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## **NORTH KOREA: A POTENTIAL REFUGEE CRISIS?**

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## **Summary**

### **1. Introduction**

The introduction argues that various changes in the external and internal environments of North Korea combined with the increasing number of escapes from North to South Korea give reason to assess possible future developments with respect to the outflow of refugees from North Korea.

### **2. Background Information And Recent Developments**

The death of Kim Il Sung, the collapse of the Soviet Union and the economic liberalization have caused changes inside North Korea. There are reasons to believe that the carefully balanced political system with President Kim Il Sung as unchallenged leader is not as stable as it used to be. The loss of communist allies has isolated North Korea even more in the international community and caused further militarization.

The North Korean legal system is centred around the interests of the state. Rights and freedoms can only be exercised in accordance with the interests of the socialist system. The penal code contains numerous political crimes, four of which carry the death penalty. Although reliable information is scarce, available data indicate that North Korea has a poor human rights record with no free media, numerous political prisoners and bad prison conditions.

North Korea's economy is based on the Soviet model and has encountered many of the problems that affected the Soviet economy. These problems were aggravated by the changes in the former Soviet Union and China as both countries started demanding hard currency for trade. In order to solve its economic troubles, North Korea is considering liberalization of its economy. At present one so-called free trade zone exists but it has not yet led to an economic revival of the region. The liberalization process is bound to be difficult and may cause undesired political side-effects.

Over the last few years there has been a constant lack of food in North Korea. This was gravely aggravated by floods in the summers of 1995 and 1996, which reportedly led to widespread starvation. Some North Koreans have mentioned that the food situation is breaking up internal discipline.

### **3. The Issue Of Asylum Seekers From North Korea**

The number of "defections" has increased significantly over the last few years. While previously "defectors" were mainly soldiers and intelligence workers, several members of the elite have recently fled North Korea and resettled in the South. This may indicate that the upper class is not satisfied with the Kim Jong Il regime.

Ordinary North Koreans are unlikely to flee their country. They have a distorted picture of the outside world and their country's position in it. This is caused by relentless propaganda and re-education sessions and the lack of access to independent information from abroad.

North Koreans further believe that their relatives will be punished in case they flee and it is in practice almost impossible to do so because freedom of movement does not exist and transport is very sparse.

Cracks in the system are, however, visible. Some ordinary North Koreans are in a more privileged position. Workers in Russia are less controlled by the North Korean authorities and have more access to independent information. As a result, numerous North Koreans have fled their work sites in Russia and gone to South Korea. North Koreans from the border area with China also have access to more information from abroad and "defections" are reported regularly. Lately, there have also been reports of North Koreans from other areas of the country fleeing from starvation.

#### **4. Reception Of North Korean Asylum Seekers**

The North Korean Government has a very negative attitude towards those seeking asylum abroad. "Defection" is a penal offence in North Korea and North Koreans going abroad are threatened with repercussions against relatives. North Korean asylum seekers in Russia and China are actively pursued by the North Korean security service. Apprehended asylum seekers are ill-treated and sometimes shot.

North Korean asylum seekers in Russia are tolerated as long as they eventually resettle in South Korea. Instances of *refoulement* do, however, occur and the Russian authorities have done little to stop activities by North Korea's security service in Russia. China reportedly deports all North Korean asylum seekers from its territory.

South Korea is becoming less and less willing to accept North Korean asylum seekers. It is now accepting such asylum seekers on a selective basis. Requests for asylum take long to process and in some cases the immigration authorities have attempted to deport North Koreans to China. Social benefits offered to newly arrived North Koreans has been seriously reduced. North Koreans have enormous problems adapting to South Korean society. The South Korean authorities appear to be frightened by the idea of a massive outflow of refugees from North Korea but tentative preparations are being made for this possibility.

#### **5. Conclusions**

A massive outflow of refugees from North Korea is not likely for the above-mentioned socio-political reasons, except in two circumstances. On the one hand starvation might reach such an acute crisis level that large numbers of people will have to leave their homes and jobs to go looking for food. On the other hand if economic liberalization takes place, then the North Korean government will lose its monopoly on information, and this might cause the psychological and physical barriers that are at present stopping people from fleeing, to break down.

#### **1. Introduction**

As socialism in the Soviet Union (USSR) and its satellite states collapsed and the People's Republic of China (China) liberalized its economy, the Democratic People's Republic of Korea (North Korea) remained one of the last orthodox communist states in the world. The

worldwide demise of socialism and the sudden death of North Korea's President Kim Il Sung gave rise to speculation about an eventual change in North Korea.

Up to the day of writing, the North Korean leadership stubbornly holds on to late Kim Il Sung's socialist line. A struggle for power may, however, be going on. The economic crisis in the country is deepening and North Korea has to face its problems without the help of its former allies. At the same time, the number of North Koreans fleeing their country to make their way to South Korea is growing rather quickly. The artificial division of the Korean Peninsula is reminiscent of the situation of the two Germanys before 1990. Taking these different factors into consideration, it seems useful to assess the commonly held belief that an outflow of refugees from North Korea into South Korea and other neighbouring countries is imminent.

Section 2 of this paper seeks to analyse the political situation in North Korea, the economic crisis, some aspects of the legal system and the human rights situation in order to make an assessment of the factors that may cause North Koreans to flee. In the following section recent developments concerning flight by North Koreans is discussed in order to identify which groups of North Koreans have been fleeing their country and under what circumstances they did so.

Apart from assessing the possibility of an outflow of refugees from North Korea, this paper will discuss the need of North Korean asylum seekers for protection under international refugee law. It also discusses the reception of North Korean asylum seekers in host countries and the possibilities and problems of resettlement in South Korea.

It should be mentioned that information on the situation in North Korea is very difficult to obtain as a result of restrictive policies by the North Korean authorities on information. This information problem is aggravated by the fact that anti-communist forces circulate biased information about the country. Use of such sources has been avoided as much as possible.

## **2. Background On North Korea**

### **2.1 Political Philosophy and Structure**

The Democratic People's Republic of Korea was founded in 1948 after Japan lost the second World War and Soviet forces occupied the northern part of the Korean Peninsula. The Korean Worker's Party took power, supported by Soviet forces.<sup>1</sup> In 1950 the Korean War started after provocations from the North Korean side and after three years of war, a ceasefire was signed in 1953, dividing the Korean Peninsula into a pro-Soviet and a pro-American part. The political situation on the Korean Peninsula has been very tense ever since.

Until his death in 1994, Kim Il Sung governed the country according to a Korean interpretation of Marxism-Leninism called *juche* (self-reliance), a strongly nationalist and confucianist philosophy. In accordance with the ideology, considerable emphasis was put on

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<sup>1</sup> Erik van Ree, *Socialism in One Zone: Stalin's Policy in Korea 1945 - 1947* (Oxford: Berg, 1989), pp. 267-277

defence and building an egalitarian society. The *juche* philosophy demands total devotion for the leader and the production of "correct" thoughts.<sup>2</sup>

The political system is completely concentrated on the Worker's Party of Korea, the only party of any significance, and especially its leader. Like other communist countries used to, North Korea has a dual political structure consisting of the party and the state. The party is responsible for recommending, drafting and supervising the implementation of policies, while the administrative apparatus takes charge of translating the recommended policies into action. As Kim Il Sung wrote:

The law of our country is an important weapon by which our state policies are put into effect. The policy of our state is that of our party. Then, who formulates policies on our revolution and construction today? It is none other than our party.<sup>3</sup>

Opposition movements and other social organizations separate from the power structure do not appear to exist in North Korea. As one expert put it, the philosophy of full devotion to the leader aimed at the production of "correct thought" does not leave room for the development of such movements.<sup>4</sup>

Although on paper the Central People's Committee is responsible for legislation and formulation of domestic and foreign policies, the leader of the Worker's Party of Korea (and since 1972 the President of North Korea) appears to be in full control. This is reflected in the North Korean Constitution of 1972. The President has substantive powers related to legislation, administration, the judiciary and the army. He has a supervising function over the Central People's Committee, which is the organ responsible for legislation and formulating domestic and foreign policy. He further has decisive influence over the judiciary and prosecution officers. Until 1992, the President was technically speaking accountable to the Supreme People's Assembly, which had the power to elect a new President every four years.<sup>5</sup> However, Kim Il Sung remained President until his death in 1994. The amended Constitution of 1992 does not mention election of the President.<sup>6</sup>

Kim Il Sung's inviolability and the absolute loyalty of the bureaucracy towards his person can be explained by the fact that he was in the unique position of being able to create a completely new bureaucracy after the establishment of communist North Korea (the old one had been destroyed by Soviet occupation forces), which was therefore loyal to him

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<sup>2</sup> James Cotton, *"Civil Society" and Nationalism in North Korea: Foundations for Political Change?* (Canberra: Research School of Pacific Studies Australian National University, 1991), p. 6

<sup>3</sup> Kim Il Sung, "On the Judicial Policy of Our Party", in his *Collected Works of Kim Il Sung*, Vol. 2 (Pyongyang: Foreign Languages Publishing House, 1968), p. 144

<sup>4</sup> Cotton, p. 6

<sup>5</sup> See the Democratic People's Republic of Korea. *Socialist Constitution of the Democratic People's Republic of Korea, Adopted on 27 December 1972* (Pyongyang: Foreign Languages Publishing House 1991) [henceforward cited as *Constitution 1972*], Chapter 6. "The President of the Democratic People's Republic of Korea"

<sup>6</sup> *BBC Summary of World Broadcasts*, "Previous and New DPRK Constitutions Compared", 18 December 1992 (editorial report)

personally.<sup>7</sup> In addition to that, the leader continuously circumvented party officials to maintain this loyalty.<sup>8</sup>

This carefully balanced system came into jeopardy when President Kim Il Sung suddenly died in July 1994. His son Kim Jong Il has still not succeeded his father, leaving a power vacuum to be filled. The issue of succession of Kim Il Sung by his son has given rise to numerous speculations about the support Kim Jong Il enjoys from the army and the bureaucracy. One specialist, A. Y. Mansourov, believes that Kim Jong Il does not enjoy the absolute loyalty of the bureaucratic system, as his father did. Many of the leading figures of the bureaucracy are former tutors of Kim Jong Il and although they publicly declare that they are united and loyal to Kim Jong Il, they are likely to have a more independent and influential position than under Kim Il Sung.<sup>9</sup> According to Mansourov the higher leadership is divided between the so-called pragmatic and orthodox wings. Representatives of the pragmatic wing believe that development is possible and necessary even if that would mean a diversion from Kim Il Sung's lines. The orthodox wing believes that the peak of civilization was reached under Kim Il Sung and are therefore unwilling to deviate from Kim Il Sung's policies.<sup>10</sup>

The collapse of the Soviet Union, the economic liberalization of China and the fact that both nations have established diplomatic relations with South Korea also had major consequences for the political situation in North Korea. Military and political support from the main successor state of the USSR, Russia, and from China have largely fallen away. Most importantly, North Korea is no longer covered by the Soviet/Russian nuclear umbrella.<sup>11</sup> The realization by the North Korean leadership that their country had remained as one of the few "pure" communist countries in the world appears to have led to a sense of mission and an urge to guard that mission. As a result of this, the ideology of North Korea has become even more orthodox, and defence gained even more importance than in the past, leading to further militarization of the society<sup>12</sup> and investigations into the nuclear option.<sup>13</sup>

With the disappearance of its allies, North Korea became highly isolated in the world. The country has diplomatic relations with only a small number of countries, most of them former socialist countries. North Korea became a member of the United Nations in 1991 and has been trying to integrate into the international community since. However, the non-proliferation issue and the political conflicts with South Korea and the U.S. have proved to be major obstacles on that path.<sup>14</sup>

## **2.2 The Legal System and the Human Rights Situation**

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<sup>7</sup> A. Y. Mansourov, *In Search of a New Identity: Revival of Traditional Politics and Modernization in Post-Kim Il Sung North Korea* (Canberra: Research School of Pacific Studies Australian National University, 1995), p. 11

<sup>8</sup> Cotton, p. 8

<sup>9</sup> Mansourov, p. 11

<sup>10</sup> Mansourov, p. 4

<sup>11</sup> Andrew Mack, *Nuclear Dilemmas: Korean Security in the 1990s* (Canberra: Research School of Pacific Studies Australian National University, 1992), pp. 4-5

<sup>12</sup> Mansourov, p. 5

<sup>13</sup> Mack, p. 4

<sup>14</sup> Mack, p. 23

The North Korean legal system is largely based on the Soviet model. It is focused on protecting the rights of the party and the state rather than those of individuals. As a result of this, North Korean law contains more obligations for citizens towards the state than rights for citizens or guarantees of non-interference by the state.<sup>15</sup> The main functions of North Korean law have been described as follows: protecting the communist system against "counter-revolutionary" forces, executing state economic plans, and setting examples for political, economic and social life.<sup>16</sup> Similarly, the functions of the judiciary and public prosecutors are described as protecting the socialist system of North Korea and implementing state policies.<sup>17</sup> As in most communist states, North Korean law is of an overwhelmingly public nature with all transfers of ownership and even provisions within family law considered largely as being of a public nature.<sup>18</sup>

The Socialist Constitution of North Korea includes a number of rights and freedoms of citizens, including freedom of speech, freedom of religion, active and passive electoral rights, freedom of political activity, etc. However, these rights and freedoms can only be practised in accordance with the "consolidation and development of the socialist system".<sup>19</sup> and in practice, these rights do not appear to exist.

Criminal law is codified in the Criminal Law of North Korea of 1987 and the Criminal Procedure Law of 1992. The main purpose of the Criminal Law is stated in Article 1, as follows: "The Criminal Law ... defends the power of the state and the socialist system ...". The Criminal Law recognizes several types of offences. Most of them have a political nature, such as crimes against the state or crimes of encroachment on the socialist economy.

Two main penalties are mentioned in the Criminal Law: the death penalty and reform through labour. The Law also mentions additional punishments, such as deprivation of the right to vote, confiscation of property and deprivation or suspension of a licence. The period for reform through labour is a minimum of six months and a maximum of 15 years. Punishment for state crimes is generally harsh. Four anti-state crimes (Articles 44, 45, 47 and 52) as well as murder and other particularly serious offences against the life and property of citizens (Article 141) carry the death penalty.<sup>20</sup> According to Article 23 of the 1987 Criminal Law, the death penalty cannot be imposed on those who were under 17 years of age when they committed the offence. The North Korean authorities have, however, informed Amnesty International that the minimum age has been raised to 18.<sup>21</sup>

The judicial power is not independent from the legislative and executive powers. The Central Court is, for example, accountable to the Supreme People's Assembly, the Central People's Committee and the President. Very little information is available about the extent to which

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<sup>15</sup> See the *Constitution 1972*, Chapter 4: "Fundamental Rights and Duties of Citizens"

<sup>16</sup> Kim Un-yong, "A Study of the Legal System of North Korea", *Vantage Point* [Seoul], Vol. 1, No. 4 (August 1978), p. 2

<sup>17</sup> See *Constitution 1972*, Articles 136 and 144

<sup>18</sup> Kim Un-yong, p. 3

<sup>19</sup> See *Constitution 1972*, Article 50(2)

<sup>20</sup> Legal provisions relating to refugees and asylum seekers from North Korea are discussed below in Section 4.

<sup>21</sup> Amnesty International, *Democratic People's Republic of Korea: Human Rights Violations Behind Closed Doors* (London, 1995), p. 2



North Korean law is implemented in practice. It would appear, however, that the law is applied flexibly according to the needs of the state.

Very little reliable information is available about the human rights situation in North Korea. In 1995, Amnesty International published a list of 63 North Koreans who are believed to be held as political prisoners or prisoners of conscience in North Korea.<sup>22</sup> The organization complained that government policies restricting information flow, shroud the country's human rights record in secrecy and Amnesty International believes that the real number of political prisoners is much higher.<sup>23</sup> The organization has also reported that prison conditions are harsh and that beatings in detention take place.<sup>24</sup> Illtreatment of apprehended refugees is a regular occurrence (see also below, Section 3).

Official figures on the use of the death penalty are not available. Newspapers have reported public executions in North Korea.<sup>25</sup> In 1994, the North Korean Government admitted to Amnesty International that, in November 1992, a man in Hamhung had been publicly executed "at the request of the crowd".<sup>26</sup>

As has been mentioned above, the media is completely state controlled. Freedom of assembly only appears to exist for pro-communist gatherings. There are several religious groups in North Korea but it is unknown to what extent they can freely carry out their work. Freedom of expression and assembly are believed to be severely restricted.<sup>27</sup>

### 2.3 The Economy

The North Korean economic system, introduced after 1948, was constructed on the basis of the Soviet model. The *juche* economic philosophy was introduced by Kim Il Sung in 1956 and focuses on the development of an independent, self-reliant economy. The economy is centrally planned with the main emphasis on heavy industry and the military sector, and it is more centralized, controlled and ideologically orthodox and monocratic than those of any of the world's other communist states.<sup>28</sup> The main aims of the economy are social and political, as opposed to capitalist economies where the goal is seen as efficiency of resource allocation. The production of consumer goods is badly developed and as a result savings are said to be high.<sup>29</sup> This is similar to the situation in the Soviet Union, where this hoarding of money reflected hidden inflation. North Korea operates a system of total rationing. For example, cereals, work and ordinary clothes, food and housing are all rationed.<sup>30</sup>

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<sup>22</sup> Amnesty International, December 1995, pp. 36-41

<sup>23</sup> Amnesty International, December 1995, pp. 7-10

<sup>24</sup> Amnesty International, *North Korea: New Information about Political Prisoners*, (London, 1994), p. 4

<sup>25</sup> *The Korea Herald* [Seoul], "N. Korea Executes Prisoner in Public", 27 November 1992

<sup>26</sup> Amnesty International, *North Korea: The Death Penalty*, (London, 1994), p. 2

<sup>27</sup> Asia Watch and Minnesota Lawyers International Human Rights Committee, *Human Rights in the Democratic People's Republic of Korea* (Washington, 1988), p. 165-167

<sup>28</sup> Hwang Eui-Gak, *The Korean Economies: A Comparison of North and South* (Oxford: Clarendon Press, 1993), p. 29

<sup>29</sup> Hwang Eui-Gak, pp. 127, 128

<sup>30</sup> Hwang Eui-Gak, pp. 127, 128

Over the first two decades the North Korean economy grew quickly but then growth figures started to drop and in recent years they have been negative (the economy shrinking by over 4 per cent in 1993 and by just under 2 per cent in 1994).<sup>31</sup> The North Korean economy faces structural problems similar to those of the former Soviet Union: inefficiency of resource allocation, failure to import new technology to modernize industries and agriculture in the 1970s, unsustainable expenses on defence (apparently 22 per cent of GNP in 1991<sup>32</sup>).

Economic difficulties in North Korea were aggravated by the changes that took place in the former Soviet Union and China. After *perestroika* was introduced in the late 1980s, the Soviet Union started demanding world market prices in hard currency for oil and spare parts from its allies in 1991. China also changed its position towards North Korea. With the ideological conflicts between the former Soviet Union and China resolved, North Korea apparently lost a great deal of its political value, and the liberalization of the Chinese economy has led to a more pragmatic approach towards North Korea. Preferential treatment was phased out and several deliveries of goods to North Korea have been suspended because North Korea has fallen behind on debt payments to China.<sup>33</sup> According to South Korean figures, trade with China plummeted in 1995 from US\$ 28.66 million to US\$ 6.55 million.<sup>34</sup>

These changes have caused a serious energy crisis in North Korea, which does not have sufficient hard currency. Import of oil from the former Soviet Union fell to 10 per cent of its former levels in 1992.<sup>35</sup> On top of this, large scale floods in the summers of 1995 and 1996 have also damaged parts of the North Korean economy.

North Korea has been attempting to solve its economic problems in several different ways. After the Soviet Union started demanding hard currency for oil North Korea tried to import oil from other countries.<sup>36</sup> It also struck a deal with the U.S. and South Korea concerning two nuclear power reactors in exchange for a promise not to develop nuclear weapons. Although the deal was struck in 1994, the reactors have still not been built.<sup>37</sup> The North Korean authorities have further been operating a number of offices abroad, engaged in hard currency speculation.<sup>38</sup>

Realizing that these measures would not be sufficient to solve the structural problems of the country's economy, the North Korean Government has been looking at other possibilities.<sup>39</sup> Kim Il Sung was, according to Mansourov, an admirer of the Singapore model, with a modern economy but a tight confucianist regime, but realizing that due to the geographical position of North Korea this model was not an option, he considered liberalization of the

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<sup>31</sup> Hwang Eui-Gak, p. 87; for the negative economic growth rate see *Far Eastern Economic Review*, K. H. Lee and N. Chanda, "Dream On", 25 January 1996

<sup>32</sup> Mack, p. 2

<sup>33</sup> *BBC Summary of World Broadcasts*, "Japanese Daily Notes Conflicts in N Korean-China Border Trade", 7 September 1994, quoting *Seoul Sinmun*, 6 September 1994

<sup>34</sup> *BBC Summary of World Broadcasts*, "Figures Point to North Korea's 'Worsening Trade Situation'", 27 February 1996, quoting Yonhap News Agency [Seoul], 26 February 1996

<sup>35</sup> Mack, p. 10

<sup>36</sup> Mack, p. 11

<sup>37</sup> *Far Eastern Economic Review*, Nigel Holloway, "Appointment in Beijing", 13 June 1996

<sup>38</sup> *The Korea Times*, "NK Operating 'Red Capitalist Groups' O'seas", 26 March 1996

<sup>39</sup> Mansourov, p. 18

economy along the Chinese lines. Some limited steps to liberalize the economy have been taken with the establishment of the Rajin-Sonbong free trade zone in the Tumen area in northern North Korea and, according to one author, plans are ready to extend the economic policies of the free trade zone to a number of other areas and cities in North Korea.<sup>40</sup>

The Rajin-Sonbong free trade zone was established in 1991 and since 1993 Pyongyang has been trying to attract foreign investments. There are, however, a number of factors that scare off foreign investors. The most important ones are: the bad infrastructure, weak legal protection and no financial networks for transborder transactions and the unstable political situation on the Korean Peninsula and in North Korea itself.<sup>41</sup> In addition to that, the most likely and eager potential investors, South Korean businesses, are severely restricted by law in how far they can invest directly in North Korea. The free trade zone has therefore so far not led to an economic revival of the region.<sup>42</sup>

Considering the structural problems of the North Korean economy, the leaders of the country will have to change their economic policies. However, the North Korean Government still insists on applying the *juche* economic philosophy, which would seem to exclude economic liberalization on a large scale. Some authors believe that the steps taken so far, further liberalization and extending the free economic zone on the basis of the Chinese model, introduction of nuclear energy sources and oil extraction at sea may vitalize the North Korean economy.<sup>43</sup> Most experts, however, believe that the steps taken so far are not sufficient to overcome the economic crisis and create economic growth in future years.<sup>44</sup> On the contrary, some argue that even (foreign) aid and investment cannot easily compensate for North Korea's economic failings, which have been many years in the making. One author in *The Economist*, discussing the possibility of South Korean aid and investment, suggested that after decades of almost complete estrangement, with the two sides knowing little more about each other than can be seen down the barrel of a gun, any negotiations are bound to be fraught with difficulty.<sup>45</sup>

The commentator J. Cotton has expressed the belief that the increase in information available about South Korea and the rest of the world, which is inevitable in case of more open market policies, will lead to unrest in the country comparable to the events leading up to the Tiananmen tragedy in China.<sup>46</sup>

## 2.4 The Food Situation

In the early 1990s, reports of starvation in North Korea became a regular feature of the world's media. After the floods in the summer of 1995, the North Korean Government admitted that it was facing starvation and allowed international organizations, such as the World Food Programme (WFP) to enter the country to provide assistance. North Korean

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<sup>40</sup> Mansourov, p. 20

<sup>41</sup> *Far Eastern Economic Review*, 25 January 1996

<sup>42</sup> *Ibid.*

<sup>43</sup> Mansourov, p. 23

<sup>44</sup> Cotton, p. 8

<sup>45</sup> *The Economist*, "When North Korea Goes Critical", 25 May 1996

<sup>46</sup> Cotton, pp. 10-11

officials apparently confirmed that they expected to face a 500,000 ton grain shortage in 1995, while the Food and Agriculture Organization (FAO) and the WFP predicted that the country would face a 1.9 million ton shortage in 1996.<sup>47</sup> New floods in the summer of 1996 have apparently ruined about 20 per cent of the harvest in North Korea. At the same time, North Korea's foreign trade has been curtailed due to a lack of foreign currency. Import of grain from China was reportedly reduced by 70 percent in 1994.<sup>48</sup>

In 1995 and 1996, several reports have appeared claiming that food rations were being suspended for extended periods of time and that the quantity of food rations was reduced.<sup>49</sup> North Koreans who recently fled the North to South Korea have claimed that they saw people die daily from starvation and one claimed that people are at present publicly executed for stealing food.<sup>50</sup> A WFP representative confirmed the seriousness of the food situation in North Korea, stating that even close to the capital Pyongyang large numbers of people look for roots and wild grass in paddy fields. He said that the whole population is hungry and that the situation further north is still worse. He also reported fuel and heating shortages.<sup>51</sup> Another indication of the seriousness of the situation is the fact that the North Korean TV recently showed a program on "tasty ways to eat wild grass".<sup>52</sup> Repeated requests for aid by the North Korean Government and the WFP have generated very little response from the international community.

Several North Koreans who recently fled their country for South Korea have mentioned that the food situation is breaking up internal discipline. One said that when the Government prohibited grain sales in 1995 in a bid to solve food problems, open buying and selling of food resumed after just a few days.<sup>53</sup> Another North Korean mentioned that she travelled around the country (without the required permits) pretending to be looking for food.<sup>54</sup>

### **3. The Issue Of Asylum Seekers from North Korea**

#### **3.1 General Background**

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<sup>47</sup> *BBC Summary of World Broadcasts*, "North to Suffer Severe Food Shortages in 1995", 3 January 1995, quoting *KBS Radio* [Seoul], 30 December 1994

<sup>48</sup> *BBC Summary of World Broadcasts*, "Figures Point to North Korea's 'Worsening Trade Situation'", 27 February 1996

<sup>49</sup> *BBC Summary of World Broadcasts*, "Food Situation Reportedly Becoming more Acute", 17 May 1995, quoting Yonhap News Agency [Seoul], 15 May 1995; *BBC Summary of World Broadcasts*, "Tong-a Ilbo Reports North Korea Cutting Quantity of Food Rations", 5 June 1995, quoting *Tong-a Ilbo* [Seoul], 4 June 1995; *BBC Summary of World Broadcasts*, "North Korea Reportedly Facing 1.9m Ton Grain Shortfall in Coming Year", 4 March 1996, quoting Yonhap News Agency [Seoul], 2 March 1996

<sup>50</sup> Agence France Presse, "North Korean Defects, Tells of Starvation Deaths", 24 July 1996; Reuters, "Starving N. Korean Leaves Family, Swims to South", 11 July 1996; *The Korea Times*, "Food Shortage in North Korea Increases Crimes, Deteriorates Morals: Defector", 10 July 1996

<sup>51</sup> Agence France Presse, "Pyongyang Residents Scour Parks for Grass to Eat", 10 April 1996

<sup>52</sup> *BBC Summary of World Broadcasts*, "'Tasty Ways to Eat Wild Grass' Shown on North Korean TV", 31 May 1996, quoting *NHK TV* [Tokyo], 29 May 1996

<sup>53</sup> *BBC Summary of World Broadcasts*, "Defecting North Korean Writer on Escape, Foodsituation, Military", 3 June 1996, quoting *Choson Ilbo* [Seoul], 1 June 1996

<sup>54</sup> *The Korea Times*, 10 July 1996

The number of "defections" from North Korea to the South and several other countries has increased significantly over the last few years. In the early 1990s there were around 10 "defections" a year. In 1995, 38 North Koreans reportedly defected and in 1996, by July, 22 North Koreans had fled their country and made their way to South Korea.<sup>55</sup> According to the South Korean authorities a total of 610 "defectors" are now living in the South.<sup>56</sup> The social backgrounds of North Korean asylum seekers and the reasons for their flight have changed. While previously "defectors" were mostly soldiers and espionage agents, these days North Koreans of a variety of social backgrounds flee their country, including diplomats, professors, students, businessmen and ordinary citizens. Not only political motives are now mentioned but also economic difficulties and starvation.<sup>57</sup> Further, the possible escape routes have increased in number. Many North Koreans flee not directly to South Korea but through Russia, China, Vietnam and other countries. For the purpose of this paper, North Korean asylum seekers will be discussed in two groups: "ordinary" and "privileged" individuals.

### 3.2 The Privileged Elite

Over the last few years, a number of political figures and businessmen have fled North Korea or the diplomatic compounds where they were working. It should be remarked that, belonging to the elite, these people generally have lead a more privileged life than ordinary North Koreans, having access to information from other sources than the North Korean Government and thus being able to form an independent impression of the outside world. There is also little doubt that their living conditions and financial situation were considerably better than those of ordinary North Koreans. South Korean officials have stated that most of these "defectors" left North Korea because they were discontented with the North Korean regime and especially with its economic policies.<sup>58</sup> Very few reliable reports of first hand statements about the reasons for their flight have appeared.

In 1996 a number of "defections" of members of the elite took place. In February 1996, Sung Hae Rim, the former wife of Kim Jong Il, "defected" from her house in Moscow and turned up in the U.S. Around the same time, a North Korean diplomat serving in Zambia left the country for South Korea with his family and an armed North Korean security agent forced his way into the compound of the Russian trade mission in Pyongyang and demanded political asylum. In May and June of 1996, an airforce captain, a top scientist and a writer "defected" to the South.<sup>59</sup> A North Korean businessman who had been sent to London to engage in hard currency speculation went to South Korea in December 1995, together with his family.<sup>60</sup>

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<sup>55</sup> Reuters, "Pyongyang Defections Spark Seoul Security Fears", 18 January 1996; Agence France Presse, 24 July 1996

<sup>56</sup> Reuters, "North Korean Scientist, Writer Seek Asylum in Seoul", 30 May 1996

<sup>57</sup> Yeon Ha-cheong, "Neglected North Korean Defectors", *Korea Focus* [Seoul], Vol 4, No. 2 (March/April 1996), p. 132

<sup>58</sup> *Newsreview*, Bae Eun-joo, "Series of Defections Raise Doubt over N.K.'s Stability", 24 February 1996

<sup>59</sup> Agence France Presse, "Estranged Ex-wife of N Korean Leader to Stay in US - Nephew", 3 May 1996; Reuters, "N. Korean Diplomat Defects to South Korea", 29 January 1996; Reuters, "N. Korea Lashes Russian News Report of Asylum Bid", 16 February 1996; Reuters, "North Korean Defector Says Slavery Awaits Family", 28 May 1996; Reuters, 30 May 1996

<sup>60</sup> *The Korea Times*, 26 March 1996

The reasons for this increase in "defections" by members of the North Korean elite are not clear. It seems likely, however, that the death of Kim Il Sung and the political and economic troubles in the country are among the reasons. It is also difficult to predict any future developments with respect to defecting members of the elite. The recent incidents have caused a great deal of speculation among South Korean experts and in the media about the stability of the Kim Jong Il regime.

### 3.3 Ordinary North Koreans

In order to analyse current and future developments with respect to "defection" by ordinary North Koreans, it is necessary to discuss several socio-political, cultural and legal factors that affect the possibilities for ordinary North Koreans to seek asylum abroad.

First of all, the information and propaganda factor. The North Korean authorities control nearly all information flow in the country and tightly limit the dissemination of information about the actual situation in both North Korea itself and the rest of the world. For instance, a journalist who visited North Korea in 1994 mentioned that many North Koreans do not even know that the Berlin Wall has been removed.<sup>61</sup> Foreign TV and radio stations are blocked by the authorities and foreigners in North Korea are very limited in their opportunities for contact with common North Koreans.<sup>62</sup> Correspondence with the outside world is almost impossible and there are even within North Korea hardly any possibilities to have telephone contact.<sup>63</sup>

In addition to the fact that information about the outside world from other than governmental sources is almost completely restricted, the North Korean authorities make use of relentless propaganda to influence the population, both about North Korea itself and about the outside world.<sup>64</sup> The North Korean press seems to pursue two goals: creating a positive view of North Korea and a negative view of (most of) the outside world. With respect to propaganda about the outside world, the main targets of Pyongyang are South Korea, the U.S. and Japan. North Korean newspapers do not actually contain much information about what is happening in the world and North Korea. Most articles praise the leaders and the ideology of North Korea, focus on groups abroad supporting the North Korean regime or deal with the South Korean regime (typically issues like human rights violations, homelessness and unemployment).

Apart from propaganda through the media, North Koreans are also indoctrinated with the *juche* ideology during so-called "re-education" sessions, which are compulsory once a week or more. These sessions are meant to teach people "how to live as a family in a socialist society" and participants should "recognise one's own weaknesses and point out the weaknesses in others". The focus of criticism at the sessions should be on "bad work, bad

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<sup>61</sup> H. Vriens, "In Noord-Korea zijn alle bloemen op", *Intermediair*, 16 September 1994

<sup>62</sup> *BBC Summary of World Broadcasts*, "Russian Reporter Describes Life in Pyongyang (Valiev)", 10 January 1996, quoting *Kyonghyang Sinmun* [Seoul], 5 January 1996 and 7 January 1996; *BBC Summary of World Broadcasts*, "Report Says China to 'Forcibly Repatriate' 'Thousands' of North Koreans Escaping into China", 19 February 1996, quoting *KBS Radio* [Seoul], 18 February 1996

<sup>63</sup> Vriens

<sup>64</sup> Mack, p. 22

attitude and bad thought".<sup>65</sup> The propaganda claims that the *juche* system is the only right system and that North Koreans have a social obligation to serve the country. This "social obligation" is also rooted in the centuries long tradition of confucianism, which is an important part of the *juche* ideology. It is obvious that leaving North Korea to resettle elsewhere is not compatible with the concept of a "social obligation" towards the state. The feeling of having such a social obligation is probably so strong that the possibility of seeking refuge elsewhere does not even come to mind, except in extremely serious circumstances. This is especially the case because asylum is a non-issue in North Korea. The newspapers do not even mention the existence of the issue, so many people will not know what it is.

Another important factor is the fact that most North Korean asylum seekers believe that their relatives will be punished for their departure.<sup>66</sup> This perception, whether in fact true or not, without doubt deters many of those North Koreans who have decided they want to flee their country.

Although North Korean propaganda in some ways is similar to Soviet propaganda about the capitalist world, one should observe that in the Soviet Union a relatively strong dissident movement existed which was able to provide a different view of the state of affairs in the USSR, the U.S. and other countries. Generally, the Soviet population was aware of the fact that the official picture they received about the world did not correspond to reality.<sup>67</sup> In North Korea this does not appear to be the case. Control over information is much stricter, ideological indoctrination is much fiercer and a serious dissident movement, does not seem to exist, at least not among the "common" people. In the words of a Russian correspondent who spent several years in North Korea: "North Koreans have no idea what the world outside their 'workers paradise' looks like. Only a very small elite knows and they remain silent."<sup>68</sup> There are, of course, exceptions to this rule, but it seems to apply for most ordinary North Koreans.

Another important factor is related to the practical obstacles to leaving the country. In North Korea, freedom of movement is very limited. The Constitution does not mention the right to freedom of movement in its chapter on human rights. Asia Watch reported in 1988 that Provisionary People's Committee Act No. 57, adopted in 1947, restricts freedom of movement in the following ways. Every citizen over 18 years of age must carry a citizen ID card issued by the Public Security Ministry. Persons who intend to change their residence or spend over 90 days in an area other than their residence must seek approval by the Public Security Ministry. For all travel, permission must be obtained from the Ministry for accommodation, and families must obtain approval before providing accommodation to anyone not belonging to the household.<sup>69</sup> Control over means of transport seems to be complete. A journalist who visited North Korea in 1994 mentioned that his car was stopped and searched by armed soldiers every five km when driving from the northern to the southern part of the country. All cities are surrounded by roadblocks and only those who have official

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<sup>65</sup> Amnesty International, *Democratic People's Republic of Korea/Russian Federation: Pursuit, Intimidation and Abuse of North Korean Refugees and Workers* (London, 1996), p. 4

<sup>66</sup> *Ibid.* p. 22; Reuters, 28 May 1996; Asia Watch and Minnesota Lawyers International Human Rights Committee, p. 126

<sup>67</sup> G. Hosking, *A History of the Soviet Union, 1917 - 1991* (London: Fontana, 1992), pp. 403 - 426

<sup>68</sup> Vriens

<sup>69</sup> Asia Watch and Minnesota Lawyers International Human Rights Committee, pp. 121-3

permission to travel are allowed through.<sup>70</sup> Also, the lack of means of transport inhibits the ability of North Koreans to move around the country. Foreign visitors have reported that they saw hardly any vehicular traffic, apart from the Mercedes cars used by higher Party officials, and the occasional buses.<sup>71</sup>

It should be remarked that the tight system of control described above is not without its flaws. Several reports from North Korean "defectors" in the South mentioned cracks in this rigid system of control. One North Korean claimed that the internal order in North Korea is so loose that it takes more than 10 days for North Korean security authorities to inquire into a person's family background when checked while travelling. Moreover, even if a person is caught while travelling illegally, the person can easily pass the check point if a bribe is offered.

The same source also stated that during the farming season all guards are mobilized to support farms and that the border area is less guarded at that time.<sup>72</sup>

A female "defector" claimed that she travelled through North Korea towards China pretending she was foraging for food.<sup>73</sup> The extent to which the internal order of North Korea has broken down is difficult to assess. It seems reasonable, however, to assume that the continuing food crisis is among the main reasons for this. Bribing may offer a possibility to leave North Korea for some people but many North Koreans lack the necessary financial resources.

Considering the above-mentioned factors, one can say that North Koreans have a distorted picture of both the outside world (incomplete and extremely negative) and North Korea itself (the only right system). They are ignorant of possibilities they may have abroad in case of flight. In addition to that, indoctrination and cultural tradition make flight socially unacceptable. Most ordinary North Koreans will therefore not be likely to make the decision to flee their country, except in extreme circumstances. If they do take such a decision, it will generally be in practice very difficult to flee due to the internal control system of North Korea.

Flaws in the system are, however, becoming apparent and there have been a number of cases of ordinary North Koreans fleeing their country. These will be discussed below. First, however, follows a discussion of two groups of ordinary North Koreans in exceptional situations who have greater possibility to flee: North Korean workers in Russia and North Koreans in the area near the Chinese border.

### **3.3.1 North Korean Workers in Russia**

Varying numbers of ordinary North Koreans have been employed in Russia at one of the logging sites run by North Korean Government in that country or at other work sites. North

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<sup>70</sup> Vriens

<sup>71</sup> Vriens

<sup>72</sup> *BBC Summary of World Broadcasts*, "Defector Says Tried to Return to North Korea to Bring Family to South", 12 March 1996, quoting *Tong-a Ilbo* [Seoul], 9 March 1996; *FBIS*, "ROK: Defector on Attempt to Reenter DPRK for Family", 11 March 1996

<sup>73</sup> *The Korea Times*, 10 July 1996



Korea has operated a number of logging sites in the Russian Far East for several decennia and North Korean labour is also used in mines near Novokuznetsk (Siberia) and several construction sites.<sup>74</sup> The workers at these sites are ordinary North Koreans without special privileges. They are selected by the North Korean authorities for this work and apparently tested for their reliability.<sup>75</sup>

A relatively large number of these North Koreans have escaped from their worksite, deciding not to return to North Korea, since the recent *perestroika* years and have sought asylum in the former USSR or elsewhere. According to Amnesty International, most of these North Koreans have mentioned that their motives for flight were of an economic nature. The organization, however, reports that at least in two cases North Korean asylum seekers claimed they fled because they feared repression upon return to North Korea.<sup>76</sup>

The situation of these North Koreans significantly differs from that of ordinary North Koreans inside North Korea. They are only comparatively marginally controlled by the North Korean authorities and have access to the outside world. They can move around relatively freely in the Russian Far East and many of them are involved in capitalist-style businesses. An important factor is the fact that the Russian Far East has been inundated with South Korean products and South Koreans, so that closer acquaintance with that country is inevitable.<sup>77</sup> As a result of this, several of the barriers that were described above, do not apply to these North Koreans. They are in a position to form an independent and less distorted impression of the outside world, including South Korea, and the indoctrination that they faced in North Korea largely falls away. It can perhaps be hazarded that anger at the North Korean authorities for withholding and distorting the real state of affairs in North Korea and the world significantly lowers the psychological barrier North Koreans may generally feel towards seeking asylum abroad.

The exact number of escaped workers is not known. The South Korean Embassy in Moscow has mentioned a figure of 170.<sup>78</sup> According to the Korea Times, some 40 North Korean workers from Russia have resettled in South Korea with the help of UNHCR.<sup>79</sup> This figure does not include North Korean asylum seekers who are staying in the former USSR or North Koreans who have left Russia for Seoul illegally. Since many of these workers have said they fear repercussions against their relatives in North Korea, it seems safe to say that the number of "escapees" could be considerably higher if that was not the case.

### **3.3.2 North Koreans in the Border Area**

In the border area between China and North Korea a more open flow of information is likely. The north-eastern part of China is inhabited partly by Chinese Koreans and active cross border trade between Koreans on both sides of the border takes place. Chinese Koreans are known to enter North Korea and North Koreans to enter China. The physical possibilities for

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<sup>74</sup> Amnesty International, September 1996, p. 3

<sup>75</sup> Amnesty International, September 1996, p. 3-4

<sup>76</sup> Amnesty International, September 1996, p. 10

<sup>77</sup> Amnesty International, September 1996, p. 10

<sup>78</sup> *The Independent on Sunday* [London], Andrew Higgins, "In Siberia's Last Gulag", 26 June 1994

<sup>79</sup> *The Korea Times* [Seoul], "Two NK Miners Defect to Seoul", 19 March 1996

flight are therefore considerably higher than in other parts of North Korea. As a matter of fact, a number of North Koreans have made their way to South Korea through China and many more are said to be in hiding in China.

The exact number of North Korean potential asylum seekers in China is not known. South Korean media claim that some 1,000 to 1,200 North Koreans are currently hiding in north-eastern China (in regions and cities like Yanbian, Changchun, Shenyang, Dalian and Heilongjiang).<sup>80</sup> A representative of the World Food Program in Pyongyang reported after the organization visited the North Korean-Chinese border area that there is cross border trade but that an exodus is not going on.<sup>81</sup> Control at the North Korean-Chinese border has apparently been increased to stop the outflow of North Koreans into China.<sup>82</sup>

It appears that not only North Koreans from the border region escape North Korea to China. A North Korean writer, presumably from Pyongyang, who fled North Korea in 1995 said that he jumped out of a running train close to the border and ran away to Tumen in China.<sup>83</sup> Another example is the North Korean woman, mentioned earlier, who told the press that she travelled to the Chinese border through Wonsan, pretending she was foraging for food. She had heard that people in South Korea are well off.<sup>84</sup>

According to an asylum seeker who resettled in South Korea, there are several ways to reach South Korea through China. He said that North Koreans make their way to the Chinese port of Dalian and take the boat from there to Inchon in South Korea or travel to Vietnam through Nanyang. He claimed a network of Chinese Koreans exists which helps North Koreans bribe their way to Vietnam. According to him, the South Korean embassy in Beijing does not grant asylum to North Koreans.<sup>85</sup> North Koreans are also known to make their way to Hong Kong and Macau from the Chinese mainland.<sup>86</sup> Most sources claim that North Koreans flee to China because of food shortages.<sup>87</sup>

### 3.3.3 Other Ordinary North Koreans

In recent months a number of North Koreans have been reported to have fled North Korea to the South because of starvation. A 41 year old man, who crossed the North-South border on 24 July 1996, claimed he had not eaten anything since the 15th of that month and had left his four children in the North. Another North Korean, who swam 15 km across the Han river to

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<sup>80</sup> *BBC Summary of World Broadcasts*, "China Reportedly Asks South Koreans in Yanbian not to Help North's Defectors", 5 March 1996, quoting *Chungang Ilbo* [Seoul], 4 March 1996; *BBC Summary of World Broadcasts*, "Korean Red Cross Prepares for 'Exodus' of North's Defectors to South Korea", 7 February 1996, quoting Yonhap News Agency [Seoul], 6 February 1996

<sup>81</sup> *Asiaweek* [Hongkong], Todd Crowell, "In Its Hour of Need, Churches Lend a Hand", 16 February 1996, p. 27

<sup>82</sup> *De Volkskrant* [Amsterdam], Toine Berbers, "Noordkoreanen vluchten voor honger en ellende", 17 May 1996

<sup>83</sup> *BBC Summary of World Broadcasts*, 3 June 1996

<sup>84</sup> *The Korea Times*, 10 July 1996

<sup>85</sup> *De Volkskrant*, 17 May 1996

<sup>86</sup> *Eastern Express* [Hongkong], Marnie O'Neil, "Mystery North Koreans' Hunger Strike", 20 September 1995

<sup>87</sup> *BBC Summary of World Broadcasts*, 25 February 1995; *De Volkskrant*, 17 May 1996

the South, also cited hunger as the motive for his escape. He was reported by Reuter to have said "I decided to go to the South since I believed I would die either way."<sup>88</sup>

### 3.4 Conclusions

There are serious psychological and physical barriers preventing North Koreans from seeking asylum abroad. Most North Koreans who have so far fled their country have belonged to particular groups of citizens, who had access to information about the outside world and who were less strictly limited in their freedom of movement than is normally the case for North Koreans. There are, however, a few exceptions of North Koreans who have been reported to have recently fled starvation in their country.

Considering these psychological and physical barriers it seems unlikely that unprivileged North Koreans will leave their country to seek asylum abroad. An exception may be starvation, where desperation drives people to take a step they would otherwise never take.

## 4. Reception Of North Korean Asylum Seekers

### 4.1 The North Korean Government's Stand on "Defection"

Two articles of the North Korean Criminal Code of 1987 are of importance to the issue of asylum seekers from North Korea. Article 117 stipulates that "a person who crosses a frontier of the Republic without permission shall be committed to a reform institution for up to three years". Article 47 renders "defection" a criminal offence, punishable by a minimum of seven years' imprisonment or the death penalty. The text of this article reads, *inter alia*:

A citizen of the Republic who defects to a foreign country or to the enemy in betrayal of the country and the people ... shall be committed to a reform institution for not less than seven years. In cases where the person commits an extremely grave offence, he or she shall be given the death penalty...<sup>89</sup>

Although a definition of the word "defection" is not given, there is reason to believe that it applies to all cases of flight. Considering the attitude of the North Korean authorities towards North Korean asylum seekers (see below), it seems reasonable to conclude that any attempt to leave North Korea is seen as an act of "betrayal of the country and the people".

In a letter to Amnesty International in February 1996, the North Korean Government informed the organization that Article 47 of the Criminal Code was amended in 1995. According to the authorities the article now "stipulates that a citizen who commits acts against the country like defecting to a foreign country *with a view to overthrowing the Republic* is to be given penalties" [emphasis added by the present author]. It was not mentioned what kind of punishment, and the exact new text of the article has not yet been provided to Amnesty International.<sup>90</sup>

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<sup>88</sup> Reuters, 11 July 1996

<sup>89</sup> Democratic People's Republic of Korea. *The Criminal Law of the Democratic People's Republic of Korea* (Pyongyang: Foreign Languages Publishing House, 1992), p. 10

<sup>90</sup> Amnesty International, September 1996, p. 16

The North Korean Government shows a negative attitude towards the issue of asylum seekers in a number of ways. North Koreans, who were sent to work in the former USSR as loggers, were threatened with repercussions against their relatives in case they were to abscond and, in some cases, they had to sign a "statement of loyalty".<sup>91</sup> In some cases, relatives of North Korean asylum seekers are known to have faced repercussions because of the "defection" of their relative.<sup>92</sup> The North Korean security service further actively pursues North Korean asylum seekers in Russia and China, trying to apprehend and return them to North Korea. Apprehended asylum seekers are often ill-treated when transported back to North Korea and some have even been executed.<sup>93</sup> The Governor of the Maritime Province in the Russian Far East recently admitted at a press conference that one North Korean, who had attempted to leave Russia for South Korea on a forged passport, was shot on the spot when Russian border troops handed him over to the North Korean side.<sup>94</sup>

North Korea has also used diplomatic channels to try to prevent "defections". In the case of one Kim Myung Se, for example, the North Korean authorities claimed that he was a criminal offender guilty of swindling, stealing gold from the embassy and murder, when it became clear that he wanted to seek asylum, and demanded his extradition.<sup>95</sup>

#### **4.2 Russia, China and other Host Countries**

A number of countries are currently functioning as host countries for North Korean asylum seekers. The most important ones are Russia and China, but some North Koreans have also gone to Hong Kong and Vietnam. The majority of these asylum seekers apparently wish to resettle in South Korea, but several asylum seekers in Russia have told Amnesty International that they would prefer to stay in that country because they believe repercussions against their relatives in North Korea will be less harsh.<sup>96</sup>

According to Amnesty International, the Russian central authorities are tolerating North Korean asylum seekers as long as they eventually achieve resettlement in South Korea. Only one North Korean has received political asylum in Russia, but he eventually went to South Korea.<sup>97</sup> The Russian authorities cooperate with the UNHCR and the South Korean authorities to facilitate such resettlement. However, cases of forcible return do occur regularly, especially from the Russian Far East. The Russian authorities also fail to prevent operations by the North Korean security service, aimed at apprehending North Korean asylum seekers on Russian territory. In some cases Russian officials have even assisted North Korean security agents in their operations.<sup>98</sup>

China is reported to return all North Korean asylum seekers that are apprehended on the basis of an agreement on the repatriation of illegal entrants between the two countries, signed in

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<sup>91</sup> A. Chudadeyev, "Ordeals of a North Korean Fugitive", *New Times* [Moscow], No. 29, 1992, p. 24

<sup>92</sup> Amnesty International, September 1996, p. 22

<sup>93</sup> Amnesty International, September 1996, pp. 22-4

<sup>94</sup> Amnesty International, *Russian Federation/Democratic People's Republic of Korea (North Korea): North Korean Shot Dead at Russian Border by North Korean Officials* (London, May 1996)

<sup>95</sup> Chudadeyev, pp. 26-7

<sup>96</sup> Amnesty International, September 1996, p. 12

<sup>97</sup> Amnesty International, September 1996, p. 18

<sup>98</sup> Amnesty International, September 1996, p. 21

1960.<sup>99</sup> There have also been several reports claiming that the North Korean security service is employing large numbers of agents in China to track down and deport North Korean asylum seekers.<sup>100</sup> A Japanese newspaper reported diplomatic sources in China as saying that China has notified the North Korean authorities of its policy to forcibly return refugees to North Korea. China has apparently also made a strong request to North Korea that it take appropriate measures to stem the rapid increase in the number of North Koreans illegally crossing the border.<sup>101</sup>

Very little information is available about the reception of North Korean asylum seekers in other countries. Three North Koreans were detained in Hong Kong for some time in 1995 before they were recognized as refugees and released.<sup>102</sup> Several North Koreans have been able to organize resettlement in South Korea from both Hong Kong and Vietnam.

### 4.3 South Korea

For obvious reasons, South Korea is the main country of destination for North Korean asylum seekers. In earlier decades the country willingly accepted all North Korean "defectors" as a useful tool in the propaganda war with the North. However, with the number of "defections" increasing and the Cold War ended, the use of these North Koreans decreased and the financial burden is increasingly felt. South Korea is apparently also concerned that some North Koreans are not coming to South Korea for political or economic reasons, but are trying to evade common criminal prosecution.<sup>103</sup> These developments have led to a change in South Korea's policy towards North Korean asylum seekers. High-level "defectors" are still met with a considerable amount of attention, but the prospect of large numbers of hungry, unskilled North Koreans alarms the South Korean authorities.<sup>104</sup>

When, in the early 1990s, the number of asylum seekers (especially from the North Korea-run logging sites in the Russian Far East) started growing, the South Korean authorities repeatedly stated that they were prepared to accept all North Korean asylum seekers.<sup>105</sup> Discussion was, however, started on the question whether or not to accept North Koreans who have committed crimes in third countries or in North Korea. In March 1996, the Ministry of Unification informed the press that North Koreans with criminal records will not be allowed to resettle in South Korea (there are certain exceptions). Otherwise the humanitarian policy of admitting all North Koreans who have fled to third countries and wish to come to the South will remain unchanged, according to the official.<sup>106</sup> In March 1996, President Kim Young Sam of South Korea said that his government is accepting North Koreans on a selective basis.<sup>107</sup>

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<sup>99</sup> *BBC Summary of World Broadcasts*, 5 March 1996

<sup>100</sup> *BBC Summary of World Broadcasts*, 5 March 1996; *BBC*

*Summary of World Broadcasts*, "Defector Says 'Considerable Number' of North Koreans Escaping into China", 27 February 1996, quoting Yonhap News Agency [Seoul], 26 February 1996

<sup>101</sup> *BBC Summary of World Broadcasts*, 25 February 1995

<sup>102</sup> Associated Press, "North Koreans Reported Granted Political Asylum", 22 November 1995

<sup>103</sup> *The Korea Times*, "Life is Tough for NK Defectors in South", 4 July 1996

<sup>104</sup> *The Korea Times*, 4 July 1996

<sup>105</sup> *FBIS*, "Government to accept all escapees from DPRK", 5 June 1995

<sup>106</sup> *The Korea Times*, "NK Criminals to be Rejected", 20 March 1996

<sup>107</sup> *The Independent*, Richard L. Parry, "N. Koreans Flee 'in Hundreds'", 14 March 1996

In a few cases, the South Korean Immigration authorities have tried to deport North Koreans who had entered the country from China. Two asylum seekers took the immigration authorities to court and won their cases. In December 1995, the Seoul Appellate Court ruled that since the entity of North Korea has never been recognized and the sovereignty the Republic of Korea (South Korea) extends to the whole Korean Peninsula and the islands adjacent to it, the complainant, who held North Korean citizenship documentation, should be regarded as a citizen of South Korea.<sup>108</sup> A similar ruling was issued by the Seoul High Court in April 1996.<sup>109</sup> It is not clear what implications this has for North Koreans who request asylum in South Korea from abroad or in the case of a massive outflow of North Koreans into South Korea.

The South Korean authorities take extensive periods of time for processing requests for asylum by North Korean asylum seekers.<sup>110</sup> Many of the North Koreans in Russia have to wait for around two years before they are finally accepted by South Korea. In the meantime, they live under difficult circumstances as illegal aliens, often at the expense of friendly individuals or organizations and many suffer from abuse by the law-enforcement authorities.<sup>111</sup>

The Law on the Protection of North Korean Defectors, enacted in 1993, regulates the resettlement of North Korean asylum seekers. In the past, each North Korean asylum seeker was provided with an apartment and a resettlement fund of 50 to 100 million won (64,000 to 128,000 US dollars). According to the new law, North Korean asylum seekers receive 17 million won (US\$ 21,000), seven million of which would be in the form of a downpayment on a room.<sup>112</sup> North Koreans are also assured of a job after a certain period of vocational training.<sup>113</sup>

Many North Koreans have found it difficult to adjust to the South Korean system. They are often unskilled and not equipped to compete with South Koreans for jobs. Many have therefore not been able to find work and some have committed socially unacceptable acts.<sup>114</sup> Several of them have been quoted as saying they would never have come had they known the circumstances they would live in and some have said they want to go back.<sup>115</sup> This does not usually apply to high-level "defectors". Many of them are in a good position to find a good job and some of them receive generous gifts. For example, Li Chol Su, a North Korean pilot who "defected" in May 1996 is said to have received an award of 250 million won (US\$ 320,000).

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<sup>108</sup> *BBC Summary of World Broadcasts*, "Court Ruling: North Korean Citizens also Republic of Korea Citizens", 9 December 1995, quoting Yonhap News Agency [Seoul], 9 December 1995

<sup>109</sup> *The Korea Times*, "Court Rules Defector from North Should not be Viewed as 'Foreigner'", 12 April 1996

<sup>110</sup> *The Observer* [London], Victoria Clark, "Lost Slaves of North Korea's Siberian Gulag", 26 June 1994

<sup>111</sup> Amnesty International, September 1996, p. 17

<sup>112</sup> *The Korea Times*, 4 July 1996

<sup>113</sup> *The Korea Times*, "Government Offices at Odds on Treatment of NK Defectors", 3 May 1995

<sup>114</sup> Yeon Ha-cheong

<sup>115</sup> *The Korea Times*, 4 July 1996

Many of the North Koreans also suffer from serious feelings of guilt towards their families who have remained in North Korea and who they believe are internally exiled or imprisoned.<sup>116</sup>

The South Korean Government is aware of these adaptation problems and has reconsidered its policies. It reportedly believes that most problems experienced by North Korean refugees are caused by a lack of understanding of the capitalist system. It therefore wants to change its subsidy-oriented policy towards greater emphasis on adaptation training. Education will focus on teaching North Koreans about self-control and competition. Individual capabilities should be given more consideration. A basic level of existence should be guaranteed by periodic subsidies and long term loans. Further, the organization for North Korean defectors should be supported more in its counselling and projects.<sup>117</sup>

The South Korean authorities seem to be seriously concerned about the possibility of a collapse of North Korea and a massive outflow of refugees. Until recently not more was done in preparation for a possible outflow than the establishment of a number of very large stockpiles of rice and some contingency planning for housing of newcomers in schools and other public facilities. Recently, a state-run think tank urged the Government to prepare a specific action plan for reunification, including studies on price deregulation, currency integration, privatization, wages and labour management regulations.<sup>118</sup>

There have also been reports that the South Korean Government was considering setting up refugee camps in China and South Korea for North Koreans, in order to manage a possible mass exodus. An eight month special social adaptation training programme would be held there. Facilities would also be installed in Incheon to accommodate refugees.<sup>119</sup>

## 5. Conclusions

After the death of President Kim Il Sung and the collapse of North Korea's major ally, the USSR, the highly authoritarian political system is still in place in North Korea, but the leadership does not seem to be as united as under the late President Kim Il Sung. This is indicated by, for example, the fact that Kim Jong Il has still not succeeded his father officially and by the flight of members of the North Korean elite to South Korea. The stability of the North Korean regime is very difficult to assess due to the secrecy surrounding the issue.

The North Korean economy is operating under great difficulties. The economic problems appear to be a result of the structural problems of the command economy, aggravated by the fact that Russia and China have adopted a more pragmatic approach towards North Korea and for instance started demanding hard currency for oil and spare parts. Economic malaise

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<sup>116</sup> *South China Morning Post* [Hongkong], Jeffrey Bartholet, "Adjusting to Life in the Material World", 25 June 1996; *The Korea Times*, 4 July 1996

<sup>117</sup> *The Korea Times*, "Vocational Training for North Korean Defectors to be Reformed for Survival in Capitalist Society", 21 February 1996

<sup>118</sup> *South China Morning Post*, 25 June 1996

<sup>119</sup> *BBC Summary of World Broadcasts*, "South Considers Placing Refugee Camp in China for North Koreans", 22 January 1996

has led to a structural lack of food and there was a serious danger of starvation in 1995 and 1996 as a result of large scale floods in North Korea.

Although the political situation may not be very stable at the moment and the economic crisis is deepening, there are good reasons to believe that a collapse of North Korea is not likely to happen in the near future. One academic observer, the Australian Andrew Mack, is of the opinion that lack of knowledge about the outside world, the relentless state propaganda, and the highly efficient police state apparatus make such a collapse unlikely.<sup>120</sup> He believes that the North Korean people may well blame the outside world rather than the regime for their hardships, because the North Korean leaders have full control of all information channels and can thus relay information to the population that is suitable to them.<sup>121</sup>

As was stated in the conclusion to Section 3 above, a psychological and physical barrier prevents most North Koreans from seeking asylum abroad. A trickle of asylum seekers from particular groups, such as the elite, workers in Russia and North Koreans in the border area with China, is likely to continue but a major outflow of refugees is not likely except in two circumstances.

First of all, if starvation in North Korea continues or increases, the desperation of the population may reach a critical point, where large numbers of people become more occupied with finding food than with their work. This may cause a breakdown of internal discipline and could lead to increased possibilities for information exchange and increased freedom of movement. This would take away some of the psychological and physical barriers that have been preventing North Koreans from seeking asylum abroad. The combination of a state of desperation for food and increased possibilities to move around may trigger an outflow of North Koreans into South Korea and China.

Secondly, in case of liberalization of the North Korean economy, the North Korean Government will inevitably lose its full control over the flow of information. This will eventually result in a loss of effectiveness of the propaganda and more knowledge among ordinary North Koreans about the real situation in South Korea. The disappearance of some of the psychological and physical barriers could lead to North Koreans seeking asylum in South Korea in considerably greater numbers than at present.

Asylum seekers from North Korea need protection against *refoulement* by the authorities of the host country. The North Korean Criminal Code penalizes departure from North Korea without prior permission from the authorities and "defection" is punished by a minimum of seven years' imprisonment or even the death penalty. The operations by the North Korean security service on Russian and Chinese territory aimed at apprehending North Korean asylum seekers, and the allegations that apprehended asylum seekers are ill-treated and, in some cases, even summarily executed illustrate this need for protection. Forcible deportation by Russian and Chinese authorities appear to occur regularly.

South Korea is the most important host country for North Korean asylum seekers. The country has had a policy of accepting all such asylum seekers but is now apparently refusing to grant asylum to North Koreans who have committed crimes in their country. The South

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<sup>120</sup> Mack, p. 22

<sup>121</sup> Mack, p. 2



Korean authorities appear to be alarmed at the prospect of a major influx of North Korean refugees, but have so far taken few serious steps to prepare for the possibility of such a development.

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