

**PERILOUS JOURNEYS:  
THE PLIGHT OF NORTH KOREANS IN CHINA AND BEYOND**

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## PERILOUS JOURNEYS: THE PLIGHT OF NORTH KOREANS IN CHINA AND BEYOND

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Scores of thousands of North Koreans have been risking their lives to escape their country's hardships in search of a better life, contributing to a humanitarian challenge that is playing out almost invisibly as the world focuses on North Korea's nuclear program. Only a little over 9,000 have made it to safety, mostly in South Korea but also in Japan, Europe and the U.S. Many more live in hiding from crackdowns and forcible repatriations by China and neighbouring countries, vulnerable to abuse and exploitation. If repatriated to the North, they face harsh punishment, possibly execution. China and South Korea have held back, even during the Security Council debate over post-test sanctions, from applying as much pressure as they might to persuade Pyongyang to reverse its dangerous nuclear policy, in part because they fear that the steady stream of North Koreans flowing into China and beyond would become a torrent if the North's economy were to collapse under the weight of tough measures. While there is marginally more hope Beijing will change its ways than Pyongyang, concerned governments can and must do far more to improve the situation of the border crossers.

Even without a strong response to the 9 October 2006 nuclear test that targets the North's economy, the internal situation could soon get much worse. The perfect storm may be brewing for a return to famine in the North. Last year, Pyongyang reintroduced the same public distribution system for food that collapsed in the 1990s and rejected international humanitarian assistance, demanding instead unmonitored development help. Funding for remaining aid programs is difficult to secure, and summer floods have damaged crops and infrastructure.

Hunger and the lack of economic opportunity, rather than political oppression, are the most important factors in shaping a North Korean's decision to leave "the worker's paradise". A lack of information, the fear of being caught by Chinese or North Korean security agents and financial limitations are more significant barriers than any actual wall or tight security at the border. China compensates for the virtual absence of border guards with a relentless search for North Koreans in hiding. In

October 2006, Chinese authorities began to build a fence along the frontier and conduct neighbourhood sweeps to find and arrest the border crossers.

Despite these formidable obstacles, the willingness among North Koreans to risk their lives to escape is growing stronger, and arrivals in the South are likely to hit a record this year. The most important pull factor shaping the decision to leave is the presence of family members in China and, increasingly, South Korea. The nearly 9,000 defectors in the South are able to send cash and information to help their loved ones escape. To a lesser but significant extent, information is beginning to spread in the North through smuggled South Korean videos, American and South Korean radio broadcasts, and word of mouth – all exposing North Koreans to new ideas and aspirations.

Most North Koreans do not arrive in China with the intention of seeking official asylum, but because Beijing is making it ever more difficult for them to stay, a growing number are forced to travel thousands of kilometres and undertake dangerous border crossings in search of refuge in Mongolia or South East Asia. The mass arrests of 175 asylum seekers in Bangkok in August 2006 and a further 86 on 24 October provide vivid examples of host country hospitality being stretched to the limits.

The vast majority of North Koreans who have made it to safety resettle in South Korea. In most instances, this is a choice motivated by language, culture and the promise of being reunited with family members. In a growing number of cases, the overly burdensome procedures for being granted asylum anywhere else is the deciding factor. With the exception of Germany, the governments that have pressed most vigorously for improving North Korean human rights, namely the U.S., the European Union member states and Japan, have taken in only a handful of asylum seekers.

A loose network of makeshift shelters focused on humanitarian aid has evolved into a politically-charged but fragile underground railroad on which some North Koreans can buy safe passage to Seoul in a matter of days,

while others suffer years of violence and exploitation. If they are to minimise the exploitation of the most vulnerable and enhance the much-needed aid this network delivers, concerned governments must commit to a sustainable solution.

None of the policies proposed in this report would create unmanageable burdens for any government. Unless North Korea's economy collapses completely, the numbers of its citizens crossing international borders will continue to be restricted by many factors, not least Pyongyang's tight controls on internal movement and the financial cost of securing an escape route. However, it is time to back up strong words and resolutions about the plight of North Koreans with actions, both because humanity demands it and because if the international community cannot quickly get a handle on this situation, it will find it harder to forge an operational consensus on the nuclear issue.

## **RECOMMENDATIONS**

### **To the Government of North Korea:**

1. Relax policies on China travel in order to relieve popular pressures by:
  - (a) allowing more North Koreans to visit relatives in China and allowing more frequent visits;
  - (b) providing permission for a greater number of North Koreans to visit each year for limited periods to trade or work; and
  - (c) exploring with China the creation of a regime under which citizens of both countries who live in close proximity to the common border can make a certain number of short visits each year for commercial or family purposes under advantageous conditions.
2. Review the penalties for unauthorised visits to China and at least reduce them substantially.
3. Expand the reform and opening of the economy so as to ease the pressure felt by many North Koreans to seek opportunities abroad.
4. De-link asylum seeker/defector issues from relations with South Korea.

### **To the Government of China:**

5. Stop the forcible repatriation of North Koreans and continue to engage with South Korea and other countries when North Koreans need transfer to another state.

6. Grant provisional residency to North Korean spouses of Chinese citizens and their children.
7. Continue to work with the Office of the United Nations High Commissioner for Refugees (UNHCR) to develop and put rapidly into place a domestic legal framework for asylum seekers that addresses the needs of North Koreans in China and provides specific protection for North Korean spouses of Chinese citizens and their children against trafficking and abuse (including domestic violence).
8. Allow the children born to the North Korean spouses of Chinese citizens to attend school.
9. Ease regulations for North Koreans to visit relatives in China.
10. Eliminate the bounties offered for turning in North Koreans in hiding.
11. Grant the Office of the UN High Commissioner for Refugees and NGO workers access to North Koreans in China.
12. Devote greater resources to cracking down on human trafficking and ensure its victims access to protection.

### **To the Governments of Vietnam, Burma and Laos:**

13. Stop forced deportations of North Koreans to China or North Korea.

### **To the Office of the UN High Commissioner for Refugees:**

14. Press China to abide by the principle of non-refoulement (prohibiting expulsion or return) in the 1951 Convention on Refugees, demand access to the North Korean border area and take a more active role in overseeing the transfer and resettlement process in Mongolia, Russia, Vietnam, Burma and Laos.
15. Continue working with China on developing a domestic legal framework for political asylum.

### **To the Government of South Korea:**

16. Clarify procedures for relocating and settling North Koreans in third countries in coordination with the UNHCR and NGOs.
17. Actively seek the release of South Korean citizens arrested in China for helping asylum seekers.

**To the Governments of the United States, the European Union and its Member States and Japan:**

18. Press China, Laos and Vietnam not to deport or repatriate North Korean asylum seekers and intervene when cases arise.
19. Streamline and accelerate the review process for granting asylum to North Koreans and provide resettlement assistance.
20. Increase the broadcasting time of Voice of America and Radio Free Asia from a few hours to 24 hours a day.

**Seoul/Brussels, 26 October 2006**

## PERILOUS JOURNEYS:

### THE PLIGHT OF NORTH KOREANS IN CHINA AND BEYOND

#### I. INTRODUCTION

North Korea's economic collapse and famine in the 1990s and subsequent food shortages have prompted scores of thousands to seek refuge in China and beyond. The international community has failed to find an effective means of dealing with this situation. Despite billions of dollars in humanitarian assistance over the past decade and increasing awareness of human rights violations, conditions for the vast majority of citizens in North Korea remain dire, while conditions for those who reach China are only marginally better. That the latter situation is virtually invisible makes it impossible to give an accurate assessment of the number of North Koreans hiding in China. However, based on the assessments of several NGOs and Crisis Group's own interviews with border crossers and Korean-Chinese in the border area, the total is likely to be something up to 100,000.<sup>1</sup> Only somewhat over 9,000 have made the perilous journey to safety in South Korea, or in a small number of cases, to Japan, Europe or the U.S.

Those who leave their homes embark on an uncertain journey along a fragile underground railway that can last anywhere from five days to five years or more, depending on their money, connections and luck. This report examines the hidden, often shifting networks through which North Koreans in China and third countries seek better lives. These networks, some life-saving and others violent and exploitive, largely determine whom North Koreans meet, where they live, how much danger they are exposed to and what options they have. In recent years, their expansion into Mongolia, South East Asia and various foreign diplomatic missions has increasingly tested the limits of diplomacy and host country tolerance. Examining the formation and development of these networks over the past decade provides the basis for understanding the situation that North Koreans face today and for identifying specific areas in which new policies of protection can be advanced.

The plight of these North Koreans has emerged as a source of tensions, not only between the two Koreas, but also between China and its neighbours, South Korea and the

U.S., and has even become a sticking point between the U.S. and China. North-South talks froze for more than a year after South Korea airlifted hundreds of North Koreans out of Vietnam in 2004. China's neighbours generally do not forcibly return North Koreans to China or North Korea, instead allowing them to move on to third countries. A growing chorus in the U.S. criticises South Korea for remaining silent on the issue, even though Seoul quietly takes in the lion's share of asylum seekers while Washington has accepted only a handful. President Bush raised the issue when he met with Chinese President Hu Jintao at the White House in April 2006.

This report is believed to be the first to look comprehensively at networks of North Korean asylum seekers and the policies of related countries. In most refugee reports, the story beyond China is at best an afterthought. Building on more than 50 interviews with North Koreans in China and South East Asia in 2006 and over 50 more in South Korea, this report examines the factors leading to cross-border migrations and why the networks were forced underground. It then focuses on the activities of network operators and North Koreans in China and proceeds to trace the long (often more than 10,000 km.), uncertain journey out of China into transit and resettlement countries through interviews with all the key players, including host governments, missionaries, brokers and diplomatic missions from Ulaan Bataar to Rangoon and in all the countries where North Koreans are found. The report concludes with discussion of ways to improve the situation for refugees and asylum seekers. To protect individuals and the fragile underground railway, many details, particularly about escape routes and particular governments and groups, have not been included.

A handful of North Koreans have legal, documented permission to visit China, but the vast majority are there illegally. The lack of protection of North Koreans in China has forced them into hiding, leading to smuggling, trafficking and ad hoc diplomacy with the most vulnerable falling through the cracks. China, which has bilateral agreements with the North concerning "escaped criminals" and "border affairs", views the border crossers as economic

<sup>1</sup> See Section IV below.

migrants subject to repatriation.<sup>2</sup> The Office of the United Nations High Commissioner for Refugees (UNHCR) considers them “persons of concern”, while international human rights and humanitarian groups and the media commonly refer to North Koreans as “refugees”.

There are legal debates over the interpretation of the 1951 Convention on Refugees but Crisis Group believes many if not most North Koreans in China have compelling cases to be recognised as refugees or “refugees *sur place*”, because the North’s usually harsh treatment of border crossers amounts to persecution.<sup>3</sup> However, they do not have the opportunity to avail themselves of international protection. Regardless of their official status, all North Koreans in China and other transit states deserve such protection from forcible repatriation and subsequent persecution. China does not yet have a domestic legal framework that addresses the needs of asylum seekers but it and other transit countries can and should, nonetheless, follow through on their international legal obligations to respect the principle of non-refoulement, which prohibits such returns.<sup>4</sup>

This report refers to North Koreans in China collectively as “border crossers”, although many may fairly be called refugees or asylum seekers as well. For the sake of family members still in the North and because of their own vulnerability in China, some are willing to sneak back home despite continued or expected persecution upon return. Others are essentially trapped in China, unable or unwilling to go home or seek asylum in a third country. North Koreans who have embarked on the journey out of China and into transit countries are called “asylum seekers” – the term used by the UNHCR to describe people in search of safety in a foreign country – because of their determination to request international protection. Asylum seekers “may be in need of international protection and of concern to UNHCR” even if they are not able to or do not apply for recognition as refugees.<sup>5</sup> The term “refugee”

is used to refer to individual North Koreans who have been accorded official refugee status and protection. For North Koreans who have availed themselves of their South Korean citizenship and resettled there, this report employs the term “defectors”.

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<sup>2</sup> North Korea and China signed an “Escaped Criminals Reciprocal Extradition Treaty” in 1960, and a “Border Area Affairs Agreement” in 1986.

<sup>3</sup> For discussion of the legal issues, including the concept “refugee *sur place*”, see Appendix C below, “Refugee Law and the Office of the UN High Commissioner for Refugees”. The text of the 1951 Convention on Refugees and its 1967 Protocol is available on the web site of the UN High Commission, at <http://www.unhcr.org/protect/3c0762ea4.html>.

<sup>4</sup> The 300,000 Vietnamese refugees resettled in China after 1979 are accorded rights similar to Chinese nationals but they do not yet have citizenship or permanent status. For discussion of the principle of non-refoulement and China’s related international law obligations, see Appendix C below.

<sup>5</sup> “UNHCR and International Protection: A Protection Induction Programme”, 2006, available at <http://www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.htm?tbl=PUBL&id=44b4bbcd2>.

## II. LEAVING THE “WORKER’S PARADISE”

The denial of political and economic rights in North Korea is entrenched in the country’s social architecture. A three-tiered caste system structures society, effectively suppressing rights for those of the lower “wavering” and “hostile” classes. Those who leave the country, even if only for food or to earn money, can face forced labour if caught. Eye-witness accounts and satellite images leave no doubt that prison camps and public executions are realities.<sup>6</sup> International outcry and condemnation have been as ineffective as the North’s constitution in improving, let alone protecting, the human rights of North Koreans.

North Korea’s social controls and indoctrination have proven amazingly effective. Before 1990, there were only a handful of defections to South Korea and some clandestine cross-border remittances or trade with relatives in China. Little information flowed in or out of the country. It was not until the economic collapse and ensuing famine of the 1990s that a wave of North Koreans moved into China. That economic collapse and persistent difficulties are directly linked to the policy decisions of the regime in Pyongyang. Nevertheless, the vast majority of North Koreans who cross into China appear to be driven by economic necessity rather than direct political oppression.

### A. THE BORDER REGION

The border between China and North Korea is 1,416 km., marked primarily by the Yalu and Tumen Rivers.<sup>7</sup> The 790 km. Yalu portion is wide and deep, essentially un-crossable without a boat. In some areas, however, it becomes both narrow and shallow enough to wade across with ease. The Tumen, which runs north of the Yalu for 546 km., is no more than knee-deep at certain points and can be crossed on foot. North Korea’s border with Russia is only seventeen km., dominated by the strong currents of the Tumen River delta. Most of the region’s rain falls in the summer months, with floods accompanying the rainy season. In the winter, the rivers freeze over for three to four months, and temperatures drop well below freezing.

Fourteen official border crossings at twelve points connect China and North Korea. North Korea reinforced border

guards on its side with troops in 2004.<sup>8</sup> A North Korean who lived near the border claimed the number of guards increased from two every 500 metres to four.<sup>9</sup> On the Chinese side, press reports suggested that more numerous soldiers replaced border guards in 2003.<sup>10</sup> However, several visits by Crisis Group researchers showed little or no visible military presence on either side of the border.<sup>11</sup> Traffic is fairly light on the bridges that link to China’s Yanbian Autonomous Korean Prefecture, where the largest concentration of ethnic Korean-Chinese nationals live.<sup>12</sup> Occasionally, trucks loaded with rice or fertiliser can be seen crossing.<sup>13</sup>

Despite the seemingly light security at the border, Chinese authorities take the flow of North Koreans very seriously. Beijing does not want a steady stream of border crossers to become a flood, causing economic havoc in the region and possibly stoking latent Korean nationalism there.<sup>14</sup> In addition to crackdowns, a new barbed-wire fence was seen being built along the Yalu in Dandong after summer floods damaged crops and infrastructure in North Korea.<sup>15</sup> Signs posted on the Chinese side read: “It is forbidden to financially help, harbour, or aid in the settlement of people from the neighbouring country who have crossed the border illegally”.<sup>16</sup>

Chinese residents of this region are not unfamiliar with cross-border migrations triggered by food shortages. Mao’s Great Leap Forward campaign, begun in 1957, led to a famine estimated to have caused sixteen to 40 million deaths. Unauthorized migrations to North Korea in search of food were common and inspired the “Escaped Criminals

<sup>6</sup> David Hawk, “The Hidden Gulag: Exposing North Korea’s Prison Camps”, U.S. Committee for Human Rights in North Korea, 2001.

<sup>7</sup> For more on the border, see Crisis Group Asia Report N°112, *China and North Korea: Comrades Forever?*, 1 February 2006.

<sup>8</sup> Crisis Group interview, defector and NGO worker, Seoul, January 2005.

<sup>9</sup> Crisis Group interview, defector from Onsong, north east China, 27 April 2006.

<sup>10</sup> Joseph Kahn, “China Moves Troops to Area Bordering North Korea”, *The New York Times*, 16 September 2003; “China Deploys Troops on Border with North Korea”, *Taipei Times*, 15 September 2003.

<sup>11</sup> Crisis Group observations, November 2005, April and July 2006.

<sup>12</sup> Ibid.

<sup>13</sup> Suh, Hae-yong, “Sorrows and Pains of North Korean Refugee Women in China’s North Eastern Provinces”, *FreeOpinion*, February 2006 (in Korean).

<sup>14</sup> Crisis Group email interview, Roberta Cohen, Brookings Institution, 1 October 2006. For more on rising nationalism and regional tensions, see Crisis Group Asia Report N°108, *North East Asia’s Undercurrents of Conflict*, 15 December 2005.

<sup>15</sup> Lee Myeong-jin, “A Visit to the Border Reveals Intensified Searches for North Koreans”, *Chosun Ilbo*, 30 September 2006; “At Border Town, Some Chinese View North Korea Warily”, Reuters, 11 October 2006.

<sup>16</sup> Ibid; Sophie Delaunay, Médecins Sans Frontières, testimony to the House Committee on International Relations, Subcommittee on East Asia and the Pacific, Washington DC, 2 May 2002.



Reciprocal Extradition Treaty” in 1960, which, along with the 1986 “Border Area Affairs Agreement”, continues to guide official Chinese policy, even though the situation has been reversed.<sup>17</sup> The classification of North Korean border crossers as illegal economic migrants subjects them to repatriation under these bilateral agreements and denies them international protection or access by the UNHCR.

A fair amount of authorised cross-border travel continues, but Chinese visitors – including officials – must have documented invitations from North Korea, all of which are subject to approval by the North Korean government. Until recently, officials were exempted from further visa requirements, while tourists and businessmen were generally required to apply for visas at North Korean embassies or consulates. The few exceptions involve short visits to the special economic zone of Rajin-Sonbong (Rason), for which copies of official Chinese identification cards suffice. In 2005, North Korea tightened its policies, blocking entry for all tourists for two weeks in August, closing a cross-border port in Dandong, Liaoning Province in September, and requiring applicants to submit short biographies for business visas starting in November.<sup>18</sup>

The border region has been home to both large and small-scale efforts at economic development. Although plans in 2002 for developing a special economic zone along the western border in Shinuiju stalled, as many as 200 North Korean trade bureaus operate in Dandong, the Chinese city opposite Shinuiju.<sup>19</sup> China’s three north eastern provinces, where the majority of ethnic Korean-Chinese live, have been targeted for increased investment and revitalisation.<sup>20</sup> North Korean trading companies are active there as well, exporting rice and importing iron ore.<sup>21</sup> Chinese investment in infrastructure along the border area has also increased: a railway connecting several cities including Yanji, Dandong, and Dalian is to be completed by 2010, and there are plans for a new Friendship Bridge south of Shinuiju.<sup>22</sup> In October 2006, Chinese authorities announced

the opening of a second “greenway” to facilitate overland trade with the North Korean border town of Hoeryeong. The first had opened in March, linking up with the special economic zone in Rason.<sup>23</sup>

A significant consequence of this Sino-North Korean contact has been the increased flow of information, not least via pre-paid Chinese cell phones. The phones, which sell in China for \$50-\$100, are necessary for doing business along the border but also give separated families and guides on the underground railroad a way to keep in touch and pass along information.<sup>24</sup> Despite the black-market status of these phones, an estimated 20,000 North Koreans had access to them in early 2005.<sup>25</sup> Owners allow others to use their phones for a modest fee. One asylum seeker who borrowed a cell phone from a border-town resident said, however, that ownership or use can be punished by long sentences to labour camps (*kyohwaso*).<sup>26</sup>

## B. THE PRESSURE TO LEAVE

The collapse of the economy has meant that the North Korean people live in conditions of extreme deprivation. More devastating has been the draconian program of social control pursued by the Kim Jong-il regime even as the food situation reached crisis levels. Classification of citizens into “core”, “wavering”, and “hostile” classes continued, with members of the core class able to access some food through the public distribution system (PDS) until as late as 1996, while the vast majority of the population had to resort to coping strategies such as foraging and bartering personal belongings – both activities prohibited under the penal code. Certificates required for travel away from one’s residence were difficult for ordinary citizens to obtain and almost impossible to secure for international travel. Still, family members often separated, hoping to find food in other cities and improve individual chances of survival.<sup>27</sup> Those found outside their home counties were subject to detention in “9-27 camps”,

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<sup>17</sup> “Invisible Exodus: North Koreans in the People’s Republic of China”, Human Rights Watch, Vol.14, No.10, November 2002.

<sup>18</sup> Yang Jun, “North Korea Temporarily Stopped Greeting Foreign Tourists”, *Beijing Times*, 24 August 2005 (in Chinese); “North Korea Began to Adopt More Strict Examining System for Commercial Visa”, *NetEase*, 18 November 2005 (in Chinese); “What Chinese Citizens Should Know When Going to North Korea”, Ministry of Foreign Affairs of the PRC website (in Chinese), available at <http://www.fmprc.gov.cn/chn/wjb/zsjg/yzs/gjlb/1221/1221x3/t176300.htm>.

<sup>19</sup> For more details, see Crisis Group Report, *China and North Korea*, op. cit., p.26.

<sup>20</sup> *Ibid.*, p.11.

<sup>21</sup> *Ibid.*, p.26.

<sup>22</sup> “Construction Group Founded to Develop the Strategic Vision of Eastern Roads”, Forum for the Revitalisation of the Northeast, 5 January 2006 (in Chinese), available at [---

\[xinhuanet.com/200601/05/content\\\_5972713.ht\]\(http://xinhuanet.com/200601/05/content\_5972713.ht\); and “N. Korea, China to Build New Bridge Across the Yalu”, \*Chosun Ilbo\*, 16 June 2005 \(in Korean\).](http://chinaneast.</a></p></div><div data-bbox=)

<sup>23</sup> Ha Jong-dae, “Another ‘Greenway’ Established to Simplify Customs Clearance between North Korean and China”, *Donga Ilbo*, 3 October 2006 (in Korean).

<sup>24</sup> Figures denoted in dollars (\$) in this report refer to U.S. dollars.

<sup>25</sup> Rebecca MacKinnon, “Chinese Cell Phone Breaches North Korean Hermit Kingdom”, YaleGlobal Online, 17 January 2005.

<sup>26</sup> Crisis Group interview, northern Thailand, 8 June 2006.

<sup>27</sup> W. Courtland Robinson, Myung Ken Lee, Kenneth Hill and Gilbert M. Burnham, “Mortality in North Korean Migrant Households: A Retrospective Study”, *The Lancet*, Vol.354, 24 July 1999.

named for their inaugural date of 27 September 1997.<sup>28</sup> Although the camps, overwhelmed from the start, were eventually closed, North Korea's internally displaced are still a pressing part of this problem.<sup>29</sup> Children who leave home because their families can no longer provide for them are among the most vulnerable victims.<sup>30</sup>

In the face of such oppressive legal restrictions and disintegrating social controls, a nascent alternative network of bribes and clandestine coping strategies grew and became more sophisticated. Taking payments for turning a blind eye, authorities came to tolerate a certain measure of black-market trade and extra-legal domestic travel. Those who could not afford to bribe the authorities were punished most commonly by fines and confiscation of goods, or verbal and physical abuse, but such punishments did not halt market activity or unauthorised travel.<sup>31</sup> This change from below, combined with dire economic need, encouraged more and more North Koreans to find their way into China despite the threat of arrest and severe punishment.

### C. CROSSING OVER

From 1997 to 1999, during the worst of the famine and the height of the "first wave" of relief activity, the border was fairly porous, and sympathy on the Chinese side of the border was high. Chinese officials were largely unconcerned, and it became almost a common practice to bribe North Korean border guards. The going rate was about \$13, although some parts of the border were more expensive. North Koreans could cross the border on their own and did so mostly with the intention of acquiring provisions or perhaps working for cash, then returning to their families in the North. Some border crossers did not have any particular contacts or plans and relied on the generosity of strangers. One who entered China with three other women in the late 1990s simply "approached one of the houses...and told [the owner] about [their] situation".<sup>32</sup>

Christian churches in China were particularly active in supporting the early cross-border survival strategy. An

organisation based in Yanji supported "house churches" along the border, providing food, clothes, and basic medical kits. Hundreds of border crossers passed through each of fifteen to twenty house churches in this one network alone. Many would come in the middle of the night, pick up provisions and return to North Korea before daybreak. Others would stay in the border area for a few days, while still others would move further into China towards Yanji.<sup>33</sup> Another pastor remembers supplying several shelters along the border with thousands of dollars worth of winter clothes in the late 1990s. The situation was "loose back then", allowing aid workers and North Koreans in border areas to move around with relative ease. Some donated goods were even diverted to the marketplace.<sup>34</sup>

Surveys conducted along the border in 1998 found the North Koreans in China to be "a diverse, highly mobile, and largely hidden population".<sup>35</sup> Most were in their 20s and 30s and had entered China in search of food or work. Aid workers estimate that over two thirds eventually returned home.<sup>36</sup> Residents from North Hamgyong Province were almost 80 per cent of those surveyed.<sup>37</sup> Not only is this province nearest the border, across the Tumen River from Chinese cities with large ethnic Korean populations, but it had considerable heavy industry. As state-owned enterprises closed, unemployment grew, and food shortages prevented the distribution of daily rations. With little arable land for cultivation or foraging, residents of North Hamgyong had few alternatives for coping.<sup>38</sup> In the past few years, North Koreans as far from the border as Pyongyang and beyond have made their way to China, an indication of continuing hardship as well as more established escape routes.

Since 1999, more women and children and more single individuals with no stable family unit to return to in North Korea have made the crossing. Surveys along the border in 1999 found roughly equal numbers of men and women but women now outnumber men three to one.<sup>39</sup> Men,

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<sup>28</sup> Andrew Natsios, "The Politics of Famine in North Korea", U.S. Institute of Peace Special Reports, 2 August 1999.

<sup>29</sup> "Project on Internal Displacement", The Brookings Institution and Refugees International, available at <http://www.brookings.edu/idp>.

<sup>30</sup> Crisis Group interview, NGO worker, Seoul, 12 April 2006.

<sup>31</sup> "Understanding and Responses of the North Koreans on the Social and Economic Condition of North Korea", Good Friends, June 2000.

<sup>32</sup> Andrei Lankov, "Rejecting North Korean Refugees Part 2: A Long, Winding and Dangerous Road", *Asia Times Online*, 8 January 2005.

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<sup>33</sup> Crisis Group interview, South Korean pastor and aid worker, Seoul, 12 April 2006.

<sup>34</sup> Crisis Group interview, U.S. pastor and activist, Seoul, 22 March 2006.

<sup>35</sup> Robinson, Myung Ken Lee, Hill and Burnham, *op. cit.*

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*; Courtland Robinson, Myung Ken Lee, Kenneth Hill, Edbert Hsu, and Gilbert M. Burnham, "Demographic Methods to Assess Food Insecurity: A North Korean Case Study", *Prehospital and Disaster Medicine*, Vol.16, No.4, October-December 2001.

<sup>38</sup> Hazel Smith, "North Koreans in China: Defining the Problems and Offering Some Solutions", University of Warwick, 1 December 2002; Robinson, Myung Ken Lee, Hill and Burnham, *op. cit.*

<sup>39</sup> W. Courtland Robinson, Myung Ken Lee, Kenneth Hill and Gilbert M. Burnham, "Mortality in North Korean Migrant

who are more likely to be married or divorced, tend to go home with provisions for their families, while single women can access the “bride trade” in the border region.<sup>40</sup> Women who are married but not employed are also more likely to leave their homes since they will not be missed at work and have no direct access to the public distribution system. These women sometimes work as cross-border traders, selling cigarettes and other goods from China on North Korea’s black market to help provide for their families. Women are also given more lenient punishments if caught and repatriated, so long as they seem to have been in China only to find food or work.<sup>41</sup>

Estimates of the number of North Koreans in China during the peak famine years range from 10,000 to 300,000.<sup>42</sup> At least half included in the higher-end figure stayed for less than three months and over 70 per cent stayed for less than six months. When viewed in context, this estimate does not indicate an exodus of hundreds of thousands, but rather underscores the fluidity of the early cross-border network.

### III. GOING UNDERGROUND

Significant changes in the dynamics of border crossings were underway by 2000. The worst of the famine had passed, and North Korea’s grain production was improving. North Korean and Chinese officials may have seen cross-border movement as a useful safety valve and tolerated the short-term migration as long as it was “politically safe” – that is, for as long as North Koreans sought just food and other provisions. But the influx of asylum seekers had also drawn NGOs, brokers, and the international media into the picture. Some North Koreans crossed with more direct help from missionaries and members of NGOs, and a growing number were settling permanently despite their illegal status and vulnerability to arrest and/or repatriation. Others were using China as a transit to third countries in hopes of greater economic freedom and physical security. From 2000, both North Korea and China gradually decided that the benefits of a lax border policy were no longer greater than the negative consequences.

#### A. CRACKDOWNS

There is a consensus among missionaries, aid workers, and NGOs that Beijing has steadily increased the pressure on North Korean asylum seekers and those helping them.<sup>43</sup> It implemented a system of rewards for turning in North Koreans and fines for supporting them. Aid workers quoted rewards as high as \$400 and fines as high as \$3,600 but recent reports cite rewards of \$630.<sup>44</sup> According to the U.S. Committee for Refugees and Immigrants, at least 6,000 North Koreans were repatriated in 2000, a marked rise from earlier years.<sup>45</sup> A 100-day campaign of raids and repatriation was begun in December 2002, resulting in the repatriation of 3,200 North Koreans and the detention of 1,300 others in the Chinese border towns of Tumen and Longjing.<sup>46</sup> In October 2003, the Chinese government was running half a dozen detention facilities inside military bases along the border with North Korea

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Households: A Retrospective Study”, *The Lancet*, Vol.354, 24 July 1999; Crisis Group interview, bureau chief of NGO helping defectors in South Korea, Seoul, 9 May 2006.

<sup>40</sup> Robinson, Myung Ken Lee, Hill and Burnham, op. cit.

<sup>41</sup> Lee Keum-soon, “The Border-Crossing North Koreans: Current Situations and Future Prospects”, Korea Institute for National Unification, Studies Series, May 2006; “Report on Daily Life”, Good Friends, op. cit.

<sup>42</sup> Official Chinese figure for summer of 1998, cited in James Seymour, “China: Background Paper on the Situation of North Koreans in China”, Writenet, January 2005. “Report on Daily Life”, Good Friends, op. cit.

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<sup>43</sup> Crisis Group interviews, March-June 2006.

<sup>44</sup> “Persecuting the Starving: The Plight of North Koreans Fleeing to China”, Amnesty International, 15 December 2000; Robert Marquand, “A Refugee’s Perilous Odyssey from N. Korea”, *The Christian Science Monitor*, 16 August 2002; “North Korea Today”, Good Friends Research Institute for North Korean Society, No.23, June 2006.

<sup>45</sup> “World Refugee Survey Country Reports: China 2001”, U.S. Committee for Refugees and Immigrants, 2001.

<sup>46</sup> “Urgent Appeal for Protection of North Korean Refugees in China”, Médecins Sans Frontières, press release, 19 January 2003; “China: Crackdown on North Koreans 3,200 Forcibly Repatriated to the North”, *Yonhap News*, 21 January 2003 (in Korean).

and repatriating up 200 to 300 North Koreans every week.<sup>47</sup> Since 2000, China has increasingly targeted the NGOs and aid workers who help North Koreans.<sup>48</sup>

## B. CHANGES IN THE CHINESE BORDER AREA

In the midst of the crackdowns, China's main area for receiving border crossers has undergone several important changes. The Yanbian Autonomous Korean Prefecture was a major source of support and a staging area for many NGOs. There is sympathy toward North Koreans that can be attributed to ethnic solidarity (many North Koreans, especially from northern areas, have at least one relative in China) as well as memories of North Korean aid during the Great Leap famine. Since the early 2000s, however, Yanbian has played a reduced role for North Koreans. Chinese crackdowns have been effective. Fearing fines or arrest, some employers and lodgers abruptly began turning out North Koreans. The increased presence of police has forced asylum seekers to retreat to rural areas or constantly change apartments in urban centres.<sup>49</sup>

Prior to the crackdowns, homeless North Korean children (*kkotjebi*) could be seen on street corners and sometimes in tourist centres begging for money and food.<sup>50</sup> The *kkotjebi* and other North Korean asylum seekers no longer have a visible presence in China. Also, despite their rising economic status, the Korean-Chinese (*Chosunjok*) are not wealthy, and the provincial economy is generally sluggish. North Koreans still receive direct help from more financially stable relatives or find employment in Korean small businesses. However, there have been several testimonies of exploitive working conditions, especially for North Korean women, and donor fatigue has set in.<sup>51</sup> Border crossers have also been associated with assaults and robberies in the Chinese media.<sup>52</sup> In September 2006, reports emerged that Chinese authorities had undertaken a new crackdown on North Koreans residing illegally in China, sweeping through neighbourhoods at sunrise unannounced to check the residency papers of each household.<sup>53</sup>

Changing economic opportunities for ethnic Korean-Chinese nationals present another twist for border crossers seeking aid from the Korean community in China. Seeking a higher standard of living, Korean-Chinese are moving out of Yanbian to urban centres such as Beijing, Shanghai, and Shenzhen, where South Korean companies have taken root. Low birth rates and migration to South Korea have also contributed to the fall in Yanbian's Korean population.<sup>54</sup> In 2000, ethnic Koreans in Jilin Province numbered 842,000, 39 per cent of the population.<sup>55</sup> By the end of 2005, the percentage had dropped to 33 per cent.<sup>56</sup> If it drops below 30 per cent, Yanbian can lose its status as an autonomous prefecture. Anticipating this, the government there has drafted legislation that would dismantle the prefecture's county lines and regroup Tumen, Yanji, and Longjing cities into one region. The smaller region would have an ethnic Korean majority and could be eligible to form an autonomous government.<sup>57</sup>

Losing autonomous prefectural status could result in tighter social controls for churches, one of the bases of support for North Koreans in need of shelter or provisions. Indeed, churches seem to have already downsized activities, although there is no straightforward correlation here. One missionary estimates that there are 200-300 ethnic Korean churches in Yanbian, but few are still involved in supporting Northerners.<sup>58</sup> Some missionaries do not want the risks to compromise their programs for Chinese nationals. Others are accountable to donors who are indifferent to the refugee issue.

## C. CHANGING PUSH-PULL FACTORS

The network's move underground has also resulted in new pull factors. North Koreans, particularly those in border areas, have had more exposure to China and contact with relatives in China and South Korea. South Korean television programs and movies have also penetrated the North as smuggled videos and DVDs, inspiring dreams of moving

<sup>47</sup> Donald Macintyre, "The North's Bitter Harvest", *Time Asia*, 13 June 2005.

<sup>48</sup> Crisis Group interview, NGO worker, Seoul, 19 September 2006.

<sup>49</sup> Crisis Group interviews, North East China, April-May 2006.

<sup>50</sup> Chung Byung-Ho, "Living Dangerously in Two Worlds: The Risks and Tactics of North Korean Refugee Children in China", *Korea Journal*, Vol.43, No.3, autumn 2003.

<sup>51</sup> Joel Chamy, *Acts of Betrayal*, Refugees International, April 2005.

<sup>52</sup> Liu XiaoYan, "Blood in Corn Field", *China Youth Daily*, 25 December 2001 (in Chinese).

<sup>53</sup> Lee Myeong-jin, "A Visit to the Border", op. cit.; Christian Caryl, "Fed up with Kim? Everybody is exasperated with the

capricious leader, including his allies in Beijing", *Newsweek International*, 9 October 2006.

<sup>54</sup> Si Joong Kim, "Economic Status and Role of Ethnic Koreans in China", *The Korean Diaspora in the World Economy*, Institute for International Economics Special Report No.15, January 2003.

<sup>55</sup> "Report on Survey Regarding Decline of Ethnic Korean Population in Yanbian", Department of Development and Social Planning, 17 December 2001 (in Chinese).

<sup>56</sup> "End for China's Autonomous Korean Region?", *Chosun Ilbo*, 10 March 2006 (in Korean).

<sup>57</sup> "Dismantlement of Yanbian Autonomous Region, Korean-Chinese in Danger of Disappearing", *Boxun News*, 13 March 2006 (in Chinese).

<sup>58</sup> "217 North Korean Agents Deployed to China", *Mirae Hanguk*, 3 May 2006 (in Korean).

south.<sup>59</sup> Recent defectors estimate that more than half of all North Koreans have watched banned South Korean entertainment.<sup>60</sup> Several defectors also report having listened to short wave radio broadcasts by Voice of America and Radio Free Asia, which only air for a few hours per day.<sup>61</sup> Still others report being impressed by propaganda leaflets, not so much because of the usually over-the-top messages, but because of the quality of the paper.<sup>62</sup> People talk secretly of South Korea, and most know that its standard of living is much higher. A woman had heard from a friend in South Korea that work there is hard and people unfriendly but that conditions are better than in China.<sup>63</sup> North Koreans who have already reached South Korea may also be in a financial position to support the escape of their relatives.

The role of relatives in South Korea is critical because they inject money into the network, funding a “niche market” of relatively safe but expensive defections. This means that some North Koreans, many of whom have relatives already in China or in South Korea or have themselves crossed the border before, go to China not as a last-resort survival strategy, but in search of a higher standard of living. Indeed, as Sino-North Korean contacts increase, economic difficulties persist and more information about the outside world filters in, relatively better off and better educated North Koreans are taking advantage of the underground railroad’s growing sophistication and its connections to South Korea and the West. Such paid defections have driven the price of bribes up, presenting new barriers to crossing for those who cannot afford the payments.

The underlying push factor, however, is still hunger and poverty. Even though North Korea’s economy has improved slightly, the benefits reach only a small minority. Economic reforms were introduced in 2002 in the context of a growing network of black markets and cross-border traffic.<sup>64</sup> The introduction of market mechanisms, especially through monetisation, was first met with some optimism abroad but has stalled from a serious lack of infrastructure and resources and has yet to be matched by necessary structural reforms. Meanwhile, prices have skyrocketed, alongside

unemployment and lagging wages, so that an ordinary worker’s purchasing power for rice has dropped 30-fold.<sup>65</sup>

The regime linked the October 2005 retreat from trading in grains to improved harvests. While grain production did improve in 2005, the harvest still fell short of estimated annual food needs by one to two million tons.<sup>66</sup> There was some government distribution activity late in the year but it was spotty at best, and many did not receive rations at all.<sup>67</sup> Ultimately, living standards may have improved slightly for those who have some access to foreign currency, but many more are still hard pressed to meet basic needs. Even those in relatively secure circumstances lead austere lives, and the capital has not been spared. In Pyongyang, according to recent defectors, people did not have enough to eat in the spring of 2006. The government had to set up offices to distribute survival-sized rations to those on the verge of starvation.<sup>68</sup>

The re-imposition of the public distribution system in late 2005, combined with the curtailment in international humanitarian relief efforts and the July 2006 floods, could be the perfect storm presaging return to famine and a new exodus to China.<sup>69</sup> North Korea’s estimate of hundreds killed or missing in the floods is supported by a senior South Korean official who follows the situation closely but contested by the South Korean NGO Good Friends, which places the number between 10,000 and nearly 55,000.<sup>70</sup> The floods also caused damage to farmland, transportation infrastructure, and homes and buildings. After visiting the region in July, the World Food Programme (WFP) estimated

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<sup>59</sup> Crisis Group interview, woman from Pyongyang, north east China, 29 April 2006.

<sup>60</sup> Crisis Group interviews, Seoul, May and August 2006.

<sup>61</sup> Crisis Group interviews, defector from Pyongyang, Seoul, August 2006. Crisis Group interview, Yoon Gook-han, Korean Service, Voice of America, Washington DC, 24 August 2006.

<sup>62</sup> Crisis Group interviews, Seoul, September 2006.

<sup>63</sup> Crisis Group interview, woman from Chongjin, 23 April 2006.

<sup>64</sup> For more on North Korea’s economic reforms, see Crisis Group Asia Report N°96, *North Korea: Can the Iron Fist Accept the Invisible Hand?*, 25 April 2005.

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<sup>65</sup> Ruediger Frank, “Economic Reforms in North Korea (1998-2004): Systemic Restrictions, Quantitative Analysis, Ideological Background”, *Journal of the Asia Pacific Economy*, Vol.10, No.3, August 2005, pp.278-311.

<sup>66</sup> “The harvest of 3.64 million tons of grain, the largest harvest since 1994/5”, U.S. Department of Agriculture Commodity Intelligence Report, 18 November 2005, available at [http://www.fas.usda.gov/pecad/highlights/2005/11/korea\\_21nov05/](http://www.fas.usda.gov/pecad/highlights/2005/11/korea_21nov05/).

<sup>67</sup> *North Korea Today*, Good Friends, Issue 12, 20 February 2006.

<sup>68</sup> Crisis Group interview, refugee from Pyongyang, North East China, 11 May 2006.

<sup>69</sup> Joel Chamy, “North Korea: Nuclear Brinkmanship Likely to Result in Greater Displacement”, *Refugees International*, 10 October 2006.

<sup>70</sup> Crisis Group Interview, Seoul, 21 September 2006. Choson Sinbo, Published By A Pro-North Korean Group Based In Japan, Reported 549 Killed And 295 Missing. Figures From The UN Were 154 Killed, With 127 More Missing. Kwang-Tae Kim, “54,700 Dead, Missing In N. Korea”, *Associated Press*, 16 August 2006; “Aid Group Says Thousands Killed By Flooding In North Korea”, *Associated Press*, 2 August 2006.

50,000-60,000 people had been left homeless and 90,000 tons of cereals lost from the harvest.<sup>71</sup>

Given the chronic food shortages, the North's initial refusal of aid was cause for alarm but South Korea's Red Cross began distributing Seoul's pledge of \$260 million in flood aid in late August 2006.<sup>72</sup> The WFP, which was forced to cut its North Korea program by two thirds when Pyongyang imposed restrictions on monitoring in 2005, has mobilised 150 metric tons of extra food aid but will require access to recipients.<sup>73</sup>

North Korea's 9 October 2006 nuclear test will adversely impact international humanitarian assistance to its population. South Korea immediately delayed a shipment of flood aid.<sup>74</sup> Relief agencies such as the WFP and the Red Cross nevertheless appealed for donations, expressing concern about finances that were already strained. The WFP has received only 10 per cent of the \$102 million it needs for its current North Korea program, which targets 1.9 million people.<sup>75</sup> Its North Korea country representative, Jean-Pierre de Margerie, announced that 2006 has already seen a fall in international aid, including a drop from China of 60 per cent.<sup>76</sup> The European Union said it will continue to distribute the \$12.6 million in aid it pledged for 2006, although this is only half its 2005 contribution.<sup>77</sup> With food shortages threatening to return to famine levels, migrating to different cities or to China will be one of the coping strategies used by hungry North Koreans with the means to undertake such journeys. The international community, especially South Korea, the U.S., and the EU, should quietly engage with China now to help it protect those who make it across the border.

Political motivations for leaving the North are still unusual but a growing trend. People who, through time spent in China or contacts abroad, realise that a higher standard of living could be achieved outside the country, come to resent not only their economic situation but also the restrictions and punishments they face when trying to better their

lives, and the government officials they see as responsible. Leaving the country is seen not as a criminal or treasonous move, but as an act of survival and even courage.<sup>78</sup> In China, defectors express increasingly frank criticism of and hostility toward the regime.<sup>79</sup> Over the past several years, there has been a growing realisation that the cause of North Koreans' hardships is not the U.S. or the weather.

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<sup>71</sup> "World Food Programme to Distribute Aid to North Korea Flood Victims", United Nations World Food Programme, 18 August 2006; "UN Offers Food Aid to Flood-Hit North Korea", Radio Free Asia, 26 July 2006.

<sup>72</sup> "South Korea's Red Cross Sends First Flood Aid to North Korea", *Yonhap*, 31 August 2006.

<sup>73</sup> Jon Herskovitz, "UN Ready to Help N. Korean Flood Victims", Reuters, 21 July 2006.

<sup>74</sup> "Seoul Suspends Scheduled Shipment of Flood Aid to North Korea: Official", *Yonhap*, 9 October 2006.

<sup>75</sup> "UN Agency Mulls Halting Food Aid to North Korea Due to Financial Constraints", *Yonhap*, 10 October 2006.

<sup>76</sup> Lindsay Beck and Ben Blanchard, "N. Korea Provocations Leave Aid Situations Precarious", Reuters, 9 October 2006.

<sup>77</sup> "EU Says Will Not Suspend Humanitarian Aid to North Korea", Agence France-Presse, 9 October 2006.

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<sup>78</sup> Crisis Group interview, refugee from Nampo, northern Thailand, 7 June 2006.

<sup>79</sup> Crisis Group interviews, April-May 2006.

#### IV. NEW PATTERNS, NEW NETWORKS

Forced underground and faced with changing circumstances, networks for asylum seekers have become more sophisticated and diverse even as the number of individuals involved has declined. Rather than a notable improvement of circumstances inside North Korea, this fall in participants is likely a result of the networks' move underground. Some continue to cross into China on their own, but increasingly, North Koreans seek to secure money and contacts before leaving. Financial constraints and fear keep the number of border crossers in check.

In 2003, the UNHCR estimated that 100,000 North Koreans remained in China.<sup>80</sup> Private NGOs conducting surveys the following year concurred.<sup>81</sup> More conservative estimates for the same period are around 30,000-50,000.<sup>82</sup> Figures have generally fallen over the past three years. Good Friends, whose 1999 survey set the high-end estimate of 300,000 North Koreans in China, now puts the figure at 150,000, a third of whom are children of North Korean women and Chinese men.<sup>83</sup> The NGO U.S. Committee for Refugees and Immigrants has also lowered its estimates from 100,000 refugees in 2003-2004 to 50,000 in 2005.<sup>84</sup> The U.S. Department of State estimates 10,000-30,000 asylum seekers remain hidden in north eastern China.<sup>85</sup> This past spring, High Commissioner Antonio Guterres said 300,000 North Koreans were living in China, but that "the number of North Koreans in China in need of international protection is limited, maybe reaching 50,000".<sup>86</sup> Of the several North Koreans he met during his March 2006 visit, "only one was in the category of refugee *sur place*".<sup>87</sup>

<sup>80</sup> "UN Official Decries Starvation in North", *Chosun Ilbo*, 19 June 2003.

<sup>81</sup> "World Refugee Survey 2004: Country Report China", United States Committee for Refugees and Immigrants.

<sup>82</sup> Suh, Hae-yong, "Sorrows and Pains", *op. cit.*

<sup>83</sup> Noh, Ok-jae, "Assessments and Prospects on the Actions to Improve North Korean Human Rights Condition", Peace Foundation Symposium, 11 July 2006.

<sup>84</sup> "World Refugee Survey 2006: Country Report China", U.S. Committee for Refugees and Immigrants.

<sup>85</sup> "Annual Report", Congressional-Executive Commission on China, 2005, available at [http://www.cecc.gov/pages/annualRpt/annualRpt05/2005\\_7\\_refugees.php](http://www.cecc.gov/pages/annualRpt/annualRpt05/2005_7_refugees.php).

<sup>86</sup> "50,000 North Koreans in China Need International Protection: Guterres", *Lusa News*, 23 March 2006 (in Portuguese). For more on the UNHCR position regarding the protection needs of North Koreans in China, see Appendix C below.

<sup>87</sup> "China: Guterres Meets North Korean Refugees on Visit to China", *Lusa News*, 23 March 2006 (in Portuguese).

Given the combination of crackdowns, slightly improved conditions in North Korea and the high cost of leaving, it is likely that fewer North Koreans are leaving today than during the peak famine years. At the same time, more and more are reaching third countries, with a record number possible this year. The constant threat of exploitation, arrest, and/or repatriation forces North Koreans in China to be invisible, precluding a reliable estimate. However, based on extensive interviews with asylum seekers and ethnic Korean Chinese, lower estimates in the tens of thousands seem most plausible.

#### A. TEMPORARY BORDER CROSSERS

A sizable number of North Koreans still cross into China for temporary stays, hoping to meet relatives, earn money, find food or medical treatment or acquire goods to sell at home. Their main goal is to amass cash and provisions to take back to family members in the North. North Koreans can receive official permission to visit relatives in China but the process is riddled with corruption and difficult to negotiate.<sup>88</sup> An invitation from the relatives is taken to a contact in the State Security Agency, along with \$125.<sup>89</sup> Applicants may wait for months before receiving a travel permit that grants them a one-month stay in China. Although many have relatives there, few can afford to pay the fees and bribes demanded by the State Security Agency. Those who can secure permission are sometimes allowed to extend their stay and usually return to North Korea with food, medicine, clothing and some cash. Although the number of families helped by such supplies is limited by the number of travel permits granted and how much security agents confiscate for themselves, this form of assistance is significant for two reasons. First, it takes much-needed goods as well as information into North Korea; secondly, it gives North Koreans legal protection throughout their journey.

Many more make the crossing without permission, risking arrest and imprisonment. Brokers who arrange for passage from inside North Korea to China charge up to \$1,250 and either escort their clients across the border or simply relay information about where and when it is safe to cross.<sup>90</sup> Some asylum seekers find their own way through North Korea's barely-functioning transportation system.<sup>91</sup> At the border, they sometimes avoid detection, relying on luck, their knowledge of the area, or tips and favours from family members associated with the border guards. In 2005 North Korean border guards collected bribes of

<sup>88</sup> Crisis Group interview, NGO worker, Seoul, March 2006.

<sup>89</sup> Crisis Group interview, north east China, April-May 2006.

<sup>90</sup> Crisis Group interview, defector, May 2005.

<sup>91</sup> Crisis Group interview, defector, Seoul, September 2006.



\$25-\$38 per head for crossing the Tumen River.<sup>92</sup> A South Korean missionary cites the current rate as closer to \$50, as do several defectors.<sup>93</sup> By comparison, the rate was \$13 in the late 1990s.<sup>94</sup> Women may offer sexual favours in lieu of money.<sup>95</sup> North Koreans trying to cross into China without money will sometimes promise to pay a guard upon their return. Because the Chinese guards patrol by car, it is easier to avoid detection there, and there are few accounts of “entry bribes”.

However, moving from different parts of the border to a safe place further inside China can be difficult and dangerous. One elderly woman walked for ten days to reach a town where she could hide.<sup>96</sup> Those who meet brokers at the border and travel under their guidance are still vulnerable to the border guards who patrol the area. In some cases, brokers turn out to be traffickers.<sup>97</sup>

Even during short stays, North Koreans in China live in constant fear of deportation. Most women enter into some kind of relationship with a Chinese or ethnic Korean man to gain a measure of protection. A minority survive on their own, working as waitresses in restaurants. Long-time observers in north east China say a majority of North Korean women in China have suffered some form of abuse, the most egregious cases involving systematic rape and prostitution. Men sometimes work on farms or factories but are more vulnerable to arrest and repatriation. On days when he could find a job, one man living in Yanji would work all day for \$2.50.<sup>98</sup>

Information about surviving in China and trying to reach third countries circulates through word of mouth and media outlets. Young North Koreans who venture into Chinese Internet cafes armed with a few keywords can quickly access a wealth of information about NGOs that support North Korean human rights and asylum seekers, sometimes making contacts to arrange for passage to South Korea.<sup>99</sup> But, ever vulnerable to repatriation and exploitation, North Koreans are wary of doing anything that could lead to arrest or trafficking.

Moreover, since NGOs have scaled back their activities, there is very little help for North Koreans living in China. Two active NGOs currently handle about 40 border crossers each. One group tries to blend North Koreans into urban areas, placing them in rented apartments and moving them periodically. NGOs may also arrange for Korean-Chinese in rural areas to house North Koreans in groups of two or three. Medical care seems to be available to those who can afford it but not many North Koreans or NGOs can.<sup>100</sup>

Forged documents can be important for getting around China. The crudest forged identification cards cost as little as \$10-\$25 but are easily spotted. Prices rise dramatically for cards with identification numbers actually included in the Chinese household registration system (*hukou*). Depending on quality, they start at around \$1,260.

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<sup>92</sup> Crisis Group interview, pastor and aid worker, Seoul, May 2006.

<sup>93</sup> Crisis Group interviews, north east China, April-May 2006, and northern Thailand, June 2006.

<sup>94</sup> Crisis Group interview, aid worker who used to work in China, Seoul, 12 April 2006.

<sup>95</sup> “Report on Daily Life”, Good Friends, op. cit.

<sup>96</sup> Crisis Group interview, refugee from Musan, China-North Korean border, 23 April 2006.

<sup>97</sup> Crisis Group interview, woman from Pyongyang, China-North Korean border, 29 April 2006.

<sup>98</sup> Crisis Group interview, refugee from Onsong, China-North Korean border, 27 April 2006.

<sup>99</sup> Crisis Group interview, South Korean NGO worker, Seoul, 24 March 2006.

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<sup>100</sup> Crisis Group interview, Médecins Sans Frontières worker, Seoul, 6 April 2006.



### **THE TALE OF RI JI-BOK: A JOURNEY OF HARDSHIP<sup>101</sup>**

Using a long stick as a crutch, a woman hops through the doorway of a Chinese farmhouse one afternoon. Easing herself onto the raised linoleum floor, she pulls off a white sock and shows a visitor what frostbite did to her right foot a few months earlier. All that remains of one toe is a blackened stump; two other toes are badly damaged and the rest of the foot is raw and red. It was worse when she arrived here late last year after escaping from North Korea, she says, but it is unlikely to heal properly – she does not have the money to pay for a doctor.

Ri Ji-bok starts to tell her story, massaging her foot as she talks, her worn face expressionless. She first came to this tiny farming village in Manchuria in 1998 after hunger hit her hometown, a coal-mining centre in north east North Korea. The government had not handed out rations since 1994 and she had survived by scrounging grain left in the field after the harvest. Rumours circulated about people who had fled north across the Tumen River. One day she just left, catching a train headed to the border town of Musan. Lacking the required travel document, she got kicked off repeatedly. She just kept boarding trains until one January day she reached the border and walked across the frozen Tumen river into China.

On the Chinese side, some traffickers found Ri, brought her to this village and sold her to a local farmer. Farming life was tough but considerably more comfortable than her previous life in the North – at least she could eat her fill of rice. It was not an existence free of worry, however. Ri was always extra polite to the neighbours, afraid they might report her to the police. Like thousands of other North Korean women in China, she had no legal right to be there. One day last year, her worst nightmare came true. The police told her they were going to “register” her. Instead, they took her to a detention centre across the Tumen River from North Korea. A few days later, she was driven across a bridge in handcuffs with a group of 30 North Koreans and handed over to the regime’s feared State Security agents. Why did you cross the river, they demanded to know? When did you go? Do you have any family? Kim said simply: “I told them I crossed the river because I was hungry”.

After two weeks of interrogation, she was transferred to a labour camp and put to work in a bean field. Meals consisted of porridge made from rotten corn meal. After a day's work, there were political study sessions in a room hung with portraits of North Korea's Dear Leader Kim Jong-il and his father Kim Il-sung. Inmates were told not to go back to China and forced to memorise a list of rules (including, she recalls: Don't sing foreign songs! Don't dance foreign dances!) She managed to conceal the baby she was carrying. But she was too slow for the liking of the guards. One day, her eye was injured when a guard hit her in the back of the head. When she asked for help, they ignored her. “Going to China was a serious crime”, they told her. “If you had any money, you would get medical treatment.”

Ri fled to China again as soon as she could, this time wading across the river before it froze for the winter. Her feet got soaked, and there was knee-deep snow on the Chinese side. A passer-by gave her a ride but at checkpoints on the main road, she had to get out of the car and circle around through the mountains. On one of these detours, she lost a shoe. That's when her toes froze. By the time she made it to a shelter, her foot was frostbitten.

Sitting by the window in the two-room farmhouse, she is nursing the baby she kept quiet about in the labour camp as she finishes her story. But she rarely smiles, and keeps her voice low, as if fearing detection. Kim may be able to register the child, she says, but her husband cannot afford the \$1,250 it would cost to buy her false identity papers. So she could get sent back across the river to North Korea again, back to a labour camp or worse. She still does not know why the police had her deported last year but she suspects a neighbour said something, and she knows if that happened once, it could happen again

<sup>101</sup> Crisis Group interview, China, 26 April 2006. Some details have been altered to protect the identity of the refugee.

## B. TRAFFICKERS AND RURAL BRIDES

Marriage between Chinese or Korean-Chinese men and North Korean women as a method of survival has evolved from isolated cases of introduction or referral to outright trafficking in persons. The demand for trafficked brides – a consequence of the one-child policy and preference for sons, combined with uneven development that has pulled young women into the industrial work force – is highest among older or disabled men in rural areas. In 2002, reports linked North Korean runners to Korean-Chinese operating as traffickers. Runners kept in touch with traffickers across the border via Chinese cell phones and received \$63 for each woman they led to the border. The women, regardless of their marital status, were sold for \$380-\$1,260.<sup>102</sup> Other reports corroborate this sum, citing broker fees from \$120-\$1,200 per woman, with brides in their late twenties typically costing \$380-\$630.<sup>103</sup> More recently, Chinese men have secured “introductions” to North Korean women, most of whom entered China since 2004, for \$880-\$1,890. Chinese brides, by comparison, are sold for \$3,780-\$6,300.<sup>104</sup> In some cases, a woman knows she is being sold into marriage, although she may not realise how harsh the conditions in China are. In other cases, women are lured across the border by marriage brokers posing as merchants. They are persuaded to pursue cross-border trade, and once on the Chinese side, they are completely vulnerable to extortion.<sup>105</sup> Traffickers have also posed as brokers, accepting payment to guide a woman out of China only to sell her as a bride.

With this so-called bride trade dating back to the early years of crossings, there is now a sizable group of North Korean women who have been married to Chinese nationals for nearly ten years. Despite the long-term, settled nature of their circumstances, these women face considerable barriers to securing legal Chinese residency. The state does not recognise their marriages, and the children they have are ineligible for registration on the *hukou* despite their father’s Chinese nationality. The stateless children have no legal protections and will not be able to pursue their education beyond middle school. Local officials sometimes accept bribes of \$125-\$378 to place these children on family registries. North Korean mothers can also be registered but most families can barely afford to register the children. Moreover, even if a woman or child is listed on the registry,

neighbours and local officials who know of the mother’s background are a threat to her security.

Rural locations provide relative safety from raids, but the authorities do appear in response to crime or reports of illegal immigrants. Sometimes, residents receive advance notice of “raids”, giving them a huge amount of leverage over their North Korean neighbours.<sup>106</sup> Being in favour with the authorities, or at least being able to afford bribes, can be crucial to the safety of North Korean women and their families.

Because the families that these women marry into are concentrated in farming, economic opportunities are limited. For those who are still in touch with home, sending money back to their families can be a source of strain on their relationships with husbands and in-laws. Runners who deliver cash collect either a flat fee of \$63 or 20-30 per cent of the remittance.<sup>107</sup> Another reported source of strain is the fear that wives will relocate to South Korea, abandoning their Chinese husbands and children.<sup>108</sup>

All North Koreans in China are at risk of extortion but women are especially vulnerable. Husbands may be abusive, and many keep their purchased brides under virtual house arrest lest she run away or be discovered by authorities. A broker may sell a woman into marriage and instruct her to run away once he has received payment only to catch and sell her again, sometimes repeating the scheme several times.<sup>109</sup> Many women fall prey to prostitution or are forced to work in places of entertainment.

For all their hardships and pain, women who enter into “stable” marriages are far better off than the many who are drawn into prostitution or trafficking rings. Three women who recently left China even had Han Chinese husbands who arranged for their passage to South Korea. Each paid only \$250 – about a tenth of the average cost – and was linked to the smuggling network by a long chain of her husband’s relatives and friends. They spoke fluent Chinese and said their husbands sent them away to escape crackdowns triggered by the approach of the 2008 Olympics. One woman said she definitely wanted to see her husband again, and the others agreed, though less emphatically.<sup>110</sup> All three have children who are still in China, speak Chinese and attend Chinese schools. One has been officially registered as his father’s son at a cost of \$125. A broker, who has been part of the network for nearly ten years,

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<sup>102</sup> “Never-ending Escape of North Korean Refugee”, *Chosun Ilbo*, 22 July 2002 (in Korean).

<sup>103</sup> Lankov, op. cit.; Lankov, “North Korean Refugees in Northeast China”, *Asian Survey*, vol. 4, issue 6, pp. 856-873, Nov./Dec. 2004.

<sup>104</sup> *North Korea Today*, Issue 12, Research Institute for the North Korean Society, Good Friends, 20 February 2006.

<sup>105</sup> Suh, Hae-yong, “Sorrows and Pains”, op. cit.

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<sup>106</sup> Ibid.

<sup>107</sup> Ibid; Crisis Group interviews, refugee from Chungjin, northern Thailand, 8 June 2006, and South Korean aid worker, Bangkok, 10 June 2006.

<sup>108</sup> Suh, Hae-yong, “Sorrows and Pains”, op. cit.

<sup>109</sup> “Invisible Exodus”, Human Rights Watch, op. cit.

<sup>110</sup> Crisis Group interview, Bangkok, 6 June 2006.

noted that men who send their wives out of China do so not out of sentiment or morality, but in order to secure Korean citizenship through official international marriages. The scheme, he says, is not new and is most effective when children are involved.<sup>111</sup>

### C. THE UNDERGROUND RAILROAD

Some North Koreans in China enjoy relative safety, but all are vulnerable to sudden arrest and possible repatriation. Many say that if they had some measure of legal protection, they would opt to stay. Given the harsh policies of the Chinese government, however, most have no choice but seek refuge elsewhere. The majority quickly learn that it is possible to reach South Korea, and an increasing number are also aware of possibilities to settle in the U.S. or other Western countries. However, many lack concrete information and reliable contacts. The vast majority simply do not have the money to pay a broker. Unwilling and unable to return to North Korea, they are essentially stuck in China. The most hopeful either have the support of NGOs or relatives in South Korea. Some NGOs ask North Koreans to repay them once they are in the South but with low wages and unstable working conditions, it is nearly impossible for a North Korean to save enough to hire a broker on his or her own.

When North Koreans in China first started to seek passage to South Korea, network operators supplied them with fake passports and plane tickets. But at \$10,000 a head, the scheme was cost-prohibitive. The high barrier encouraged North Koreans and activists to pursue other routes to safety, including foreign mission sit-ins and requests for asylum or transfer in third countries.

NGOs started to drop out of the smuggling network as China began to crack down on asylum seekers and arrest their helpers in the late 1990s. Financial constraints also squeezed them out, as church groups who initially provided funds apparently grew wary of South Korean government audits.<sup>112</sup> Some NGOs have reduced their scope to in-China operations, shying away from transfers to South Korea or third countries. Others have turned to promoting change inside North Korea through aid, economic development and information sharing.

Around 2002, North Korean defectors already in Seoul started to fill the gap. For those short of job skills and struggling to find and keep work in South Korea, brokering was profitable, though dangerous. Many had access to contacts inside North Korea and China. Moreover, they had taken the underground railway themselves and could communicate effectively with North Koreans trying to

leave home or get out of China. Most of the North Korean “brokers” do a few operations on an ad hoc basis, usually to help family members or friends; only a handful are full-time professionals.<sup>113</sup> Since Seoul cut cash subsidies by two thirds at the end of 2004, defector-brokers have also been dropping out of the network.

A small number of NGOs with diverse backgrounds and agendas continue to move people on the underground railway. One, run by a former aid worker, specialises in helping asylum seekers with information about human rights abuses. Another focuses on securing safe passage out of the North for South Korean POWs. Durihana and Helping Hands Korea are among the Christian groups that both shelter North Koreans in China and move them to third countries.<sup>114</sup> A Japan-based NGO helps Korean-Japanese return to Japan. Citizens’ Alliance for North Korean Human Rights, based in Seoul, focuses on protecting young asylum seekers and brings a handful to South Korea each year.<sup>115</sup> It is not uncommon for NGOs to hire brokers when moving people out of North Korea or China.<sup>116</sup> Most of these NGOs have only a handful of paid staff and operate on a shoestring budget but often have North Korean defectors on their payrolls.

Organisations differ in their access and attitudes toward the media. Some shy away from the public eye and insist North Koreans are safest when operations are kept as quiet as possible. Others welcome the attention and use it as a tool to increase awareness, support and legitimacy, not least for influencing government policies. One activist credits media coverage with forcing China and South Korea to engage on the issue of North Korean asylum seekers.<sup>117</sup> Press coverage and international attention may or may not have been the driving force behind China and South Korea’s efforts at quiet diplomacy, but when this channel is operating, it offers the safest and most desirable route.

While there is value in increasing public awareness about the plight of vulnerable populations, there is almost always a backlash to such campaigns. Concerned about stability and order, China tends to crack down after major events on North Koreans in hiding, sending warning signals lest others be encouraged to follow their example.<sup>118</sup>

<sup>111</sup> Crisis Group interview, Bangkok, 10 June 2006.

<sup>112</sup> Crisis Group interview, NGO worker, Seoul, May 2005.

<sup>113</sup> Crisis Group interview, defector and NGO worker, Seoul, January 2005.

<sup>114</sup> Helping Hands Korea website: <http://www.familycare.org/network/p01.htm>; Durihana website: <http://www.durihana.com/> (for Korean) or <http://www.durihana.net/> (for English).

<sup>115</sup> Crisis Group interview, Benjamin Yoon, Seoul, 14 March 2006.

<sup>116</sup> Crisis Group interviews, South Korean pastor and activist, 12 April 2006, and broker, 12 May 2006; Bill Powell, “Long Walk to Freedom”, *Time* (Asia), 23 April 2006.

<sup>117</sup> Crisis Group interview, NGO worker, Seoul, May 2005.

<sup>118</sup> Lee Keum-soon, “The Border-Crossing North Koreans: Current Situations and Future Prospects”, Korea Institute for

When strains cause quiet diplomacy to go public, countries scale down drastically their role in the network, partly to preserve relationships with North Korea, China and South Korea, but also because they do not want to be known as a target country for illegal migrants or floods of asylum seekers. This happened after the Vietnam airlift in 2004. But quiet diplomacy has had important successes.

### 1. **Shortcut: over the wall or through the front door**

A significant number of North Koreans reach freedom directly from China, either through scaling the wall of a diplomatic mission or, as the barbed wire has gotten thicker, by walking through the front door using forged documents. In June 2001, a family of seven, who became known as “Gil-su’s Family”, entered the UNHCR office in Beijing, demanding refugee status and entreating the international community to aid North Koreans in China.<sup>119</sup> They were released to Seoul via third countries for “humanitarian” reasons. The next year saw a string of foreign mission incursions, starting in March when 25 asylum seekers entered the Spanish embassy in Beijing. Asylum seekers subsequently forced their way into South Korean, Japanese, German, and Canadian missions or schools.<sup>120</sup>

Such incursions have also occurred in South East Asia. Targets have included the French and Swedish embassies in Hanoi in December 2004, the U.S. embassy in Vientiane in January 2005 and the Thai embassy in Hanoi in July 2005.<sup>121</sup> They took a new twist in May 2006 when four North Koreans whose transfer to South Korea was pending left the South Korean consulate in Shenyang by scaling a wall to enter the adjacent U.S. consulate after hearing that the U.S. had resettled six countrymen.<sup>122</sup> Three were given passage to the U.S.; one was rejected for having ties

to North Korea’s State Security Agency but no valuable information for U.S. intelligence.<sup>123</sup>

Journalist Jasper Becker alleges the Chinese have punished embassies in Beijing that have given refuge by not allowing the asylum seekers to leave for five or six months.<sup>124</sup> He says in the first years of the famine, Beijing did not have a fixed policy on the issue, and ties with North Korea were strained. Only in 1999 and 2000 did it organise police action against North Koreans on a large scale. It was a top-down policy before it became a local police effort, which is what impelled NGOs to attract international attention and apply pressure by encouraging incursions. In response, Becker says, China started arresting the people behind the actions and made it more difficult for them to work along the border. At least some NGOs, however, say there was always Chinese pressure, and it is unfair to blame the embassy incursions.

The incursions have been criticised by some observers as exploitive and counter-productive. Detractors decry the fees paid and profits made by opportunistic (usually Japanese) broadcasting stations, saying the victims are the North Koreans remaining in China, whose hiding places are often disclosed during exit interviews.<sup>125</sup> While it is difficult to attribute specific crackdowns to the incursions, North Korea has certainly taken notice. In March 2006, it issued warrants for the arrest of four Japanese NGO workers suspected of participating in planned defections.<sup>126</sup>

Many more embassy incursions go unreported in China and South East Asia, with the governments involved quietly working out a mutually acceptable solution.<sup>127</sup> Foreign missions are usually willing to cooperate with Chinese authorities to improve embassy security to avoid future “invasions”, so network operators use illegal documents to get North Koreans through the front door, at which point they can declare their purpose.<sup>128</sup> In virtually all such cases, Chinese authorities eventually allow the North Koreans to leave the country, usually for South Korea.

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National Unification, Studies Series May 2006; Crisis Group interview, former network operator, Seoul, 31 May 2006.

<sup>119</sup> “Regarding the Action Taken by the Jang Gil-su Family in Beijing”, Statement by Japan-based NGO Rescue North Korean Refugees, available at <http://www.bekkoame.ne.jp/ro/renk/en/701repo2.htm>.

<sup>120</sup> James Kynge and Andrew Ward, “N. Korean Asylum Seekers Invade Embassy”, *Financial Times*, 15 March 2002; “29 North Korean Defectors Burst into Japanese School in Beijing”, Radio Free Asia, 1 September 2004; “Four N. Koreans Arrive in Seoul via Singapore”, *Chosun Ilbo*, 16 July 2004; “44 North Koreans Storm Canadian Embassy in Beijing”, Radio Free Asia, 29 September 2004.

<sup>121</sup> “North Koreans Enter Swedish Embassy in Hanoi”, Agence France-Presse, 22 December 2004; “North Korean National Enters U.S. Embassy in Vientiane”, Agence France-Presse, 19 January 2005; “Koreans Get Asylum”, *Bangkok Post*, 7 July 2005.

<sup>122</sup> “Four North Korean Defectors Bind Staff, Escape to U.S. Consulate in China”, *Chosun Ilbo*, 20 May 2006 (in Korean).

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<sup>123</sup> “Three North Korean Defectors on Their Way to U.S. from U.S. Consulate in China”, *Chosun Ilbo*, 25 July 2006 (in Korean).

<sup>124</sup> Press conference, Seoul, June 2005.

<sup>125</sup> “Japanese Broadcasting: Cash Flows for Embassy Incursions”, *The Korean NGO Times*, 14 March 2005 (in Korean).

<sup>126</sup> Lee Young-in, “North Korea and Planned Defections: Warrants for Arrests of Japanese Suspects”, *Hankyoreh Shinmun*, 3 March 2006 (in Korean).

<sup>127</sup> Crisis Group interviews, various Asian capitals, March-September 2006.

<sup>128</sup> Choe Sang-Hun, “‘Traitors’ of North Korea plead desperately for asylum”, *International Herald Tribune*, 26 September 2006.

### **MEET A BROKER: PRETTY SLICK FOR A SAINT<sup>129</sup>**

BJ Kim, 45, became a broker for the money. But six years (including nineteen months in Chinese and South Korean jails) can change a man. He is still in the game but, he claims, no longer because of the tidy sums that can be made. Kim first got involved in 2000, after meeting some North Koreans and early network operators during frequent business trips to China. Back then, the *modus operandi* was to supply defectors with fake passports and plane tickets to Seoul. The forged documents cost about \$3,000, friends in high places about \$5,000. Defectors paid \$10,000 each, leaving the broker a profit of up to \$2,000 a head, enough to attract a 30-something South Korean businessman.

As with all competitive markets, this one required players to adapt and innovate to stay afloat. Street-smart and resourceful, Kim rode the wave of get-out-of-China schemes over the next two years: breaking into consulates or international schools (cheap and fast, but risky); drawing media attention (just enough to win some cover and sympathy, but not enough to show his hand); and using just about every combination of bus, train, car and footpath across China and through its porous borders – a simple and effective formula when sprinkled with the right sums of cash pressed into the right hands at the right moments.

But China and North Korea soon began cracking down hard on asylum seekers and those trying to help them. In late 2002, Chinese police arrested one of Kim's local guides and used her to track him down as well. He served fifteen months in jail, receiving virtually no help from South Korean officials. He is banned from China until 2008. After his release and deportation to South Korea, he was arrested again, this time for his part in the forged South Korean documents that brought North Koreans to safety. After another four months in jail, he had little desire to stay in South Korea. He had, after all, been jailed and heckled for helping to save lives. Moreover, by now Kim had so much of his own life invested in helping North Korean asylum seekers that it was no longer a question of money. What mattered to him first was getting them to safety and secondly, clearing his reputation as a profit-seeking "broker". He has been away from South Korea for a year.

Today, Kim takes cases from missionaries or NGOs who approach him with groups of four to ten asylum seekers. Lately, he has been using a new, cheaper route that he thinks is safer as well. He is given \$2,000 a head and distributes the bulk of it to local guides, who each negotiate a segment of the journey. He keeps \$200-\$300 from each successful mission, and although he claims they have all been successful (so far), it does not amount to much. He covers unexpected costs, such as extra bribes, out of his own pocket, and his caseload is unpredictable.

With his two cell phones always close at hand, Kim is often on the road for several days at a time, but his lifestyle leaves him a lot of down time. He keeps busy with related schemes, such as arranging for cash to be delivered to North Koreans from relatives in South Korea or China, and has his hand in several pet-projects. A South Korean pastor who has become an old friend has asked for help in improving two struggling orphanages. Kim also serves as a deacon at a small local church. Some mornings, he plays golf and is learning the local language. It comes easily for him, and English is next so he can do more advocacy work.

Despite his change of heart, there is more than a shade of cynicism in his appraisal of others. He says that pastors and NGOs may seem like they are financing operations but they make sure defectors pay them back. The North Koreans themselves are selfish, opportunistic and prone to lie. He doubts the skill and political clout of other guides and aid workers. Still, Kim speaks with passion and conviction about helping North Koreans escape to safety and is taking serious personal risks to do so.

<sup>129</sup> Crisis Group interviews, September 2005 and 9-10 June 2006. Personal details have been altered to protect individuals.

## 2. Difficult passage

According to NGOs and guides who claim to have purely humanitarian motivations, getting someone from the border area in the north east to South East Asia costs at least \$2,000-\$3,000. Some defector groups based in South Korea have charged as much as \$5,000-\$6,000, offering better security for the higher cost.<sup>130</sup> A South Korean NGO claims that for \$10,000, a potential defector can receive fake documents that are so good the individual can go from his home in the North to Seoul in as few as five days.<sup>131</sup> Brokers with higher fees and supposedly “strong connections” say that a weak network will lead to clients in China getting caught and sent back to North Korea in seven out of ten cases. Around 2005, brokers started asking for money upfront, possibly in response to Seoul’s new policies regarding resettlement funds, which reduced lump sum cash payments.<sup>132</sup> Often, family members who have already arrived in South Korea work two or more jobs to guarantee the payment.

A South Korean broker describes his operations: South Koreans with family members in the North contact him. He gets an address from them and passes it to his Chinese partners, who have contacts in North Korea. It is rare for somebody in the North to change their permanent residence, and if they do the relatives will know about it, so using that address, the family member is located. If he or she lives close to China, the broker stays in touch directly, using a Chinese cell phone. To avoid detection, an exact time is set for the call, and cell phones are switched off before and after the conversation. If the family member is far from the border, Korean-Chinese partners who can freely enter the North without drawing much attention meet the target and give instructions. If a family member of the client has a criminal record or the authorities know the client’s family has fled to another country, there is always the danger of being watched by the North Korean police. Still, continuous surveillance is rare, and the partners are usually able to make contact. A broker said:

In most cases, the family member living in North Korea is not certain where his family members are. He assumes that they are living in China. So when they are approached by the broker’s Chinese partners, they are told that his family lives in China. Then they are given details about how much his mother or brother or sister misses him and how much they want him to join the family in China. Some of the North Koreans who are approached are hesitant at first, but most of them eventually agree

to escape because they believe they can make more money in China and come back to North Korea later in better shape. Once a North Korean is out of his country, he changes his mind easily. He is shocked that there is so much freedom compared to his country even in places like Yanji, and after he talks to his family in South Korea on the phone, his mind is set. He wants to go to South Korea.<sup>133</sup>

Brokers typically move groups of three to ten at a time. Once the broker has enough clients to form a group, he gathers them from their hiding places to a bus terminal or other meeting place. The group is comprised of strangers from different parts of the country, who have lived in different parts of China for varying periods. They are passed from one guide to another, each responsible for a specific leg of the trip: Yanbian to Beijing, for example, or Beijing to Yunnan Province in the south. The guides, ethnic Koreans or locals, are essentially field agents hired by the main broker.<sup>134</sup>

There are two main routes out of China. The first is the northern route over land to Mongolia or Russia; the second is the southern route over land and/or river to South East Asia.<sup>135</sup> Land routes to South East Asia generally lead to either Vietnam or Laos; Burma is less common. From Yunnan Province in southern China, guides take asylum seekers to the border. Some pass through check points staffed by border guards who are bribed; others take the risk of trying to circumvent the checkpoints altogether. Still others separate from their drivers and lead clients across the mountainous border on foot. While the mountains that separate China and Laos can take a full day and night to cross, the path is well known and safe but for the physical strain.<sup>136</sup> In February 2006, a Korean Broadcasting System film crew accompanied defectors from the China-North Korea border to Bangkok.<sup>137</sup>

The physical demands of mountain crossings and the cost of bribing Laotian officials have led to the pioneering of a water-route along the Mekong River. Normally, the one-and-a-half to two-day passage on a cargo boat from southern China to the Golden Triangle costs up to \$40 a day. The fine for leaving Guan Lei with one illegal immigrant is \$2,520. Boat captains, who are paid modest salaries, rather than wealthier ship owners, are charged with responsibility for transporting illegal immigrants. There

<sup>130</sup> Crisis Group interview, NGO worker, Seoul, January 2005.

<sup>131</sup> Crisis Group interview, NGO worker, Seoul, 14 March 2006.

<sup>132</sup> Crisis Group interview, NGO worker, Seoul, May 2005.

<sup>133</sup> Crisis Group interviews, Bangkok, September 2005 and May 2006

<sup>134</sup> Crisis Group interviews, aid workers, Seoul, 12 April 2006 and Bangkok, 4 June 2006.

<sup>135</sup> Aidan Foster-Carter, “N. Korea Refugees Beginning of a Flood?”, *Asia Times Pyongyang Watch*, 28 July 2004.

<sup>136</sup> Crisis Group interviews, 7-10 June 2006.

<sup>137</sup> “In Depth 60 Minutes”, KBS TV, 15 February 2006 (in Korean).

have been no cases in which this fine has actually been collected. North Koreans are usually dropped off on the Laotian side of the river.<sup>138</sup>

#### **D. FORCED REPATRIATION**

According to reports from NGOs and network operators, North Korea has tightened the border, targeting brokers and defectors. Smuggled video footage of public executions in 2005 involved charges of trafficking in people and illegal border crossing.<sup>139</sup> In February 2006, 300 people were arrested in the Northern border town Hoeryong for planning to defect or having connections in South Korea or China.<sup>140</sup> In May, 217 North Korean agents posing as asylum seekers were rumoured to have been deployed to China as part of a broad information-gathering operation.<sup>141</sup>

China continues to arrest and repatriate North Koreans without referral to the UNHCR, despite international scrutiny and direct pleas from the U.S. State Department urging compliance with UN conventions.<sup>142</sup> It also targets the missionaries, aid workers and brokers involved in sheltering or transporting North Koreans. Observers in China and South Korea attribute current crackdowns near Shenyang to a “clean up” campaign in preparation for the 2008 Olympics.<sup>143</sup> North Koreans who had lived in China for several years cited pre-Olympic measures as a motivating factor for their recent flight to South Korea.<sup>144</sup>

Based on Crisis Group interviews with aid workers, an estimated 150-300 North Koreans are repatriated from China every week.<sup>145</sup> The large numbers of border crossers have caused the North Korean government to ease sentences and change the penal code. The 1999 version distinguished between “unlawful border crossing” and crossing “with the intent to overturn the Republic”.<sup>146</sup> The 2004 revision further distinguishes between “crossing” and “frequent crossings”. According to the latter version, “frequent crossing” of the border without permission is a

criminal act punishable by up to two years in labour camps (three years in the 1999 version). Acts of treason, such as “surrendering, changing allegiance, [and] handing over confidential information”, are punishable by five to ten years of hard labour, or ten years to life in more serious cases.<sup>147</sup> Despite some changes in the law, however, the political and sometimes arbitrary use of imprisonment, torture and capital punishment continues. Punishments tend to depend on the age, gender and experiences of repatriated North Koreans.<sup>148</sup>

Women and children have received sentences as light as two weeks in a detention centre, but longer sentences of several months in labour camps are also common. The consequences of repatriation are most severe for pregnant women, who suffer forced abortions under poor medical conditions, and those who confess to meeting with South Koreans or missionaries.<sup>149</sup> Summary executions and long sentences of hard labour are still enforced, though authorities are wary of prisoners falling ill and dying on their watch.<sup>150</sup> Those who seem close to death are released, often only to die the next week. Many prisoners take advantage of the opportunity to escape when transferring from labour training camps to provincial detention centres or go back to China after they are released. As many as 40 per cent of those repatriated to North Korea re-enter China.<sup>151</sup>

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<sup>138</sup> Crisis Group interviews, Chiang Rai immigration officer, 6 June 2006 and border area resident, 7 June 2006.

<sup>139</sup> Amnesty International Report 2006, available at <http://web.amnesty.org/report2006/prk-summary-eng>.

<sup>140</sup> Crisis Group interview, defector, May 2005.

<sup>141</sup> “217 North Korean Agents Deployed to China”, *Mirae Hanguk*, 3 May 2006.

<sup>142</sup> “Statement on China’s Treatment of Kim Chun-hee”, White House Press Release, 30 March 2006.

<sup>143</sup> *North Korea Today*, Good Friends Research Institute for North Korean Society, No. 29, July 2006.

<sup>144</sup> Crisis Group interview, 6 June 2006.

<sup>145</sup> Crisis Group interview, Tim Peters, 31 January 2006.

<sup>146</sup> Lee Keum-soon, “The Border-Crossing North Koreans: Current Situations and Future Prospects”, Korea Institute for National Unification, Studies Series, May 2006.

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<sup>147</sup> *Ibid.*

<sup>148</sup> *Ibid.*

<sup>149</sup> Hawk, “Hidden Gulag”, *op. cit.*

<sup>150</sup> Joel Charny, “Acts of Betrayal”, Refugees International, April 2005.

<sup>151</sup> “100,000 Refugees: Grim Life in China”, *Dong-A Ilbo*, 27 February 2002 (in Korean).

## V. LEAVING CHINA

Since Beijing began to round up and return North Koreans in the border region, forcing them to go underground, a growing number have decided to move to other countries. The vast majority of North Koreans arriving in China come seeking a respite from the hardships back home and have no intention of resettling in the South. However, forced repatriation and the ensuing harsh punishments have led a growing number to decide to seek asylum in a third country. This section examines the policies of China's neighbours toward North Koreans and the journeys that are long and dangerous, particularly because of the border crossing and the cat-and-mouse game that must be played with China's Public Security police. As a general rule, the farther a North Korean gets from the China-North Korea border, the less likely he will be forcibly repatriated.

### A. THE NORTHERN ROUTE

#### 1. Mongolia

Despite often extreme temperatures and little ground cover, escape through Mongolia has been an option since the late 1990s, with hundreds making the journey each year. Mongolia enjoys good relations with both Koreas, but harbours a deep mistrust of China and is firmly committed to not returning North Koreans.<sup>152</sup> Unlike Seoul, which has repeatedly denied the Dalai Lama a visa in deference to Beijing, Ulaan Bataar has hosted the Nobel Peace Prize laureate several times, most recently in August 2006. When he was in Mongolia four years before, Beijing shut down the only railway line into the country for several days for "technical reasons".

In dealing with North Korea, Mongolia points to its own Stalinist past and recent transition to a market-oriented democracy, and tries to act as a "not Western" and non-threatening "transition consultant".<sup>153</sup> After closing its embassy in 1997 for financial reasons, North Korea reopened it in November of 2004, at Mongolian expense. The two countries engage in cultural dialogue as well as technical assistance and training. Mongolia also has hundreds of North Koreans working in its mines and on construction projects. Several Mongolian officials suggested they would be willing to expand the guest worker program.<sup>154</sup>

Mongolia typically quietly passes North Koreans on to the South. When China and North Korea began cracking down on asylum seekers in 1999, NGO workers hoping to expedite them out of China considered Mongolia as a potential "safe haven", an idea picked up by the international media. An official refugee camp would have to be run through the UNHCR, but despite official declarations of intent, the UNHCR has no office in Mongolia. Neither South Korea nor the U.S. pushed for the camp, and the Mongolian government confirmed it had no such plans.<sup>155</sup> Prime Minister Nambaryn Enkhbayar said: "Mongolia does not want to offend anyone. We are a small country. We are also not a direct neighbour to the two Koreas".<sup>156</sup> However, in an interview with *The New York Times*, Foreign Minister Munh-Orgil reiterated the policy of receiving North Koreans and allowing them passage to South Korea: "They cannot be pushed back into Chinese territory, no matter who they are".<sup>157</sup> Mongolians seem personally sympathetic to North Koreans. In response to September 2003 press reports concerning 26 asylum seekers facing deportation, citizens said they were opposed to the move.<sup>158</sup>

Today, Mongolia is considered one of the more dangerous routes out of China. According to network operators, Chinese security extends up to 50 km. on either side of the train line that defectors ride into the country.<sup>159</sup> Mongolian and Korean officials are unable to offer any aid until North Koreans have crossed the border. A South Korean Christian organisation, Mujigae (Rainbow) Coalition, has been allotted a large plot on which it is building a 430-square metre two-story building, which will be the site of a "welfare town" providing social services to refugees currently in Mongolia, including 400-600 North Koreans.<sup>160</sup> Officials are concerned about a rising tide of North Korean asylum seekers, however. In 2003, 100 North Koreans travelled from Mongolia to South Korea, and the number has increased considerably since.<sup>161</sup>

<sup>155</sup> Ibid.

<sup>156</sup> "South Korea Plans Transit Camp in Mongolia", *Taipei Times*, Ulaan Bataar, 29 September 2003.

<sup>157</sup> James Brooke, "Mongolia Under Pressure to Serve as Haven for Refugees", *The New York Times*, 22 November 2004.

<sup>158</sup> "Mongolia: A dispute rises over freedom of 26 North Korean Refugees", Liberty Centre, 16 September 2003.

<sup>159</sup> Crisis Group interview, Seoul, July 2006.

<sup>160</sup> "In Mongolia, a Hometown for North Korean Refugees", *Gidok Ilbo*, 20 March 2006.

<sup>161</sup> Brooke, "Mongolia under Pressure", op. cit.; Crisis Group interview, Mongolian officials, Ulaan Bataar, 17 May 2006.

<sup>152</sup> Crisis Group interviews, Mongolian officials, Ulaan Bataar, 16-18 May 2006.

<sup>153</sup> Jehangir S. Pocha, "A Softer Approach to North Korea", *International Herald Tribune*, 18 March 2005.

<sup>154</sup> Crisis Group interviews, Ulaan Bataar, Mongolia, 16-17 May 2006.



## 2. Russia<sup>162</sup>

While more North Koreans take the northern route to Mongolia, a smaller group goes to Russia. In 1998, the estimate was 200-300, but it increased to 2,000 by 2004.<sup>163</sup> Since then, the number of North Koreans seeking to leave through Russia has fallen by more than half.<sup>164</sup> Russia is a signatory to the 1951 Convention Relating to the Status of Refugees, and refugee protection has been incorporated into national law. The UNHCR Moscow office was established in 1993, but many asylum seekers never reach it. Instead, local authorities confront and detain North Koreans. The vast majority enter Russia legally as loggers or construction workers, but some come illegally through China. Direct crossing from North Korea is uncommon because the border is formed by the wide mouth of the Tumen River. One NGO is known to still use the "Siberian" route, from China or across the North Korean border with Russia, then north to Yakutsk and east to Vladivostok or Khabarovsk or west to Moscow, where asylum is sought at the UNHCR office.

In October 2004, shortly after passage of the North Korean Human Rights Act in the U.S., a North Korean construction worker applied for asylum at the American consulate in Vladivostok. He was later resettled in South Korea. Asylum bids have been made at the South Korean consulate as well, with cooperation by South Korean officials varying from case to case. Russian authorities exercise a rather arbitrary policy, sometimes sending North Koreans directly home or returning them to China, at other times turning a blind eye or quietly facilitating transfer to South Korea.<sup>165</sup> The then-governor of Primorye, Sergei Darkin, once offered to accept as many as 200,000 asylum seekers to counter the region's "No people, no development" problem.<sup>166</sup>

## B. THE SOUTHERN ROUTE

The southern route to South East Asia has emerged as the most frequently used over the last several years. Most governments in the region are in the delicate position of not wanting to become magnets for North Koreans while at

the same time trying to maintain friendly relations with the two Koreas. Burma, Cambodia, Laos, Thailand and Vietnam all enjoy (or, in the case of Burma, will soon have) diplomatic relations with both. While several have closer political or personal ties to the North (the former king of Cambodia spent the 2006 winter in Pyongyang), burgeoning economic ties with the South overshadow political loyalties. Public declarations of solidarity are countered by private admissions that the North is a burden. Still, reaching safety by passing through China's immediate neighbours is risky. While actual repatriations may be rare due to the expense and bureaucratic hassle, Burma, Laos and Vietnam are less than welcoming. The first has been known to jail North Koreans for up to a year under horrible conditions, while the other two have borders guards who will try to hold asylum seekers for ransom. The most common route is through the mountainous jungle passes of the Golden Triangle, an area known for drug-smuggling and lawlessness.

## 1. Vietnam

As the continuing embassy incursions in Hanoi described above suggest, Vietnam at first glance looks as intolerant toward North Korean asylum seekers as China. One of the five at least nominally communist countries remaining, it has maintained close relations with the North and an official policy of repatriating North Korean citizens. However, a closer look suggests that relations are more endured than enjoyed. Trade is almost non-existent, while Seoul has emerged as a leading commerce and investment partner. Moreover, Vietnamese officials have found their Northern counterparts so burdensome that if they are to travel at Hanoi's expense, North Korean officials must now do so by train, thus severely curtailing visits.<sup>167</sup> As the Vietnamese economy becomes more open, there are growing reasons for Hanoi to side quietly with Seoul on the refugee issue (and Washington, judging from the enthusiastic reception Secretary of Defence Rumsfeld received during a May 2006 visit) rather than Pyongyang.

Until 468 were flown to South Korea in July 2004, Vietnam was the preferred South-East Asian escape route for North Korean asylum seekers due to its less mountainous terrain. Since then, Vietnam has tried to tighten its border controls. Accounts of the circumstances leading up to the mass airlift vary. One NGO worker says Seoul was preparing for a change in defector settlement policy in 2003. Speculation about cuts in resettlement funds encouraged brokers to move people out before this went into effect, contributing to a backlog in Vietnam.<sup>168</sup> Others say the number of North Koreans going to the Vietnam safe houses increased rapidly because network

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<sup>162</sup> Russia's relations with North Korea will be the subject of a future Crisis Group report.

<sup>163</sup> 1999 and 2005 Korea Institute for National Unification White Papers.

<sup>164</sup> Crisis Group interview, Russian official, March 2006.

<sup>165</sup> Russian diplomat quoted in James Brooke, "Russia Turns Sour on North Korean Refugees", *The New York Times*, 3 January 2005.

<sup>166</sup> James Brooke, "Slavic Loss Could Turn into Gain for Korean Refugees: Governor of Russia's Primorye Region Has a Home in Mind for about 150,000 People", *The New York Times*, 9 December 2003.

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<sup>167</sup> Crisis Group interviews, diplomats, Hanoi, 5-7 June 2006.

<sup>168</sup> Crisis Group interview, Seoul, February 2006.

operators knew they had been set up. The four largest were run by South Koreans living in Vietnam.

According to a South Korean businessman familiar with the Vietnam operations, brokers working for profit ignored the consequences of “dumping” defectors across the border and paid the high cost of losing the route.<sup>169</sup> Safe houses were overcrowded, sparking disputes over the well-being of the North Koreans. As numbers increased, the South Korean government sought to process defectors more quickly but it was overwhelmed. The safe house operators had to shut down, were jailed, then barred from Vietnam for five years. South Korea promised them protection, resettlement funds and official recognition for their deeds, but has not followed through. Nevertheless, Vietnam’s place on the railway has not been eradicated. The country is still used as for transit, but increasingly asylum seekers are using taking difficult routes through Burma and Laos.

## 2. Burma (Myanmar)

Some North Koreans leave China through Burma each year. Those who are caught by Burmese authorities face trial and up to a year in jail but Burma has not repatriated any to China.<sup>170</sup> The government has come under pressure by North Korea to re-establish diplomatic ties, which were severed in the wake of the bombing of South Korean officials in Rangoon in 1983. Burma “made the final decision” to do so in April, prompting suspicion that the two sides are eager to trade weapons for energy, and announced the move at the Fourteenth Summit of the Non-Aligned Movement in Havana in September 2006.<sup>171</sup> Yet, South Korea remains an active investor in Burma and has the largest foreign community in Rangoon.

Burma is also used as a transit country. In order to circumvent checkpoints further down the Mekong River, North Koreans cross the Sino-Burmese border into a region of Shan State controlled by the United Wa State Army (UWSA), an armed insurgency group responsible for drug production and trafficking.<sup>172</sup> UWSA also controls several piers along the Mekong, using them to smuggle banned goods to neighbouring countries. Asylum seekers follow the same course, stowing away on Chinese cargo ships and staying clear of the unpredictable fighting among insurgency groups and the Burmese military further inland. The ships carry the North Koreans down the river to Laos or Burma’s southern border. There, footpaths and roads run from the Mekong to a stream

marking the Thai border. It can easily be crossed on foot, conveniently leaving North Koreans in the vicinity of the local immigration centre.

## 3. Laos

In almost all cases, Laos, where crushing poverty prevents effective border policing, is simply a transit country. Vientiane has experienced few embassy incursions because Thailand is just a river crossing away. While the government remains in a political and economic time warp, diplomats suggest it is quietly cooperative on refugee issues.<sup>173</sup> Official passage to and from Laos requires a passport but North Koreans can easily sneak across the border.<sup>174</sup> Laos declared in March 2006 that it would enhance security near the border to prevent defectors from coming over, and a network operator active in South East Asia has noticed the effect in the northern regions.<sup>175</sup> However, he says, crackdowns do not necessarily mean the North Koreans are in danger of repatriation, because there are many opportunities to negotiate the release of a client. A businessman who lives and works in the Golden Triangle area affirms that bribery and malfeasance are common. Although Laos is communist, its officials are not under tight central control, and the state’s lack of resources render it less influential than the local mafia.<sup>176</sup>

While there have not been any sudden spikes in bribes, the amount demanded can be arbitrary. The price to buy someone out of Laos has averaged \$300-\$500. If after negotiations, which can sometimes take weeks, the price is still too high, guides may let authorities send the North Koreans back to China since they can usually be bought out from the Chinese guards along the border for less. If a client is moved all the way through the repatriation process, guides can even contact someone in North Korea to help the client escape from North Korean interrogation.<sup>177</sup> Instead of quietly paying for their release, other operators have raised flags about Laos’ alleged repatriation of North Koreans. A South Korean missionary appealed to the international community via the media for the release of nineteen North Koreans in two separate cases.<sup>178</sup>

Once the mountainous border with China is crossed, asylum seekers cross the country, perhaps staying a night in a local contact’s house. The jungle paths along

<sup>169</sup> Crisis Group interview, Seoul, 31 May 2006.

<sup>170</sup> Crisis Group interviews, Rangoon, February 2006.

<sup>171</sup> “Myanmar to Re-establish its Ties with North Korea”, Agence France-Presse, 12 April 2006; “Two Outposts of Tyranny Restore Ties”, *Chosun Ilbo*, 31 August 2006.

<sup>172</sup> Crisis Group interview, 10 June 2006.

<sup>173</sup> Crisis Group interviews, Vientiane, 8-9 June 2006.

<sup>174</sup> “In Depth 60 Minutes,” KBS TV, 15 February 2006 (in Korean).

<sup>175</sup> *The Nation* (Bangkok), 29 March 2005. Crisis Group interview, 10 June 2006.

<sup>176</sup> Crisis Group interview, Burma, 7 June 2006.

<sup>177</sup> Crisis Group interview, aid worker, 10 June 2006.

<sup>178</sup> “Urgent Appeal to the International Community”, Human Rights without Frontiers, 9 June 2006; “Nine NK Defectors in Laos Face Repatriation: Missionary”, *Yonhap News*, 20 July 2006.

the Mekong River, which serves as the border with Thailand, are well-worn and safe. Once North Koreans reach an unguarded crossing point, they board a ferry or small boat (essentially a water taxi) and cross to Thai territory. This normally costs about \$3 and is typically the last transaction a guide manages for his client.<sup>179</sup> Once North Koreans set foot in Thailand, they are on their own. This is the designated point of separation for two reasons. First, Thailand has a reputation for not repatriating North Koreans and for facilitating their transfer to South Korea, so the asylum seeker is “safe”. Secondly, Thailand is also known to have tightened its policies on the smuggling network, making brokers wary of arrest and prosecution.

#### 4. Thailand

While the authorities are less than thrilled to receive the lion’s share of North Koreans arriving in South East Asia, they have ruled out repatriation due to the number of countries and physical distance between Thailand and North Korea, humanitarian priorities and diplomatic concerns. At the same time, Thailand does not want to continue sustaining the cost – diplomatic and financial – of holding and transferring the asylum seekers.<sup>180</sup> Moreover, it considers porous borders in a region known for trafficking in drugs, goods, and people to be a national security concern.<sup>181</sup> In sum, Thailand does not want to be a transit state for North Koreans but is committed to finding a humanitarian solution. Officials have given North Koreans increasing attention in the past year or two, distinguishing them from conventional migrants or refugees.<sup>182</sup> The 19 September 2006 military coup is unlikely to change matters, if for no other reason than that the junta has many higher priority issues to attend to.

Officials are trying a range of measures to send the message that illegal entry is a crime that will not be tolerated. Provincial authorities are working to raise awareness of the issue and warn ferry, bus and taxi drivers that they face fines if found assisting North Koreans.<sup>183</sup> Since the second quarter of 2006, the border patrol has followed National Security Council instructions to “push back” North Koreans as they enter Thailand. However, crackdowns

in one area simply move the crossing further down the river.<sup>184</sup> Thailand has asked Laos, Burma, and China for support but officials complain that the promised cooperation has been slow to materialise.

With neighbours who are more than content that Bangkok is in the hot seat, Thailand lacks the help needed to hold back the flow. When North Koreans first started arriving in cargo ships, for example, police tried to send them back to China on those ships. However, the captains protested vehemently, denying wrongdoing and saying that if they returned to China with their human cargo, they would face heavy fines. Lacking conclusive evidence against the captains, Thai officials had to let them go and arrest the North Koreans left in Thailand.<sup>185</sup>

Requests for more vigilance on the Chinese side have had little effect. Security is high at the ports themselves, but North Koreans are able to circumvent the checkpoints with the help of brokers and guides. The network operators have strong bases in China and Laos as well as established contacts in Thailand.<sup>186</sup> As a result, a bus driver at Chiang Rai’s main bus terminal sees groups of North Asians with no travel documents pass through as often as two or three times a month.<sup>187</sup> Further from the border, checkpoints along the roads are fairly effective; several North Koreans have been arrested on the way to Bangkok at a major checkpoint in Payao, a city in southern Chiang Rai Province. However, when Crisis Group researchers visited the area, not all cars were stopped at all checkpoints, and the level of inspection varied. Crisis Group estimates that roughly half the North Koreans entering Thailand reach Bangkok undetected.

North Koreans who are arrested are charged with illegal entry, an indictment that in effect initiates the process through which they are passed on to South Korea. Police say many North Koreans seem to know this, and far from resisting arrest, turn themselves in.<sup>188</sup> Cases are heard by the Chiang Rai immigration court, which normally hands down a fine of \$53 or five days in jail for illegal entry.<sup>189</sup> For reasons cited above, North Koreans are not deported like most other illegal entrants and await transfer to the capital. The process moves fairly quickly – one or two weeks – to this point. Due to the cost of moving detainees 900 km. to Bangkok, however, transfers may be

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<sup>179</sup> Crisis Group interview, Thai businessman living in Burma, Burma-Thai border, 7 June 2006.

<sup>180</sup> Crisis Group interviews, immigration officials in northern Thailand, 7 June 2006.

<sup>181</sup> Crisis Group interviews, police in northern Thailand, 8 June 2006 and Maj. Gen. Porpat Suyanan, deputy commissioner of immigration bureau, 19 July 2006.

<sup>182</sup> Crisis Group interview, immigration officials in northern Thailand, 6 June 2006 and Maj. Gen. Porpat Suyanan, deputy commissioner of immigration bureau, Bangkok, 19 July 2006.

<sup>183</sup> Crisis Group interview, immigration official in northern Thailand, 6 June 2006.

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<sup>184</sup> Crisis Group interview, Maj. Gen. Porpat Suyanan, deputy commissioner of immigration bureau, Bangkok, 19 July 2006.

<sup>185</sup> Crisis Group interview, immigration official in northern Thailand, 6 June 2006.

<sup>186</sup> Crisis Group interview, immigration officials and police in northern Thailand 7-8 June 2006.

<sup>187</sup> Crisis Group interview, 7 June 2006.

<sup>188</sup> Crisis Group interview, police in northern Thailand, 8 June 2006.

<sup>189</sup> Crisis Group interview, immigration officials in northern Thailand, 7 June 2006.

delayed for up to a month. Since the start of official records in 2003, 354 North Koreans have been arrested by Chiang Rai authorities, 186 this year. Everyone requested transfer to South Korea.<sup>190</sup>

A factor that may work in Thailand's favour is the cooling of sympathy in the South Korean expatriate community in northern Thailand. Resident South Koreans, often small business owners or missionaries, are frequently called upon to interpret for North Koreans at police stations and immigration courts.<sup>191</sup> Five to seven years ago, when Northerners started to surface in Thailand, the Korean community – including embassy officials – helped them unconditionally. As the flow increased, the embassy's capacity and will to deal with individual cases decreased, and community sentiment followed suit.<sup>192</sup> Aided by networks of brokers and/or NGO guides in China, recent border crossers appear well fed, well dressed, and well-connected, in stark contrast to both the North Koreans encountered in the past and the 150,000 Burmese refugees currently in Thailand.<sup>193</sup>

The change has not been lost on local Korean business owners or Thai officials, who say groups typically carry as much as \$53 in cash.<sup>194</sup> Both are increasingly aware of the role of intermediaries, and North Koreans are now seen more as smuggled migrants than refugees. Local residents are increasingly loath to help because that would in effect mean finishing a broker's work, at great risk.

The Thai crackdown on network operators has resulted in at least two arrests this year, but none at high levels of the network. In April, a U.S. student in Chiang Rai was arrested for helping North Koreans travel to Bangkok by car; in June, a South Korean woman was caught at the Laos border with cash in several currencies and identification cards of North Koreans.<sup>195</sup> Police suspect that Koreans with knowledge of the area and Thai and Korean language skills may take advantage of well-organised and profitable smuggling networks. Businessmen have been warned by Thai and South Korean authorities that if they are found helping North Koreans to enter Thailand, they will be deported and divested of their

local businesses and other assets.<sup>196</sup> Some are under close watch by officials and are taking precautions themselves.<sup>197</sup>

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<sup>190</sup> Maesai Immigration Detention Centre official records, Thailand, viewed 7 June 2006.

<sup>191</sup> Crisis Group interviews, Korean residents and immigration officials in northern Thailand, 6 June 2006.

<sup>192</sup> Crisis Group interview, Korean resident in northern Thailand, 6 June 2006.

<sup>193</sup> "U.S. Refugee Program News", Vol. 4, Issue 1, at <http://www.state.gov/g/prm/rls/65215.htm>. Crisis Group interview, Korean resident in northern Thailand, 6 June 2006.

<sup>194</sup> Crisis Group interview, Maj. Gen. Porpat Suyanan, deputy commissioner of immigration bureau, 19 July 2006.

<sup>195</sup> *Ibid.*

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<sup>196</sup> Crisis Group interviews, Korean businessmen and police in northern Thailand, 6-7 June 2006.

<sup>197</sup> Anucha Charoenpo, "Close Watch on South Korean Businessmen", *Bangkok Post*, 20 July 2006.

### **INSIDE THE THAI IMMIGRATION DETENTION SYSTEM<sup>198</sup>**

Bedlam reigns on the men's side of the Bangkok Immigration Detention Centre as dozens of family members and missionaries jostle and yell to find a particular detainee, separated by iron bars, iron mesh and a crowd control barrier placed a metre out. Most visitors come laden with food, toiletries and magazines – whatever can be squeezed under the bars after being inspected by authorities. The men are mostly Asians from Burma, Laos, China and the two Koreas, but at least one hapless soul is from Australia. A missionary yells to a North Korean man and passes him some bibles and bananas to share with the other inmates. There are no visitors on the women's side. When one approaches and asks in Korean if there are any Northerners, an elderly woman sitting near the bars replies. She is missing her right foot. She says 30 more North Korean women are upstairs. She notes that as long as one doesn't mind the heat, the conditions are not too bad and the guards are generally friendly. She is still getting used to Thai food. A younger woman soon appears from a dimly-lit corner of the cell to tell their story.

Baek Hye-ri, 32, had worked in a factory in Chongjin, North Hamkyeong Province until it closed down in the late 1990s. She made the fateful decision to leave home in early December 2005. Her family had thought her younger sister was in China but word came that she had made it to South Korea in 2002. Eventually, money and the name and phone number of a broker in China arrived. Baek could not get a travel permit but it did not matter because money is now everything in North Korea: she simply bribed military and security personnel as she made the 90 km. journey to the border. She crossed the Tumen River alone at night and met the old woman, who soon became like a mother to her, while waiting to journey across China. Crossing China was uneventful but the mountain pass into South East Asia was extremely difficult, particularly since she had to help carry her older companion.

She arrived in Thailand six weeks after leaving home and had been in detention for three weeks. She wants to go to Seoul but is still waiting to meet with UN and Korean authorities. Baek knows only that the South is capitalist and remembers being impressed by seeing South Korean student demonstrations on TV. She hopes to bring out her parents and remaining sister if she can save enough money.

In sharp contrast to Bangkok, the Mae Sai Immigration Detention Centre in northern Chiang Rai Province is much quieter. Two small cells face each other, designed to hold a total of 50. North Koreans here are waiting for transfer to Bangkok. Because they are unable to communicate with local officers, though, they sometimes misunderstand their situation, gleaning questionable tips from notes left on the cell walls by other defectors.

Lee Se-ho, 25, fled from a small town south of Hoeryeong, North Hamkyeong Province, with his brother to join their mother in South Korea. His wife and child are still in the North. His brother had a factory job but earned less than 1,000 won a month. The family tried to supplement his salary by selling coal pilfered from mines near their home but it was not enough. They are now escaping North Korea one or two at a time – to avoid suspicion and secure the route, primarily, but also because their father does not want to leave. Unable to convince him, his sons finally left without telling him their plans. They paid a border guard for passage across the Tumen. In China they split up, the younger departing first and the older following a few days later. Their mother had arranged for someone to help them reach South Korea, but just in case, both carried extra cash and a dose of poison to commit suicide. Lee's broker arranged for him to travel with a group of seven, including an older divorcee and two young children. All three also have family in the South.

<sup>198</sup> Crisis Group interviews, 9 February 2006 and 8 June 2006. Some personal details have been altered to protect the identities of the interviewees.

Once in Bangkok, diplomatic channels are more accessible, and it is usually at this stage that foreign governments and the UNHCR get involved. The release and repatriation of foreigners held in Thailand is negotiated between governments through the foreign ministry but the UNHCR has long had a strong presence in the country.<sup>199</sup> From its desk at the immigration detention centre in Bangkok it monitors the situation, registers asylum seekers, collects their written testimony and gives Thailand transparency and accountability in addition to some diplomatic breathing room when deflecting North Korea's requests for the repatriation of its citizens. Because of their access to South Korean protection and citizenship, however, the UNHCR does not normally recognise North Koreans as refugees.<sup>200</sup> Instead, all North Koreans detained by Thai authorities and most held in safe houses are granted "person of concern" status. The UNHCR also works with at least one South Korean NGO to facilitate transfers to third countries.<sup>201</sup> Recently, it contributed \$10,000 to the Mae Sai Immigration Detention Centre in Chiang Rai, which handles the largest volume of North Koreans, to help defray the cost of transferring them to Bangkok.<sup>202</sup>

The UNHCR is not always viewed favourably. With Thai policy already grounded in humanitarian principles that bar repatriation, some local officials in northern Thailand question the purpose and necessity of its involvement. They also decry the UNHCR (and South Korean) practice of "preferential treatment" of North Koreans, saying that in some cases, officials will expedite cases for three people from a party of four and leave one waiting in detention. High-level officials are willing to cooperate but have also intimated that such attention on Thailand is misdirected: much more could and should be done at the source of the migrations.<sup>203</sup>

In Bangkok, church groups are also active in facilitating transfers to South Korea. Network operators instruct North Koreans to find their way to them if they can avoid arrest. During the three months it takes to process a request for resettlement in South Korea, the asylum seekers are under the supervision of church workers. They live in groups in apartments and are well cared for, with access to the most expensive health care facilities in Bangkok. Most participate in daily church programs and go on weekly grocery shopping trips, but are advised not to venture out alone – they are, after all, not supposed to be there, as the arrest of 175 North Koreans from a house in Bangkok

on 22 August 2006 made painfully clear.<sup>204</sup> Most of those arrested were women, and only sixteen had UNHCR documents identifying them as persons of concern.

Responding to tips from local residents, police stumbled onto the largest arrest of North Koreans to date in Thailand. Bangkok's North District Court sentenced 136 of them to 30 days in jail with one-year suspended sentences and fined each \$160 for illegally entering and staying in the kingdom without permission.<sup>205</sup> None was able to pay the fine, so the court ordered them held at a general detention centre in Pratumthani Province, about 50 km. from Bangkok. It did not take action against those with UNHCR documents or children.<sup>206</sup>

Officials were "unhappy" with the media attention, preferring this issue to be resolved or managed discreetly. One remarked: "Quite frankly, it seemed that the circumstance surrounding this arrest pointed to the fact that they (North Koreans) rather want attention. In fact they would rather be arrested, so they would be brought into the official channel of processing, which is better facilitated than going on their own".<sup>207</sup> Officials told Crisis Group that contrary to press reports suggesting the Thai welcome mat was wearing thin, the arrest was at least in part an over-reaction by local police. Most of the North Koreans will apply to go to South Korea, which is cooperating with Thailand to resolve the situation.<sup>208</sup> Assistant Secretary of State Ellen Sauerbrey confirmed during a visit to Thailand that Washington will also cooperate in resettling the few who indicated interest in going to the U.S.<sup>209</sup> The arrests prompted a joint motion in the European Parliament for a "Resolution on North Korean Asylum Seekers, in Particular in Thailand", calling for cooperation in resettling North Koreans.<sup>210</sup>

The incident brought the total number of North Koreans arrested in Thailand in 2006 to 400, compared to 80 in 2005. The figure is likely to continue to rise. On 18

<sup>199</sup> Crisis Group interview, immigration officials, 7 June 2006.

<sup>200</sup> See Appendix C below.

<sup>201</sup> Crisis Group interview, Maj. Gen. Porpat Suyanan, deputy commissioner, Thai immigration bureau, 19 July 2006.

<sup>202</sup> Ibid.

<sup>203</sup> Ibid; Crisis Group interview, immigration officials in northern Thailand, 7 June 2006.

<sup>204</sup> "North Korean Migrants to Be Tried for Illegal Entry", Thai News Agency, 23 August 2006.

<sup>205</sup> "Court Ordered 136 North Korean Six Months in Prison, Fined THB 6,000 for Illegal Entry", INN News website, 24 August 2006 (in Thai).

<sup>206</sup> "Court Sentenced 136 North Koreans to Jail", News Update, privately-owned iTV television channel, 25 August, 2006 (in Thai).

<sup>207</sup> Crisis Group interview, Thai government official Bangkok, 12 September 2006.

<sup>208</sup> Ron Corben, "Thailand Discovers 175 North Korean Refugees Hiding in Bangkok", *VOA News*, 23 August 2006.

<sup>209</sup> Simon Montlake, "Swell of North Korean Refugees Could Strain Thailand's Tolerance", *The Christian Science Monitor*, 13 September 2006.

<sup>210</sup> Available at <http://www.nkfreedomhouse.org>.

September, seven more turned themselves in to police.<sup>211</sup> In a recent visit to Thailand, UN High Commissioner for Refugees Antonio Guterres downplayed the sudden spike, saying “it’s true that numbers of people coming into Thailand [are] increasing. But I don’t think it’s dramatic compared to other parts of the world...”<sup>212</sup> Thailand, however, is growing more anxious, and activists and aid workers may be hardest hit. With a constant inflow of North Koreans and already crowded detention centres in Bangkok, the church groups’ handling of additional asylum seekers provided some welcome help to a system testing its limits. But now police plan to investigate the house owners and look for those who helped the North Koreans reach Bangkok. They face jail terms or fines for aiding and harbouring the illegal immigrants.<sup>213</sup>

The final leg of the journey has several steps. Once a request has been made to the South Korean embassy for resettlement, North Koreans undergo a background check and an interview with the UNHCR and South Korean officials. The entire process generally takes two or three months, though children, the infirm or people with valuable intelligence can be transferred to South Korea in as little as two weeks.

## VI. FINDING A NEW HOME

### A. SOUTH KOREA

The vast majority (95 per cent) of North Korean defectors resettle in South Korea, which quietly accepts them but avoids encouraging them despite the fact that the constitution acknowledges their right to citizenship. The number of North Koreans entering South Korea has increased dramatically from the handful arriving in the early to mid-1990s, averaging more than 1,000 since 2003. The peak was in 2004, when the airlift from Vietnam raised the year’s total to 1,894.<sup>214</sup> As of July 2006, there were about 8,741 North Korean defectors living in South Korea.<sup>215</sup>

While South Korea accepts all North Korean defectors, it is wary of the issue’s impact on relations with the North as well as other host countries. Maintaining stability and preparing the North for a “soft landing” and less costly reunification are also major concerns for Seoul.<sup>216</sup> Following the 2004 airlift from Vietnam, the then-unification minister, Chung Dong-young, urged NGOs to “refrain from inducing and promoting defection of North Korean residents, which neither correspond with our government’s policy nor have positive impacts on inter-Korean relations”. He also expressed “regrets” over North Korea’s “misunderstanding” and characterisation of the airlift as kidnapping.<sup>217</sup> On the same day, Foreign Minister Ban Ki-moon said: “It is very inappropriate for NGOs to shift responsibility on to the government when issues of roaming defectors and pre-meditated defection attempts do not go well”. A spokesperson said Minister Ban added: “It is difficult for the government’s staff of Foreign Affairs to take utmost responsibility on all defectors entering neighbouring countries after roaming about China”.<sup>218</sup>

At the NSC meeting on 12 August 2004, the government agreed to constrain NGO-led entry of defectors to South

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<sup>214</sup> Gordon Fairclough, “Activist Network Helps Refugees Flee North Korea, Pyongyang Issues Threats after Hundreds Arrive in Seoul Through Vietnam”, *Wall Street Journal*, 30 July 2004.

<sup>215</sup> “Updated Statistics on Inter-Korean Contacts, Reunion of Separated Families, Humanitarian Assistance, and North Korean Defectors (as of the end of December 2005)”, Ministry of Unification, 25 January 2006, at <http://www.unikorea.go.kr/index.jsp>. 1,056 more have arrived this year.

<sup>216</sup> Crisis Group email interview, Roberta Cohen, Brookings Institution, 1 October 2006.

<sup>217</sup> “Ministry of Unification’s Chung: ‘NGO Planned Defections Run Counter to North Korea Policy’”, *Donga Ilbo*, 16 August 2004 (in Korean).

<sup>218</sup> “Foreign Ministry’s Ban: ‘Difficult when NGOs Shift Responsibility on the Ministry’”, *Yonhap News*, 16 August 2004 (in Korean).

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<sup>211</sup> “Civic Group: 7 North Koreans Defect”, *Joongang Daily*, 19 September 2006.

<sup>212</sup> “U.S. urges Asian nations to help North Korean refugees”, *Kyodo News*, 1 September 2006.

<sup>213</sup> “Police Round Up 175 North Koreans from a Bangkok House”, *The Nation*, 23 August 2006.

Korea. “The reason the number of defectors entering South Korea is increasing is because planned defection works”, said the then-unification ministry vice minister, Lee Bong-jo, in December.<sup>219</sup> Controversially, the government then implemented a new scheme for resettlement funds paid to defectors starting in 2005, which was received as a thinly veiled effort to curb the flow of cash to brokers, thus effectively keeping North Koreans in China.<sup>220</sup> The new policies also include screening for those who have lived in third countries for over ten years or have committed serious crimes. Seoul claimed, however, that it wants only to keep out Chinese nationals posing as North Koreans and reaffirmed its commitment to deal with all cases in keeping with humanitarian principles.<sup>221</sup> Despite these acts of contrition, North-South talks went into a one-year deep freeze.

The new resettlement package administered by the ministry of unification consists of less cash distributed in smaller amounts over time. In addition to the significant reduction in the first instalment (from \$13,000 to \$3,000), total support has been lowered from \$36,000 to \$20,000 (for a one-person household). Defectors can, however, earn an additional \$15,000 by completing education and job training.<sup>222</sup>

Adjusting to life in the South is anything but easy for most defectors; some even seek resettlement in a third country.<sup>223</sup> Upon arrival, defectors are debriefed and go through a three-month orientation program at Hanawon, the centre established in 1999 for North Korean defectors. A second branch for women was set up in 2002, and a health clinic was added in 2004.<sup>224</sup> Defectors take courses on South Korean culture and receive training in basic computer and vocational skills. Many need cash to fund family members’ escapes or are already in debt to brokers for their own journeys.

Seoul tells defectors they do not have to pay back money promised to brokers. Defectors are led out of Hanawon by a back exit to avoid the brokers waiting at the gates to collect their fees.<sup>225</sup> Although about 20 per cent never pay the brokers, the rest repay an average debt of \$6,000

seven to eight months after arriving in Seoul.<sup>226</sup> Some brokers arrange to take control of the bank accounts defectors set up to receive government resettlement funds and subsidies.<sup>227</sup> Despite occasional press coverage of the issue, public awareness about the difficulties of resettlement is low.<sup>228</sup> As a result, defectors must combat stereotypes and discrimination. Unemployment rates among them are high, and children have trouble keeping up in school.<sup>229</sup> Nevertheless, over 90 per cent of female asylum seekers in China say they want to go to South Korea, contributing to an estimated 10,000 North Koreans who want to leave China for South Korea.<sup>230</sup>

## B. UNITED STATES

In the spring of 2006, resettling in the U.S. went from being an elusive dream to a real option for North Korean asylum seekers. The North Korean Human Rights Act was signed into law in October 2004 with the unanimous backing of Congress.<sup>231</sup> It calls attention to the need for the U.S. to make more serious efforts to resettle North Koreans and to promote human rights for North Koreans by increasing the flow of information to the country, giving more aid to refugees and improving transparency of humanitarian aid, and authorises \$24 million for each fiscal year through 2008.<sup>232</sup> In order to facilitate opportunities for North Koreans, Section 302 of the Act provides that they will not be barred from eligibility for refugee status or asylum in the U.S. because of their right to citizenship in South Korea.

The Act has been ineffective, however, in creating opportunities for more than a handful of North Koreans to

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<sup>219</sup> Ju Sung-ha, “Trying to Keep Defectors from Entering?”, *Donga Ilbo*, 24 December 2004 (in Korean).

<sup>220</sup> Crisis Group interviews, Seoul, April-May 2005.

<sup>221</sup> “Consequences of Government’s Defector Policy?”, SBS TV, 24 December 2004 (in Korean).

<sup>222</sup> “Current Resettlement Programs for North Korean Refugees”, Ministry of Unification, 26 April 2005 (in Korean).

<sup>223</sup> “34 Defectors in South Immigrate to Third Countries”, *Dong-a Ilbo*, 13 November 2004 (in Korean).

<sup>224</sup> Citizen’s Alliance activity report, at [http://www.nkhumanrights.or.kr/NKHR\\_new/new\\_pages/sixth/documents/nkhr.doc](http://www.nkhumanrights.or.kr/NKHR_new/new_pages/sixth/documents/nkhr.doc); “25 Per cent of North Korean Defectors Suffer PTSD”, *Ohmynews*, 25 October 2005.

<sup>225</sup> Crisis Group interview, NGO worker, Seoul, January 2005.

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<sup>226</sup> Crisis Group interview, NGO worker, Seoul, January 2005; Kim, Eun-nam and Ko, Jae-gyo, “For Resettled North Koreans, Life is Difficult in South Korea, Too”, *SISA Journal*, 5 July 2005 (in Korean).

<sup>227</sup> “Aiding North Korean Defectors Becomes a Business”, *Joong-ang Ilbo*, 22 November 2004; Kim, Eun-nam and Ko, Jae-gyo “For Resettled North Koreans”, op. cit.

<sup>228</sup> Resettlement issues and implications for reunification will be the subject of a future Crisis Group report. For more on South Korea’s perceptions of the North, see Crisis Group Asia Report N°89, *How the South Views its Brother From Another Planet*, 14 December 2004.

<sup>229</sup> “North Korean Defectors Take a Crash Course in Coping”, *The New York Times*, 25 June 2006.

<sup>230</sup> Crisis Group interview, NGO worker, Seoul, January 2005.

<sup>231</sup> “The North Korean Human Rights Act”, available at <http://www.internationalrelations.house.gov/nkhra.htm>.

<sup>232</sup> This broke down to \$2 million for private organisations, \$2 million for radios and other items to distribute in North Korea, \$20 million for humanitarian and legal assistance for the refugees and victims, as well as more humanitarian assistance to North Korea itself.



resettle in the U.S. Fewer than twenty have been designated as refugees or granted asylum.<sup>233</sup> Early in 2006, ten lawmakers from both parties sent a letter to Secretary of State Condoleezza Rice, expressing concern that the authorized \$24 million was not included in the most recent budget request and that employees at U.S. embassies in China, Vietnam, and Thailand were refusing to help North Korean asylum seekers.<sup>234</sup> Secretary Rice told the House International Relations Committee in February: “We are reviewing our policies on refugees, reviewing them with DHS [Department of Homeland Security], reviewing them with the FBI, to see if we can find a way to participate in the refugee activities as well”.<sup>235</sup> Her statement was soon followed by media reports that the U.S. “is expected to accept up to 200 North Korean asylum-seekers this year”, though a surprised official said the number was likely to be no more than twenty.<sup>236</sup>

NGOs and senators advocating North Korean human rights had a series of triumphs in 2006, centred around North Korea Freedom Week activities they have organised annually since 2004. President Bush met with defectors and the family members of abductees, describing his time with them as “one of the most moving meetings” of his presidency.<sup>237</sup> The following week, six North Koreans were officially recognised as refugees and transferred from South East Asia to the U.S. under the North Korean Human Rights Act. This prompted a series of requests for asylum in the U.S., including the May 2006 incursions in Shenyang. Reports of “thirteen or fourteen” North Koreans requesting asylum at U.S. embassies in several countries have been confirmed by South Korea’s ministry of foreign affairs, and there has been another incursion at the Shenyang consulate, indicating growing interest in the U.S. as a destination country.<sup>238</sup>

South Korea’s response to the transfer of the first six refugees to the U.S. was quiet.<sup>239</sup> However, Washington has upset Seoul in its treatment of North Koreans who enter the U.S. illegally from neighbouring countries or overstay legal visas. Several have requested asylum despite having secured South Korean citizenship. In a case that surfaced soon after the Act became law, the Seattle Immigration Court cited extended residence in South Korea and a “lack of evidence of his political suppression” as reasons to deny refugee status.<sup>240</sup> Several subsequent cases were likewise turned down, but in April 2006, a Los Angeles Immigration Court granted political asylum to a former North Korean military officer who had illegally entered the U.S. with his family via Mexico in 2004. The family had been resettled in South Korea in 1998 and claimed it faced discrimination there.

Although arguments concerning conditions in North Korea strongly influenced the case, many in South Korea were upset by the ruling.<sup>241</sup> A government official told the press it was “unbelievable how he is claiming discrimination after getting all that support [over \$100,000] from the nation’s taxes”.<sup>242</sup> The minister of unification denounced it as “nonsense.”<sup>243</sup> In August, asylum was granted for a second time to a North Korean who had settled in South Korea, prompting protest by Seoul.<sup>244</sup> Most recently, work permits were issued to a North Korean family asking for protection from South Korea.<sup>245</sup> The U.S. tried to separate these issues from the North Korean Human Rights Act as isolated rulings by immigration courts, but similar cases are pending and the U.S. and South Korea are still at odds.

There have been some efforts at coordination in the region this year but differences between the U.S. and South Korean approach to the refugee issue are likely to persist, as will security concerns.<sup>246</sup> The door remains open for “as

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<sup>233</sup> Tim Peters, quoted in Jane Cooper, “NK Human Rights Act Does Little to Help Refugees in China”, *The Korea Herald*, 1 February 2006

<sup>234</sup> Foster Klug, “Lawmakers Frustrated with Implementation of NK Refugee Act”, Associated Press, 24 February 2006.

<sup>235</sup> Crisis Group email interview, Joel Charny, 26 September 2006. “U.S. Envoy on NK Human Rights will be more Active: Rice”, *Yonhap News*, 16 February 2006.

<sup>236</sup> “U.S. Could Take 200 North Korean Refugees in 2006”, Radio Free Asia, 23 February 2006, (in Korean and English); Crisis Group interview, 24 March 2006.

<sup>237</sup> White House Press Release, 28 April 2006.

<sup>238</sup> “North Korean Defectors in U.S. Missions”, *Hankyoreh*, 29 June 2006 (in Korean); and Lee, Chi-dong, “Over Ten North Korean Defectors in Southeast Asia Awaiting Asylum in U.S.”, *Yonhap News*, 29 June 2006; “Two North Korean Defectors Seek Asylum at U.S. Consulate in China”, Associated Press, 19 September 2006.

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<sup>239</sup> “South Korea Neither Hurts Nor Helps”, *Chosun Ilbo*, 8 May 2006 (in Korean).

<sup>240</sup> “U.S. Court Denies Refugee Status for NK Defector”, *Yonhap News*, 23 November 2004.

<sup>241</sup> Barbara Demick, “DPRK Defector Seeks Asylum from ROK”, *Los Angeles Times*, 8 May 2006.

<sup>242</sup> “N.K. Defector in U.S. Received Over 126m Won in Aid from Seoul”, *Korea Herald*, 3 May 2006.

<sup>243</sup> “Minister: LA Court’s Ruling Was ‘Nonsense’”, *Joong Ang Daily*, 4 May 2006.

<sup>244</sup> “Another NK Defector Granted Asylum in US”, *KBS Global News*, 17 August 2006.

<sup>245</sup> “U.S.: North Korean Defector Ma Young-ae and Family Apply for Asylum”, *Chosun Ilbo*, 19 September 2006 (in Korean).

<sup>246</sup> “U.S. State Department Official Talks Defectors with Seoul”, *Chosun Ilbo*, 26 May 2006.

many as can find their way,” but there is little help before that point.<sup>247</sup>

### C. EUROPE

Some hundreds of North Koreans have reached safety in Europe but most governments decline to provide details about the numbers accepted, means of arrival or screening procedures. Germany has accepted the lion's share, while the UK has taken roughly twenty of 100 applicants.<sup>248</sup> The Netherlands, Belgium, Switzerland, Sweden, and others have each accepted a handful.<sup>249</sup>

Germany provides a small window on the process. Of the 1,900 North Korean nationals residing in Germany, nearly 300 have applied for asylum, though fewer than ten did so in 2005.<sup>250</sup> Refugee status is extremely difficult to obtain. Only North Koreans with a military background can be considered. As a result, fewer than ten have been granted refugee status. Normally, when an asylum application is denied, the applicant is deported back to the home country, but not to a country where the deportee's life would be in danger. In such a case, failed applicants can receive temporary but renewable permission to stay for three years or until the situation in the home country becomes safe for return.<sup>251</sup> North Koreans' means of getting to Europe remains subject to conjecture, but one story has it that a family received South Korean passports, flew to Europe and then threw away the passports.

### D. JAPAN

Japan<sup>252</sup> has quietly admitted about 100 North Koreans.<sup>253</sup> Until 2003, it did not accept North Korean asylum seekers but changed its policy after the arrest of two Japanese aid workers. It now accepts North Koreans who left Japan in the exodus of ethnic Koreans in the late 1950s. Some 100,000 left at that time; including descendants, the category may number 300,000 today. With the help of an NGO, Japanese-North Koreans send documents confirming their departure from Japan to the ministry of

foreign affairs. When an application is accepted, the ministry sends an order to embassy officials in Beijing, who negotiate the asylum seeker's departure. Tokyo has never said how many North Koreans it has accepted. A South Korean newspaper in March 2005 reported that between 140 and 150 had been accepted by the end of 2004, but stressed that Japan accepts only those who can prove their ties to the country.<sup>254</sup>

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<sup>247</sup> Assistant Secretary of State Ellen R. Sauerbrey, quoted in “More North Korean Refugees Welcome, State Official Says”, *Baltimore Sun*, 21 June 2006; “US Official to Examine Refugee Issues in Thailand”, KBS Global News, 23 August 2006.

<sup>248</sup> Crisis Group interview, British official, March 2006.

<sup>249</sup> “North Korean Refugees Head for Europe”, Radio Free Asia, 28 February 2006.

<sup>250</sup> Crisis Group interview, German official, 15 September 2006.

<sup>251</sup> *Ibid.*

<sup>252</sup> For more on relations between Japan and North Korea, see Crisis Group Asia Report N°100, *Japan and North Korea: Bones of Contention*, 27 June 2005.

<sup>253</sup> Crisis Group interview, Seoul, May 2006.

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<sup>254</sup> Kang, Kook-jin, “Raising Barriers to Refugee Protection”, *Corea NGO Times*, 14 March 2005 (in Korean).

## VII. CONCLUSION

The primary responsibility for the humanitarian issues discussed in this report lies, of course, with North Korea. It could resolve those problems and many others by respecting fully the human rights and fundamental freedoms of its citizens. Given the nature of the regime and its concern for internal security, it is unrealistic to expect such a dramatic change. That is why Crisis Group has limited its recommendations to Pyongyang to explore at least small steps of travel liberalisation, including some increase in the numbers of those permitted to travel legally to China, more family visits and special provisions for those living near the border, as well as relaxation of the draconian punishments that are meted out to those who make unauthorised attempts to cross the border. These are measures that could be taken relatively easily without affecting the basic nature of the system.

China is otherwise the key to improving the human rights of North Korean refugees and asylum seekers. However, given its own widely criticised human rights record and the high priority it places on maintaining stability (internally and externally), as well as its close ties with North Korea, it is difficult to be optimistic about a more enlightened Chinese policy in the foreseeable future. Beijing has increasingly not only targeted and forcibly repatriated asylum seekers but also arrested their helpers. It allows other states a fair degree of latitude in dealing with North Koreans who manage to enter diplomatic missions, only to put up another layer of barbed wire to discourage future incursions.

China should be nudged to move in the right direction by suggesting modest steps, particularly in light of the fact that as the 2008 Olympics near, all eyes will be on its behaviour.<sup>255</sup> Allowing North Korean women who have married Chinese nationals and their children to remain and granting them provisional residency would be in the interests of its own citizens, given the shortage of wives for Chinese farmers. Cracking down on the most exploitive venues where North Korean women work, such as karaoke bars, is another action that would increase the security of the most vulnerable while boosting China's image.

### A. SEEKING ASYLUM

All North Koreans in China and other transit countries must be protected from forcible repatriation and subsequent persecution in the North. As a signatory to the 1951 Convention on Refugees and its 1967 Protocol, China

has an international law obligation to respect the principle of non-refoulement and protect asylum seekers in its territory even though a domestic legal framework to address such cases is not yet in place.<sup>256</sup> Further, China should abide by its 1995 Agreement with the UNHCR, which aims to ensure cooperation and reiterates the Refugee Convention's injunction and authorisation for any party to the Convention to invoke binding arbitration before the International Court of Justice in disputes over its interpretation and application (Article 38).<sup>257</sup> Despite this agreement, the UNHCR, which ultimately relies on the "goodwill" of host governments, officially has been denied access to North Koreans in China.

Even as many NGOs and governments have decried China's disregard for international law, the UNHCR has taken a cautious stance on North Koreans in China, acknowledging them only as "persons of concern" and seeking engagement with Chinese officials who view the border crossers as economic migrants and repatriate them.<sup>258</sup> The High Commissioner was optimistic about future progress after "open and frank" discussions on "everything" during his March 2006 visit to Beijing. China is said to be working with the UNHCR to build legal institutions for a national asylum system but it is time for Beijing to put words into action.<sup>259</sup>

Even if China does not allow North Koreans to seek official asylum on its territory, it should at least stop all forcible repatriation. The UNHCR should press China to fulfill its obligations regarding this matter. At least until Beijing accepts these obligations, neighbouring countries should not turn North Koreans crossing from China back to Chinese authorities, but instead contact either South Korea or the UNHCR. South Korea, the U.S., Japan and all other governments willing to accept North Korean asylum seekers should demand access to China, Burma, Laos and Vietnam. Having been most vocal about North

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<sup>256</sup> See Appendix C below. China is also a member of the UNHCR executive committee and has ratified a number of international human rights treaties including the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, and the Convention on the Rights of the Child.

<sup>257</sup> Crisis Group email interview, UN official, 16 October 2006; "Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China", signed in Geneva, 1 December 1995, UN Treaty Series, Vol. 1898/1899, I-32371, pp. 61-71; 1951 Convention on Refugees, op. cit.

<sup>258</sup> For more on the UNHCR's assessment of the protection needs of North Koreans in China, see Appendix C below.

<sup>259</sup> High Commissioner's Statements, UNHCR Press Release, 23 March 2006; "China: Guterres Meets with North Korean Refugees on Visit to China", *Lusa*, 23 March 2006 (in Portuguese).

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<sup>255</sup> Crisis Group interview, David Hawk, Seoul, 10 October 2006.

Korean human rights, the U.S. and the EU should recognise and accept for resettlement many more refugees. Even South Korea should play a more active (but understandably quiet) role to help North Korean asylum seekers trapped in China and beyond.

South Korea and the UNHCR should work with all concerned governments, especially Mongolia, Russia, Vietnam, Laos, Cambodia, Burma, and Thailand, to implement a standard procedure, with a time limit of no longer than four months, for moving North Koreans out of transit countries and into long-term settlement.<sup>260</sup> The U.S. and the EU, each with long experience in refugee resettlement programs, should acknowledge that South Korea has taken in the lion's share and offer training and assistance for its resettlement programs.<sup>261</sup> Defectors would especially benefit from expansion of the extent and timeframe of such programs, perhaps handled by professional resettlement agencies.<sup>262</sup>

Women's and mental health issues should receive particular attention in all countries where North Koreans are detained or resettled. NGOs and church groups working in third countries should also be brought into the process. Given an agreed timetable for moving the asylum seekers into resettlement, these groups should receive increased support and be allowed to house North Koreans who have registered with the UNHCR and are waiting for final transfer. Thailand provides a useful model. Neighbours are all too eager to pass the buck. Starting with South Korea, governments should renew their commitment to answering the humanitarian needs of North Koreans in hiding and on the run.

## **B. CREATING BREATHING ROOM IN CHINA**

Chinese authorities should shift their focus from keeping North Koreans out of China to protecting them once they have entered. Greater resources need to be devoted to preventing human trafficking. China has signed the Convention on the Elimination of Violence against Women and the Optional Protocol to the Convention on the Rights of the Child on the sale of children and child prostitution and now needs to crack down on exploitive workplaces and prostitution. It should increase rewards for reporting human traffickers and stop rewarding those who turn in North Koreans. Vulnerable women should be moved out of China and into resettlement programs

that address their specific needs. China and receiving countries would benefit from coordination and support by international agencies such as UNICEF, the United Nations Fund for Population Activities (UNFPA) and the UN Office on Drugs and Crime.

Women who are married to Chinese citizens and their children should be given provisional residency until a more robust domestic legal framework for resettling asylum seekers and stateless persons is erected. The basic rights of children – including to education – should be honoured as outlined in the Convention on the Rights of the Child, which China signed in 1990. China and its neighbours should make medical care more accessible and stop arresting NGO workers for trying to help North Koreans. Beijing should also encourage North Korea to allow more frequent legal visits by its citizens to relatives in China.

The plight of North Koreans seeking refuge in China from the deprivations they face back home is likely to get much worse until greater pressure is placed on China to adjust its practices. Without a more sustained effort to persuade Beijing to do the right thing by those who have been the loudest on North Korean human rights, namely the U.S., the EU and Japan, North Koreans will continue to suffer in virtual invisibility. Concerned governments must also back up their words and resolutions with a greater commitment to recognise and accept North Korean refugees. It is time for the international community to put its money where its mouth is.

**Seoul/Brussels, 26 October 2006**

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<sup>260</sup> The challenges of resettling North Koreans will be the subject of a future Crisis Group report.

<sup>261</sup> "Welcome to the 21<sup>st</sup> Century: North Korean Refugees in South Korea", Refugees International, 16 December 2003.

<sup>262</sup> Crisis Group email interview, Karin Lee, The National Committee on North Korea, 25 September 2006.

## APPENDIX A

### MAP OF NORTH KOREA





## APPENDIX B

### MAP OF EAST ASIA



## APPENDIX C

### REFUGEE LAW AND THE OFFICE OF THE UN HIGH COMMISSIONER FOR REFUGEES

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#### A. THE PRINCIPLE OF NON-REFOULEMENT OF REFUGEES AND ASYLUM SEEKERS

Article 33 of the 1951 Convention on Refugees, “Prohibition of Expulsion or Return (“Refoulement”)", reads:

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.<sup>263</sup>

The principle of non-refoulement is fundamental to protecting refugees and is considered binding customary international law even for non-parties to the Convention or its Protocol, who have been urged to abide by it in several UN Resolutions.<sup>264</sup> The principle applies to asylum seekers and refugees “irrespective of whether or not they have been formally recognised”.<sup>265</sup>

“Asylum seekers” is the term used by the Office of the UN High Commissioner for Refugees (UNHCR) to describe people in search of safety in a foreign country. They “may be in need of international protection and of concern to UNHCR” even if they are not able to or do not apply for recognition as refugees.<sup>266</sup>

The principle of non-refoulement includes:

- ❑ “not returning asylum-seekers or refugees to a place where their life or liberty would be at risk;
- ❑ not preventing asylum seekers or refugees – even if they are being smuggled or trafficked – from seeking safety in a country, as there is a chance of them being returned to a country where their life or liberty would be at risk; and
- ❑ not denying access to their territory to people fleeing persecution and who have arrived at their border (access to asylum)”.<sup>267</sup>

#### B. THE UNHCR’S ASSESSMENT OF PROTECTION NEEDS OF NORTH KOREANS

The Office of the United Nations High Commissioner for Refugees considers North Koreans in China and other transit countries “persons of concern”. This is “a generic term used to describe all persons whose protection and assistance needs are of interest to UNHCR”.<sup>268</sup> Persons of concern include but are not necessarily limited to asylum-seekers, refugees, stateless persons, the internally displaced and returnees.<sup>269</sup>

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<sup>263</sup> 1951 Convention on Refugees, op. cit.

<sup>264</sup> For a list of those resolutions, see the UNHCR web site, at <http://www.unhcr.org>.

<sup>265</sup> “Non-Refoulement”, Executive Committee of the UNHCR, no. 6 (xxviii) 1977.

<sup>266</sup> “UNHCR and International Protection”, op. cit.

<sup>267</sup> Ibid.

<sup>268</sup> “UNHCR/Inter-Parliamentary Union Handbook for Parliamentarians No. 2, Refugee Protection: A Guide to International Refugee Law”, 2001, Annex 2, “Glossary of Key Protection-related Terms”, p. 131, available at <http://www.unhcr.org/publ/PUBL/3d4aba564.pdf>.

<sup>269</sup> Ibid.

The UNHCR's assessment of the protection needs of North Koreans is based chiefly on its interpretation of Article 1 A (2), paragraph 2, of the 1951 Convention on Refugees:

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.<sup>270</sup>

As interpreted by the UNHCR, the clause excludes most North Koreans from international protection because South Korea extends citizenship to all North Koreans, in effect giving them dual nationality. Since most North Koreans have no valid reason based on well-founded fear not to avail themselves of South Korea's protection, the UNHCR view is that availability of this "national protection takes precedence over international protection",<sup>271</sup> even though as a practical matter it may often not be possible for North Koreans to avail themselves of what may be only theoretical protection from a South Korean government far distant from the locations where protection is needed.

South Korean nationality is considered in effect for Northerners as long as Seoul extends to them the protection normally granted to South Koreans. South Korean nationality is further considered effective until a request for protection has been refused or ignored.<sup>272</sup> Those who reach countries in which requests for asylum are heard are soon able to avail themselves of protection by South Korea. However, the vast majority of North Koreans in China and some transit countries are unable to make the initial request for protection. At great risk to their freedom, safety and sometimes lives, thousands of North Koreans each year try to make their way into heavily guarded diplomatic missions or across two or more countries to request asylum or transfer to South Korea.

Even if North Koreans are considered not to have dual nationality, each individual application for protected status must be judged on its own merits. Not every North Korean may have a legitimate claim. Given the North's persecution of dissidents, however, religious citizens, members of the "hostile" class, border crossers and even many "criminals" have compelling cases that merit international protection.

North Koreans in China are rarely able to articulate their legitimate claims to international protection. Accordingly, the UNHCR recognises that "it is for the examiner, when investigating the facts of the case, to ascertain the reason or reasons for the persecution feared and to decide whether the definition in the 1951 Convention is met with in this respect".<sup>273</sup> Those who may be in need of international protection should be advised of their rights and all available options.

#### North Koreans as refugees

According to the general definition in the 1951 Convention, a refugee is someone who has

a 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; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>274</sup>

The UNHCR's "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees" stresses that well founded fear of persecution must be the "predominant motive" for a person's application if he or she is to be recognised as a refugee.<sup>275</sup>

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<sup>270</sup> 1951 Convention on Refugees and its 1967 Protocol, available at <http://www.unhcr.org/protect/3c0762ea4.html>

<sup>271</sup> "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees", UNHCR, Geneva 1992, Chapter II, Section B, paragraph 106.

<sup>272</sup> *Ibid*, Chapter II, Section B, paragraph 107.

<sup>273</sup> "Handbook on Procedures and Criteria", *op. cit.*

<sup>274</sup> Article 1 A (2) of the 1951 Convention on Refugees.

<sup>275</sup> "Handbook on Procedures and Criteria", *op. cit.*



People who leave home not because of fear of persecution but because of hunger or poverty are not generally recognised as refugees. However, it may well be that “persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion” creates conditions of economic need that lead a person to leave home. The UNHCR recognises that “where economic measures destroy the economic existence of a particular section of the population ... the victims may according to the circumstances become refugees on leaving the country”.<sup>276</sup> North Korea classifies citizens into “core”, “wavering”, and “hostile” classes. North Koreans classified as hostile or wavering and North Korean-Japanese are systematically denied employment and educational opportunity, suffering discrimination that amounts to persecution and may well be recognised as refugees.<sup>277</sup>

North Korea denies its citizens religious and political freedom.<sup>278</sup> Those who hold dissenting political or religious beliefs may face long prison sentences, forced labour or even execution. Few North Koreans dare to oppose the regime in this way but the limited number fleeing persecution under these circumstances are refugees, according to the 1951 Convention on Refugees.

North Koreans who have committed certain “crimes” may also qualify as refugees if they fear persecution upon return in the form of excessive punishment for those offences. The arbitrary definition of “treason against the fatherland” and sentences that range with similar unpredictability from verbal abuse and extra study sessions on North Korean ideology to lengthy prison terms and execution should buttress claims for refugee status. With such an opaque judicial system, North Koreans are often unaware of the evidence against them and the manner in which it could be applied. For example, an admission of having listened to a foreign broadcast may in itself warrant a fairly light sentence but additional charges based on hearsay or false accusations may result in more serious punishment.

North Koreans who leave home because they fear forced labour or prison sentences for “crimes” such as listening to foreign broadcasts, sharing religious beliefs with their children, or accessing food, clothing, medicine, and other goods from China should qualify as refugees. Some North Koreans who have received financial assistance from relatives in South Korea have fled the country because they received orders to appear before State Security.<sup>279</sup>

When North Koreans flee persecution on the basis of race, religion, nationality, membership of a particular social group or political opinion, the severe punishment they face for “unlawful departure or unauthorised stay outside country of origin” is another guideline that can help determine their status as refugees. In a country that restricts domestic travel outside one’s county of birth, permission for international travel is extraordinarily difficult to secure and involves paying exorbitant bribes. Leaving North Korea without permission is a crime punishable by up to two years in a prison camp.<sup>280</sup>

### **C. NORTH KOREANS AS REFUGEES *SUR PLACE***

Regardless of their legal status or intentions when leaving home, North Koreans may later become refugees as defined above. In such cases, they are known as refugees *sur place*. The UNHCR states that: “A person becomes a refugee ‘sur place’ due to circumstances arising in his country of origin during his absence ... [or] as a result of his own actions, such as associating with refugees already recognised, or expressing his political views in his country of residence”.<sup>281</sup> In determining whether his own actions may justify a well-founded fear of persecution, “[r]egard should be had in particular to whether such actions may have come to the notice of the authorities of the person’s country of origin and how they are likely to be viewed by those authorities”.<sup>282</sup>

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<sup>276</sup> Ibid.

<sup>277</sup> For details on discrimination amounting to persecution, see *ibid.*

<sup>278</sup> David Hawk, “Thank You, Father Kim Il-Sung: Eyewitness Accounts of Severe Violations of Freedom of Conscience, Thought, and Religion in North Korea”, U. S. Commission on International Religious Freedom, November 2005.

<sup>279</sup> Crisis Group interview, northern Thailand, June 2006.

<sup>280</sup> Lee Keum-soon, “The Border-Crossing North Koreans: Current Situations and Future Prospects”, Korea Institute for National Unification, Studies Series May 2006

<sup>281</sup> “Handbook on Procedures and Criteria”, *op. cit.* See also the European Union’s “Joint Position Defined by the Council on the basis of Article K.3 of the Treaty on European Union on the Harmonized Application of the Definition of the Term “Refugee” in Article 1 of the Geneva Convention of 28 July 1951 Relating to the Status of Refugees (Annex 1)”, available on the UNHCR website at <http://www.unhcr.org>.

<sup>282</sup> “Handbook on Procedures and Criteria”, *op. cit.*

Actions such as associating with South Koreans or Christians or expressing certain political views while in China may cause North Korean migrants to have legitimate fear of persecution and become refugees *sur place*. The act of unlawful crossing itself relegates North Koreans to the hostile class, so even when initially motivated by economic or personal reasons, such persons may acquire a well-founded fear of persecution upon return. Not all actions are unconditionally discovered or punished, but neither is the North's judicial system transparent enough to discount fear of persecution. Each case must be considered on its own merit.

Many repatriated North Koreans make the crossing again to escape persecution directed at "border crossers".<sup>283</sup> North Korea has also been known to hand down extremely harsh punishment, in some cases amounting to torture, to women who are trafficked or marry Chinese nationals, acts that may be construed as treason.<sup>284</sup> Those who are pregnant when facing repatriation are in particularly dire need of protection.<sup>285</sup>

#### **D. CESSATION AND CONTINUED NEED FOR PROTECTION: VOLUNTARY REPATRIATION?**

A North Korean refugee no longer warrants international protection when he or she takes citizenship in a new country (such as South Korea), is sufficiently protected by the state in which he or she currently lives or voluntarily returns to the protection of the home state. The key to the cessation of refugee status is the voluntariness of the refugee's actions, the intent to receive the home state's protection and the actual granting of that protection. In short, circumstances must have changed so that instead of fearing persecution, the refugee receives protection.

Many North Koreans choose to return home. However, they may still be in need of international protection. North Koreans who left home because of persecution often go back only to endure more of the same, distinguishing their return from true voluntary repatriation to the protection of the home state. Some sneak back because they have no access to protection in China and no way to reach a country in which such protection is offered. A clandestine return, if successful, may at least save them from even further persecution in the form of verbal abuse, prison camps or worse that follow forced repatriation. Others go back lest their actions be discovered and family members punished under the principle of "guilt by association", which North Korea frequently applies.<sup>286</sup> Even though it means living under previous conditions of oppression and in fear of persecution for the "crime" of having gone to China and activities there, many return to take provisions to their families, a decision that stretches the normal meaning of "voluntary".

#### **E. STATELESSNESS**

The UNHCR mandate also covers stateless persons. The relevant international instruments are the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. "UNHCR assists stateless persons in resolving their legal problems, obtaining documentation, and eventually restarting their lives as citizens of a country. The UNHCR also provides technical and legal advice to governments on nationality issues, including assistance in drafting and implementing nationality legislation designed to prevent and resolve situations of statelessness".<sup>287</sup>

The children of North Korean women and Chinese nationals fall into this category. Some are recorded under their fathers' names on the Chinese household registration system (*hukou*) but this requires paying bribes to officials and does not guarantee protection from repatriation. Not all children can go to school, and some live in hiding. The UNHCR should pay particular attention to the needs of stateless children and their mothers when working with China to develop a domestic legal framework for asylum seekers, keeping in mind its commitment "to develop integrated national strategies to address sexual violence (including domestic violence)".<sup>288</sup> Mothers of stateless children should also receive information about their rights and the rights of their children to seek asylum in a third country.

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<sup>283</sup> Crisis Group interviews, northern Thailand, June 2006.

<sup>284</sup> Hawk, "Hidden Gulag", op. cit.

<sup>285</sup> Joel Charny, "Acts of Betrayal", Refugees International, April 2005

<sup>286</sup> Crisis Group interviews, North East China, April-May 2006.

<sup>287</sup> "UNHCR and International Protection", op. cit.

<sup>288</sup> "Five Commitments to Refugee Women: Women, War, Peace, and Displacement", UN Development Fund for Women, 8 July 2004.