



NORTH KOREA

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I had seen almost four hundred North Koreans repatriated from China during my stay in Musan...It was so dangerous to cross the border, but I decided to cross it anyway.

--North Korean who escaped to China

THE INVISIBLE EXODUS: NORTH KOREANS IN THE PEOPLE'S REPUBLIC OF CHINA

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I. SUMMARY AND RECOMMENDATIONS

Overview

There are anywhere from 10,000 to 300,000 North Koreans living in hiding in China, mainly in the province of Jilin, along the border region with North Korea, mixed among Chinese citizens of Korean ethnicity. To reach China, they have defied their government's criminal prohibition on illegal exit and China's rigorous border controls. They are inaccessible except to a handful of intrepid journalists and activists, and barely acknowledged by China, whose policy is immediate expulsion in an effort to maintain good relations with neighboring North Korea and deter further migration. Occasionally, a handful of this largely invisible crowd erupts into world view when a family makes its way into a foreign embassy or office in Beijing, publicly seeking asylum. While China has allowed these diplomatic embarrassments to be resolved by the family's departure to third countries, it has also followed each incident with a renewed border crackdown, repatriating hundreds to deter the thousands waiting to cross.

This invisible exodus from the Democratic People's Republic of Korea (North Korea) entails human rights violations at almost every step. Some, though not most, migrants, leave because of political oppression or a desire for political freedom denied them in North Korea. Once in China, all migrants are vulnerable to abuse and unable to call on the Chinese government for protection. Problems range in severity from extortion to rape and trafficking in women to torture in Chinese prisons. Migrants who are caught crossing repeatedly, who stay for a prolonged period, or have any contact with South Koreans or other non-Chinese foreigners, including missionaries and humanitarian workers who enter this area, are liable to severe punishments, even including death, if discovered and returned to North Korea. China is party to the 1951 U.N. Convention on the Status of Refugees and its 1967 Protocol (the "Refugee Convention"),¹ but refuses to protect North Koreans, regardless of their reason for leaving, and regardless of the factors that may make them subject to persecution on return. Other countries of the region have varying practices with regard to North Korean refugees who transit through China, with some providing them asylum and access to the United Nations High Commissioner for Refugees (UNHCR) and others returning them to China, and often to peril.

This report presents a comprehensive overview of this human rights disaster, grounded in first-hand accounts of North Koreans who escaped to the South, and humanitarian workers who aided them and many less fortunate. It examines the complex and harrowing decision of migrants to leave, an illegal act often deemed tantamount to treason; the months and even years of hiding in China; the desperate circumstances that lead women to sell themselves as sexual companions; and the vulnerability these migrants have that open them to every and any abuse. Their fear of return is based on the well-known system of penal camps and labor colonies, consignment to whose horrific conditions was described to us repeatedly as a fate "worse than death." We conclude with a review of the national policies of key players in this crisis, and propose a coordinated international effort 1) to get North Korea to cease punishing returnees and allow access to monitors and humanitarian agencies, 2) to persuade China to grant humanitarian status to all such migrants in the meantime, and 3) to provide China with material assistance for such migrants and third-country options for their resettlement.

No one can gauge the present dimensions of this exodus because the migrants remain hidden for fear of discovery, repatriation, and harsh punishment in North Korea. China additionally limits access to this area by international agencies, such as the UNHCR, and humanitarian organizations. Estimates by governments and private assistance or religious groups vary enormously, from the low official estimate of 10,000 long-term migrants resident in China by the Ministry of Unification in the Republic of Korea (South Korea), to as many as 300,000 estimated by non-governmental groups who extrapolated results from large-scale surveys of villages in the border region.

¹ *Convention Relating to the Status of Refugees*, 189 UNTS 150, 1951, entered into force April 22, 1954. In 1967 a Protocol was adopted to extend the Convention temporally and geographically. *Protocol Relating to the Status of Refugees*, 19 UST 6223, 606 UNTS 267, 1967, entered into force October 4, 1967. China became a part of the 1951 Refugee Convention and its Protocol in 1982.

There is general agreement that the collapse of the North Korean economy in the 1990s, and particularly agricultural disasters that led to severe famine beginning around 1994-1995, provoked the greatest outpouring—starvation and despair prompting hundreds of thousands to seek help across the border. It is estimated that hundreds of thousands—or even millions—of North Koreans died in their homeland of sickness and hunger during the most acute phase of the food crisis, which is far from over.² The acute crisis led to some deterioration of the system of tight social controls in place. Workplaces ceased to give out food distributions; control over internal movement as well as cross-border movement loosened; an underground economy emerged as people scrambled for any way to survive.

In the year 2001, it appeared that despite periodic crackdowns on Korean migration by China and slightly improved food conditions in North Korea, migration continued steadily. The taboo on leaving North Korea, once breached, was difficult to re-establish once routes and prices on the “underground railroad” became known. While many migrants of the food crisis years waited three or five years to make it to South Korea, we also heard of migrants in 2001 transiting in a matter of weeks or even days. The invisible exodus appeared to have gone from crisis proportions to a chronic state.

This situation may have changed once again, as the year 2002 brought an unprecedented number of North Korean asylum seekers rushing into diplomatic missions in Beijing and elsewhere in China.³ China responded with tightened security around diplomatic compounds, demands that embassies and consulates hand over North Koreans, much-heightened security measures at the border, and arrests and prosecutions of those who were helping North Koreans escape. North Korea also appears to be tightening its border controls in cooperation with China, and there are initial reports that suggest more punitive measures against returnees are in force. As of mid-year, humanitarian workers reported the impression that migration had fallen off sharply, although it is likely to increase once the Tumen river freezes over and food conditions worsen, later in the year.

The desperate conditions that provoke this migration are the symptoms of a profound human rights disaster. The famine, while due in some part to environmental factors, is deepened and perpetuated by the North’s social, economic, and political policies, and its unwillingness to allow the monitoring of distribution of international humanitarian aid.⁴ Draconian policies of discrimination and punishment based on a family’s political background

² According to the World Food Program, annual production of rice and maize in North Korea fell from eight million metric tons in the 1980s to 2.9 million in 2000. It also estimates that approximately 57% of the population is malnourished, including 45% of children under five. As of April 30, 2002, less than 10% of the U.S.\$258 million called for by U.N. agencies for humanitarian aid had been pledged by the international community. WFP Press Release, April 20, 2002, “Democratic People’s Republic of Korea’s ‘Already Severe Humanitarian Crisis’ will Dramatically Worsen without Immediate Aid say U.N. Heads.” Available at the Korea-DPR page of http://www.wfp.org/country_brief/index. See also John Powell, Regional Director, Asia Region WFP, “Testimony before the Subcommittee on East Asia and the Pacific House International Relations Committee,” May 2, 2002.

³ From March-September 2002, a total of 121 North Koreans reportedly gained asylum in South Korea. Among them were twenty-five North Koreans who got into the Spanish embassy in Beijing in March then later flew to Seoul via Manila; in September, two groups arrived in Seoul: twenty one who had trickled into the South Korean consulate in Beijing since June, and a group of sixteen who had jumped a wall into a German school. “North Korean Asylum Cases Since 1996,” Reuters, September 12, 2002.

⁴ An excellent discussion of the development of the famine is Andrew Natsios, *The Politics of Famine in North Korea*, A USIP Special Report (Washington, D.C.: U.S. Institute for Peace, August 2, 1999) available electronically at <http://www.usip.org/oc/sr/sr990802/sr990802.html>.

North Korea’s self-enforced isolation, authoritarian repression of speech, religion and political pluralism, and horrendous penal practices have often been noted by political defectors, but now are being articulated by more ordinary migrants and even the expert bodies that consider human rights compliance in the U.N. system. For example, North Korea, a party to the International Covenant on Civil and Political Rights, submitted its second periodic report under the Covenant to the Human Rights Committee, the party which reviews compliance of states parties. In 2001, the Committee flagged the limited access of internal and international monitors to the country, the many consistent and substantial allegations of torture; cruel, inhuman and degrading treatment; forced labor; and lack of judicial independence; as well as severe restrictions on leaving and entering the country as continuing violations. (Concluding Observations of the Human Rights Committee: Democratic People’s Republic of Korea, August 27, 2001, CCPR/CO/72/PRK [Concluding Observations/Comments]. See

have marginalized many of those who try to flee to sustain their lives. North Koreans who are expelled from China are under North Korean law liable to punishment in horrific labor camps, some for prolonged periods of time, or even to the death penalty if their “crime” of leaving is interpreted as treason.

China’s policies towards North Koreans compound these human rights violations and show a particular disregard for international law. North Koreans flee for a number of reasons, including fear of political persecution or discrimination that amounts to persecution. A well-founded fear of persecution is the hallmark of a refugee, entitled to protection and asylum under international law. But once abroad, even those motivated by other reasons such as simple hunger may face imprisonment upon return, including harsh terms if it is suspected they had contact with South Korea and the West, usually through encounters with missionaries or aid workers. This transforms many North Korean migrants into *refugees sur place*, or persons who, while abroad, become entitled to protection as refugees because of the risk of political persecution should they return. The injunction to never return refugees to territories where their life or freedom is threatened, also known as the norm against *refoulement*, is articulated in Article 33 of the Refugee Convention and has become recognized as a rule of customary international law, binding on all states regardless of whether they have signed that treaty. China is not only a party to the Refugee Convention, it is also a member of the Executive Committee of the United Nations High Commissioner,⁵ and as such has supported a wide array of rules that strengthen and elaborate refugee protection, many of which it has flouted in the case of North Koreans.⁶

All of the states involved in the crisis fear that a worsening of the already dire economic and social conditions in North Korea could easily turn the current migration of thousands into millions. Yet there is little serious effort by North Korea and the international community to address the underlying humanitarian and human rights problems in a way that produces effective policy.

The discourse on North Korean refugees has been enmeshed in politics, both domestic and international. Historically, incidents of “defection” have been used in South Korea as a measure of “victories” over the North, in the context of the goal of the collapse of the North’s government and eventual unification. Invoking the desperation of the asylum seekers has thus been used as a cudgel against President Kim Dae-Jung’s “sunshine” policy of rapprochement with the North. Yet the Kim Dae-Jung government has actually taken the most generous position on accepting and supporting North Korean asylum seekers of any previous government in the South. The small but swelling numbers of asylum seekers that are making it to the South have in turn caused anxiety, even among proponents of the sunshine policy, as to the South’s ability to absorb these Koreans from a radically different society and sustain the high resettlement subsidies it provides.

also, Concluding Observations of the Committee on the Rights of the Child: Democratic People’s Republic of Korea, June 5, 1998 [Concluding Observations/Comments] [expressing concern at the increase in the child mortality rate during the famine and the government’s failure to allocate resources to children’s humanitarian needs to the maximum extent available and within the framework of international assistance.] The U.N. Sub-Commission on Human Rights has also issued general resolutions that were designed in part with North Korea in mind, stressing the importance of *non-refoulement* and cooperation with the UNHCR. (International protection for refugees and displaced persons, United Nations High Commissioner for Human Rights, Sub-Commission on Human Rights resolution 2001/16, 16 August 2001, and Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-fourth session, Agenda item 6 E/CN.4/Sub.2/2002/L.19, 9 August 2002.)

⁵ The Executive Committee (ExCom) is the governing body of the United Nations High Commissioner for Refugees. Since 1975, the ExCom has adopted a series of “Conclusions” at its annual meetings, which are intended to guide states in their treatment of refugees and asylum seekers and in their interpretation of existing international refugee law. ExCom Conclusions are not legally binding on states, but they are widely recognized as representing the view of the international community and carry persuasive authority as they are adopted by consensus by ExCom members states.

⁶ For example, ExCom Conclusion No. 22 addresses the need to fully protect refugees who arrive in a host country as part of a large-scale influx, as does No. 85; No. 81 reiterates the importance of UNHCR’s protection mandate and the primary responsibility of states in protecting refugees within their territories; and No. 91 emphasizes the importance of refugee registration.

Human Rights Watch believes that addressing North Korea's political and economic isolation, and the human rights violations that such isolation has hidden from view, is key to both staunching the flow of migrants out of the country and eliminating persecution and abuse of these persons in the long run. In the immediate term, it is essential that China cease deporting North Koreans without providing them the opportunity to have their claims to asylum fairly considered in accordance with international law.

To this end, China should immediately grant access to the United Nations High Commissioner for Refugees (UNHCR) to the border region and give the UNHCR a role in refugee status determination. UNHCR'S role has thus far been extremely limited, and UNHCR is not present on the border.⁷

It is incumbent on the international community, including countries in the region and the major aid and trade partners to China and North Korea, to collectively press for a comprehensive policy on North Korean migrants that will protect refugees and the rights of migrants. A key step in this direction will be for North Korea to repeal all laws, decrees, rules, and practices of punishing residents who exercise their fundamental right to leave their own country,⁸ and to allow international verification that returnees are no longer subjected to punishment.

As an interim measure, the international community should urge China to grant all North Koreans an indefinite humanitarian status that would allow them to remain in China without facing the risk of detention and *refoulement* until a durable solution is devised that fully protects their internationally recognized rights. This should not be seen as a substitute for a mechanism for asylum seekers to apply for legal status and recognition, or a way for China to escape its international responsibilities under the U.N. Refugee Convention. But such an interim measure would at least provide some relief from the immediate threat of deportation and other abuses Human Rights Watch has documented in this report.

China should also be urged to end the harassment and arrest of either Chinese or foreign aid workers assisting migrants, and should allow humanitarian aid groups access to the border area for the purpose of providing them with food, medical aid, and other humanitarian assistance. A formal or informal agreement to allow aid groups space to operate is especially important in advance of winter.

Recommendations on the Refugee Crisis

Human Rights Watch's specific recommendations on developing a comprehensive approach to the North Korean refugee crisis are as follows:

To North Korea:

- North Korea should immediately cease its practice of punishing persons who leave its territory, and repeal all laws, decrees, rules and orders that authorize imprisonment, detention, forced labor, restricted residence, official discrimination, or any other sanction on this account. It should allow for international verification that this practice has ceased. All persons detained on this basis should be immediately released;
- North Korea should cease the practice of collective punishments generally, and in particular should cease the practice of punishing family members of persons who leave North Korea for China or for third countries;

⁷ In a handful of cases involving refugee seekers in Beijing, for example when North Koreans entered the Spanish embassy this past March, UNHCR was able to conduct screening and determine refugee status. In June 2001, a family of seven North Koreans entered the UNHCR office in Beijing to request asylum. Another seven made it to Russia and were determined to be refugees by UNHCR in 2000, but they were ultimately sent back to North Korea. UNHCR strongly protested the move, but had no information on their fate once back in North Korea. UNHCR press statement, Geneva, June 26, 2001.

⁸ This right is enshrined in the Universal Declaration of Human Rights, article 13(2): "Everyone has the rights to leave any country, including his own, and to return to his country."

- North Korea should release any non-residents it has detained in connection with activities aimed at assisting migrants and refugees from North Korea.

To China:

- China should immediately halt any efforts to forcibly return North Koreans that are in violation of its international human rights and refugee protection obligations;
- China should begin a high level dialogue with the U.N. High Commissioner for Refugees on the establishment of refugee screening for North Korean asylum seekers, conducted with the assistance of the UNHCR, including a presence on the border;
- As an interim step, China should grant all North Koreans in China an indefinite humanitarian status that would protect them from harassment, threats of extortion of arrest or forcible repatriation to North Korea, until a durable solution is devised that fully protects their internationally recognized rights;
- The Chinese government should allow international humanitarian aid groups, including non governmental and private agencies, access to border areas to provide assistance and should not subject aid workers to harassment, arrest, or intimidation;
- China should cease any efforts to forcibly enter diplomatic compounds in Beijing to detain North Koreans, and should allow UNHCR access to North Koreans on diplomatic territory or elsewhere who may seek screening and protection.

To the International Community:

- All governments engaged in bilateral human rights dialogues with China, including the U.S., Japan, the European Union, Canada, and Australia, should ensure that the specific recommendations outlined above regarding North Korean migrants and asylum seekers are prominent on the agenda for all dialogue meetings, and also meetings between foreign ministers and heads of state and senior Chinese officials. The results should be shared with UNHCR, and an informal working group of concerned governments should be established with the goal of increasing assistance for North Koreans in China;
- Members of parliament should also be active. In August 2002, Japanese members of parliament established in Tokyo an “International Parliamentary Members’ Forum on the North Korea Refugees and Humanitarian Issues,” and planned joint initiatives with South Korean MPs, members of the U.S. Congress and the European Parliament such as joint parliamentary delegations to assess humanitarian needs on the Chinese border. Resolutions adopted by parliaments are also helpful to increase the pressure on China to comply with its international refugee obligations;⁹
- Countries affected by North Korean migrant flows, including Russia, Mongolia, Vietnam, Burma, Cambodia, and Thailand, should grant asylum. They should also ensure that North Korean migrants are not prevented from seeking permanent asylum in third countries;
- North Korea’s neighbors should refuse any requests by North Korea to arrest asylum seekers or forcibly return them to North Korea where they would be at serious risk of torture, ill-treatment, arbitrary detention, or execution;

⁹ The U.S. House of Representatives passed a resolution on June 11, 2002, and the U.S. Senate Committee on Foreign Relations enacted a similar measure on June 13, 2002, urging China to halt repatriations of North Koreans to allow the UNHCR access to “all North Korean asylum seekers and refugees residing in China.”

- Countries with embassies, consulates, or other institutions in China to which North Koreans have fled seeking asylum should request the services of the UNHCR in determining their status, and take steps to prevent their forced return to North Korea if there is any risk thereby of persecution.

General Human Rights Recommendations

Beyond the refugee crisis, the ongoing human rights and humanitarian crisis within North Korea that produces the outflow must also be addressed by the international community.

- As it seeks to widen relations with its neighbors and with Western governments, North Korea must be vigorously pressed to fully comply with its obligations as a state party to both the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights.

In May 2000, North Korea submitted its first report to the U.N. on compliance with the ICCPR in 16 years; it was due in 1987. North Korea ratified the covenant in 1981. Its detailed, rather legalistic thirty-nine-page submission claimed that torture was prohibited by North Korean law, that remedies were in place for those whose civil rights have been violated, that forced labor “is never used as a means of political coercion or of social and religious punishment,” and that North Korea’s Criminal Procedures Act strictly limits detentions and arrests.¹⁰ Years of defector testimony have contradicted this picture, and indeed, the interviews on which this report is based produce a portrait of a society organized on the basis of political, birth, and social discrimination, where forced labor is widespread, and where arbitrary arrest and detention and torture and other mistreatment is endemic. These severe abuses too often form a backdrop to the outflow of North Koreans, who have either suffered some of these abuses directly, or fear they will be subjected to them if returned.

- As minimal first steps, North Korea should be urged to grant access to the U.N. human rights special rapporteurs and working groups on arbitrary detention, torture and other ill-treatment, religious freedom, violence against women, and freedom of expression to visit North Korea to assess compliance with its U.N. human rights treaty obligations. The U.N. should seek to visit reeducation camps and prisons to assess conditions generally, and to determine the fate of North Koreans forcibly returned from other countries.

All discussions of economic, trade or political relations with North Korea by high level foreign government delegations—especially those aimed to expanding or opening relations with North Korea—should make reference to this key demand.

- A resolution on human rights in North Korea should be introduced and adopted at the 2003 session of the U.N. Commission on Human Rights in Geneva, condemning North Korea’s severe human rights violations and calling on North Korea to grant the U.N. human rights mechanisms complete access, without restrictions or limitations of any kind.

Notes on Methodology and Terminology

This report is based primarily on intensive interviews conducted by Human Rights Watch researchers in July 2001 with fifteen North Korean refugees in Seoul, as well as with humanitarian and human rights activists, scholars, and government officials in various countries. We chose to begin our research in South Korea because of the relative security of asylum seekers there. While some surveillance by the South Korean government is normal for such refugees, privacy for the interview can be arranged. In contrast, migrants in China live in hiding, dependent on local protectors and extremely vulnerable to extortion, discovery by Chinese security officials, and severe punishment should they be repatriated and the fact of contact with human rights workers become known.

It is important to be clear about the limitations of this preliminary research. Our small base of interviews with North Koreans requires us to be cautious when extrapolating from their experiences. All of the North Koreans we

¹⁰ U.N. Human Rights Committee, CCPR/C/PRK/2000/2, May 4, 2000.

spoke with had been interviewed multiple times: by South Korea's intelligence service, some also by UNHCR, some also by missionaries, and some also by journalists. Many had first left North Korea around 1997, when the food crisis in that country was most acute, although others had left more recently. North Koreans are resettled into the South after a series of security interviews and a three-month "quarantine" in a camp named Hanawon that is operated by the South Korean Ministry of Unification to prepare them for integration into the South Korean economy and society. Human Rights Watch requested access to Hanawon to interview recent arrivals but was declined on the basis of unspecified security reasons. The South Korean government, in addition to its concern with security and potential espionage, has been sensitive to the political and diplomatic tensions caused by North Koreans who have publicly denounced the Democratic People's Republic of Korea. Many of those we interviewed had been given a general warning by the government not to speak publicly about their experiences in North Korea, and many were subject to periodic checks by internal security agents. However, the South Korean government was cooperative in allowing us to interview freely and privately, and in a few cases referring persons to us for interview.¹¹ Rather than interviewing a random sample of refugees, because of limitations of time and the difficulty in locating refugees once they were released from the Hanawon facility, we sought to focus on persons who had the experience of multiple escapes from North Korea. Our interviews, therefore, are not a representative cross sample of experiences, and we have drawn on the observations of humanitarian workers and government officials for balance.

Within these limitations, we found our subjects willing to tell their stories, yet frank about their concerns with both security in South Korea and the security of relatives remaining in the North. Many had adopted pseudonyms in South Korea, or requested that we refer to them by pseudonym. The interviews relied on here were conducted between the refugee and the Human Rights Watch team without any third parties present. Relatives were interviewed individually. Although we were introduced to refugees by both governmental and non-governmental sources, we made clear that the refugee had the option not to talk to us, or to forbid us to share any or all of what was said, either with the general public or any third party.

For the most part, we found our informants credible, and quite forthright in criticizing not only the North Korean government but often the South Korean government as well. Although we were not able to verify certain details of their particular stories of escape and flight, we found that the broad outlines of their experiences tended to match, and reflected previously published studies of North Korean migrants from information gathered in both South Korea and China. Much greater and more systematic research is required to present an authoritative account, yet the material we gathered merited publication as a sketch of the contours of the problem, and potential solutions.

In this report, we use both the term "migrant" and the term "refugee," the former denoting persons who leave their country for economic or other reasons, and the latter denoting those migrants who are entitled to protection from repatriation because they have a well-founded fear of persecution in their homeland. We have termed North Koreans who were attempting to seek asylum in South Korea "refugees" because of the policy of the North Korean government to persecute those who attempt to move to the South as traitors, regardless of their motive in seeking to migrate. We have also used the term "asylum seeker" to denote migrants who do not intend to return to their country; some of this subset of migrants may also be refugees under the terms of international law. Persons who have succeeded in migrating to the South are also often referred to as "defectors," regardless of whether they had a political motivation in doing so, as they are considered by both sides to have made a change in political allegiance by migration. Those who "defect" from the North to the South thereby put their family members remaining in North Korea at risk of punishment. The Republic of Korea is referred to as "South Korea" and the Democratic People's Republic of Korea as "North Korea" throughout. Chinese or Korean names and place names in this report were transliterated into English according to the common usage in the region; for both languages, surnames occur first, given names follow.

¹¹ We did not find the few persons referred to us by the government to have characteristics or experiences substantially different than those we identified through private channels.

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II. THE MIGRANT'S STORY: CONTOURS OF HUMAN RIGHTS ABUSE

The Decision to Flee

Over the years, the predominant motivation for North Koreans deciding to cross the border into China has fluctuated somewhat. A political reason, or often a severe personal crisis that may have had a political dimension, has long been common, given that leaving North Korea is considered tantamount to treason. Desperate hunger and extreme poverty became a prime motivation at the height of the food shortages of the mid- to late 1990's. In more recent years, as the routes and costs of leaving became more widely known, the decision to leave may have become more calculated, though still grounded in a complex mix of personal, economic and political factors. The experiences of North Koreans we interviewed reflect this mix.

One member of a military division decided in 1995 that if he could flee to South Korea, he would have the opportunity to clear his name of plotting to implicate his superiors in a theft.¹² Two men we interviewed had fled directly from different administrative detention camps in 1998 where they had been held because they were related to people considered to be serious criminals.¹³

On the other hand, getting food was the simple motivation of a young man who left in 1997 after he had overheard people discussing the situation in China.¹⁴ A young woman decided to go to China with her uncle in 1998 in order to aid her father, who had fallen into serious debt after taking a loan to buy medicine for her dying mother.¹⁵

Often, economic motivations were intertwined with a background of political discrimination. Two different women fled to China to survive the famine, both in 1998, after each of their families had been expelled from Pyongyang for political reasons.¹⁶ One young man and his family left in 1999 because he could not enter medical school or a teaching college because of family background. This young man's family had relatives abroad, who they expected to help and who did help expedite their transit to South Korea.¹⁷ An older man, who left in 1998, sought economic help from his relatives in China. But his troubles began in 1977, when his family was exiled from Pyongyang and sent to live in an administrative camp for five years because of his father's perceived disloyalty.¹⁸

¹² Human Rights Watch interview with Mr. Kim Sung-Min, Seoul, July 9, 2001.

¹³ Human Rights Watch interview with Mr. Kim Yong, Seoul, July 23, 2001, and with Mr. Lee M., Seoul, July 13, 2001.

¹⁴ Human Rights Watch interview with Mr. Yeo, Seoul, July 21, 2001.

¹⁵ Human Rights Watch interview with Mrs. Ryo, Seoul, July 2001.

¹⁶ Human Rights Watch interview with Choi Jin-Yi, Seoul, July 11, 2001 and Human Rights Watch interview with H. You, Seoul, July 12, 2001. Even during the food shortage, food was far more available in Pyongyang than in most other parts of the country.

¹⁷ Human Rights Watch interview with Kim J., Seoul, July 12, 2001.

¹⁸ Human Rights Watch interview with Mr. Lee H., Seoul, July 16, 2001.

Whatever the initial reasons, most of those we interviewed described the decision as a moment of acute crisis, as they were aware of the tremendous risks to themselves and their families the political act of leaving the country entailed. Despite the many hardships and abuses refugees had suffered, their description of the act of crossing the Tumen River was often the most emotionally fraught point of our interviews. Many found it a terrifying, near-death experience, and to all it represented a decisive moment of separation when they crossed not only a national border, but the border between being a citizen and a criminal, or even a traitor. A man whose family transited to South Korea in a matter of months via a well-worn route prepared by heavy bribes was one of the few to describe the experience calmly. “The river was frozen, so it was easy. Everyone knows you can cross if you pay.”¹⁹ Those who crossed without assistance, however, found it traumatic. “It was very dangerous...because the water was running high. I thought I was going to die on my way to China.”²⁰ “The river was not frozen, even in winter, because of wastewater from a Chinese factory. The water was chest-high. If I crossed the river, I would reach China, so I endured the coldness, even though it was as painful as cutting my flesh with a knife.”²¹

North Korea and China share two rivers as their border: the Yalu River, which originates from Mt. Paektu and flows southwest between cities in both North Korea and China until it reaches the Yellow Sea, and the Tumen River, which begins at the same mountain and flows towards the northeast, finally reaching the East Sea or Sea of Japan (see map, Appendix A).

The psychological and political border that the Tumen River represented came across graphically in certain testimonies. One woman, returning to North Korea from China, where she had become a Christian, to bring her daughter back with her, broke down several times as she related the ordeal:

I knew that after leaving North Korea and living in China, every step was dangerous. I was almost captured several times while staying at the hotel, being assisted by the church. I came to realize that God or some divine power existed after experiencing life [in China], even though it was not a very long period. So without that belief, I could not have gone back. When I crossed, the water came up to my neck!...I don't swim very well, and I was scared—the water was black from flooding. Miraculously, someone came up in front of me and helped me across.²²

One young man, whose family had served time in a labor camp in North Korea, escaped to Musan and stayed there four months, trying to contact relatives across the border in China. When word finally came from them, he set out.

I had seen almost four hundred North Koreans repatriated from China during my stay in Musan...It was so dangerous to cross the border, but I decided to cross it anyway. Since I was acquainted with people in Namyang, they taught me the direction to cross the river. It was a day after a heavy rain, and the water was flowing wild. I just wagered my life and went forward without knowing where the hidden checkpoint lay. I came across a checkpoint on my way to the river, but two of the guards were asleep, snoring.

Whenever I think of that moment, I sweat. What would have happened if I were caught at that moment? [Because of my family background] the [North Korean] National Security Agency would regard me as a spy or a traitor, and might kill me by gunshot, or imprison me for life without any court procedure. I might have been sent to an administrative labor camp, or a secret mine, or perhaps my body would be used as an object for chemical experimentation. Anyhow, I would have wound up like a dead body, though I might be breathing.²³

¹⁹ Human Rights Watch interview with Mr. Lee K., Seoul, July 13, 2001.

²⁰ Human Rights Watch interview with Ms. Choi Jin-Yi, Seoul, July 11, 2001.

²¹ Human Rights Watch interview with Mrs. Ryo, Seoul, July 2001.

²² Human Rights Watch interview with Ms. You H., Seoul, July 12, 2001.

²³ Human Rights Watch interview with Mr. Lee H, Seoul, July 16, 2001.

At the Mercy of Strangers

Once across the river, refugees are extremely vulnerable to forced return to North Korea. The Chinese government, pursuant to an agreement with North Korea on repatriation of migrants, arrests and deports North Koreans, and allows North Korean government agents to pursue migrants on Chinese territory. According to the South Korean Unification Ministry, a secret agreement was signed between China and North Korea in the early 1960s; in 1986, another bilateral agreement was signed calling for the return of North Koreans and laying out a protocol for security in the border area.²⁴ It also strives to control migration by posting fines for Chinese residents who shelter North Koreans, and rewards for reporting such migrants to the authorities. North Koreans have no defense against exploitation by either officials or private citizens in China, and most of those we interviewed related to us a life in hiding, characterized by violation of their rights to physical integrity, freedom of movement, access to medical care, and recourse to the legal system.

Few refugees speak Chinese, and most rely on the assistance of ethnic Korean residents of China. There has been a Korean population in the Yanbian border region for centuries, supplemented at various points in more recent history such as the Japanese occupation of the Korean peninsula and the Korean War, and many North Koreans have relatives across the border. At the outset of the mass exodus of the 1990s, many Korean-Chinese were very sympathetic to North Korean escapees, recalling that North Korea had sheltered Korean Chinese during the famine brought on by the Great Leap Forward (1958-61). But sympathies have been tempered by the increasingly stringent sanctions enforced by the Chinese government to stem the flow.

Mr. Kim J. explained that it took two weeks just to get to the Tumen border area from his home in South Pyong An province. Because of his “bad” family background, he could not obtain a pass from the Social Safety Bureau to travel there legally, so his family took a train as close as they could and walked the rest of the remaining 200 kilometers to the river and crossed from Musan to Hwaryong, a small village. They continued walking, hungry and footsore, following the sound of the river. There they met some Korean-Chinese people fishing and asked if they would give them just one meal at their home.

At first glance, the Korean Chinese could tell we’re North Korean by our clothes and skin color. “You’re out of your mind!” he said. “Now the situation in the border region is really serious. Chinese public security officers are conducting searches and when Korean Chinese are found harboring a North Korean, they are fined 1,000 renminbi” [U.S.\$120]²⁵ So we begged him to let us in for just some minutes or hours. He said not to stand on the street—to go to the mountains. ... We went to the mountains after dusk. But first we went into the village because we were so hungry at night. We entered and knocked at Korean Chinese houses. People opened and closed their doors on us without saying anything. This happened at five different houses—no one took anything to us—they thought North Koreans were beggars. We had no choice but to go to a tobacco farm without anything to eat all night long. The next day we went to another village and met someone and asked to stay at his house. He asked if we had any antiques or gold to sell, and when we said no, he went away. We were all wet from the dew.²⁶

Refugees told us of the precautions they took in finding shelter. It was safer (and more expensive) to live on the upper floors of buildings, and to avoid houses with a shared outhouse or outhouse near other dwellings. Most

²⁴ *Unification White Paper*, published by the National Unification Research Institute in 1998, says the “Illegal Immigrants Repatriation Agreement” was secretly signed in the early 1960s: “Those who escaped to China can easily be reported by cho-gyos (North Koreans living in China) and arrested by either special security agents from North Korea or Chinese police officials. If arrested, they are forcibly extradited according to the PRC-DPRK Escaped Criminals Reciprocal Extradition Treaty that was secretly concluded in early 1960.” A letter to HRW from Hee-Young Cho, political counselor at the South Korean embassy in Washington, D.C., on August 1, 2002, confirmed that a later agreement was reached in 1986, but the contents have never been made public. The White Paper also refers to the 1986 protocol, referred to as the “Border Area Affairs Agreement.”

²⁵ The currency exchange rate is approximately 8.3 Chinese renminbi to the U.S. dollar, and 1185 South Korean won to the dollar.

²⁶ Human Rights Watch interview with Mr. Kim J., Seoul, July 12, 2001.

people stayed indoors all day, crowded into small rooms for months at a time, latching the door from the inside when the legal residents left for work. One man related:

We rented a small house in Tumen for 2,000 renminbi [U.S.\$240]. This was extremely high rent, fifty renminbi [U.S.\$6] was the usual rate. They didn't let us go out, and locked the door, and covered the window with thick batting. We had to urinate in the room in a small bowl, and go out only once a day to make a bowel movement. We opened the door very early in the morning to go to the outhouse. We spent five months there. At last there came a point where my mother and father couldn't walk.

In addition to exacting high rent for rooms, some who shelter North Koreans make direct demands for pay-offs.²⁷ One man related, "Our landlord once threatened our uncle [in South Korea] to give some more money or 'I'll report these people,'" and charged them a "departure" fee when they finally moved on.²⁸ A different man escaped in 1998 from a North Korean administrative detention camp and crossed the Tumen River with the help of a woman who placed him in the house of a Chinese official in Yanji. But he left the official's house when the man asked for 100 million South Korean won in payment [U.S.\$80,000]. He headed to Musan, and with money his brother sent, he bought a fishing boat and arranged for the sellers to guide him to the high sea. But once afloat, "the people who sold this ship to me tied my hands and threw me into the water, saying that I had to give them more money or they'd let me drown. I promised them more money and we went back to San Dung."²⁹

Using North Koreans as low-paid or unpaid labor was also common. One young man worked as a logger for four years without pay and without complaint for the Korean-Chinese household that sheltered him, leaving only when public security officers came looking for him.³⁰ Another man, who worked as a logger in the mountainous area, cut timber in exchange for rice. He related that some Chinese also working in the area "came to think they didn't have to work so hard if they could use me to traffic North Korean women on their behalf." So they abducted him, keeping him in a storage room in Yanbian. "They stripped me of my clothes, and five or six of them started to beat me. They would beat me, and then treat me nicely, for example, taking me to a nice restaurant, to try to convince me." He agreed to cooperate with them, and escaped the next day.³¹

Just as North Koreans are often at the mercy of strangers in China, so too do they often depend on the kindness of strangers. Religious and humanitarian workers provide the only assistance in finding housing, support, education, and health care for those who cannot pay on their own or depend on relations. Some of these groups organize 'safe houses' and risky underground railroads out of China. Other activists plan the highly publicized efforts to scale embassy walls for asylum, calling the media in to record the event. But not all encourage migration; we encountered religious workers who tried to urge North Koreans to return to their home as well by giving them a more realistic view of the challenges of resettling in South Korea.

Sexual Slavery and Trafficking in Women

Humanitarian groups working in China report the impression that there has been a great increase in the numbers of women crossing the border since 1998, most of them looking for opportunities to make money to send back to families in North Korea. In most cases, the "opportunities" involve the sale of sexual services, either through prostitution or arranged marriage, sometimes on the initiative of the woman herself, but often through the agency of a third party who shelters, abducts, or in some other way controls the woman. The rigors of agricultural and village life have become less attractive to women in the border provinces in China as mobility and industrialization have increased, which in turn has spurred the market for rural brides.

²⁷ Human Rights Watch interview with Mr. Lee K., Seoul, July 13, 2001.

²⁸ Human Rights Watch interview with Mr. Lee K., Seoul, July 13, 2001.

²⁹ Human Rights Watch interview with Mr. Lee M., Seoul, July 13, 2001.

³⁰ Human Rights Watch interview with Mr. Yeo, Seoul, July 21, 2001.

³¹ Human Rights Watch interview with Mr. Kim Hong-Ik, Seoul, July 9, 2001.

The trade in sexual relations is complex, spanning a wide range of situations. There are many reports of outright sexual slavery, where women are duped or abducted to be sold to men. There are also cases where North Korean women have gone to China in the full expectation of selling themselves, either to survive and be fed, or to send money back home. In between is the common situation of the North Korean woman who perceives her security in China as so imperiled and her options so restricted that she is easily coerced into a marriage or prostitution arrangement as the only way to survive.

Numerous international agreements prohibit trafficking in persons, usually conceived of as trade in, or movement of persons in connection with slavery, prostitution, and/or other types of sexual exploitation.³² The various uses of the term are neither consistent nor precise. In the context of a decision by the United Nations to draft a convention against transnational organized crime, supplemented by an optional protocol on trafficking in persons, discussion on defining the elements of “trafficking” has centered on specifying that the crime involves coercion for the purpose of forced labor (including debt bondage) or servitude.³³ Human Rights Watch understands “coercion” to include blackmail, fraud, deceit, isolation, abuse of power, threat or use of physical force, or psychological pressure. In this light, we view many of the cases of “advice” and “persuasion” to North Korean women in desperate situations to undercut any inference of a free choice.

Humanitarian workers who had encountered many North Korean women in this situation in China noted that many of those responsible for manipulating these women claim they are acting for their benefit. Aid workers described a typical scenario:

When a North Korean woman crosses the Tumen River and knocks on the door of a Korean-Chinese house asking for food, she may be helped. After a few days pass, some of her “protectors” may advise her to marry. After getting her to agree, they will be paid 2000 or 3000 renminbi [U.S.\$240 to U.S.\$360] by the husband’s family. Sometimes thugs may use police cars and recapture the woman back from her husband’s family, pretending to arrest her as an illegal border crosser [and resell her]. North Korean women are trafficked first to Korean-Chinese, and then subsequently to Chinese. They are slaves; sexual toys.³⁴

A former North Korean border guard who lived in China from 1999 to 2000 related a similar scenario:

Many women are also working in karaoke bars after being sold to those establishments. I once was engaged to a woman, but [traffickers] took her away from me. They told me to pay them 500 renminbi [U.S.\$50], but I couldn’t pay. They threatened me with a gun. So I lost her. Sometimes they traffic women by calling it a “marriage arrangement,” but they sometimes go to the woman pretending to be public security officers and take her back.³⁵

A woman who was in her early 20’s at the time she went to China in December of 1998 described her ordeal.³⁶ Upon crossing the Tumen and staying for a week at a Korean-Chinese house in Kae San Tun with her uncle, the two of them were abducted by a group of thugs, who separated them and got into a brawl as to whether to trade her. A man connected with this group masqueraded in the clothing of a public security officer and broke up the

³² See, e.g. Convention on the Elimination of All Forms of Discrimination Against Women, art. 6; Convention on the Rights of the Child, arts. 34 and 35; and the 1949 Convention on the Suppression of Trafficking in Persons and of the Exploitation of the Prostitution of Others. A state’s failure to protect migrant women from this severe abuse is also discrimination on the basis of gender and alienage, prohibited under the International Covenant on Civil and Political Rights, art. 2(1). See Human Rights Committee, General Comment 15, “The position of aliens under the Covenant” (Twenty-seventh session, 1986).

³³ See discussion in Human Rights Watch, *Owed Justice: Thai Women Trafficked into Debt Bondage in Japan* (New York: Human Rights Watch, 2000), Section V: International Legal Standards on Trafficking in Women, available at <http://www.hrw.org/reports/2000/japan/5-int-stand.htm>.

³⁴ Human Rights Watch interview with four humanitarian workers who had assisted North Korean refugees in China from 1997 to 2001, Seoul, July 10, 2001.

³⁵ Human Rights Watch interview with Mr. Kim H.Y., Seoul, July 18, 2001.

³⁶ Human Rights Watch interview with Mrs. Ryo, Seoul, July 2001.

fight, taking her to his house to spend the night, after which he released her. She eventually found shelter with a church in Yanji that was also hiding some fifty or sixty North Korean children. Church officials told her that they were planning to send the children back to North Korea as Chinese officials were searching for them, and she felt that they wanted her to leave as well.

Some people urged me to marry and introduced several men to me. However, I had no intention to marry, and I was waiting for my uncle. But women kept introducing their relatives to me. Later they also introduced South Korean men to me. The deacon urged me to marry, but I refused. In the end, I was told somebody was looking for a housekeeper for an old couple with their grandson and granddaughter. They needed someone who could teach Korean to their grandchildren. So I took the suggestion and went to the house located in Song Kang Jin, An Dong Hyun. When I went there, their 30-year-old son was there waiting for me.

She was forced to cohabit with the son. Shortly after she arrived, the Chinese family showed her a note purporting to be from the deacon, saying she was “sold” for the price of 5,000 renminbi [U.S.\$600]. She thought the best option was to stay at the house, but her view soon changed.

[T]he son had a mental problem... He always stayed beside me and the only thing he wanted was for us to always have sex. When I became depressed, he beat me. If I was beaten, I could not walk for a week. He beat me on my face and my body and all my body was bruised black and blue...When it rained, I shed tears thinking about my home... I didn't know anything about men or sex before. But when the guy saw me weeping, since we could not communicate because I cannot speak Chinese, he beat me, suspecting that I did not like him or that I was planning to escape. The only words I learned were the words for “I don't like it.” He bound my wrists and ankles and beat me.

Her thoughts turned to escape, but there seemed to be no way out.

When I wanted to leave, the family told me I could leave if I gave 5,000 renminbi [U.S.\$600] to them. So I couldn't leave. When I called [the Church] later, I learned the deacon and the reverend were summoned by the public security office regarding my case. So I could not go back to the church anymore. So again I gave up hope of leaving the house and stayed there. It was six months after my mother had died, and I had to help my father and my brother, I had to stay there.

After four months, and at least as many very serious beatings, she determined to flee.

One day I was beaten very seriously, but my face was not harmed. That day, the guy went to work, hiding my clothes. He even hid my wet clothes... Early in the morning, at 5:00 a.m., I left, wearing only my underwear and house slippers.

She went to Song Kang and entered a church, where another church official found her and took her to her home, and later referred her to yet another church, where she met a fellow refugee from North Korea and married him.

On the other end of the spectrum is a woman who purposefully allowed herself to be “sold” as a wife, in order to buy time in China to contact relatives in Japan and move onward to a freer life. Yet the circumstances were also coercive, and led to her and her son suffering severe domestic violence.

This North Korean writer aspired to pursue her writing with greater freedom, yet found herself and her family economically and socially marginalized following their expulsion from Pyongyang in mid-1998, during the famine. Although she already had a husband and child in North Korea, she allowed one of her relatives to sell her in marriage to a Chinese farmer for 3,000 renminbi [U.S.\$360]. “Actually, I was afraid of Chinese men...but I

thought there was no other choice but to marry. I persuaded myself to view it as a kind of ‘studying abroad.’”³⁷ The marriage proved disastrous; her habit of trying to jot down her daily experiences in Korean infuriated the farmer and his family. The same relative visited her, and tried to arrange her escape from the village, in order to sell her again, but they were reported to the local public security office, arrested, and eventually sent back across the North Korean border. She managed to escape again, this time with her small son, and took shelter in the house of a Korean Chinese Christian. This man advised her to marry his cousin, and she agreed, on the condition that he take no money for arranging the marriage, and that it be understood she was free to leave if she received help from relatives in Japan to migrate onward. This second marriage to an illiterate farmer also was unsuccessful, but she managed to persuade this husband to release her freely. She again sheltered with a neighbor, and accepted a third proposal of marriage from a Korean Chinese, because she was afraid she’d worn out her welcome: “fish in the air smells after three days.” This time the “husband” turned out to be extremely violent.

He beat me with a bar the thickness of my finger. He started to beat me on the back and everywhere, I still have pain on my nose. I had black and blue marks all over...My son was beaten and harshly abused whenever he smiled or laughed—my husband disliked that and beat him. As it turned out, I escaped his house without my clothes or money. I found out later that his previous wife had also escaped in her underwear. He had beaten me with a bar and a leather belt, and after that went out to beat my child and I fought against that. I put my son’s shoes in my pocket and said I was bringing him to the outhouse. I went and hid in a small storage house in the yard, and looked to see if he was chasing us. When I saw he wasn’t following, I took a taxi in my underwear. I told the driver I was sorry I had no money for him and asked him to stop near a church. The people there wept when they saw me and the child.

Even women who settle down with Chinese husbands remain vulnerable. One aid worker related how some families had begun registering their North Korean wives on the household registration, with the expectation that they would thus be able to legitimize their China-born children, but these women were also being rounded up for forced return when crackdowns took place.³⁸

Children Without a Future

Humanitarian workers also reported to Human Rights Watch a significant and growing problem of North Korean street children in China. The migration of children is caused by similar factors to that of adults, with the additional element of a breakdown in the school system and absenteeism in the provinces of North Korea most affected by food shortages.³⁹

These young people are known in Korean as *kkot-jebi* (child vagrants) and sometimes are described as “orphans,” but it is more precise to say they are unaccompanied minors, some of whom have lost one or more parents, or whose parents are incapable of caring for them. Most appear to be boys, aged ten or older.⁴⁰ In the late 1990’s, they were a visible presence in towns such as Tumen in Jilin as beggars in markets, train stations, airports, and sometimes karaoke bars and restaurants that cater to foreigners.⁴¹ Typically the most mobile of migrants, the children cross frequently to conduct trade or bring their small earnings across the border to families in North Korea. Some take refuge in shelters established by missionary or humanitarian groups; others sleep on the streets. The street children are often the first to be rounded up in periodic crackdowns in China. For the few lucky enough to make it into third countries, their eventual social integration is made more difficult by their previous life of wandering between the relative freedom of life in China and their families in North Korea, and the

³⁷ This account and related quotations are from Human Rights Watch interview with Ms. Choi J., Seoul, July 11, 2001.

³⁸ Human Rights Watch interview with aid worker E, United States, June 20, 2002.

³⁹ See Chung Byung-Ho, “Living Dangerously in Two Worlds: The Risks and Strategies of North Korean Children in China,” paper presented at the Association for Asian Studies Annual Meeting, Chicago, March 22-25, 2001 [hereinafter Chung] and Jonathan Ansfeld, “Hungry North Koreans Scavenge for Food in Aid Shortage,” Reuters, June 20, 2002.

⁴⁰ “Report on Daily Life and Human Rights of North Korean Food Refugees in China,” Good Friends, June 1999, pp. 28-30 (copy on file at Human Rights Watch).

⁴¹ Ibid.

'survival skills' they had to learn on the run. Some that arrive in South Korea are found to have serious psychological trauma from being raped, confined, or beaten while in China.⁴² These children also have been deprived of their right to education, often for years, and if they are lucky enough to land in a third country such as South Korea, they are often placed in classes with younger children.⁴³

Arrest and Forced Return

The Chinese government maintains that no North Koreans are refugees, and that its primary obligation lies under a 1986 agreement with North Korea on the repatriation of migrants. Accordingly, China arrests and expels North Koreans without the opportunity to seek asylum.⁴⁴ China also posts incentives for informing on hidden North Koreans, fines those found to have assisted fugitive North Koreans, and allows North Korean public security agents and border guards to cross the border and participate in the identification and apprehension of North Koreans.

Human Rights Watch interviewed seven refugees who had experienced arrest by the Chinese authorities. While some reported reasonable treatment and prison conditions,⁴⁵ others related abuse.

Mr. Cho D, a former high-ranking military official, related the circumstances of his May 1998 arrest. "At the time I was arrested, I was in a small shop, eating. Five guys in civilian clothing attacked me, grabbed me, and threw me to the floor, and tied me with rope all around my body from my chest down. It was terrible." He spent forty days in the Shenyang security office and was then sent to the Dandong border facility, where he escaped by moving a bar in a window and jumping out. When he was interrogated, he learned that the North Korean consulate had sent a document accusing him of being a murderer, which may explain the excessive force he suffered during arrest. He denied this accusation, but the Korean Chinese interpreter at the police station told him that such accusations were the usual way North Korea framed requests to arrest and extradite North Koreans in China.⁴⁶

Mr. Kim H.Y. was arrested in April 2000, while visiting a friend. Fifteen others from his church were arrested that day, as they all had "bought" temporary residency permits from the Soyong police station in Yanji, and this fact was revealed when one family was caught. He reported his treatment in the Yanji, China prison as acceptable, with twelve people in a room approximately 300 square feet large, but things changed when he was transferred to the Hwaryong border guard unit. There some prisoners were beaten seriously or given electric shocks for being noisy, asking to be released, or singing. He was handcuffed to a chair and beaten because he insisted he was not North Korean and demanded that the eighty renminbi [U.S.\$9.60] the authorities confiscated from him be returned.⁴⁷ Mr. Kim Yong, arrested at the Mongolian border in July 1998, also reported he was beaten with clubs by Chinese border guards when he denied he was a North Korean migrant.⁴⁸

There is evidence of the involvement of North Korean government agents in the process of identifying, interrogating, and pursuing North Koreans in China, although we did not learn whether North Korean agents have legal authority to arrest and take into custody these persons on Chinese territory.

Mr. Kim Sung-Min reported he was arrested in February 1996, while trying to sneak on board a ship in Dalian bound for South Korea. He identified himself to the Chinese security officials as a North Korean army captain

⁴² See Chung, "Living dangerously."

⁴³ Kim Ji-soo, "Defector Children Find They Can't Act Their Age," Electronic English version of *JoongAng Ilbo*, February 21, 2002 at <http://english.chosun.com/w21data/html/news/200206/200206090019.html>.

⁴⁴ Article 14 of the Universal Declaration of Human Rights provides that "[e]veryone has the right to seek and enjoy in other countries asylum from persecution."

⁴⁵ Human Rights Watch interview with Mr. You Y., Seoul, July 10, 2001; Human Rights Watch interview with Mr. Cho D., Seoul, July 12, 2001.

⁴⁶ Human Rights Watch interview with Mr. Cho D., Seoul, July 12, 2001.

⁴⁷ Human Rights Watch interview with Mr. Kim H.Y., Seoul, July 18, 2001.

⁴⁸ Human Rights Watch interview with Mr. Kim Young, Seoul, July 23, 2001.

who was seeking political asylum, only to be told “we do not recognize political asylum seekers.” He was brought to a Chinese camp for North Koreans in Tumen and interrogated.

The subject of the investigation was my motive for crossing the border, and where I went in China. They told me, “We know you will be ‘killed’ in North Korea when you go back. Especially an officer like yourself will be ‘killed.’ If you talk frankly about what you did in China, we may arrange your naturalization as a Chinese citizen.” I believed them at the time. It took me seven days to write down everything I did in China. On the eighth day of my stay at this facility, a high-ranking official showed up and heard my story. He said, “We know the situation in North Korea is terrible and absurd.” I replied, “I know that Kim Jong Il is psychotic, a lunatic!” The official recorded that statement. Though I hadn’t had any complaint before about Kim Jong Il, I really wanted to blame him now—I felt that prison in China after four months was better than ordinary life in North Korea...suddenly their facial expressions changed.⁴⁹

He was taken across the border to North Korea, to the Onsong County State Security Office where he eventually revealed his identity.

After I did so, they went out and returned in thirty minutes. I nearly fainted when I saw the person who entered. It was the same man who came to the Chinese facility and who recorded my swearing at Kim Jong Il. I had thought before he was a Korean Chinese investigator, but he was a North Korean investigator. The Chinese were cooperating completely...you see, the Chinese officials had told me that this person was of a higher rank than even they were.⁵⁰

Another refugee reported being pursued by North Korean guards over the border into Chinese territory,⁵¹ and yet another reported his brother saw a North Korean car with security office license plates patrolling the Chinese side of the border.⁵²

Surveillance, Arrest, and Detention of Humanitarian Aid Workers and Missionaries

Predominantly South Korean humanitarian and religious workers travel frequently to Yanbian and other areas of Jilin in China to provide humanitarian assistance to North Korean migrants in China. Although many stay for extended periods, few have a permanent base in China. China has at times allowed these groups to operate without great interference; its attitude has hardened sharply since 1999, with surveillance, arrest, deportation, and sometimes detention the result.

In June 2002, there were increasing reports that China had interrogated and detained many South Korean humanitarian and religious workers on suspicion of aiding North Korean migrants.⁵³ China reportedly was also questioning many South Koreans associated with the Yanbian University of Science and Technology, threatening both domestic and international travel restrictions.⁵⁴ Particularly unnerving to such workers is the involvement of national security officers, who have reportedly taken over some of the investigatory activities of the local public

⁴⁹ Human Rights Watch interview with Kim Sung-Min, Seoul, July 9, 2001. Kim Jong Il is the chief of state of North Korea and chairman of the Korean Worker’s Party, and like his father before him, the object of a state-sponsored cult of personality.

⁵⁰ Ibid.

⁵¹ Human Rights Watch interview with You Youg-II, Seoul, July 10, 2001.

⁵² Human Rights Watch interview with Lee K., Seoul, July 13, 2001.

⁵³ See, e.g. Shim Jae-yun, “Over 100 Korean Missionaries Detained in China,” *The Korea Times*, June 20, 2002, available at <http://www.korealink.co.kr/times/200205/t2002052018443240110.htm> and Kang Chol-hwan, “China Cracks Down on North Korean Refugees,” *Chosun Ilbo* online (“Digital Chosun”), June 9, 2002, available at <http://english.chosun.com/w21data/html/news/200206/200206090019.html>.

⁵⁴ Email communication from Douglas Shin, June 25, 2002.

security agents in Jilin; the latter have tended to be more sympathetic to North Koreans or at least more susceptible to bribery.⁵⁵

In May 2001, four humanitarian workers from the South Korean Buddhist organization Good Friends were arrested by Chinese public security. China has usually just expelled religious and aid workers found to be assisting North Koreans,⁵⁶ but this time the four were detained for fifty days, accused of espionage, and for some of this time, maltreated, prior to being expelled. One reported, “sometimes they screamed and caught us by the front of our shirts and forced us to talk.” Several were systematically deprived of sleep and required to assume physical postures over extended periods that caused them great pain. Another related, “they handcuffed me by one of my hands and hung me on a high wall. I had to stand on my tiptoes.” This sort of inhumane treatment verges on torture and is strictly prohibited under international law.⁵⁷

In June 2002, four missionaries were arrested in China on charges that they had assisted illegal defectors. These were the first known indictments of those helping refugees. In July, China announced that three men were being held “under suspicion of organizing illegal border trespassing.”⁵⁸ Even journalists became targets of the Chinese government’s crackdown. In late August, police in Beijing raided a South Korean journalist’s home, seizing documents related to his investigation of the plight of North Korean refugees.⁵⁹

Human Rights Watch also received reports from refugees and aid workers of other missionaries who were believed to have been abducted to or arrested in North Korea in 2001. It is difficult, if not impossible, to confirm these reports, although North Korea does have a record of abducting South Koreans and foreigners in the past. Yet it is important to note that these rumors provoked intense anxiety among the refugee community because of the practice of many churches in recording in-depth profiles and life histories of the North Koreans they shelter in anticipation of promoting their claims as refugees. Some who agreed to speak with us believed that the details of their escape and life history were known to the North Korean government because the missionaries would have been compelled to reveal this information.

⁵⁵ Kang Chol-hwan, “China Cracks Down on North Korean Refugees,” *Chosun Ilbo* electronic version (“Digital Chosun”), June 9, 2002, available at <http://english.chosun.com/w21data/html/news/200206/200206090019.html>.

⁵⁶ See, e.g., Ven. Pomnyun, “Report on the 17th visit to the Chinese-North Korean border area,” 1998, discussing the expulsion of Mr. Kim Hyun-dong of the Korean Sharing Movement in 1998, available at <http://www.goodfriends.or.kr/eng/report/17th.htm> (accessed Oct. 24, 2002).

⁵⁷ The Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, to which China is a party, defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession” at the hands of or with the acquiescence of a public official. Art. 1(1). Under this international treaty, states must prevent acts of torture, investigate them impartially, and punish them under their criminal law. See arts. 2(1), 4(1) and 12. Inhuman and degrading treatment is also prohibited under the International Covenant on Civil and Political Rights, to which China is a party, art. 7.

⁵⁸ The Chinese foreign ministry announced the detention of Cui Yuanxu, a Korean American, along with Joseph Choi, and Chun Ki-won, a South Korean pastor, at a news conference in Beijing. In June, it said that Choi was detained in May for helping asylum seekers sneak into China, and that Chun was detained in March while assisting refugees to escape to Mongolia. “China Holds Three for Helping N. Korean Cross Border,” Reuters, July 2, 2002. Amnesty International (AI) reported that Chun Ki-Won and Jin Qilong, an ethnic Korean Chinese national, were put on trial in Inner Mongolia, found guilty and given fines. Chun Ki-won was deported to South Korea. AI expressed concern about a group of 13 North Koreans they were helping to escape to Mongolia, saying they risked being forcibly returned to North Korea. Amnesty International, Urgent Action 235/02, July 25, 2002.

⁵⁹ On August 31, police raided the home of Yeo Shi-Dong, a reporter for *Chosun Ilbo*, interrogated him, took documents and his passport. Earlier he had written an article about the arrest of North Koreans who tried to force the way into a Chinese government building to request refugee status. “Beijing Police Raid South Korean Journalist’s Home,” *Reporters sans Frontiers*, Paris, September 3, 2002.

III. A WELL-FOUNDED FEAR: PUNISHMENT AND LABOR CAMPS IN NORTH KOREA

China has primary responsibility for the protection of North Korean migrants in China who qualify as refugees under international law. The Refugee Convention forbids states to push back migrants “to the frontiers of territories where [their] life or freedom would be threatened on account of...race, religion, nationality, membership of a particular social group or political opinion.”⁶⁰ This injunction, known as the norm against *refoulement* or return, has attained the status of customary international law, binding on all states whether or not they are party to these international treaties.

Some of the many North Koreans hiding in China may meet this criterion on the basis of actual persecution they endured in their homeland. As discussed below, North Korea’s abysmal human rights practices include severe discrimination against individuals on the basis of social group/family background or imputed political belief. Others, while not the object of persecution in North Korea, would now probably face a high risk of abusive punishment if returned on account of their experiences in China, which have cast a light of presumed disloyalty upon them. Persons in this situation are termed *refugees sur place*, and the United Nations High Commissioner for Refugees (UNHCR) has a longstanding understanding that such persons are entitled to the protections of the Convention and its Protocol.⁶¹

Because North Korea under the rule of Kim Il-Sung and his son, Kim Jong Il, has been one of the most tightly sealed-off nations in the world, it has been difficult to conduct reliable human rights research on conditions there. The outflow of a significant number of North Koreans has provided a window into some of the most repressive features of this society. Although we are reluctant to rely on such a small sample of interviews to draw firm conclusions, the abuses described to Human Rights Watch tend to corroborate other accounts published in South Korea, and should be the subject of further serious inquiry and consideration by those evaluating refugee claims.

Collective Punishment and Discrimination

One of the most striking features of North Korea’s philosophy of social control is collective responsibility. Persons who commit crimes may be punished, but so may their parents, siblings, and other relatives, regardless of their individual innocence or guilt. Likewise, persons may be blacklisted, not just for their own political opinions or actions, but for the imputed opinions or actions of relatives, even long-dead ancestors. This notion of guilt by association is inimical to modern conceptions of human rights.

According to those interviewed by Human Rights Watch, family background is still a key determinant of life in North Korea.⁶² Those lucky enough to be considered as “core” supporters of the government, such as party members or families of war martyrs, are given preferences for educational and employment opportunities, allowed to live in better-off areas, and have greater access to food and other material goods. Those considered of ordinary or ambivalent political loyalty lead less entitled, more precarious lives, while those considered to be of a “hostile” or disloyal profile, such as relatives of people who collaborated with the Japanese during the Japanese occupation,

⁶⁰ Convention Relating to the Status of Refugees, art. 33.

⁶¹ See, UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* [hereinafter *UNHCR Handbook*] paragraphs 94-96 (on the understanding of *refugee sur place*) and paragraph 61 (on severe punishment for illegal departure), HCR/IP/4/Eng/Rev1, (Geneva: UNHCR 1992).

⁶² According to the Australian Department of Foreign Affairs and Trade, “Under a citizens’ registration project initiated in 1947, the population is reportedly divided into a ‘core class’ of 28% of the population who are regarded as loyal, a ‘wavering class’ which accounts for 45% of the population and a ‘hostile class’ of 27% of the population, which includes, for example, families of defectors and those with relatives who fled to the South during the Korean War. These three classes are further divided into more than fifty subcategories based on perceived loyalty to the party and leadership. Authorities routinely use forced resettlement, particularly for those deemed politically unreliable, and there are reports that some children are denied educational and other opportunities as a result of the political classification system.” Australian Department of Foreign Affairs and Trade webpage on the DPRK, at http://www.dfat.gov.au/geo/dprk/dprk_brief_introduction.html. See also Andrea M. Savada, *North Korea: A Country Study*, “Classes and Social Strata,” (Washington, D.C.: Federal Research Service, Library of Congress, June 1993), available in electronic form at <http://lcweb2.loc.gov/frd/cs/>.

landowners, or those who went south during the Korean War, suffer the most, often being assigned to the worst schools, jobs and localities, and sometimes winding up in labor camps.

As discussed in the cases described at pages 9-10, a number of those we interviewed described the events that led to flight from North Korea in terms of their social, and consequent economic, marginalization. In the year 2000, Good Friends conducted surveys with North Korean adults in China on social conditions in North Korea. In the second survey, involving 521 respondents, approximately one quarter said they had experienced discrimination because of their family background. Less educated people claimed to have experienced discrimination in significantly greater proportion than well-educated people.⁶³ When asked to name the prerequisites for tertiary education, a “good” family background was cited by the highest percentage (56.5 percent), slightly more than high test scores or talent (53.8 percent). Young people and people assigned to agricultural work tended to cite family background as a determining factor more often than other groups.⁶⁴

The UNHCR explicitly recognizes that the line between economic and political motivations for flight is blurred, and that severe social discrimination can amount to “persecution” under international law, giving rise to refugee status. “Behind economic measures affecting a person’s livelihood there may be racial, religious or political aims or intentions directed against a particular group.”⁶⁵ Discrimination may amount to persecution if the acts are cumulative or are substantially prejudicial in impact, such as serious restrictions on the right to earn a living, practice a religion, or have access to normally available education.⁶⁶ These standards should be taken into account when describing any particular group of North Koreans in China as economic migrants or Convention and Protocol refugees.

The defection of one family member to South Korea can cause the blacklisting of all other close relatives left in North Korea. Almost all the refugees we interviewed insisted on using pseudonyms and deleting material that could identify relatives left behind in the North. Several related incidents where they knew of specific individuals who had been sent to a political prison camp because of relatives who were known as defectors. One man who had suffered years in a political prison camp because of his father’s supposed disloyalty and eventual defection knew it would be considered a serious case if he were caught trying to cross the border. “I thought it would be all right to lose my own life, but I hated to think that my act might harm my mother and brother.” He told us:

I am always worried about the fate of my mother and brother in North Korea whenever I am interviewed. My words may cause them harm. My human rights are being violated because I cannot tell even though I want to. I cannot express the thoughts I am thinking. Sometimes, I feel like exploding.⁶⁷

Punishment Upon Return

North Korean criminal law prohibits unauthorized departure, a violation of the fundamental right to leave one’s own country.⁶⁸ Article 117 of the North Korean Criminal Code provides:

One who crosses the border without permission shall be punished by a sentence of three years or less labor re-education.⁶⁹

⁶³ Good Friends, *Understanding and Responses of the North Koreans on the Social and Economic Condition of North Korea*, p. 36, June 1, 2000.

⁶⁴ *Ibid.*, p. 37.

⁶⁵ See UNHCR Handbook, paragraph 63.

⁶⁶ *Ibid.*, paras. 54, 55.

⁶⁷ Human Rights Watch interview with Mr. Lee X, location in South Korea withheld, July 2002.

⁶⁸ Universal Declaration of Human Rights, art. 13(2); International Covenant on Civil and Political Rights, art. 12(2).

⁶⁹ Translation of Korean text by Baik Tae-Ung. Citations of the Criminal code of the Democratic People’s Republic of Korea from: <http://www.nis.go.kr/>

Article 47 of the Code provides:

One who escapes to another country or to the enemy in betrayal of his motherland and people, or who commits treacherous acts towards the motherland such as espionage or treason, shall be punished by at least seven years or more labor-re-education. If it is a serious violation, he shall be punished by execution and forfeiture of all property.⁷⁰

The actual treatment of those returned from China has varied over the past decade, apparently becoming more lenient in 1999 and 2000, but there are reasons to suspect it is worsening again in 2002.

Many refugees we interviewed who left the country in the 1990s voiced extreme fear of the consequences of repatriation. One man recounted the family's preparation to commit suicide:

We hid on us when we left North Korea a small amount of opium. The idea was if something bad were to happen, we'd eat it before that bad thing happened. My brother tried to swallow it but it didn't go down his throat—even so, he barely lived. My brother crossed the river one day before we did. When he was in China, a North Korean car with security agency license plates stopped beside him, so he swallowed the opium. It happened right after my brother crossed the river. When he got near a street, the car stopped...The car wasn't stopping for him, as it turned out...⁷¹

Mr. Cho, a former North Korean military official, entered the South Korean Embassy in Hanoi one Sunday in January 1999. The lone staff person there called Vietnamese police to eject him because he looked "like a ragged beggar with a beard at that time." He spent the night at a Vietnamese police station, panicking.

[I] thought I shouldn't live because if I were sent back to North Korea I would meet a most terrible death. When breakfast was brought in, I swallowed a spoon after writing a note to my wife. The next day, on February 1, 1999, they brought a car and put me in, with a person on each side of me. They took me to Bingsangyuiguan, a railroad crossing between China and Vietnam, and after opening the iron door at the border crossing, threw me into China. So my attempt to kill myself was all for nothing.⁷²

There have been fairly consistent reports that penalties had been lessened in 1999-2000 for persons who crossed to China in search of food. According to numerous nongovernmental organization (NGO) sources and the "word on the street" in the refugee community in Seoul, persons who could convince the authorities that they were "first time" offenders who were just looking to make money or buy food would be detained a few days, or at most a few months and then released. This information was reflected by a former border guard who related:

When I went to the social safety bureau office at Musan County, the prison was filled with people. There was a decree of Kim Jong Il that said, "If anyone crosses the border because they are in need of food, they shall live." This decree was effective after February 16, 2000, the birthday of Kim Jong Il, to October 10, 2000, the fiftieth anniversary of the establishment of the Korean Workers Party.⁷³

However, those we interviewed produced fairly consistent lists of "aggravating factors" that would result in a returnee being sentenced to anything from a few months to an indefinite term in a reeducation camp; some refugees believed in serious cases they could also lead to execution. These included:

- repeated crossings (two to three times or more);
- contact with South Koreans or foreign missionaries or aid workers;

⁷⁰ Translation of Korean text by Baik Tae-Ung.

⁷¹ Human Rights Watch interview with Lee K., Seoul, July 13, 2001.

⁷² Human Rights Watch interview with Cho D., Seoul, July 12, 2001.

⁷³ Human Rights Watch interview with Kim H.Y., Seoul, July 18, 2001.

- contact with journalists;
- “marriage,” pregnancy or other evidence of sexual liaison in China;
- prolonged residence in China;
- efforts to gain asylum in South Korea or other third countries;
- having committed a crime in North Korea before departure for China.

The former border guard quoted above also related that he carefully hid the fact he had married another North Korean while in China. “Since I had a record of having been sent to a political prison camp [before my escape], I lied and said I was a vagrant, without any address, because I feared that I might be killed by gunshot or be sent to an underground prison if they identified me.”⁷⁴

As this report was being prepared for publication, Human Rights Watch received reports from aid workers in the China border region that in addition to the tighter security at the border, there have been mass returns taking place since May 2002, with very little in the way of people returning to China. Even the street children, who typically return a few days after their deportation, have not come back. This suggests that there may be a change in the treatment of those who are returned, in addition to stepped-up monitoring at the border.

The procedure for repatriation appears to be that Chinese public security or national security agents deliver the migrants to collection points just across the border administered by North Korea’s National Security Agency. The National Security Agency then conducts a preliminary screening, and sends prisoners on to other facilities for either punishment or further investigation.

The former border guard related he was repatriated to Musan in April 2000:

While we were crying loudly, they brought us to the Chilsung customs house in Musan. A North Korean officer of the National Security Agency greeted us there, shaking hands with each of us, saying, “Good job!” However, after the Chinese turned back, the officer shouted, “Kneel down, you son of a bitch.” They checked our pockets. They forced my wife to take off her *talle-baji* (tailored trousers) and took them away, because they symbolized capitalism. She had to stay, wearing only her underwear, even though it was very cold outside. They also took the South Korean clothing off people. They investigated whether the repatriated people had any relationship with South Korea...If a person met South Koreans or reporters or wrote articles, or attended church or escaped after committing a crime in North Korea, they would be secretly killed, without even God knowing.

For Kim Sung-min, arrested after asking a Chinese officer for political asylum and repatriated in early 1996 after criticizing Kim Jong Il to an interrogator whom he thought was a Chinese official, punishment began immediately.

After crossing the river, North Korean villagers at Namyang city and Onsong County were waiting for me....As soon as we crossed, soldiers surrounded me and aimed rifles at me, four of them. Right after the Tumen River, there is a structure called Youngsaeng Tower. We two had to walk around the tower, guided by the soldiers, while the villagers surrounded us and threw stones and shoes and spit at us, yelling “revisionist traitor!” After that, I was sent to the Onsong County State Security Bureau, about sixteen kilometers away from the Tumen river.⁷⁵

There he was severely beaten and interrogated, day after day. He finally revealed his identity as a writer for a military propaganda unit, and discovered that the interrogator to whom he had confided his political discontent in China was actually a North Korean officer.

⁷⁴ Ibid.

⁷⁵ Human Rights Watch interview with Kim Sung-min, Seoul, July 6, 2001.

I didn't have any hope of living any more because I had blamed Kim Jong Il so harshly. After five days in Korea this [interrogator] came. I was helpless with fear for two more days, almost unconscious. On the eighth day I was moved again, sent on the way to my original army unit. I asked where I was going, and they said, "Your friends in the propaganda unit are waiting for you." I asked "Why?" and they said, "Don't you know? For 'judgment by your colleagues.'" I had seen three people executed by shooting under 'judgment by colleagues.'⁷⁶

Kim ultimately escaped by jumping off the train headed for his home province while his guard went to the bathroom.

When a returnee's motive or conduct is deemed not to amount to a political crime, he or she may be paroled or transferred to a detention facility of the Social Safety Bureau, the agency that normally handles detention for common crimes. When this is not feasible, sometimes alternative facilities are used, such as labor training camps (*nodong danryundae*) or provincial concentration centers (*do jibkyulso*). Labor training centers are for those who commit minor economic crimes; concentration centers are for temporary detention and investigation of those accused of serious common crimes such as murder or capital offenses. The former border guard who convinced the preliminary investigator he was simply a beggar had this experience:

I was sent to labor training camp in Musan County, waiting for a vacancy to be moved to a provincial concentration center, because the Social Safety Bureau detention center in the region was full. Labor training camp is a place for criminals who refused to work, or who were involved in 'capitalist' commercial activities. I was there for about ten days...In the camp, I had to live in a very disciplined way. After getting up in the morning, I had to work all day long picking up small stones out of the ground or carrying logs or any other chores they ordered. The food was extremely bad [and conditions crowded]...The camp was surrounded by barbed wire. We did the most difficult work in the Musan area.⁷⁷

Another former detainee we interviewed told about his arrest in 1999:

While I was in China, I tried to bring my family out, but I was instead arrested in March 1999 by Chinese border guards at Yenji and sent to Helong to a special facility for North Korean refugees. From there I was repatriated to the National Security Agency in Musan. I was interrogated in that security office, but there were so many other North Koreans repatriated that I could deny the charge that I originally wanted to get to South Korea. I insisted that, after getting some money, I wanted to return to North Korea. I told them I was planning to buy rice in China and go back to North Korea. Since they believed my words, I was sent back to my home town Social Safety Bureau office. I got paroled after three months staying there. Then I escaped my parole.⁷⁸

One of the more disturbing accounts we received came from a woman who was pregnant at the time she was repatriated in April 2000.⁷⁹ After preliminary investigation, she was sent to the provincial concentration center in Chongjin city. Although she was pregnant, she did not realize it for some time because she was malnourished and her menstrual periods had stopped long before, she presumed from stress. She related that the concentration center had a policy of aborting pregnancies and killing babies born to women prisoners.

[I]f it is found that a woman is pregnant, they administered a medicine to abort. If the woman gave birth to a baby, they covered it with vinyl and placed it face-down and killed it. Seven women gave birth to children in that prison and they killed all of them. The women were in labor in the prison cell and all the female inmates assisted with the birth. On April 1, 2000, I was

⁷⁶ Ibid.

⁷⁷ Human Rights Watch interview with, Mr. Kim H.Y., Seoul, July 18, 2001.

⁷⁸ Human Rights Watch interview with, Mr. You Y., Seoul, July 10, 2001.

⁷⁹ This account and related quotations are from Human Rights Watch interview with Mrs. Ryo, Seoul, July 2001.

arrested and I witnessed seven children born during the period of May to June and they were killed.

This woman was released without the authorities ever learning she was pregnant. “I had wounds and rashes on my body and I also had a fever disease...They just sent me out from the prison camp because they thought I was dying.” Her relative told us that at the time of her release, she was unable to walk. “I came to know that I was pregnant after feeling the kicking after six months...we hid the fact...because it was very dangerous to let them know that I got married in China.”

Human Rights Watch did not interview any refugees who had been sent to so-called political prison camps or administrative camps (*Kwanriso*) upon repatriation, but several claimed to know of cases where the relatives of defectors had been sent to these facilities, which are described in the next section.

Accounts of Labor Camps

The North Korean penal labor system receives not only common criminals and repatriated migrants, but the families of these people as well. Human Rights Watch received several accounts of the camp system from refugees, which tend to be consistent with some of the more horrific descriptions published by South Korean activists.

Mr. Lee K, a former soldier from a “bad” family background, learned about conditions in China and South Korea from Korean Chinese who visited relatives and did business in his home province of North Hamgyung. When we asked if he had learned anything from broadcasts, he denied watching foreign programs: “Even watching Chinese television can be punished if discovered. If a person is found listening to South Korean broadcasting, he could be punished in a political prison or executed.” He recalled that such an execution had happened to a worker in his prefecture.

Like many of those we interviewed, Mr. Lee K. believed that relatives and acquaintances of escapees risked being imprisoned, and he was acquainted with several people who had suffered this fate. “Life in the political prison camp is worse than death,” he remarked, also an opinion voiced by others we interviewed. Mr. Lee K.’s views were informed by the fact that in the early 1990s, prior to fleeing through China to South Korea, he had worked as a guard in a labor reeducation camp for minor offenders in North Korea and had learned about other camps from other guards and their families.

He outlined a variety of penal labor camps: there are “labor training centers,” or *nodong danryundae*, for misdemeanor crimes of less than six months, such as travelling without permission, illegal trading, and lewd behavior; there are similar camps for misdemeanors of less than a year’s sentence. Because the term is short, the work requirements are intense. He remarked, “You cannot imagine how harsh the living conditions are. They eat rats, grasses. Their living conditions are indescribable. There is a ration distribution, it is graded from the first to seventh degree. But it is not enough food to live on.” *Kyohwaso*, or “reeducation centers,” house more serious criminals such as rapists, robbers, murderers, embezzlers, economic criminals given a sentence of two years or more, and those who have illegally crossed the border more than three times. Consignment to a reeducation center is decided by a meeting of the Social Safety Bureau. There are also *kwanriso*, or administrative camps, also known as political prison camps. Mr. Lee K. had observed two in his home prefecture when the camps were consolidated and relocated and their quarters allocated to local residents, and came to know about their operations from the families of guards living nearby.

No visitors are allowed at these places; only those permitted by the security officials can visit. Even if a son is discharged and leaves, he can’t go back to visit the rest of his family....A husband and wife are assigned shifts to keep them separate.

Mr. Lee described rations in labor training camps and reeducation centers as similar, depending on whether the particular facility grew crops or not. The basic diet was soy sauce, a little fat, cornmeal,

some salt water, and perhaps some *kimchee* (fermented cabbage). Men and women are separated, sometimes with 300 to 400 people sleeping crowded into one room, unable to stretch their legs.

People in the facility were beaten every day with sticks or with fists. In the evening, they had to make time for an “ideological struggle” for one or two hours. This was an official time for the inmates to fight with each other and the guards indirectly provoke violence. The prisoners had to endure physical punishments, such as having to squat and stand up 300 times. There were many different ways of beating. Those who attempted to escape were held in a separate place. They were often hung on the wall all day long. Sometimes their hands were tied behind their back and they were hung on the wall for three to seven days. They were handcuffed and guards would stomp on the handcuffs. They would also use finger-cuffs, which tie the two thumbs together. As a result, the prisoner’s fingers would swell. If it was a political prisoner, his hands would be broken right after he was sent to the prison of the National Security Office. They would then be interrogated. During this, they would not be able to move at all. I witnessed these types of atrocities quite often.

Mr. Lee noted, however, that his perception of conditions as a guard might differ from that of a prisoner.⁸⁰

A different Mr. Lee. provided that perspective. Lee M. and his family were sent to a political prison camp, known also as an administrative camp or *kwanriso*, when his brother, an army battalion leader, was arrested attempting unsuccessfully to traffic uranium.⁸¹ From 1995 to 1998 he lived in the 15th administrative camp known as Yoduk in the Pyongpungje valley, Daeheung County, Pyongan Province. A different source told us that the 12th and 13th administrative camps in Onsong Country had been moved to Yoduk and that there was a consolidation of prisons (though not a reduction in the number of prisoners) after an Amnesty International report on prison camps.⁸²

Lee M. explained that there are first, second and third degree facilities in an administrative camp, in order of severity, although all are labor facilities that do not allow people to move inside or outside freely. His family was placed in a third degree facility of Yoduk camp, but he was able to observe first and second degree facilities when his logging unit was sent there to work. He noted that while labor was hard in the third degree camp, men and women could marry and live together. Unmarried women and elderly people could stay home and cultivate gardens, and children could go to school.

The third degree facility where he lived in the Yoduk complex was located across from the mountain Baeksan in the vicinity of Daeheung County. The inhabitants in the first and second degree facilities were known as “fixed inmates.” The number of inhabitants in the third degree facility numbered about 30,000. The first and second degree camps, also clustered near the mountain Baeksan, held 20,000 to 30,000 each as well; he estimated the Yoduk administrative camp, also known as the 15th administrative camp, to hold about 70,000 persons all together.

His logging unit worked sixteen to eighteen hours a day, producing seven square meters of logs per day. Security guards followed them when they were working and checked to ensure they returned back to the village. They lived in the mountains where they worked most of the time, visiting home every ten days or so. Rations for the loggers were terrible: 450 grams of corn and wheat boiled into a gruel. His description of survival tactics echo accounts of those who survived the height of the famine:

People tried to catch rats using shoes as traps, and then would roast and eat them secretly. What we were feeling was something beyond description as simply hunger. Salt was our only side dish. We ate leaves and grass if they weren’t harmful, putting them in soup.

⁸⁰ This account and related quotations are from Human Rights Watch interview with Lee K., Seoul, July 13, 2001.

⁸¹ This account and related quotations are from Human Rights Watch interview with Lee M., Seoul, July 13, 2001.

⁸² Human Rights Watch interview with Mr. Lee K.Y., Seoul, July 14, 2001.

Apart from material privation and forced labor, Lee M. described violence and sexual abuse as normal conditions.

It was a savage's life, even though people there still had the minds of human beings. I cannot tell vividly enough how it was to be beaten. When our family moved there, we were surrounded by one hundred people and beaten. The police led people to beat us—newcomers must be broken in spirit this way. There are also professional “beaters” at the town hall. They bring people there to be beaten who disobeyed the rules. Officials beat so harshly that many of those people became disabled, or their legs were paralyzed, or they died. In these places, there are no human rights at all for women. What they call sexual harassment in South Korea is nothing. What was going on was beyond description. Everything is exposed, it was nothing to have sex openly...It may be better when a man is married, but as for women, they can't protect themselves in that situation. Even though a man might know his wife is having sexual relations with an official, he can't protest or talk.

Lee M. lived in the Yoduk camp at the same time as the family of a well-known defector, Hwang Jang Yup,⁸³ did. According to him, after Hwang Jang Yup's son tried to escape from the facility to go to South Korea, the whole family was moved to a higher security section of the camp.

Another account of life in an administrative camp was provided by Mr. Kim Yong. He explained that he was raised in an orphanage and was told that his father had been killed by a bomb during the Korean War.⁸⁴ He was a model youth, joining the Korean Workers Party at age nineteen, and rising to a responsible position in the State Security Bureau. His fortunes changed abruptly when it was discovered in 1993 that his father was actually alleged to have been a United States CIA spy, and had been arrested and executed in 1957.

After investigation, Kim found himself assigned in October 1993 to be a prisoner in the 14th administrative camp in Kaechon County, Southern Pyongan province, controlled by the National Security Agency. According to Kim Yong, the 14th administrative camp was a facility for persons who were found guilty of rebellion, criticizing Kim Jong Il, espionage, pacifism during the war, or landowning crimes. This was a severe facility, in which family members had to live separately according to sex, and husbands and wives were not allowed to have children. Mothers could keep children until they were twelve years old, in the fourth grade of elementary school. Rooms were covered in plastic vinyl. Beds were wooden, two-tiers high. Working groups lived in these rooms together, which were locked from the outside. Kim Yong was assigned to work in a mine there, working 720 meters underground from 8:00 in the morning, sometimes until early the morning of the next day. “We had to work until we had finished the assignment or until we passed a quality test. Nobody blames the guards when they shoot people there.”

In 1996, Kim Yong was transferred across the Daedong river to the 18th administrative camp, under the Social Safety Bureau, where he stayed until he escaped North Korea in 1998. In the 18th administrative camp, he was reunited with his mother, who had been living there since his father was executed in 1957. The 18th administrative camp had a section for common criminals as well as for family members of political criminals, “people who were to be separated from society—like my mother.” Here, he was also assigned to work in a mine, although he ultimately received a lighter assignment repairing coal trolleys. The workers were given a handful of corn for each meal, along with salt water and cabbage. “Everyone had to work. Even my mother had to work. Everybody had to work until they died.”

Another man, who had spent ages twelve to nineteen in the 18th administrative camp in Duksung-gun before being released in 1983, confirmed that this camp was under the control of the Social Safety Bureau.⁸⁵ Unlike camps

⁸³ Hwang Jang Yup was the highest-ranking North Korean official ever to defect to South Korea.

⁸⁴ This account and related quotations are from Human Rights Watch interview with Kim Yong, Seoul, July 23, 2001. Mr. Kim has also presented his experiences to the annual general assembly meeting of the NGO Citizens Alliance to Help Political Prisoners in North Korea, on February 24, 2000, available at www.chosunjournal.com/youngkimtestimony.html.

⁸⁵ This account and related quotations are from Human Rights Watch interview with Mr. Lee H., Seoul, July 16, 2001.

controlled by the National Security Agency, children living there could be educated through the fifth grade of junior high school; in National Security Agency camps, education ended with the fourth grade of elementary school. He also confirmed that the workload was somewhat lighter than in National Security Agency administrative camps.

There were two categories of people: internal residents (*daenaemin*) who were sent to the camp because of economic wrongdoing such as fraud or theft, and migrants (*ijumin*) who were the family or relatives of the defectors to South Korea and bad landowners. The internal residents had supplements from an internal assistance fund (*daenae gageupgeum*). They received ten won for every one hundred won payment from that fund. On the other hand, the migrants got only sixty percent of the wages that internal residents got.

Kim related two harrowing incidents he had witnessed. In his first year at the 14th administrative camp, a security officer shot dead the driver of a coal trolley who stopped to pick chestnuts that had fallen from trees onto the tracks. “I saw that dead driver still had a chestnut clutched in his hand.” Another time an officer caught a prisoner trying to chew an oxtail whip for nourishment; he beat the prisoner and forced him to eat intestinal worms picked out of a latrine. The man died two days later. He concluded: “There are so many miserable stories. People pick undigested beans out of the dung of oxen to eat. They compete to take the clothes off of dead bodies to wear. It is not a human world.”

We also received an account of a prison facility designated specifically for military personnel.⁸⁶ A former border guard told us he had been detained in the 606 detention camp (*suyongso*) for seven months in 1998. He believed his arrest and detention stemmed from an incident, which he had confided to an apprehended border crosser that he set free, that he himself had once met his aunt from South Korea in the Yanbian border area. The border crosser, however, was subsequently captured by other security officials and implicated the guard for contact with a South Korean.

The 606 camp was designated for officials charged with economic and political crimes. Conditions were harsh and inmates were treated much like to political prisoners, with no visitors allowed. He gave the following chilling account:

During my stay there, 1,200 people were sent to the facility and I saw only seven people who left without physical injury or harm. Many people died because of an epidemic, and many others were shot to death. The facility generally released people when they believed that the person would no longer survive. Many of the detainees suffered from pulmonary tuberculosis or other diseases. There were about three hundred people in the camp, with a group of thirty in each room. About one hundred people were sent each month, and about ten people were dead every day. If someone didn't receive one meal per day, he would be so weak from starvation that he could not move properly. Since there were no coffins, they put the bodies on a plank and carried them to a hill and buried them.

I cannot describe the situation properly. Can you imagine expecting the person next to you to die, and when the person dies, taking the corpse's clothing off and wearing it? Since the roof leaks on rainy days, the mattress is always wet. Lice are crawling all over the corpses, but the inmates use the blankets of dead people as soon as they die. Since they did not give us needles and thread, we used copper wire instead when we sewed and repaired our clothes.

I myself buried two people. When newcomers arrive at the camp, they are first taught how to bury corpses. When they enter, they are surprised to see that the detainees were only skin and bones, with faces that look black and a bad smell. The guards would shout at them, “Put your head down on the ground!” If they raise their heads, they are beaten. After having them bury

⁸⁶ This account and related quotations are from Human Rights Watch interview with Kim H.Y., Seoul, July 18, 2001.

corpses, the guards force them to wear the clothing off the dead bodies. When I first came into the facility, they ordered me to go to a hallway in a building that was like a storage barn to fetch a spade. But I screamed because there were four corpses at the end of the hall.

Some refugees who had not experienced these conditions had nevertheless heard about them or viewed abandoned prison camps, and the view that being sent to one was a fate worse than death was an often-repeated remark.

IV. GETTING BEYOND CHINA: THE INTERNATIONAL COMMUNITY AND ITS OBLIGATIONS

The Routes Out

Only a small minority of North Koreans in China seek to leave for a third country; indeed, what evidence there is suggests that most would prefer to return to North Korea and their families if their lives there could be more materially stable. Of that small minority who do try to leave China for more secure countries, most hope to eventually reach South Korea. Sometimes they have this goal in mind as they begin their flight, usually because of information received from, or hope pinned on, relatives abroad. Others who have lived in China for years or made repeat crossings come to realize that South Korea is neither the hostile nor economically backward society of the North's propaganda, and an equally unrealistic idealization of life in the South takes hold. In China, they come to know that with the help of religious organizations or brokers, a risky passage may be attempted. Although very few of the refugees we interviewed in Seoul had any particular knowledge of South Korean subsidies for North Korean refugees before they arrived in South Korea, many had some hope that they would be welcomed based on their family background, reports of other high-profile defections, or South Korean propaganda.

South Korea's Ministry of Unification reports a steady increase in the numbers of North Koreans it is resettling in the South each year, with numbers roughly doubling each year since 1998.⁸⁷ For the year 2002, the number of refugees accepted into South Korea stood at 629 as of July 30, 2002.⁸⁸

Less than 20 percent of this inflow is due to a small explosion of incidents of North Koreans seeking refuge in foreign embassies, consulates and organizations in China in 2002.⁸⁹ In the two years prior, several small groups of North Koreans managed to enter the premises of embassies and international organizations, their eventual departure for intermediate states and South Korea brokered after negotiations with China. This trickle swelled this year, as families of North Koreans broke into Japanese, Canadian, South Korean and U.S. diplomatic missions, pursued by Chinese public security officers who succeeded in some instances in arresting the refugees. A particularly tense standoff between the government of China and that of South Korea began in May 2002, as the first of what would eventually be twenty-four North Korean refugees entered the embassy. These refugees, like others who had entered foreign embassies, were released by China on "humanitarian grounds" for immigration to South Korea via a circuitous, face-saving route.

The most dramatic diplomatic incident took place on May 8, 2002, when armed Chinese police entered Japan's consulate in Shenyang and dragged away five North Koreans. China insisted Japanese officials gave the police permission to enter the compound, while Tokyo claimed they entered in violation of the Vienna Convention on Consular Relations⁹⁰ and demanded an apology from Beijing. A videotape of the incident, shown repeatedly on Japanese television and internationally, showed Japanese officials doing nothing to head off the police.

⁸⁷ The figures provided by the Ministry of Unification are: 1993: 8; 1994: 51; 1995: 41; 1996: 56; 1997: 86; 1998: 71; 1999: 148; 2000: 312; 2001: 583.

⁸⁸ Letter to Human Rights Watch, August 1, 2002, from Hee-Yong CHO, Political Counselor, South Korean embassy, Washington, D.C.

⁸⁹ The number arriving via embassies as of July 2002 stood at 121, or somewhat over a sixth of the 2002 total to that date. See footnote 3 above.

⁹⁰ Article 31(2) of the Vienna Convention on Consular Relations states that "[t]he authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State."

Subsequently, a dozen Japanese consular officials were reprimanded by the Japanese foreign ministry and the consul-general in Shenyang was recalled. Two weeks later, an agreement was reached leading to the departure of the North Koreans for Seoul on May 23 via the Philippines. At one point, the Chinese foreign minister proposed that the two countries develop a bilateral consular treaty to avoid further such embarrassments, and Japan initially agreed, but the plan was ultimately dropped when it became clear that it would take years to ratify a new treaty.⁹¹

The repeated diplomatic face-offs and negotiations have brought about a hardening of attitude on the part of the Chinese. This attitude was reflected in a diplomatic memorandum dated May 21, 2002, circulated by China's foreign ministry to all Beijing embassies, demanding that foreign governments "inform the Consular Department of the Chinese Ministry of Foreign Affairs in case the illegal intruders were found, and hand over the intruders to the Chinese public security organs."⁹² Some governments, including that of the United States, flatly refused to comply with China's demands. At a Senate Judiciary Committee hearing on June 21, 2002, State Department officials when pressed said the U.S. would reject any demands to turn over North Koreans. However, Arthur Dewey, Assistant Secretary of State for Population, Refugees and Migration, also warned that "there are no guarantees for North Koreans who seek refuge in third country diplomatic compounds and they are putting themselves at great risk. In a post 9-11 world, no diplomatic compound will tolerate unidentified persons breaking through security for any reason."⁹³

Other governments, such as South Korea, have taken a more nuanced approach, or have simply ignored China's diplomatic memorandum written request. The South Korean government told Human Rights Watch that "our policy is to take measures respecting the person's wish under humanitarian principles once a North Korean refugee enters into our diplomatic offices. Therefore, when a North Korean wishes to go to the Republic of Korea, we make an endeavor to realize [this] through negotiation with the Chinese government...even though the argument of China claiming that a diplomatic office does not have the power to protect a third country citizen has some merit under in the light of international custom."⁹⁴

However, the several dozen North Koreans who have gained safe passage after dashing into diplomatic compounds represent only a tiny fraction of those who ultimately leave China. Others purchase false identity papers and passports and fly out, usually with relatives in the South coordinating their quiet transit and alerting the South Korean government. Yet others are guided by brokers out of China via two main routes: either over the Mongolian border, or to Yunnan and there over the border to the Mekong River, usually transiting Cambodia, Vietnam, or Laos and sometimes Burma to eventually reach Thailand and the South Korean embassy in Bangkok.

The cost of transiting through China safely and crossing into another country varies considerably, depending on whether the refugee depends on the largesse of missionary or church groups or whether he or she has relatives who can pay and privately broker the escape. The more recent North Korean asylum seekers we interviewed estimated the total cost of bribes, false papers, and payoffs for shelter and guides to run between U.S.\$10,000 to U.S.\$30,000, a large enough sum to keep the number of successful departures from China relatively small.

Chinese Policy

In contravention with its obligations under the Refugee Convention, China does not permit North Koreans in China to seek asylum or be granted refugee status. It maintains that a secret agreement concluded with the government of North Korea on the repatriation of illegal migrants and criminals takes precedence over this

⁹¹ "Japan, China to Draft Consular Treaty," *The Japan Times*, June 21, 2002; "Government to Scrap Plan to Sign Consular Treaty with China," *Daily Yomiuri*, June 27, 2002; "Five Asylum Seekers Talk to Officials from Japan," *The Japan Times*, June 26, 2002; "Is the (Shengyang) Case Settled?" editorial, *Ashai Shimbun*, July 6, 2002.

⁹² "(2002) Lingsizi No. 694," translation provided in Appendix B.

⁹³ Dewey said the U.S. State Department was urging China to adhere to its obligations under the Refugee Convention and to cooperate with UNHCR in providing protection to North Korean migrants who might qualify for refugee status. The State Department also announced a U.S. policy review on North Koreans in China, which, as of mid-October, had not yet been concluded.

⁹⁴ Letter to Human Rights Watch, August 1, 2002, from Hee-Yong CHO, Political Counselor, South Korean embassy, Washington, D.C.

multilateral treaty. The text of this agreement is unknown, though it is possible to infer that it was framed in the context of Chinese migration to North Korea during the famine of the Great Leap Forward.⁹⁵

In practice, the Chinese government has unofficially tolerated both cross-border trade as well as some migration from North Korea until the late 1990's, during the North Korean famine. But the border of the Tumen River, easy to cross when it is frozen, is heavily guarded by both Chinese guards and North Korean security forces. Enforcement efforts seem to have been most consistent against persons specifically requested by North Korean officials rather than the general migrant population. There have been periodic crackdowns on ordinary migrants, however, one taking place following the Gil-Su family's successful and highly publicized bid for asylum in UNHCR offices in May 2001. At that time, daily mass expulsions and stepped-up searches and border patrols by China were incorporated into an ongoing anti-crime "strike hard" campaign. China has also dealt flexibly with "embassy refugees." Almost all have eventually been allowed to leave China, generally through the face-saving fiction that they are headed to an immediate destination other than South Korea, though in fact the latter is where the journey almost always ends.

This situation appears to have been changing, and the crackdown on the border has only intensified since the wave of embassy asylum bids that began this past March. Humanitarian workers have reported to Human Rights Watch that the security situation on both sides of the border is more severe than they have witnessed in the past four years. Armed soldiers have replaced border police at checkpoints, and in China regular searches of taxis, buses and train stations are taking place, as well as nighttime house-to-house searches for North Koreans. People who have been hiding in the towns in Yanbian are scattering inland and to the mountainous areas where they are less likely to be detected. Large deportations are taking place frequently as well. Aid workers at the border report that migration from North Korea is down markedly even from the normally low levels of the spring planting season.⁹⁶

From May 2002, the Chinese government began to focus on tightening security around foreign embassies, increasing patrols in the embassy district of Beijing, and erecting new barbed wire cordons near embassies, in addition to issuing the diplomatic memorandum warning foreign embassies against sheltering asylum seekers (see Appendix B).

South Korean Policy

Under Article 3 of the South Korean constitution, the territory of the Republic of Korea is defined as the whole Korean peninsula and its contiguous islands. This is the foundation for the principle that Koreans residing in the North are entitled to the protection of the government in the South, a basis for the Kim Dae Jung government's current policy of accepting in principle all North Koreans who wish to migrate there.

The policy is embodied in the Protection of North Korean Residents and Support of their Settlement Act (law number 6474, Partial revision on May 24, 2001), which stipulates the procedure for invoking the government's protection in Article 7:

1. Any person who has defected from North Korea and desires to be protected under this Act shall apply for protection to the head of an overseas diplomatic or consular mission....
2. The head of an overseas diplomatic or consular mission...who receives such an application for protection...shall without delay inform the fact to the Minister of National Unification and the Director of the Agency for National Security Planning...

⁹⁵ According to the South Korean government, in August 1986, China and North Korea concluded a protocol on security in the border area; its contents have never been made public, but China maintains it is obligated to repatriate North Koreans back to North Korea under the protocol. Ibid.

⁹⁶ Human Rights Watch interview with unnamed aid worker, via telephone, June 20, 2002.

3. The Director of the Agency for National Security Planning notified pursuant to the provision of Paragraph 2 shall take provisional protective measures or other necessary steps and shall without delay inform the Minister of National Unification of the result.⁹⁷

Not all North Koreans, however, may be entitled to protection. Article 9 of the same act sets forth criteria for a determination of protection. Among those who may be excluded are serious criminals, those suspected of feigning defection, those who appear to have earned a living for a considerable period in their country of domicile, and others recognized by presidential decree as unfit for protection. Article 16 provides that those who might cause serious political or diplomatic hardships to the Republic of Korea if given protection can be defined as unfit for protection. Despite these exclusions, the default position of the law is for inclusion, regardless of whether the person has a fear of persecution or is an economic migrant. South Korean law, in this respect, is more generous towards North Koreans than international refugee law.

Actual policy, however, is somewhat more equivocal. A mid-level official at the Ministry of Unification explained that in 1997 under the Kim Young Sam government, the basic policy of accepting all North Koreans who wished to migrate to the South was instituted and communicated to embassies and consulates. However, an important qualification on the “principle” of acceptance is the diplomatic mission’s discretion in considering relations with the host country. The ministry official explained, “If cooperation between the embassy and the host country is smooth, then it is easy. If the country severely opposes our facilitating resettlement in South Korea, then the embassy won’t accept them. If the country protests severely, we won’t accept them.” This would account for the lack of diplomatic initiative in countries such as Vietnam or Burma, which are disinclined to act as conduits for North Korean resettlement, and experiences such as that of Mr. Cho, who was turned over to the police by a South Korean embassy staff member on January 31, 1999.

Yet as the ministry official admitted, the policy is “evolving.” South Korea protested strongly when Chinese police on June 13 burst into its embassy in Beijing, dragging out a North Korean man named Won who was attempting to take refuge there with his son, in the process injuring a diplomat and a local employee.⁹⁸ In an unusual departure from its practice of “quiet diplomacy,” the Foreign Affairs-Trade Ministry held a press briefing on June 27, 2002, on China’s crackdown on missionaries and non-governmental organizations that aid North Korean migrants in China, likely reflecting its own frustration at trying to get China to soften its positions behind the scenes.⁹⁹

Once taken to South Korea, North Koreans are required to undergo a rigorous period of interview, debriefing, and orientation by the Korean National Intelligence Service that usually lasts about three months. During this time they are housed at the Hanawon camp, which the government is planning to dramatically expand in response to the swelling numbers of migrants. It has already added services that reflect the change in its population from military defectors to increasing numbers of women and youth. The government continues to have some supervisory authority after their release, and indeed, one man we interviewed came to his interview accompanied by a Seobu police station detective, who while not present during the interview, included it in his report.

North Koreans who resettle receive generous subsidies for public housing, education, job training, living expenses over two years, and employment insurance—amounts that exceed assistance to ordinary South Koreans in poverty, and to which migrant Koreans with Chinese citizenship are not entitled. Yet even those who criticize the expenditures on North Koreans acknowledge that the transition to the highly competitive, capitalist lifestyle of the South is a difficult one. It has been politically unacceptable to call for closing the doors on brothers and sisters to

⁹⁷ Translation of the act provided by the South Korean Ministry of National Unification Humanitarian Affairs Bureau.

⁹⁸ China ultimately allowed twenty-four refugees sheltering there, as well as two others who entered the Canadian embassy, to depart to third countries from whence they continued on to South Korea. Oh Young-hwan and Yoo Kwang-jong, “26 defectors sent to third countries,” *JoonAn Ilbo* electronic edition, June 23, 2002, available at <http://english.joins.com/article.asp?aid=20020623235737&sid=300>.

⁹⁹ Shim Jae-yun, “Seoul Shifts Policy on NK Defectors,” *Korea Times* online edition, June 28, 2002, available at <http://www.hankooki.com>.

the North, but there has been a movement to make migration less attractive, by reducing subsidies and delaying the transition of migrants to full citizenship.

The Resettlement Act, referred to above, was revised on June 3, 2002, and a provision was added to article 39, which deals with the subsidy. It provides that the amount of subsidy can be reduced up to half of the standard amount based on the following factors:

- the extent of the protected defecting North Korean resident's property and his or her direct family's property;
- adjustment to society and will to settle in society;
- violations committed in the settlement support facilities (Hanawon).¹⁰⁰

In light of the increasing arrivals, South Korea also planned to expand the Hanawon camp, with construction beginning in July 2002 and completion of a facility that will hold 1,500 people expected by the end of 2003.¹⁰¹

Transit and Asylum Nation Policies

Mongolia's policy on North Koreans has fluctuated depending on local political influence in Ulan Bator. At times, central authorities have authorized the protection and onward-passage of North Koreans in cooperation with UNHCR and the South Korean embassy. At other times, refugees have been arrested at the border and sent back to China. Activists have sometimes appealed to Mongolian legislators for intervention in the cases of refugees known to be crossing with success. But there is clearly anxiety in the government over encouraging North Koreans to view the Mongolian route as a "safe passage" beyond China.

A suggestion by international activists that refugee camps for North Koreans be established in Mongolia was quickly rejected by the Mongolian foreign ministry, and attacked by Beijing.¹⁰² Mongolia is not currently a party to the Refugee Convention. In early August 2002, the North Korean foreign minister, Paek Nam Sun, visited Ulan Bator and signed two treaties on economic, educational, and cultural cooperation. It was the highest level visit from a North Korean official in fourteen years, according to Mongolian officials. From press accounts and contacts with Mongolian diplomats, it is unclear whether the matter of North Korean refugees was discussed; however, one of the treaties signed promised mutual legal assistance in consular, civil, and criminal matters.¹⁰³

Thailand treats North Koreans as it does other asylum seekers, leaving status determination to the local office of the United Nations High Commissioner for Refugees. UNHCR's Bangkok office regularly receives North Koreans referred by church groups and the South Korean embassy, and conducts detailed interviews. According to a source who did not wish to be named, in 1998 UNHCR considered three cases and approved three persons as refugees; in 1999 UNHCR handled ten cases and approved eleven persons; in 2000 it handled twenty-six cases and approved thirty-two persons; in 2001 UNHCR handled fifty-four cases, approving eighty-two persons, and in 2002 up to May 15 it had considered sixty-one cases and approved ninety-two persons. It is not known whether UNHCR has rejected any North Koreans who have presented themselves, or if so, what happens to such people.

V. CONCLUSION

So far, the approach by the international community to North Korean asylum seekers has been to ignore them, except when they literally turn up on diplomatic doorsteps. In response, refugee advocates have adopted

¹⁰⁰ Letter to Human Rights Watch, August 1, 2002, from Hee-Yong CHO, Political Counselor, South Korean embassy, Washington, D.C.

¹⁰¹ Ibid.

¹⁰² "Mongolia Denies Reports of Refugee Camps for North Koreans," BBC, June 26, 2002; "China Rejects Refugee Camp Proposals," Reuters, June 22, 2002.

¹⁰³ "Mongolian Premier Meets North Korean Foreign Minister," BBC, August 8, 2002; Human Rights Watch correspondence with Mongolian embassy, Washington, D.C., September 6, 2002.

increasingly militant responses, trying to bring asylum seekers before the cameras of the international media at great risk to all involved. This “see no evil” approach cannot be sustained.

A comprehensive approach is required by the international community if the crisis is not to worsen and lead to further conflict between China and its neighbors and diplomatic partners. Humanitarian aid policies need to ensure that assistance reaches those with the greatest need, who are often located in North Korean border regions. At the same time, humanitarian aid policies cannot be effective without concerted diplomatic effort to persuade North Korea to both allow effective monitoring of humanitarian aid and to change its laws and policies punishing persons who seek to leave the country. This will involve a coordinated, long-term effort.

Equally important in the meantime is a concerted effort to induce China to cease the practice of *refoulement* or forced return of North Koreans to certain punishment in their own country. China should extend to all North Korean migrants humanitarian status that allows them to live in China, and should allow those who wish to migrate onward to third countries access to the appropriate embassies and the services of UNHCR. China must allow, and the international community must provide, humanitarian aid for those who seek refuge on China’s territory, if necessary by adopting burden-sharing arrangements with other countries in the region willing to extend temporary or permanent asylum.



China

Korean Peninsula

- ★ National Capital
 - Administrative Capital
 - Secondary City
 - International Boundary
 - Administrative Boundary
 - Primary Road
 - Secondary Road
 - - - Railroad
 - Demarcation Line
 - ↓ Demilitarized Zone
 - ⊠ Primary Ports
- Airfields**
- 0 25 50 75 km
0 25 50 mi



Sea of Japan

APPENDIX B: LETTER FROM CHINESE MINISTRY OF FOREIGN AFFAIRS TO FOREIGN EMBASSIES, MAY 31, 2002

(Informal translation)

(2002) LINGSIZI NO. 694

To all foreign embassies in China:

The Consular Department of the Ministry of Foreign Affairs of the People's Republic of China presents its compliments to all foreign embassies in China and has the honor to inform the following:

Recently the events occurred in succession that the third country nationals intruded into foreign embassies and consulates in China. This directly endangered the security of the embassies and consulates concerned and disturbed their routine work. It also provoked Chinese law and affected the public security and stability of China. Upon the request of many foreign embassies and consulates in China, the Chinese side has taken a series of measures to protect the security of foreign diplomatic and consular representing institutions. These security measures are in conformity with the interests of both sides. In the future the Chinese side will make great efforts as always to provide safe working and living environment for foreign embassies and consulates, and conscientiously undertake due obligations as receiving country in accordance with "Vienna Convention of Diplomatic Relations" and "Vienna Convention of Consular Relations". According to the principle of international law that embassies and consulates has no right of asylum, the Chinese side also wishes embassies concerned to render cooperation and inform the Consular Department of Chinese Ministry of Foreign Affairs in case the illegal intruders were found, and hand over the intruders to the Chinese public security organs.

The above-mentioned principle is also applicable in dealing with the intruders into foreign consulate institutions.

May 31, 2002, Beijing

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Asia Division

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We challenge governments and those holding power to end abusive practices and respect international human rights law.

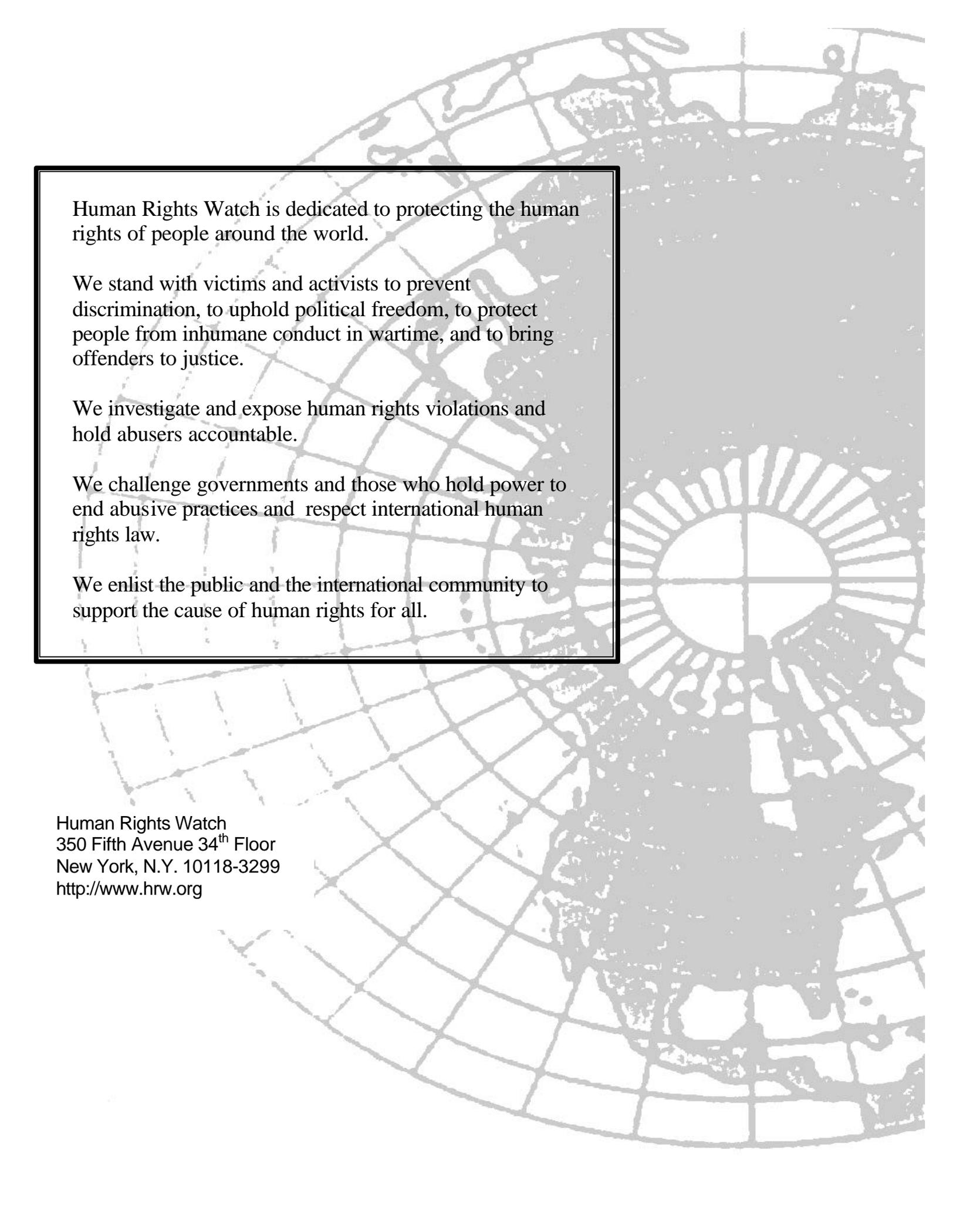
We enlist the public and the international community to support the cause of human rights for all.

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Its Asia division was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Brad Adams is the Executive Director, Mike Jendrzeczyk is the Washington Director; Widney Brown is the Acting Deputy Director; Smita Narula, Sara Colm and Mickey Spiegel are Senior Researchers; Meg Davis and Charmain Mohamed are Researchers; Emily Harwell is a Fellow; Liz Weiss and Ami Evangelista are associates. Joanne Leedom-Ackerman is Acting Chairperson of the advisory committee and Orville Schell is Vice-Chair.

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