



North Korea: Denial of Rights Forces Back Refugees

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North Korea should immediately reveal the whereabouts and well-being of nine North Korean refugees who were forced back to Pyongyang from Beijing on May 28 according to media reports, Human Rights Watch said today, emphasizing that the government must ensure that they are not punished for having fled the country. Under international law, individuals have the right not to be forcibly returned to a place where they face persecution. "North Korea has to come clean on where these nine refugees are and publicly guarantee that they will not be harmed or retaliated against for having fled the country," said Phil Robertson, deputy Asia director. "As a result of their return they are at dire risk – North Korea criminalizes unauthorized departures and is known to torture those caught trying to escape and those sent back." Media reports indicate that Lao government officials detained the nine people on May 10 and held them for more than two weeks, during which time South Korean diplomats who had requested access to the group were not permitted to meet them. Varying reports suggest that the members of the group range from ages 14 to 23. The Lao government sent the group to Kunming, China on May 27, and Chinese government authorities reportedly checked their travel documents before transferring them to Beijing on the evening of May 27. On May 28, the nine were reportedly put on a flight to Pyongyang. North Korean officials allegedly accompanied them in their journey from Laos to China, and from China to North Korea. There is no indication the nine were given the opportunity in Laos or in China to lodge asylum claims. North Koreans who leave the country face certain harsh punishment upon repatriation, making them refugees *sur place* (that is, people who become refugees as a result of fleeing their country or due to circumstances arising after their flight). Human Rights Watch's findings from years of interviews with North Korean refugees are that the intensity and degree of interrogation, torture, and punishments depend on North Korean authorities' assessments of what returnees did while outside North Korea, and whether they were seeking to contact, do business with, or flee to South Korea. Persons suspected of contact with South Koreans, or attempting to defect to South Korea, are frequently given lengthy terms in horrendous detention facilities known as kyo-hwa-so (correctional, reeducation centers) where forced labor is combined with chronic food and medicine shortages, harsh working conditions, and mistreatment by guards. The North Korean Ministry of Public Security adopted a decree in 2010 making defection a crime of "treachery against the nation." A senior officer of the North Korea Security Department (bowibu)

who defected in 2011 told Human Rights Watch that "every captured defector [in my area] was sent to me" and described torture during interrogations of defectors. He said "psychological suffering is the first... they are put in solitary confinement and minimum food given, only enough for surviving... A person saying nothing will be beaten. Depending on the reaction, beating will be different." Such punishments clearly contravene the International Covenant on Civil and Political Rights which North Korea has ratified. Specifically, article 12 (2) provides that "everyone shall be free to leave any country, including his own" and article 7 states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." In returning the North Koreans, China once again violated its commitments as a state party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1984 Convention Against Torture and other Cruel, Inhuman, and Degrading Treatment. The 1951 Refugee Convention sets out in article 1 that a refugee is a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country..." As the United Nations High Commissioner for Refugees Handbook makes clear, persecution that arises as a result of, or after, fleeing one's country also fulfills this qualification. The Convention against Torture, article 3, provides, "No State Party shall expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." This protection is considered a norm of customary international law, binding on all nations, and is therefore incumbent on both China and North Korea to respect. The Lao government is also culpable in the serious harm that these North Koreans will likely face in North Korea. While Laos has not ratified the Refugee Convention, it is still bound by customary international law to not return people to a situation where they will face certain torture. "Laos and China again demonstrated their disregard for human rights by allowing the North Korean government to forcibly return these nine people without fulfilling their obligations to allow refugee status determination," Robertson said. "These three governments will share the blame if further harm comes to these people."

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