center for approximately three months. While there, they receive training on life in South Korea, including learning such things as how to use the subway and the Internet.<sup>97</sup> Most of the refugees I spoke to felt the Hanawon was a beneficial experience that eased their transition to life in South Korea.<sup>98</sup>

While at the Hanawon, the government provides refugees with food, lodging, and other living expenses. After leaving, refugees are provided with a home as well as funds to cover bills and other expenses. Kim explained to me, “The money is enough for us [Kim and his mother] to survive. It pays for the house and bills—like electricity and phone. We get a living allowance that allows us to get by. The rest of the money we need, we earn by working.”<sup>99</sup>

The Act is a potentially profound step toward North-South reconciliation. Though the South Korean constitution recognizes all North Koreans as *Korean*, the only efforts ever made by the South Korean government to legitimize this policy have been exercises in political

“**THOUGH THE SOUTH KOREAN CONSTITUTION RECOGNIZES ALL NORTH KOREANS AS KOREAN, THE ONLY EFFORTS EVER MADE BY THE SOUTH KOREAN GOVERNMENT TO LEGITIMIZE THIS POLICY HAVE BEEN EXERCISES IN POLITICAL RHETORIC.**”

rhetoric.<sup>100</sup> Thus, the Act represents the first concrete piece of legislation that attempts to assist North Koreans in reaching a similar status as South Koreans. The US Committee for Refugees reports that “once South Korea

<sup>92</sup> Ibid., Article 10 & 11.

<sup>93</sup> Ibid., Article 5.

<sup>94</sup> Ibid., Article 15 & 16.

<sup>95</sup> Ibid., Article 17.

<sup>96</sup> Michael Paterniti wrote an article for the *New York Times* entitled, “The Flight of the Fluttering Swallows.” The article provides a wonderful overview of what North Korean refugees experience when they arrive in South Korea. He discusses both the Hanawon as well as the benefits provided by the South Korean government. The article can be found at <http://www.chosunjournal.com/fluttering.html>.

<sup>97</sup> Interview with Kim.

<sup>98</sup> These observations are based on discussions I had with both North Korean refugees as well as with activists that work at the Hanawon. There have been uncorroborated reports, however, that the refugees undergo intense debriefing by the South Korean government to determine whether they are spies. As one particularly opinionated person explained to me, “They [North Koreans] are brainwashed there [at the Hanawon].”

<sup>99</sup> Interview with Kim.

<sup>100</sup> Choi, “Human Rights in North Korea in the Light of International Covenants,” 302.

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determines that a North Korean is eligible for protection, the North Korean seems to be regarded as a South Korean national and is given an identification card.”<sup>101</sup>

Additionally, recent decisions by the South Korean government re-confirm the Act’s purpose of assisting North Koreans that make it to South Korea. Based on the almost 600 percent increase<sup>102</sup> of North Korean refugees that have come to South Korea over the last four years, the government announced on November 10, 2003 its plans to enlarge the Hanawon center.<sup>103</sup>

The effort and commitment by the South Korean government in assisting North Korean refugees who come to South Korea is laudable; however, its ambivalence toward those refugees before they apply for protection at a South Korean embassy or consulate is appalling. The South Korean government’s unwillingness to pressure China, North Korea, and to a lesser extent, Russia,<sup>104</sup> is the product of political gamesmanship. Simply put, South Korea has a limited amount of political capital with which it can influence its regional neighbors. The majority of this political capital is expended on forming a multilateral policy to deal with North Korea’s nuclear threat. Thus, there is little leverage remaining that could be used to

create a regional policy to cope with the North Korean human rights situation.

### Conclusion

Simply stated, the North Korean human rights situation is grim. The countries in the region are apathetic, inimical, or unable to help improve the human rights situation in North Korea. Human rights activists operating in China are understaffed, underfunded, and generally lack technical expertise. Though American and European media outlets have begun to report on the situation, it is still the loose network of humanitarian groups that provides the most aid and does the most in disseminating information about what is going on in North Korea.

On a recent trip to Seoul, I had the opportunity to spend some time with a North Korean defector who had been in South Korea for about two years. He seemed acclimated to Seoul’s frenetic pace, and after being together for a few hours I realized how much he had to say. I appreciated his banter, not because it was interesting, but because I knew that before coming to South Korea he was nearly dragged out of a foreign consulate by Chinese police. Indeed, his voice had been stifled for far too long. It was finally time for him to be heard and his story told.

<sup>101</sup> United States Committee on Refugees, “Country Report: North Korea, 2002,” <[http://www.refugees.org/world/countryrpt/easia\\_pacific/2000/south\\_korea.htm](http://www.refugees.org/world/countryrpt/easia_pacific/2000/south_korea.htm)>.

<sup>102</sup> Based on numbers compiled by various NGOs, there were slightly less than 200 North Korean defectors in 1999, 312 in 2000, 583 in 2001, and nearly 1,200 in 2002.

<sup>103</sup> “South Korea Enlarges Resettlement Center for North Korean Asylum Seekers,” *Yonhap News Agency*, November 10, 2003, <<http://www.yonhapnews.net/Engnews/20031110/30010000020031110155845E1.html>>. In the story, a government official is quoted as saying, “Recently, an ever-growing number of North Koreans have come to the South and it was necessary for us to extend residences and training rooms for them.”

<sup>104</sup> Russia also has a role in the North Korean human rights situation. Though most North Koreans cross over into China, a few refugees decide to escape to Russia. Russia is generally safer for refugees since the UNHCR has greater influence there and they can monitor the border area, unlike in China. As such, the Russians are generally more willing to allow the UNHCR to assist refugees in making it to South Korea, instead of repatriating them to North Korea.