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PERSECUTING THE STARVING

THE PLIGHT OF NORTH KOREANS IN CHINA



**AMNESTY INTERNATIONAL'S BRIEFING
TO THE CHINESE GOVERNMENT
AND THE UNHCR**

**STANDING COMMITTEE MEETING
GENEVA 5-7 JULY 2000**

SUMMARY

This document is intended as a briefing for both the Chinese government and the UNHCR for use at the 18th meeting of the UNHCR Standing Committee. It provides a concise summary of the current situation of North Koreans who seek refuge in the People's Republic of China (China) but are often apprehended by Chinese security forces and North Korean agents and forcibly returned to their country where they may face serious human rights violations. This briefing also contains recommendations to the Chinese government and the UNHCR which aim at improving and protecting the rights of North Koreans in China.

I BACKGROUND: A TRAGIC FOOD SITUATION

"The children are in their teens but look barely ten" is how an ethnic Korean Chinese national recently described to a journalist North Korean children who continue to flee the famine in their country in search of food in the People's Republic of China (China). Similar reports and images of starving North Korean adults and children have come to light over the past few years. They highlight the plight of possibly millions of North Koreans who have fallen victims of a famine that has led to the death from malnutrition and related diseases of an estimated two million people (almost 10 percent of the population).

Since 1995, a series of natural disasters and years of state-run agricultural mismanagement combined with the loss of preferential trade with the former Soviet Union in the early 1990s have unleashed acute food shortages leading to famine. Although the Democratic People's Republic of Korea (North Korea) has received large quantities of humanitarian aid from the international community, there are consistent reports that government policies have hampered the distribution of aid and the monitoring of needs. There is mounting concern that military officials, members of the Workers Party of Korea (WPK) and those working in strategic industries are receiving more aid than ordinary citizens. It is reported that food has been distributed in a way that discriminates against some of the most vulnerable groups of society such as the unemployed, the elderly, the homeless, children in orphanages and prisoners. These conditions have led humanitarian agencies such as Médecins Sans Frontières and Action contre la faim (Action against Hunger) to pull out of North Korea in September 1998 and March 1999 respectively. Other international aid agencies such as the World Food Program (WFP) and the United Nations Development Program (UNDP), which continue to operate in the country, have also reported that the monitoring of the food distribution has been problematic.

II ESCAPING THE FAMINE

North Korea remains completely closed to all independent research into human rights violations inside the country. In a country where people are denied some of the most basic human rights and where the authorities do not tolerate any opposition and have a monopoly over the dissemination of information, the full scale of the disaster is hidden from view. North Koreans are trapped in a disastrous situation which they have no power to influence and against which they cannot protest. They are prevented from exercising their right to freedom of expression and association and their right to leave the country. In recent years, increasing reports by aid workers and foreign journalists who interviewed North Korean refugees and illegal immigrants in China have

described serious human rights violations in North Korea. These include public executions, regular use of torture, the imprisonment of thousands of political prisoners, and harsh conditions in prisons and other detention centres where many inmates are reported to have died of hunger and disease.

To survive, thousands of starving North Koreans have left their country 'illegally', often through the long land border with China. The majority are reported to cross the Tumen river which is often narrow enough to wade or swim across. Because of lack of access to the border areas, neither Amnesty International nor any other independent organisation have been able to ascertain the exact number of North Korean asylum seekers and "illegal immigrants" currently in China. Estimates of their number range from 50,000 to 300,000.

III RISKING INTIMIDATION, FEAR AND FORCED REPATRIATION

North Koreans have been crossing the border into China's northeastern provinces of Jilin, Liaoning and Heilongjiang. Some non-governmental organisations (NGOs), aid workers, and journalists who work in or have visited the border areas have reported in some detail the conditions under which these so-called illegal immigrants live in China and the fate they may face if forcibly returned to North Korea.

North Koreans who seek refuge in China are in a very precarious situation. Some find shelter in villages and farms where they are supported by China's ethnic Korean community but others are forced to find more desperate sources of livelihood such as begging and stealing. All face the risk of being pursued and apprehended by Chinese security officials and the North Korean Public Security Service (PPS).

Thousands are reported to have entered China during 1998, a year considered by some as the worst of the famine. However, by early 1999, the Chinese authorities started clamping down on the influx of North Koreans by taking "appropriate measures". These measures are reported to have involved forcibly returning hundreds of North Koreans back across the border and increasing tenfold the fine imposed on people harbouring or helping North Koreans from 500 to 5,000 yuan (about US\$60 to US\$600).

Since March this year, there have been consistent accounts of yet another and more drastic crackdown on North Koreans and those who help them in China. This sudden surge in crackdowns of North Koreans is believed to be largely due to security concerns in relation to the (then) scheduled visit of the North Korean leader Kim Jong Il to China. Kim Jong Il eventually paid a three-day unofficial visit to China at the end of May.

Some reports claim that about 5,000 North Koreans were forcibly returned across the Tumen Bridge (Jilin Province) in March alone, with similar numbers being returned via other crossings along the northeastern Chinese provinces of Liaoning and Heilongjiang. A number of reports have stated that there is a general atmosphere of fear and intimidation as Chinese security forces and North Korean agents are active targeting not only North Korean men (as they did in the past) but also women and children. Now, those suspected of helping North Koreans are believed to be fined up to 30,000 yuan (about US\$3,600). With the factories and farms in China which, in the past, offered them work and shelter now under heavy scrutiny, very few North Koreans take the risk of leaving their homes.

Those who get caught are reported to be led back across the border like cattle with wire cables through their noses or hands.

THE EVENTS OF 18 APRIL 2000

Serious disturbances are reported to have taken place at Tumen Detention Centre in the northeastern province of Jilin in April this year. The Centre, believed to be used to detain North Koreans who have entered China, was apparently the scene of protests by the detainees against poor treatment and forcible return to North Korea. According to reports, some 80 inmates were involved in the disturbances which were brought to a swift end by prison guards. Some 50 inmates were subsequently forcibly returned to North Korea.

Amnesty International appealed to both the Chinese and North Korean governments to disclose the whereabouts and legal status of the returnees but the organisation has received no reply.

THE CASE OF SEVEN REFUGEES

In January this year, seven North Korean refugees, including a 13-year-old boy, were forcibly returned to North Korea by China. In November 1999, the seven refugees left their home country for Russia via Chinese territory. In December 1999, the UNHCR granted them status as Convention refugees. Although the UNHCR informed the Chinese and the Russian governments about its decision to grant them refugee status, Russia forcibly deported them to China which in turn forcibly returned them to North Korea.

The UNHCR's warnings to the Chinese government that the refugees would face "grave consequences" were to no avail. Amnesty International wrote to all three governments concerned requesting assurances that none of the returnees were at risk of human rights violations.¹

On 22 June, the South Korean news agency Yonhap cited the South Korean Minister of Foreign Affairs and Trade as stating that six of the seven refugees were serving "short-term prison sentences" and that the remaining one, the 13-year-old boy, had been released.

IV SERIOUS HUMAN RIGHTS VIOLATIONS OF RETURNEES

While most North Koreans are driven to China by hunger, their government considers them to be traitors and/or criminals if they leave the country illegally. Article 47 of the 1987 North Korean Criminal Code states that:

"A citizen of the Republic who defects to a foreign country or to the enemy in betrayal of the country and the people...shall be committed to a reform institution for not less than seven years. In cases where the person commits an extremely grave concern, he or she shall be given the death penalty..."

¹ In March this year, Amnesty International received a reply from the Russian authorities which the organisation finds unsatisfactory. The Russian Federation cannot transfer their obligations under the principle of *non-refoulement* by sending refugees to another country where there are no guarantees whatsoever that they will be granted effective and durable protection against forcible return.

Information on the fate of those forcibly returned is difficult to obtain because of the North Korean authorities' tight restrictions on the flow of information and on the lack of international scrutiny of the human rights situation. However, a number of reports received by Amnesty International detail some severe human rights violations and abuses.

Those who were caught and subsequently escaped or freed have reported being beaten by Chinese and North Korean border police and security officials. Various reports indicate that some of those sent back face long interrogation sessions and torture by North Korean police. Some are sent to prison or labour camps. The conditions of detention are reported to be extremely harsh, with inmates being subjected to torture and ill-treatment, receiving meagre food rations, contracting illnesses and being denied access to medical care.

North Korean government officials, suspected political opponents or those who attempt to seek political asylum outside the country are particularly at risk of harsh punishments if forcibly returned. Little is known about their fate but given the North Korea Criminal Code, it is not unlikely that some of them may have been executed as Amnesty International reported in 1996.²

Although China is party to the 1951 Convention relating to the Status of Refugees, NGOs and others attempting to help North Koreans who flee to China say it is virtually impossible for asylum seekers to access refugee determination procedures in China. According to several sources, China regularly sends North Koreans back to their country without seeking assurances regarding their safety and without giving potential asylum seekers an opportunity to lodge a claim for asylum. To Amnesty International's knowledge, no North Koreans have been granted Convention refugee status in China.

V CONCLUSION AND RECOMMENDATIONS

The situation of North Koreans who reach China is better documented than human rights violations suffered by North Koreans who stay in their country. But the provision of better protection for North Koreans who cross into China is hampered by the lack of access to the border areas by the UNHCR and other independent human rights monitors. As more attention turns to the thousands of North Koreans who are forcibly returned to their country and to the many more who remain stranded in precarious conditions along the China/North Korea borders and in constant fear of being sent back, Amnesty International reiterates its opposition to the forcible return of any asylum seeker who may be at risk of human rights violations on return. ^{problems} Amnesty International recognises the influx of large numbers of North Koreans may pose for the Chinese authorities but it urges the Chinese government to deal with these issues in a manner which does not violate internationally recognised human rights and refugee law standards. The organisation reminds the Chinese authorities of their obligations under the fundamental principle of *non-refoulement* as outlined in Article 33 of the 1951 Convention relating to the Status of Refugees to which China is a State Party. China has also shown its commitment to international refugee law standards by its membership to the UNHCR Executive Committee, the main standards setting body in international refugee law.

² See Amnesty International Report DPRK/Russian Federation: Pursuit, intimidation and abuse of North Korean refugees and workers; AI Index ASA 24/06/96

In particular, Amnesty International calls on the Chinese government to:

- respect the fundamental principle of *non-refoulement*, generally recognised as part of customary international law, which provides that no one shall be returned to a country where he or she might risk serious human rights violations, including in this case (summary) execution or imprisonment and other human rights violations;
- take all measures necessary to ensure that the rights of all refugees and asylum seekers in China are respected including measures ensuring that all asylum seekers have access to a fair and satisfactory asylum procedure;
- lift restrictions on access to the border areas with North Korea for the UNHCR, independent human rights monitors and other independent observers, agencies and organisations;
- ensure that North Korean asylum seekers enjoy full protection of their rights as refugees in China. This should particularly include taking all appropriate measures to stop immediately all operations by Chinese security forces and North Korean PSS aimed at apprehending and intimidating North Korean refugees and asylum seekers and those who are helping them in China. Those who are found guilty of violating the rights of these asylum seekers should be brought to justice;

Amnesty International also calls on the UNHCR to:

- put pressure on the Chinese authorities to fulfill all obligations under the 1951 UN Refugee Convention, including affording North Korean refugees effective and durable protection against *refoulement* and recognising them as Convention refugees when appropriate in accordance with a full and inclusive interpretation of the Convention.