



Home Office

## **Country Information and Guidance**

### **Democratic People's Republic of Korea (North Korea): Opposition to the Regime**

26 November 2014

# Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of – as well as country of origin information (COI) about – the Democratic People's Republic of Korea (North Korea). This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as 'clearly unfounded' under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Within this instruction, links to specific guidance are those on the Home Office's internal system. Public versions of these documents are available at <https://www.gov.uk/immigration-operational-guidance/asylum-policy>.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office's research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please email: [cpi@homeoffice.gsi.gov.uk](mailto:cpi@homeoffice.gsi.gov.uk).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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# Section 1: Guidance

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## 1.1 Basis of Claim

- 1.1.1 Fear of ill treatment amounting to persecution at the hands of the North Korean authorities due to their actual or perceived opposition to the regime.

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## 1.2 Summary of Issues

- ▶ Is the person's account a credible one?
- ▶ Are actual or perceived political opponents of the regime at risk of mistreatment or harm in North Korea?
- ▶ Are those at risk able to seek effective protection?
- ▶ Are those at risk able to internally relocate within North Korea?
- ▶ Are those at risk able to avail themselves of the protection of another country of which they are citizens?

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## 1.3 Consideration of Issues

### Is the person's account a credible one?

- 1.1.2 Decision makers must consider whether the material facts relating to the person's account of their actual or perceived political opposition or activities and of their experiences in North Korea is reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the country information). Decision makers should take into account all mitigating reasons why a person is inconsistent or unable to provide details of material facts such as age; gender; mental or emotional trauma; fear and/or mistrust of authorities; education, feelings of shame; painful memories, particularly those of a sexual nature, and cultural implications.

### Are actual or perceived political opponents of the regime at risk of mistreatment or harm in North Korea?

- 1.1.3 A person who has come to the attention of the North Korean authorities for opposition or perceived opposition to the current regime is likely to face ill treatment amounting to persecution in North Korea.
- 1.1.4 North Korea has one of the worst human rights records in the world and there are widespread and systematic human rights violations. Fundamental freedoms, including freedom of speech, remain severely curtailed.
- 1.1.5 There is continued use of and reported expansion of political prison camps, which hold an estimated 150,000–200,000 people. Evidence from defectors and NGOs, collected over a number of years, suggests that severe human rights violations take place within the camps, including the use of forced labour, torture, starvation, sexual violence against women and executions for dissent.

1.1.6 The North Korean regime does not allow emigration, and reports indicate that tight security continues on the border, dramatically limiting the flow of persons crossing into China without required permits. Those who leave North Korea illegally are likely to face criminal sanctions on return to North Korea. However, the severity of this punishment may differ depending upon whether the person left North Korea for economic or political reasons. Those who have left North Korea for political reasons (particularly those who have claimed asylum abroad) are likely to face a minimum of five years hard labour if returned to North Korea. Generally, 'defectors' or those who have sought asylum may face harsher prison sentences or may be executed. Claiming asylum abroad is viewed as a political offence by the North Korean authorities, and attracts a harsh punishment which will amount to persecution. It is highly likely that collective punishment of family members for such offences will also take place, regardless of whether the family members concerned knew of or were involved in any attempted defection.

See country information: [Illegal exit](#)

Are those at risk able to seek effective protection?

1.1.7 As this category of claim concerns a person's fear of ill treatment by the state authorities, they would be unable to apply to those authorities for protection.

See country information: [Illegal exit](#)

Are those at risk able to internally relocate within North Korea?

1.1.8 As this category of claim concerns a person's fear of ill treatment by the state authorities, relocation to a different area of North Korea to escape this threat is not viable.

See also the Asylum Instruction on:

- ▶ [Internal Relocation](#)

Are those at risk able to avail themselves of the protection of another country of which they are citizens?

1.1.9 As most recently noted in the country guidance case of [GP & Ors \(South Korean citizenship\)](#) North Korea CG [2014] UKUT 391 (IAC) (20 August 2014), all North Korean citizens are also citizens of South Korea. While absence from the Korean Peninsula for more than 10 years may entail fuller enquiries as to whether a person has acquired another nationality or right of residence before a travel document is issued, upon return to South Korea all persons from the Korean Peninsula are treated as returning South Korean citizens. [Headnote (3)]

1.1.10 The Upper Tribunal in [GP & Ors](#) also found that there is no evidence that North Koreans returned to South Korea are sent back to North Korea or anywhere else, even if they fail the 'protection' procedure, and however long they have been outside the Korean Peninsula. [Headnote (4)]

1.1.11 [GP & Ors](#) noted that former North Koreans may have difficulty in adjusting to South Korea and there may be some discrimination in social integration, employment and housing, but this is not at a level which requires international protection. [Headnote (9)]

See also the Asylum Instruction on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)

and also:

- ▶ [Caselaw](#)

## 1.4 Policy Summary

- Persons who have or are likely to come to the attention of the North Korean authorities for opposition or perceived opposition to the regime are likely to face ill treatment amounting to persecution in North Korea.
- Furthermore, those who leave North Korea illegally face criminal sanctions if returned to North Korea. Generally, 'defectors' or those who have sought asylum may face indefinite terms of imprisonment in conditions which are likely to reach the Article 3 threshold or may be executed. Claiming asylum abroad is viewed as a political offence by the North Korean authorities, and attracts a harsh punishment which will amount to persecution.
- However all North Korean citizens are also citizens of South Korea. The application for asylum owing to a fear of persecution in North Korea is, therefore, likely to fall for refusal on the basis that:
  - (i) Such refusal will not result in the applicant being required to go to a country in breach of the Refugee Convention (para 334(v) Immigration Rules); and
  - (ii) The applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (para 339J (v))
- Where a claim falls to be refused on the basis that the person will be admitted to South Korea, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as South Korea is listed as a designated state.
- Where a claim falls to be refused, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

See also the Asylum Instructions on:

- ▶ [Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#)
- ▶ [Humanitarian Protection](#)
- ▶ [Discretionary Leave](#)

and also:

- ▶ [Caselaw](#)
- ▶ [Immigration Rules](#)

# Section 2: Information

Date Updated: 26 November 2014

## 1.5 Background

- 1.5.1 A report on North Korea from GlobalEDGE, a Knowledge Web portal developed by the International Business Center at Michigan State University, stated that:

'North Korea is a country in Eastern Asia occupying the northern half of the Korean Peninsula. It borders the Korea Bay and the Sea of Japan between China and South Korea. North Korea is composed of mountains and uplands, separated by deep and narrow valleys. The government system is a Communist state one-man dictatorship. The chief of state is the President and the head of state is the Premier. North Korea has a command economy in which the central government directs the economy regarding the production and distribution of goods.'<sup>1</sup>

- 1.5.2 The same report continued:

'North Korea has a centralized government under the rigid control of the communist Korean Workers' Party (KWP), to which all government officials belong. A few minor political parties are allowed to exist in name only. [Chondoist Chongu Party] (under KWP control), Social Democratic Party (under KWP control)]. Kim Il-sung ruled North Korea from 1948 until his death in July 1994 as Secretary General of the KWP and President of North Korea. The latter post was abolished following Kim Il-sung's death and the title of the Eternal President of the Republic was established and given to Kim Il-sung.

'Little is known about the actual lines of power and authority in the North Korean Government despite the formal structure set forth in its constitution. Following the death of Kim Il-sung, his son, Kim Jong-il, inherited supreme power. Kim Jong-il was named General Secretary of the KWP in October 1997, and in September 1998, the Supreme People's Assembly (SPA) reconfirmed Kim Jong-il as Chairman of the National Defense Commission (NDC) and declared that position as the "highest office of state." However, the President of the Presidium of the SPA, Kim Yong-nam, serves as the nominal head of state. North Korea's 1972 constitution was amended in late 1992, September 1998, and April 2009.

'Following the death of Kim Jong-il in December 2011, his son Kim Jong-un became the supreme leader of North Korea. In December 2011, the Politburo of the KWP formally appointed Kim Jong-un as the Supreme Commander of the Korean People's Army.'<sup>2</sup>

## 1.6 Overview of the Human Rights situation

- 1.6.1 GlobalEDGE, in its report on North Korea, stated that:

'Due to its isolationist nature, North Korea's human rights record is difficult to evaluate. However, non-governmental organizations (NGOs), think tanks, and defectors continue to report that North Korea maintains a record of consistent, severe human rights violations, stemming from the government's total control over all activity. Reported human rights abuses include arbitrary and lengthy imprisonment, torture and degrading treatment, poor prison conditions (including cases of starvation), forced labor, public

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<sup>1</sup> The International Business Center at Michigan State University (IBC), globalEDGE™, Global Insights: North Korea, undated <http://globaledge.msu.edu/countries/north-korea> date accessed 01 October 2014

<sup>2</sup> The International Business Center at Michigan State University (IBC), globalEDGE™, Global Insights: North Korea, undated <http://globaledge.msu.edu/countries/north-korea/government> date accessed 01 October 2014



executions, prohibitions or severe restrictions on freedom of speech, the press, movement, assembly, religion, and privacy, denial of the right of citizens to change their government, and suppression of workers' rights.'<sup>3</sup>

- 1.6.2 The Office of the United Nations High Commissioner for Human Rights (OHCHR), Human Rights Council, in the Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 07 February 2014, stated that:

'where the commission of human rights violations and crimes against humanity is ingrained into the institutional framework. The State Security Department, the Ministry of People's Security, the Korean People's Army, the Office of the Public Prosecutor, the judiciary and the Workers' Party of Korea are implicated in human rights violations and crimes against humanity. They are acting under the effective control of the leadership of the Workers' Party of Korea, the National Defence Commission and the Supreme Leader of the Democratic People's Republic of Korea.'<sup>4</sup>

- 1.6.3 The report further stated that:

'Systematic, widespread and gross human rights violations have been, and are being, committed by the Democratic People's Republic of Korea, its institutions and officials. In many instances, the violations of human rights found by the Commission constitute crimes against humanity. These are not mere excesses of the state. They are essential components of a political system that has moved far from the ideals on which it claims to be founded. The gravity, scale and nature of these violations reveal a state that does not have any parallel in the contemporary world. Political scientists of the 20th century characterized this type of political organization as a totalitarian state: A state that does not content itself with ensuring the authoritarian rule of a small group of people, but seeks to dominate every aspect of its citizens' lives and terrorizes them from within.'<sup>5</sup>

- 1.6.4 The Foreign and Commonwealth Office (FCO), in the 2013 Human Rights and Democracy Report, Democratic People's Republic of Korea (DPRK) - Country of Concern, 10 April 2014, stated that:

'The DPRK has one of the worst human rights records in the world. There is compelling evidence of a wide range of human rights violations, and little or no evidence that the DPRK is willing to engage with the international community on the issue. There has been no evidence of improvement in the human rights situation in the DPRK in 2013, with the possible exception of a marginal improvement in disability rights. There continue to be compelling reports from outside the DPRK of widespread and systematic human rights violations. Fundamental freedoms, including freedom of speech, remain severely curtailed.

'The continued use of and reported expansion of political prison camps, which hold an estimated 150,000–200,000 people, remains of deep concern. Evidence from defectors and NGOs, collected over a number of years, suggests that severe human rights violations take place within the camps, including the use of forced labour, torture, starvation, sexual violence against women and executions for dissent.'<sup>6</sup>

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<sup>3</sup> The International Business Center at Michigan State University (IBC), globalEDGE™, Global Insights: North Korea, undated <http://globaledege.msu.edu/countries/north-korea/government> date accessed 01 October 2014

<sup>4</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 1193 p358) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>5</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 1211 p365) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>6</sup> Foreign and Commonwealth Office (FCO), 2013 Human Rights and Democracy Report, Democratic People's Republic of Korea (DPRK) - Country of Concern, 10 April 2014,



- 1.6.5 The February 2014 Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea found that:

'Discrimination is rooted in the songbun system, which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion. Songbun intersects with gender-based discrimination, which is equally pervasive. [...], significant segments of the population that have neither the resources nor favorable songbun find themselves increasingly marginalized and subject to further patterns of discrimination, as basic public services have collapsed or now require payment. [...] Discrimination based on songbun continues to articulate itself today through the stark differences in living conditions between larger cities, in particular the capital Pyongyang, where the elites of the highest songbun are concentrated, and the remote provinces, to which people of low songbun were historically assigned. Discrimination remains a major means for the leadership to maintain control against perceived threats, both internal and external'.<sup>7</sup>

- 1.6.6 The same source further concluded that:

'Discrimination against women remains pervasive in all aspects of society. [...] The state has imposed blatantly discriminatory restrictions on women in an attempt to maintain the gender stereotype of the pure and innocent Korean woman. [...] Sexual and gender-based violence against women is prevalent throughout all areas of society. Victims are not afforded protection from the State, support services or recourse to justice. [...] Discrimination against women also intersects with a number of other human rights violations, placing women in positions of vulnerability. Violations of the right to food and freedom of movement have resulted in women and girls becoming vulnerable to trafficking and increased engagement in transactional sex and prostitution. The complete denial of the freedoms of expression and association outside state-approved organizations has been a large contributing factor to the generally unequal status of women vis-à-vis men. Among other things, these limitations have prevented women from collectively advocating for their rights, as women have done elsewhere in the world.'<sup>8</sup>

## 1.7 Treatment of actual and perceived political opponents

- 1.7.1 The US State Department, Country Reports on Human Rights for 2013: Democratic People's Republic of Korea, 27 February 2014, stated that:

'The government considered critics of the regime to be political criminals. The government did not permit access to persons by international humanitarian organizations. Reports from past years described political offenses as including burning old currency or criticizing the government's currency revaluation, sitting on newspapers bearing Kim Il Sung's or Kim Jong Il's picture, mentioning Kim Il Sung's limited formal education, or defacing photographs of the Kims. There were numerous instances of persons interrogated or arrested for saying anything that could be construed as negative towards the government'<sup>9</sup>

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<https://www.gov.uk/government/publications/democratic-peoples-republic-of-korea-dprk-country-of-concern/democratic-peoples-republic-of-korea-dprk-country-of-concern> date accessed 01 October 2014

<sup>7</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraphs 346, 348, 349 p98) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>8</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraphs 351, 352 p99) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>9</sup> US State Department, Country Reports on Human Rights for 2013: Democratic Peoples Republic of Korea, 27 February 2014, (Section 1e) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

1.7.2 Human Rights Watch, in its World Report 2014: North Korea, 21 January 2014, stated that:

‘Although North Korea has ratified four key international human rights treaties and technically possesses a constitution with some rights protections, in reality the government represses all forms of freedom of expression and opinion and does not allow any organized political opposition, independent media, free trade unions, civil society organizations, or religious freedom. Those who attempt to assert rights, fail to demonstrate sufficient reverence for the party and its leadership, or otherwise act in ways deemed contrary to state interests face arbitrary arrest, detention, lack of due process, and torture and ill-treatment. The government also practices collective punishment for supposed anti-state offenses, effectively enslaving hundreds of thousands of citizens, including children, in prison camps and other detention facilities with deplorable conditions and forced labor.’<sup>10</sup>

1.7.3 The US State Department, Country Reports on Human Rights for 2013: Democratic People’s Republic of Korea, 27 February 2014, stated that:

‘Citizens do not have the right to change their government peacefully. There was no effort to carry out by democratic means the leadership transition to Kim Jong Un following Kim Jong Il’s death. [...] national elections to select representatives to the Supreme People’s Assembly (SPA) occurred in 2009. These elections were neither free nor fair, and the outcome was virtually identical to prior elections. The government openly monitored voting, resulting in nearly 100 percent participation and 100 percent approval of the government candidates. ‘An NGO reported that citizens were ordered to participate in the July elections. The government has created several “minority parties.” Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. The government regularly criticized the concept of free elections and competition among political parties as an “artifact of capitalist decay”.’<sup>11</sup>

1.7.4 The same report stated that:

‘The government reportedly relied upon a massive, multilevel system of informants to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. A South Korean NGO reported that authorities entered homes without judicial authorization. The government appeared to monitor correspondence and telephone conversations.’<sup>12</sup>

1.7.5 38 North, U.S.-Korea Institute at SAIS (USKI), in an article, Some Thoughts on the North Korean Parliamentary Election of 2014, dated 14 March 2014, reported that the latest:

‘Elections for the 13th Supreme People’s Assembly (SPA), the parliament of North Korea, were held on March 9, 2014. [...] There are compelling reasons for regarding the elections as nothing but a farce. But SPA elections, as well as SPA sessions, are [...] among the few regularly conducted political activities in North Korea. [...] the SPA

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<sup>10</sup> Human Rights Watch, World Report 2014: North Korea, 21 January 2014, <http://www.hrw.org/world-report/2014/country-chapters/north-korea> date accessed 01 October 2014

<sup>11</sup> US State Department, Country Reports on Human Rights for 2013: Democratic Peoples Republic of Korea, 27 February 2014, (Section 3) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

<sup>12</sup> US State Department, Country Reports on Human Rights for 2013: Democratic Peoples Republic of Korea, 27 February 2014, (Section 1f) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

elections tell us a lot about the internal logic that holds the North Korean system together.’<sup>13</sup>

- 1.7.6 The February 2014 Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea stated that:

‘Throughout the history of the Democratic People’s Republic of Korea, among the most striking features of the state has been its claim to an absolute information monopoly and total control of organized social life. Based on witness testimonies, the Commission finds that there is almost complete denial of the right to freedom of thought, conscience, and religion as well as of the rights to freedom of opinion, expression, information, and association. [...] Virtually all social activities undertaken by citizens of all ages are controlled by the Workers’ Party of Korea. Through the associations which are run and overseen by the Party, and to which DPRK nationals are obliged to be members, the state is able to monitor its citizens as well as to dictate their daily activities. State surveillance permeates the private life of all citizens to ensure that no expression critical of the political system or of its leadership goes undetected. DPRK nationals are punished for any “anti-state” activities or expressions of dissent. They are rewarded for reporting on fellow citizens suspected of committing such “crimes”.’<sup>14</sup>

- 1.7.7 The Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea reported in June 2014 that:

‘The State strategically uses surveillance, coercion, fear and punishment to preclude the expression of any dissent. It uses executions and enforced disappearance to political prison camps to terrorize the population into submission. The State’s violence has been externalized through State-sponsored abductions and enforced disappearances of people from other nations. These international enforced disappearances are unique in their intensity, scale and nature. Anyone in the Democratic People’s Republic of Korea who is considered a threat to the political system and the leadership can become a target of these crimes against humanity.’<sup>15</sup>

- 1.7.8 The Foreign and Commonwealth Office reports in its annual report for 2013 stated that:

‘The DPRK government maintains tight control over media, and access to foreign broadcasting is strictly limited. Reports suggest that people found accessing foreign media without authorisation are subject to punishment, including imprisonment and, according to some reports in mid-2013, execution. [...] The arrest of leading Party official, Jang Song Thaek, on 8 December 2013, provided a rare public glimpse of the DPRK legal system in action. Although accused of a long list of crimes, Jang’s trial consisted of an appearance before a Special Military Tribunal on 12 December, followed immediately by execution, with no opportunity given for any appeal. When our Embassy in Pyongyang raised concerns that the process did not live up to international standards, the DPRK response was that members of factions that opposed the will of the regime would be “eliminated”.’<sup>16</sup>

- 1.7.9 Human Rights Watch in the World Report 2014 reported that:

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<sup>13</sup> 38 North, U.S.-Korea Institute at SAIS (USKI), Some Thoughts on the North Korean Parliamentary Election of 2014, 14 March 2014, <http://38north.org/2014/03/rfrank031414/> date accessed 01 October 2014

<sup>14</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraphs 259, 261 p73) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>15</sup> UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea, Marzuki Darusman\*, 13 June 2014, (paragraphs 10, 11 p5) <http://www.refworld.org/docid/53a02b134.html> date accessed 22 October 2014

<sup>16</sup> Foreign and Commonwealth Office (FCO), 2013 Human Rights and Democracy Report, Democratic People’s Republic of Korea (DPRK) - Country of Concern, 10 April 2014, <https://www.gov.uk/government/publications/democratic-peoples-republic-of-korea-dprk-country-of-concern/democratic-peoples-republic-of-korea-dprk-country-of-concern> date accessed 01 October 2014

'North Korea's criminal code stipulates that the death penalty can be applied for vaguely defined offenses such as "crimes against the state" and "crimes against the people." A December 2007 amendment to the penal code extended the death penalty to additional crimes, including non-violent offenses such as fraud and smuggling, as long as authorities determine the crime is "extremely serious".' <sup>17</sup>

1.7.10 The Foreign and Commonwealth Office noted that:

'[...] throughout 2013 there have been other, unconfirmed, reports of executions in the DPRK. DPRK officials have refused to either confirm or deny these claims. As we move into 2014, we are particularly concerned about rumours circulating that those close to Jang, both members of his "faction", and his wider family, have been purged under the practice of "guilt by association".' <sup>18</sup>

1.7.11 The U.S. Department of State report covering 2013 noted that:

'In November the South Korean newspaper JoongAng Ilbo reported that 80 individuals were publicly executed for crimes including watching foreign television dramas and prostitution. The mass execution reportedly took place on November 3 in seven different cities. According to the report, an eyewitness reported that in Wonsan the authorities gathered 10,000 people in a sports stadium to watch the execution of eight people by firing squad'. <sup>19</sup>

## 1.8 Political prison camps

1.8.1 The US State Department, Country Reports on Human Rights for 2013: Democratic People's Republic of Korea, 27 February 2014, stated that:

'[...] Political prisoners are held separately from other detainees. NGOs and the media reported that political prisoners were subject to harsher punishments and fewer protections than other prisoners and detainees.' <sup>20</sup>

1.8.2 The same report stated that:

'Reports indicated that conditions in the prison camp and detention system were harsh and life threatening, and that systematic and severe human rights abuses occurred. Many prisoners in political prison camps and the detention system were not expected to survive. Detainees and prisoners consistently reported violence and torture. Defectors described witnessing public executions in political prison camps. According to defectors, in some places of detention, prisoners received little or no food and were denied medical care. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. [...] Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial. [...] There were no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons reportedly

<sup>17</sup> Human Rights Watch, World Report 2014: North Korea, 21 January 2014, <http://www.hrw.org/world-report/2014/country-chapters/north-korea> date accessed 01 October 2014

<sup>18</sup> Foreign and Commonwealth Office (FCO), 2013 Human Rights and Democracy Report, Democratic People's Republic of Korea (DPRK) - Country of Concern, 10 April 2014, <https://www.gov.uk/government/publications/democratic-peoples-republic-of-korea-dprk-country-of-concern/democratic-peoples-republic-of-korea-dprk-country-of-concern> date accessed 01 October 2014

<sup>19</sup> US State Department, Country Reports on Human Rights for 2013: Democratic Peoples Republic of Korea, 27 February 2014, (Section 1) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

<sup>20</sup> US State Department, Country Reports on Human Rights for 2013: Democratic Peoples Republic of Korea, 27 February 2014, (Section 1) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014



found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice. There was no known bail system and no information on whether a lawyer was provided to detainees. Reports indicated that arbitrary arrests occurred.’<sup>21</sup>

1.8.3 Human Rights Watch, in its World Report 2014: North Korea, 21 January 2014, stated that:

‘North Korean refugees living in exile—some of whom fled after Kim Jong-Un took power—told Human Rights Watch that people arrested in North Korea are routinely tortured by officials seeking confessions, bribes, and obedience. Common forms of torture include sleep deprivation, beatings with iron rods or sticks, kicking and slapping, and enforced sitting or standing for hours. Guards also sexually abuse female detainees.

[...]

‘North Korean refugees also confirm that persons accused of political offenses are usually sent to brutal forced labor camps, known as kwan-li-so, operated by North Korea’s National Security Agency.

‘The government practices collective punishment, sending to forced labor camps not only the offender but also their parents, spouse, children, and even grandchildren. These camps are notorious for horrific living conditions and abuse, including induced starvation, little or no medical care, lack of proper housing and clothes, continuous mistreatment and torture by guards, and executions. Forced labor at the kwan-li-so often involves difficult physical labor such as mining, logging, and agricultural work, all done with rudimentary tools in often dangerous and harsh conditions. Death rates in these camps are reportedly extremely high.

‘North Korea has never acknowledged that these kwan-li-so camps exist, but United States and South Korean officials now estimate that between 80,000 and 120,000 people may be imprisoned in them, including in camp No. 14 in Kaechun, No. 15 in Yodok, No. 16 in Hwasung, and No. 25 in Chungjin. During the year, new satellite imagery indicated camp No. 22 in Hoeryung has been closed; it is unclear what happened to the estimated 30,000 prisoners previously held at the camp.’<sup>22</sup>

1.8.4 The Office of the United Nations High Commissioner for Human Rights (OHCHR), Human Rights Council, in the Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea, 07 February 2014, stated that:

‘SSD and Ministry of People’s Safety (MPS) officials operate under great pressure to produce perpetrators of political wrongs. They are often afraid of becoming the targets of suspicion and punishment, if they appear to be too lenient with suspects. As a result, even those unjustly accused of political wrongs often find it difficult, if not impossible to escape the control of the security apparatus without any punishment. However,

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<sup>21</sup> US State Department, Country Reports on Human Rights for 2013: Democratic People’s Republic of Korea, 27 February 2014, (Section 1c) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

<sup>22</sup> Human Rights Watch, World Report 2014: North Korea, 21 January 2014, <http://www.hrw.org/world-report/2014/country-chapters/north-korea> date accessed 01 October 2014

interventions by politically connected friends, and increasingly also the payment of bribes, often allow suspects of lesser wrongs to secure their release.<sup>23</sup>

1.8.5 The report further stated that:

'The use of torture is an established feature of the interrogation process in the Democratic People's Republic of Korea, especially in cases involving political crimes. Starvation and other inhumane conditions of detention are deliberately imposed on suspects to increase the pressure on them to confess and to incriminate other persons. Persons who are found to have engaged in major political crimes disappear, without trial or judicial order, to political prison camps (kwanliso). There, they will be incarcerated and held incommunicado. Their families will not be informed of their fate even if they die.'<sup>24</sup>

1.8.6 The same report continued:

'If they are not executed immediately, persons held accountable for major political wrongs are forcibly disappeared to political prison camps that officially do not exist. Most victims are incarcerated for life, without chance of leaving the camps alive. Camp inmates are denied any contact with the outside world. Not even their closest family members receive any notification as to whether they are dead or alive.

'The camps serve to permanently remove from society those groups, families and individuals that may politically, ideologically or economically challenge the current political system and leadership of the DPRK. The limited information that seeps out from the secret camps also creates a spectre of fear among the general population in the DPRK, creating a powerful deterrent against any future challenges to the political system. Because the camps are generally located in remote, mountainous areas, the innocuous expression that someone has been "sent to the mountains" has become synonymous in the DPRK with state-sponsored enforced disappearance.'<sup>25</sup>

1.8.7 The Korea Institute for National Unification (KINU), in its White Paper on Human Rights in North Korea 2014, July 2014, reported that:

'It is reported that North Korea is operating a total of six political prison camps, although North Korea officially deny their existence.'<sup>26</sup> [...]

'The total number of inmates in all political prison camps is estimated to be between 150,000 to 200,000. On October 16, 2009, the South Korean government reported to the National Assembly Foreign Affairs Committee that there was an estimated 154,000 political prisoners detained in six political prison camps throughout North Korea. At a joint seminar with the Database Center for North Korean Human Rights in November 2009, National Human Rights Commission of Korea estimated that there were 200,000 political prisoners in North Korea. However, the KINU researchers constructed a new estimate in 2013, based on escapee testimonies and satellite pictures, and the total

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<sup>23</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 728 p220) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>24</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 840 p269) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>25</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 729 p220) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

<sup>26</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p175) [http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

number of inmates currently detained in the five North Korean political prison camps is estimated to be a minimum of 80,000 and a maximum of 120,000.' [...] <sup>27</sup>

1.8.8 The report continued:

'North Korea operates two types of political prison camps: one is called the 'total control zone' and the other 'revolutionary zone'. The total control zone is for inmates serving a life time sentence. Once an inmate is sent to this facility, he/she can never be released. The inmates will eventually die in the camp after a life of hard labor at mines or lumber yards. These inmates do not receive any ideology education, but rather they only receive training that is necessary for farming or mining. On the other hand, political criminals detained at the revolutionary zone may be released after serving his/her term (from 1-10 years) and upon the decision of review (parole) board. Before the release, the inmate must sign an oath, promising that he/she will never divulge any information about the life inside the camp. Anyone breaking this oath is sent back to the camp. Even after the release, these individuals will be classified as the hostile group, which means that they have to live at the lowest echelon of society. They are put under priority surveillance by the State Security Department (SSD), and their activities, such as jobs and travels, are restricted. If they commit crimes after the release, a 10-year prison term is added to the term of their crime' <sup>28</sup>

See the [Korea Institute for National Unification \(KINU\), White Paper on Human Rights in North Korea 2014, July 2014](#), which addresses the penal system in general and provides comprehensive background, on Human Rights Abuses in Detention and Correctional Facilities, including the political prison camps system. <sup>29</sup>

See also The Committee for Human Rights in North Korea/DigitalGlobe Analytics: North Korea's Camp No. 25, Update 05 June 2014, for satellite images of the camps. <sup>30</sup>

1.8.9 Amnesty International, in a press release, Amnesty reacts to North Korea's first ever statement on prison camps, dated 8 October 2014, reported that:

'[...] a North Korean official acknowledged the country runs labour camps to "reform" detainees during a UN briefing to discuss a recent UN report on North Korea's rights record which found that the Government was committing "unspeakable atrocities" against its own people on a vast scale. Official Choe Myong Nam told the briefing that there were "no prison camps" operating in North Korea but there were "detention centres where people are improved through their mentality and look on their wrongdoings". Amnesty International said that: "The camps condemn thousands to a life beyond nightmares. People are worked to death, starved to death, beaten to death. Some are sent there just for knowing someone who has fallen out of favour. [...] If North Korea has nothing to hide, they should let Amnesty, the UN and other human rights monitors in immediately so that we can confirm all is as they say". <sup>31</sup>

<sup>27</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p177)  
[http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

<sup>28</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p179)  
[http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

<sup>29</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014  
[http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

<sup>30</sup> The Committee for Human Rights in North Korea/DigitalGlobe Analytics: North Korea's Camp No. 25, Update 05 June 2014 <http://www.hrnk.org/uploads/pdfs/Camp%2025%20Update%20Good.pdf> date accessed 01 October 2014

<sup>31</sup> Amnesty International, Amnesty reacts to North Korea's first ever statement on prison camps, 8 October 2014  
<http://www.amnesty.org.uk/press-releases/amnesty-reacts-north-koreas-first-ever-statement-prison-camps>



## 1.5 Illegal exit

### 1.5.1 The US State Department, Country Reports on Human Rights for 2013: Democratic People's Republic of Korea, 27 February 2014, stated that:

'The law provides for the "freedom to reside in or travel to any place"; however, the government did not respect this right. During the year the government continued to control carefully internal travel. [...] The government also restricted foreign travel. The government limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. Short-term exit papers were available for some residents to enable visits with relatives, for short-term work opportunities, or to engage in small-scale trade. [...] The government did not allow emigration, and reports indicated that it continued severe tight security on the border, dramatically limiting the flow of persons crossing into China without required permits.

'NGOs reported strict patrols and surveillance of residents of border areas and a crackdown on border guards who may have been aiding border crossers in return for bribes. Reports suggested that the number of North Koreans living illegally in northeastern China declined in recent years. News reports in August said that Chinese authorities installed additional miles of barbed-wire fencing along the Tumen River that divides China from North Korea, making it more difficult for North Koreans to cross into China. The South Korean press reported that the government issued orders for guards to shoot to kill those attempting to leave without official sanction. NGOs reported that Kim Jong Un called for stricter punishments for those suspected of illegal border crossing.'<sup>33</sup>

### 1.5.2 Human Rights Watch, in its World Report 2014: North Korea, 21 January 2014, stated that:

'People seeking to flee North Korea have also faced greater difficulties making the arduous journey from the North Korea border through China to Laos, and then into Thailand from where most are sent to South Korea. In a sign of the increased risks, the DPRK in May 2013 persuaded Laos to return nine young defectors arrested in Vientiane, at least five of whom were children, to an unknown fate in North Korea.

'China continues to categorically label all North Koreans in China "illegal" economic migrants and routinely repatriates them, despite its obligation to offer protection to refugees under the Refugee Convention of 1951 and its 1967 protocol, to which it is a state party. The certainty of harsh punishment upon repatriation has led many in the international community to argue that North Koreans fleeing into China should all be considered refugees *sur place*. Beijing regularly denies the office of UN High Commissioner for Refugees (UNHCR) access to North Koreans in China.

'Former North Korean security officials who have defected told Human Rights Watch that North Koreans handed back by China face interrogation, torture, and referral to

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date accessed 09 October 2014

<sup>32</sup> The Committee for Human Rights in North Korea/DigitalGlobe Analytics: North Korea's Camp No. 25, 25 February 2013 [file:///G:/My%20Documents/HRNK\\_Camp25\\_201302\\_Updated\\_LQ.pdf](http://www.dhrk.org/My%20Documents/HRNK_Camp25_201302_Updated_LQ.pdf) date accessed 01 October 2014

<sup>33</sup> US State Department, Country Reports on Human Rights for 2013: Democratic Peoples Republic of Korea, 27 February 2014, (Section 2d) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

political prisoner or forced labor camps. The severity of punishments depend on North Korean authorities' assessments of what the returnee did while in China.

'Those suspected of simple trading schemes involving non-controversial goods are usually sent to work in forced labor brigades (known as ro-dong-dan-ryeon-dae, literally labor training centers) orjip-kyul-so (collection centers), criminal penitentiaries where forced labor is required. Harsh and dangerous working conditions purportedly result in significant numbers of people being injured or killed.

'Those whom authorities suspect of religious or political activities abroad, especially having any sort of contact with South Koreans, are often given lengthier terms in horrendous detention facilities known as kyo-hwa-so (correctional, re-education centers) where forced labor is combined with chronic food and medicine shortages, harsh working conditions, and regular mistreatment by guards.

'North Korean women fleeing their country are frequently trafficked into forced de facto marriages with Chinese men. Even if they have lived there for years, these women are not entitled to legal residence and face possible arrest and repatriation. Many children of such unrecognized marriages lack legal identity or access to elementary education.'

<sup>34</sup>

### 1.5.3 The USSD 2013 report continued:

'The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labor correction." In "serious" cases defectors or asylum seekers are subjected to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. [...] The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border. Repatriated refugees were subjected to harsh punishments, including imprisonment. During the year the government reportedly continued to enforce the policy that all border crossers be sent to prison or re-education centers. An NGO reported that families of resettled defectors in South Korea were treated harshly and were forcibly relocated to areas away from the border.'

<sup>35</sup>

### 1.5.4 The Korea Institute for National Unification (KINU), in its White Paper on Human Rights in North Korea 2014, July 2014, reported that:

'Many North Koreans have fled their country and a large number of North Korean escapees are believed to be residing illegally in China, Russia, and other countries. The collection of accurate data on the exact number and details of individual situations is impossible as most escapees have uncertain legal status and are unable to openly ask for help. The Duman River region is normally used as the defection route for many North Koreans because it is easier to cross than other geographical points. However, there are various ways of fleeing such as escaping workplaces when assigned to jobs abroad, 705 or defecting to a third country while visiting relatives in China on regular passports.'

<sup>36</sup>

<sup>34</sup> Human Rights Watch, World Report 2014: North Korea, 21 January 2014, <http://www.hrw.org/world-report/2014/country-chapters/north-korea> date accessed 01 October 2014

<sup>35</sup> US State Department, Country Reports on Human Rights for 2013: Democratic People's Republic of Korea, 27 February 2014, (Section 2d) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220202#sthash.NiGPrn5D.dpuf> date accessed 01 October 2014

<sup>36</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p542)

### 1.5.5 The KINU 2014 report continued:

'From 2009, as the SSD began to implement a new set of emergency measures against defection, control over every avenue of defection has been tightened, including tighter surveillance and detection of ideological trends, strict and in-depth ideological education, travel permit checks along the borders, bed-checks, and inspections at border security units. Furthermore, it appears that the North Korean authorities have tightened punishment for residents found using cell phones in the border regions and have intensified surveillance of coast guards to prevent defections by sea.

'During the mourning period following Kim Jong-il's death on December 17, 2011, the movement of people was tightly controlled, and every family along the border region was required to take turns to stand guard. The bed-check inspections were reinforced and each Neighbourhood Watch (Inminban) had to newly appoint a reporter (or informer). A strong official warning was newly issued to the effect that three generations (in a family) would be destroyed (eliminated) if anyone defected, and escapees would be executed on-site. (sic) As a result, the number of defections has reduced dramatically. [...] The authorities have forcibly relocated over one thousand escape families to remote mountainous areas. It has been reported that the persecution of escape families has become even worse since Kim Jong-un emerged as the successor to Kim Jong-il.' <sup>37</sup>

### 1.5.6 The February 2014 Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea found that:

'The state imposes a virtually absolute ban on ordinary citizens travelling abroad, thereby violating their human right to leave the country. Despite the enforcement of this ban through strict border controls, nationals still take the risk of fleeing, mainly to China. When they are apprehended or forcibly repatriated, DPRK officials systematically subject them to persecution, torture, prolonged arbitrary detention and in some cases sexual violence, including during invasive body searches. Repatriated women who are pregnant are regularly forced to undergo an abortion, a practice that is driven by racist attitudes towards persons from China, and to inflict punishment on women who have committed a serious offence by leaving the country. Where a baby is born, it is then killed by the authorities. Persons found to have been in contact with officials or nationals from the Republic of Korea or with Christian churches may be forcibly "disappeared" into political prison camps, imprisoned in ordinary prisons or even summarily executed.'

<sup>38</sup>

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## 1.6 North Koreans in South Korea

### 1.6.1 In a response from the Immigration and Refugee Board of Canada (IRB) to a query concerning the situation of citizens of the Democratic People's Republic of Korea (North Korea) who approach embassies of the Republic of Korea (South Korea) to request citizenship, dated 18 December 2012, it was stated that:

'Persons from the Democratic People's Republic of Korea (North Korea) are officially considered by the Republic of Korea (South Korea) to be citizens of the Republic of

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[http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

<sup>37</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p545)

[http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

<sup>38</sup> UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 489 p144) available at: <http://www.refworld.org/docid/530314234.html> date accessed 01 October 2014

Korea (Republic of Korea 26 Nov. 2012; Committee for HRNK 19 Nov. 2012; HanVoice 26 Nov. 2012). Sources indicate that this is based on Article 3 of the Constitution of the Republic of Korea (Republic of Korea 26 Nov. 2012; HanVoice 26 Nov. 2012), according to which South Korea claims as its territory the entirety of the Korean Peninsula (Republic of Korea 1987, Art. 3; LiNK 7 Dec. 2012; Republic of Korea 26 Nov. 2012).

‘However, sources explain that, in practice, before North Koreans may be accepted as South Korean citizens and resettle in South Korea, they must go through a screening process. (LiNK 7 Dec. 2012; Committee for HRNK 19 Nov. 2012; HanVoice 26 Nov. 2012; International Crisis Group 26 Nov. 2012). Sources say that this screening process is used for security purposes, specifically to prevent North Korean government agents from infiltrating South Korea by posing as defectors or refugees (LiNK 7 Dec. 2012; HanVoice 26 Nov. 2012; International Crisis Group 26 Nov. 2012; Committee for HRNK 19 Nov. 2012). In correspondence with the Research Directorate, a representative of the Seoul office of Liberty in North Korea (LiNK), an American NGO that provides assistance to refugees from North Korea (n.d.), stated that the screening process was also used by the South Korean intelligence service to gather information on North Korea. (7 December 2012).

‘In correspondence with the Research Directorate, the Deputy Project Director of the International Crisis Group’s North East Asia Program stated that there has been a greater scrutiny of defectors in South Korea because of recent cases of North Korean agents claiming to be defectors and refugees (26 Nov. 2012).’<sup>39</sup>

- 1.6.2 The IRB, in a report, Whether North Korean defectors to South Korea are issued government documents that indicate they are genuine defectors, dated 29 February 2012, reported that:

‘Upon obtaining South Korean citizenship, defectors are issued the regular South Korean citizen identity (ID) card [also referred to in English as the resident ID card or national ID card] (Canada 14 Feb. 2012; Republic of Korea 14 Feb. 2012). According to an official at the Canadian embassy in Seoul, naturalized defectors are considered to be Korean and so there is no legal distinction between them and other South Koreans (Canada 14 Feb. 2012). This statement is corroborated by the Executive Director of HanVoice (22 Feb. 2012), a Canadian advocacy organization for North Korean human rights. (HanVoice n.d.)’<sup>40</sup>

- 1.6.3 The IRB, in a further report, Whether there are any limitations on the eligibility for citizens of the Democratic People’s Republic of Korea (North Korea) to obtain citizenship in the Republic of Korea (South Korea), including any restrictions on resettlement support provided by South Korea; whether living in a third country for an extended period of time affects the eligibility of a North Korean to obtain South Korean citizenship (2010-July 2013), dated 02 August 2013, stated that:

‘Information about restrictions on resettlement support was scarce among the sources consulted by the Research Directorate. According to the Executive Director of HanVoice, there are a variety of resettlement support programs for North Koreans

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<sup>39</sup> Immigration and Refugee Board of Canada, Democratic People’s Republic of Korea and Republic of Korea: The situation of citizens of the Democratic People’s Republic of Korea (North Korea) who approach embassies of the Republic of Korea (South Korea) in Canada or in other countries to request citizenship; whether North Koreans are automatically accepted as South Korean citizens and, if not, how this is determined; citizenship procedures; methods of establishing North Korean identity; whether North Korean applicants are provided assistance to allow them to travel to South Korea (June 2008-November 2012), 18 December 2012, ZZZ104246.E, <http://www.refworld.org/docid/5214ac5c4.html> date accessed 01 October 2014

<sup>40</sup> Immigration & Refugee Board of Canada: “Whether North Korean defectors to South Korea are issued government documents that indicate they are genuine defectors” 29 February 2012 <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=printdoc&docid=503501f22> date accessed 01 October 2014



provided by South Korea, which differ in length and eligibility, "and depend on criteria such as age, income, disability, presence of dependents, etc." (19 July 2013). In a report entitled *Strangers at Home: North Koreans in the South*, the International Crisis Group provides details on the orientation received at Hanawon and additional long-term support for North Korean defectors (International Crisis Group 14 July 2011, 22-23). The Director of Research and Strategy at LiNK said that he was aware of some situations in which North Koreans were allowed to resettle in South Korea through the process but were not granted resettlement support because they were convicted of "serious" crimes in North Korea (7 July 2013). The same source said that he believed that residing in China for a long period, such as more than ten years, might affect the level of resettlement support granted by the South Korean government (LiNK 7 July 2013).<sup>41</sup>

- 1.6.4 The New York Times, in an article, *Young North Korean Defectors*, dated 12 July 2012, discussed difficulties met in integrating into a new society, and reported that:

'Attempts at integration, including government-run crash courses on life in the capitalist South, have had mixed results, leaving many North Koreans unable to adapt to South Korea's high-pressure society or overcome their stereotype as backward country cousins.

'The government had hoped that education might close the chasm, offering piecemeal steps over the last decade that evolved into a full-fledged affirmative action program, which gives young North Koreans the chance to bypass grueling entrance exams to enter top universities. Now, even that stopgap measure appears to be failing [ as large numbers of North Koreans are dropping out, creating new worries that they and other defectors could become part of a permanent underclass. [...]

'Many South Koreans had assumed that a shared language and culture would help defectors ease past the educational gaps, but the defectors say the extra help is not enough to catch up with South Korean classmates who spent the evenings and weekends of their childhood at cram schools preparing for entrance exams [...]

'An even bigger challenge, educators say, are the defectors' emotional problems. While South Korean officials say they have not concluded whether these children suffer cognitive deficiencies from malnutrition, they say the North Koreans often suffer depression, anger and other symptoms of post-traumatic stress.'<sup>42</sup>

- 1.6.5 See also The Republic of Korea's, Ministry of Unifications' latest data on the Number of North Korean refugees who entered the South.<sup>43</sup>

- 1.6.6 The Korea Institute for National Unification (KINU), in its *White Paper on Human Rights in North Korea 2014*, July 2014, reported that:

'It is a mandatory procedure under the South Korean law to hold newly arrived North Koreans and offer adjustment education. For this reason, some of them have brought lawsuits against the government, claiming that they were held under mandatory detention, and hence experienced violation of certain human rights. These lawsuits, however, were dismissed, as the investigations after arrival in South Korea were found

<sup>41</sup> Immigration and Refugee Board of Canada, *Democratic People's Republic of Korea and Republic of Korea: Whether there are any limitations on the eligibility for citizens of the Democratic People's Republic of Korea (North Korea) to obtain citizenship in the Republic of Korea (South Korea), including any restrictions on resettlement support provided by South Korea; whether living in a third country for an extended period of time affects the eligibility of a North Korean to obtain South Korean citizenship* (2010-July 2013), 2 August 2013, ZZZ104514.E , available at: <http://www.refworld.org/docid/52b1797f4.html> , date accessed 01 October 2014

<sup>42</sup> The New York Times, *Young North Korean Defectors Struggle in the South*, 12 July 2012, [http://www.nytimes.com/2012/07/13/world/asia/young-north-korean-defectors-struggle-in-the-south.html?\\_r=3&ref=northkorea&](http://www.nytimes.com/2012/07/13/world/asia/young-north-korean-defectors-struggle-in-the-south.html?_r=3&ref=northkorea&) , date accessed 01 October 2014

<sup>43</sup> Republic of Korea, Ministry of Unification, *Data and statistics*, <http://eng.unikorea.go.kr/content.do?cmsid=1822> , date accessed 01 October 2014

perfectly legal. The Korean Bar Association has formed a “task force” to improve, legally and systematically, the human rights of North Korean escapees in the process of settlement in the South.’<sup>44</sup>

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<sup>44</sup> Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p594)  
[http://www.kinu.or.kr/eng/pub/pub\\_04\\_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=](http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses=) date accessed 01 October 2014

# Annex A: Map of the Democratic People's Republic of Korea (North Korea)



UN Cartographic Section, Map of the Democratic People's Republic of Korea, January 2004, No. 4163 Rev. 2, available at: <http://www.refworld.org/docid/460a21a22.html> [accessed 12 September 2014]

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# Annex B: Caselaw

## GP & Ors (South Korean citizenship) North Korea CG [2014] UKUT 391 (IAC) (20 August 2014)

- (1) The Upper Tribunal's country guidance in KK and others (Nationality: North Korea) Korea CG [2011] UKUT 92 (IAC) stands, with the exception of paragraphs 2(d) and 2(e) thereof. Paragraphs (2), (3) and (4) of this guidance replace that given in paragraphs 2(d) and 2(e) respectively of KK.
- (2) South Korean law makes limited provision for dual nationality under the Overseas Koreans Act and the Nationality Act (as amended).
- (3) All North Korean citizens are also citizens of South Korea. While absence from the Korean Peninsula for more than 10 years may entail fuller enquiries as to whether a person has acquired another nationality or right of residence before a travel document is issued, upon return to South Korea all persons from the Korean Peninsula are treated as returning South Korean citizens.
- (4) There is no evidence that North Koreans returned to South Korea are sent back to North Korea or anywhere else, even if they fail the 'protection' procedure, and however long they have been outside the Korean Peninsula.
- (5) The process of returning North Koreans to South Korea is now set out in the United Kingdom-South Korea Readmission Agreement (the Readmission Agreement) entered into between the two countries on 10 December 2011. At present, the issue of emergency travel documents under the Readmission Agreement is confined to those for whom documents and/or fingerprint evidence establish that they are already known to South Korea as citizens, or who have registered as such with the South Korean Embassy in the United Kingdom.
- (6) Applying MA (Ethiopia) v Secretary of State for the Home Department [2009] EWCA Civ 289, North Koreans outside the Korean Peninsula who object to return to North Korea must cooperate with the United Kingdom authorities in seeking to establish whether they can avail themselves of the protection of another country, in particular South Korea. Unless they can demonstrate that in all of the countries where they are entitled to citizenship they have a well-founded fear of persecution for a Refugee Convention reason, they are not refugees.
- (7) If they are not refugees, it remains open to such persons to seek to establish individual factors creating a risk for them in South Korea which would engage the United Kingdom's international obligations under the EU Qualification Directive or the ECHR.
- (8) There is no risk of refoulement of any North Korean to North Korea from South Korea, whether directly or via China. South Korea does not return anyone to North Korea at all and it does not return North Koreans to China. In a small number of cases, Chinese nationals have been returned to China. A small number of persons identified by the South Korean authorities as North Korean intelligence agents have been prosecuted in South Korea. There is no evidence that they were subsequently required to leave South Korea.
- (9) Once the 'protection' procedure has been completed, North Korean migrants have the same rights as other South Korean citizens save that they are not required to perform military service for South Korea. They have access to resettlement assistance, including

housing, training and financial assistance. Former North Koreans may have difficulty in adjusting to South Korea and there may be some discrimination in social integration, employment and housing, but not at a level which requires international protection.

## **KK and others (Nationality: North Korea) Korea CG [2011] UKUT 92 (IAC) (07 March 2011)**

### **1. Law**

- (a) For the purposes of determining whether a person is “of” or “has” a nationality within the meaning of Article 1A (2) of the Refugee Convention, it is convenient to distinguish between cases where a person (i) is (already) of that nationality; (ii) is not of that nationality but is entitled to acquire it; and (iii) is not of that nationality but may be able to acquire it.
- (b) Cases within (i) and (ii) are cases where the person is “of” or “has” the nationality in question; cases within (iii) are not.
- (c) For these purposes there is no separate concept of “effective” nationality; the issue is the availability of protection in the country in question.
- (d) Nationality of any State is a matter for that State’s law, constitution and (to a limited extent) practice, proof of any of which is by evidence, the assessment of which is for the court deciding the protection claim.
- (e) As eligibility for Refugee Convention protection is not a matter of choice, evidence going to a person’s status within cases (i) and (ii) has to be on “best efforts” basis, and evidence of the attitude of the State in question to a person who seeks reasons for not being removed to that State may be of very limited relevance.

### **2. Korea**

- (a) The law and the constitution of South Korea (ROK) do not recognise North Korea (DPRK) as a separate State.
- (b) Under South Korean law, most nationals of North Korea are nationals of South Korea as well, because they acquire that nationality at birth by descent from a (North) Korean parent, and fall therefore within category (i) in 1(a) above.
- (c) South Korea will make rigorous enquiries to ensure that only those who are its nationals are recognised as such but the evidence does not show that it has a practice of refusing to recognise its nationals who genuinely seek to exercise the rights of South Korean nationals.

This determination was subsequently upheld on appeal by the Court of Appeal on 16 February 2012 in the case of SP (North Korea) & Ors v Secretary of State for the Home Department [2012] EWCA Civ 114

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