



Home Office

Country Information and Guidance

North Korea: Opposition to the Regime

Version 2.0

October 2016

Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

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

Country Information

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

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please email [the Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

Independent Chief Inspector of Borders and Immigration,
5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: chiefinspector@icinspector.gsi.gov.uk

Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

Contents

Guidance	4
1. Introduction.....	4
1.1 Basis of claim.....	4
2. Consideration of issues.....	4
2.1 Credibility.....	4
2.2 Assessment of risk.....	4
2.3 Protection.....	5
2.4 Internal relocation.....	6
2.5 Certification.....	6
3. Policy summary.....	6
Country Information	7
4. Human Rights situation.....	7
4.1 Overview.....	7
4.2 Treatment of actual and perceived political opponents.....	10
4.3 Political prison camps.....	11
5. Illegal exit.....	14
6. Relevant South Korean statutory provisions.....	17
6.1 The South Korean Constitution.....	17
6.2 The Act on the Protection and Settlement Support of Residents Escaping From North Korea 1997.....	20
7. Treatment of North Koreans in South Korea.....	23
Version Control and Contacts	25

Guidance

Updated: 04 October 2016

1. Introduction

1.1 Basis of claim

- 1.1.1 Fear of persecution or serious harm by the North Korean authorities due to the person's actual or perceived opposition to the regime.

[Back to Contents](#)

2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

[Back to Contents](#)

2.2 Assessment of risk

- 2.2.1 North Korea has one of the worst human rights records in the world and there are widespread and systematic human rights violations and crimes against humanity. Fundamental freedoms, including freedom of speech, press, assembly, association, religion and movement are severely curtailed (see [Human Rights situation](#)).
- 2.2.2 Any political dissent or opposition is harshly punished. There is continued use of political prison camps, which hold an estimated 150,000–200,000 people. Evidence from defectors and NGOs, collected over a number of years, suggests that conditions are harsh and life threatening and that severe human rights violations take place within the camps, including the use of forced labour, torture, starvation, sexual violence against women and executions for dissent. Political prisoners are subject to harsher punishments and fewer protections than others (see [Treatment of actual and perceived political opponents](#) and [Political prison camps](#)).
- 2.2.3 The North Korean regime does not allow emigration. Reports indicate that tight security continues on the border, dramatically limiting the flow of persons crossing into China without required permits. Those who leave North Korea illegally are likely to face criminal sanctions on return to North Korea. However, the severity of this punishment may differ depending upon whether the person left North Korea for economic or political reasons.
- 2.2.4 Those who have left North Korea for political reasons (particularly those who have claimed asylum abroad) are likely to face a minimum of five years hard

labour if returned to North Korea. Generally, 'defectors' or those who have sought asylum may face harsher prison sentences or may be executed. Repatriated women have undergone forced abortions. Claiming asylum abroad is viewed as a political offence by the North Korean authorities, and attracts a harsh punishment which will amount to persecution. It is highly likely that collective punishment of family members for such offences will also take place, regardless of whether the family members concerned knew of or were involved in any attempted defection (see [Illegal exit](#)).

- 2.2.5 A person who has come or is likely to come to the attention of the North Korean authorities for opposition or perceived opposition to the current regime is likely to face persecution in North Korea.
- 2.2.6 However, as noted in the country guidance case of [GP & Ors \(South Korean citizenship\) North Korea CG \[2014\] UKUT 391 \(IAC\) \(20 August 2014\)](#), 'all North Korean citizens are also citizens of South Korea. While absence from the Korean Peninsula for more than 10 years may entail fuller enquiries as to whether a person has acquired another nationality or right of residence before a travel document is issued (by the South Korean authorities), upon return to South Korea all persons from the Korean Peninsula are treated as returning South Korean citizens.' [Headnote (3)]
- 2.2.7 The Upper Tribunal in [GP & Ors](#) also found that 'there is no evidence that North Koreans returned to South Korea are sent back to North Korea or anywhere else, even if they fail the 'protection' procedure, and however long they have been outside the Korean Peninsula'. [Headnote (4)]
- 2.2.8 [GP & Ors](#) further noted that 'former North Koreans may have difficulty in adjusting to life in South Korea and there may be some discrimination in social integration, employment and housing, but this is not at a level which requires international protection'. [Headnote (9)]
- 2.2.9 An application for asylum owing to a fear of persecution in North Korea is, therefore, likely to fall for refusal on the basis that the person:
- (i) Will not be required to go to a country in breach of the Refugee Convention (para 334(v) Immigration Rules); and
 - (ii) Could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (para 339J (v)).

[Back to Contents](#)

2.3 Protection

- 2.3.1 As the person's fear in North Korea is of persecution/serious harm at the hands of the North Korean authorities, they will not be able to avail themselves of the protection of those authorities.
- 2.3.2 For further guidance on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

2.4 Internal relocation

- 2.4.1 As the person's fear in North Korea is of persecution/serious harm at the hands of the North Korean authorities, they will not be able to relocate within North Korea to escape that risk.
- 2.4.2 For further guidance on internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

2.6 Certification

- 2.6.1 Where a claim is refused on the basis that the person will be admitted to South Korea, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as South Korea is listed as a designated state; and it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

3. Policy summary

- 3.1.1 Persons who have or are likely to come to the attention of the North Korean authorities for opposition or perceived opposition to the regime are likely to face persecution in North Korea.
- 3.1.2 Furthermore, those who leave North Korea illegally face criminal sanctions if returned to North Korea. Generally, 'defectors' or those who have sought asylum may face indefinite terms of imprisonment in conditions which are likely to reach the Article 3 threshold or may be executed. Claiming asylum abroad is viewed as a political offence by the North Korean authorities, and attracts a harsh punishment which will amount to persecution.
- 3.1.3 However all North Korean citizens are also citizens of South Korea. The application for asylum owing to a fear of persecution in North Korea is, therefore, likely to fall for refusal on the basis that:
- (i) It will not result in the applicant being required to go to a country in breach of the Refugee Convention (para 334(v) Immigration Rules); and
 - (ii) The applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (para 339J (v))
- 3.1.4 Former North Koreans may have difficulty in adjusting to life in South Korea and there may be some discrimination in social integration, employment and housing, but this is not at a level which requires international protection
- 3.1.5 Where a claim is refused on the basis that the person will be admitted to South Korea, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

[Back to Contents](#)

Country Information

Updated: 04 October 2016

4. Human Rights situation

4.1 Overview

4.1.1 The United Nations Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (COI), set up by the Human Rights Council (HRC), issued a report in 2014 documenting crimes against humanity including extermination, murder, enslavement, torture, imprisonment, rape, forced abortion, and other sexual violence, enforced disappearance and prolonged starvation in North Korea. It concluded that "[t]he gravity, scale and nature of these violations reveal a State that does not have any parallel in the contemporary world."¹

4.1.2 In January 2016 the UN Human Rights Council's Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea reported that:

'Two years have passed since the commission of inquiry published its report, in which it found that crimes against humanity had been and were being committed in the Democratic People's Republic of Korea. Regrettably, it does not appear that the situation of human rights in the country has improved, and the crimes against humanity documented by the commission appear to continue. While the Democratic People's Republic of Korea has at times indicated its willingness to engage with the international community on some human rights issues, this has not yet led to any tangible improvement in the situation of human rights.'²

4.1.3 The US State Department, Country Reports on Human Rights for 2015: Democratic People's Republic of Korea, 13 April 2016, stated that:

'The Democratic People's Republic of Korea (DPRK or North Korea) is an authoritarian state led by the Kim family for more than 60 years. Shortly after Kim Jong Il's death in late 2011, his son Kim Jong Un was named marshal of the DPRK and supreme commander of the Korean People's Army. Kim Jong Un's grandfather, the late Kim Il Sung, remains "eternal president." The most recent national elections, held in March 2014, were neither free nor fair. Authorities maintained effective control over the security forces.

'Citizens did not have the ability to change their government. The government subjected citizens to rigid controls over many aspects of their lives, including denial of the freedoms of speech, press, assembly,

¹ UN Human Rights Council, Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/63, Paras 76 and 80 http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/25/63 [Date accessed: 16 September 2016]

² UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 19 January 2016, A/HRC/31/70, Para 46. http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A.HRC.31.70_EN.docx [Date accessed: 16 September 2016]

association, religion, movement, and worker rights. The government operated a network of political prison camps in which conditions were often harsh, life threatening, and included forced and compulsory labor.

'Defectors continued to report extrajudicial killings, disappearances, arbitrary detention, arrests of political prisoners, and torture. The judiciary was not independent and did not provide fair trials. There were reports of female victims of trafficking among refugees and workers crossing the border into China. Forced labor was practiced domestically, through mass mobilizations and as a part of the re-education system. NGOs noted that DPRK foreign contract workers also faced conditions of forced labor.

'The government made no known attempts to prosecute officials who committed human rights abuses. Impunity was a widespread problem.'³

4.1.4 Freedom House's Freedom in the World 2016 report stated:

'North Korea's parliament, the 687-seat Supreme People's Assembly, is a rubber-stamp institution elected to five-year terms. All candidates for office, who run unopposed, are preselected by and from the [ruling] KWP [Workers Party of Korea] and a handful of subordinate parties and organizations. Kim Jong-un was among those who won seats in the most recent national elections, held in March 2014. The official voter turnout was 99.97 percent.

'North Korea functions as a single-party state under a dynastic totalitarian dictatorship. Although a small number of minor parties and organizations exist legally, all are members of the Democratic Front for the Reunification of the Fatherland, a KWP-led umbrella group that selects all candidates for elected office. The ruling party has been dominated by the Kim family since its founding. Kim Jong-un serves as first secretary of the KWP, with the late Kim Jong-il dubbed the "eternal general secretary" after his death.

'Any political dissent or opposition is harshly punished, and even the KWP is subject to regular purges aimed at reinforcing the leader's personal authority. Various sources reported a number of high-level dismissals and executions during 2015, though independent confirmation was often unavailable. In April, for example, Defense Minister Hyon Yong-chol was reportedly removed from office and put to death.

'The North Korean government is neither transparent in its operations nor accountable to the public. Information about the functioning of state institutions is tightly controlled for both domestic and external audiences. Most observers must glean evidence from state media, defector testimony, or secret informants inside the country, and the accuracy and reliability of these sources varies considerably.

'Corruption is believed to be endemic at every level of the state and economy, and bribery is pervasive. North Korea was ranked 167 out of 168

³ United States Department of State, 2015 Country Reports on Human Rights Practices - Democratic People's Republic of Korea, 13 April 2016, Executive Summary. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252771> [Date accessed: 16 September 2016]

countries and territories assessed in Transparency International's 2015 Corruption Perceptions Index.

'All domestic media outlets are run by the state. Televisions and radios are permanently fixed to state channels, and all publications are subject to strict supervision and censorship...Access to the global internet is restricted to a small number of people in the government and academia, and others have access to a national intranet on which foreign websites are blocked...Nearly all forms of private communication are monitored by a huge network of informants.'⁴

4.1.5 In Resolution 70/172 adopted on 17 December 2015, the UN General Assembly condemned “ the long-standing and ongoing systematic, widespread and gross violations of human rights in the Democratic People’s Republic of Korea, including those which the commission of inquiry on human rights in the Democratic People’s Republic of Korea, established by the Human Rights Council in its resolution 22/13 of 21 March 2013, has said may amount to crimes against humanity, and the continuing impunity for such violations”. The UN General Assembly expressed its “very serious concern” at, amongst others things, the persistence of continuing reports of violations of human rights, including the detailed findings made by the commission of inquiry in its report, such as:

- (i) Torture and other cruel, inhuman or degrading treatment or punishment, including inhuman conditions of detention; rape; public executions; extrajudicial and arbitrary detention; the absence of due process and the rule of law, including fair trial guarantees and an independent judiciary; extrajudicial, summary and arbitrary executions; the imposition of the death penalty for political and religious reasons; collective punishments extending up to three generations; and the extensive use of forced labour;
- (ii) The existence of an extensive system of political prison camps, where a vast number of persons are deprived of their liberty and subjected to deplorable conditions and where alarming violations of human rights are perpetrated;
- (iii) The forcible transfer of populations and the limitations imposed on every person who wishes to move freely within the country and travel abroad, including the punishment of those who leave or try to leave the country without permission, or their families, as well as punishment of persons who are returned;
- (iv) The situation of refugees and asylum seekers expelled or returned to the Democratic People’s Republic of Korea and sanctions imposed on citizens of the Democratic People’s Republic of Korea who have been repatriated from abroad, leading to punishments of internment, torture, other cruel, inhuman or degrading treatment, sexual violence or the death penalty, and in this regard strongly urges all States to respect the

⁴ Freedom House: Freedom in the World 2016 - North Korea, 27 January 2016. <https://freedomhouse.org/report/freedom-world/2016/north-korea> [Date accessed: 16 September 2016]

fundamental principle of non-refoulement, to treat those who seek refuge humanely and to ensure unhindered access to the United Nations High Commissioner for Refugees and his Office, with a view to protecting the human rights of those who seek refuge, and once again urges States parties to comply with their obligations under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto in relation to refugees from the Democratic People's Republic of Korea who are covered by those instruments;

- (v) All-pervasive and severe restrictions on the freedoms of thought, conscience, religion or belief, opinion and expression, peaceful assembly and association, the right to privacy and equal access to information, by such means as the persecution, torture and imprisonment of individuals exercising their freedom of opinion and expression, religion or belief, and their families, and the right of everyone to take part in the conduct of public affairs, directly or through freely chosen representatives, of his or her country....⁵

[Back to Contents](#)

4.2 Treatment of actual and perceived political opponents

4.2.1 The US State Department, Country Reports on Human Rights for 2015: Democratic People's Republic of Korea, 13 April 2016, stated that:

'Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial.

'There were numerous instances of persons interrogated or arrested for saying anything that could be construed as negative towards the government.

'While the total number of political prisoners and detainees remained unknown, the KINU 2015 white paper reported that between 80,000 and 120,000 were detained in the kwanliso [political prisoner labour camps]. Political prisoners were held separately from other detainees. NGOs and the media reported that political prisoners were subject to harsher punishments and fewer protections than other prisoners and detainees. The government considered critics of the regime to be political criminals. The government did not permit access to persons by international humanitarian organizations. Reports from past years described political offenses as including attempting to defect to South Korea, sitting on newspapers bearing Kim Il Sung's or Kim Jong Il's picture, mentioning Kim Il Sung's limited formal education, or defacing photographs of the Kims.'⁶

⁵ UN General Assembly, Situation of human rights in the Democratic People's Republic of Korea : resolution / adopted by the General Assembly, 25 February 2016, A/RES/70/172, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/172 [Accessed 16 September 2016]

⁶ United States Department of State, 2015 Country Reports on Human Rights Practices - Democratic People's Republic of Korea, 13 April 2016, Section 1d. Arbitrary Arrest or Detention, 1e. Denial of Fair Public Trial, 2. A Freedom of Speech and Press. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252771> [Date accessed: 16 September 2016]

4.2.2 The same source continued:

'Defector and refugee reports noted instances in which the government executed political prisoners, opponents of the government, repatriated defectors, government officials, and others accused of crimes. The law prescribes the death penalty for the most "serious" or "grave" cases of "antistate" or "antination" crimes, which included: participation in a coup or plotting to overthrow the state; acts of terrorism for an antistate purpose; treason, which includes defection or handing over of state secrets, broadly interpreted to include providing information about economic, social, and political developments routinely published elsewhere; suppressing the people's movement for national liberation; and "treacherous destruction." Additionally, the law allows for capital punishment in less serious crimes such as theft, destruction of military facilities and national assets, fraud, kidnapping, distribution of pornography, and trafficking in persons.

'During the year NGOs reported that high profile public executions continued, and in April, the press reported that 15 executions were carried out in the first four months of the year as part of an ongoing purge of senior government officials. The press widely reported that at least 70 officials had been executed for various reasons since Kim Jong Un took power in 2011. In May, Republic of Korea (South Korea or ROK) officials reported that North Korean Defense Minister Hyon Yong Chol was publicly executed by anti-aircraft fire in front of an audience of hundreds. Other DPRK senior officials including Vice Premier Choe Yong Gon were reportedly executed around the same time. In April the Committee for Human Rights in North Korea (HRNK) published a report supported by satellite imagery of a public execution in the country using anti-aircraft machine guns.

Private citizens were also subjected to public executions. For example, in April Radio Free Asia reported the execution of the director general of North Korea's Unhasu Orchestra along with three members of the troupe. Reports stated they were first forced to strip naked and then shot by firing squad wielding machine guns in front of 400-500 members of the Pyongyang artistic community.⁷

[Back to Contents](#)

4.3 Political prison camps

4.3.1 The Korea Institute for National Unification (KINU), in its White Paper on Human Rights in North Korea 2016, July 2016, stated that:

'Although North Korea denies their existence, there are political prison camps, called *'kwanliso'*, in North Korea. These political prison camps (*kwanliso*) in North Korea have embedded in them fundamental factors that violate human rights in that they are not official detention facilities. It is identified that there are five political prison camps (*kwanliso*).' [...]

⁷ United States Department of State, 2015 Country Reports on Human Rights Practices - Democratic People's Republic of Korea, 13 April 2016, Section 1a Arbitrary or Unlawful Deprivation of Life. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252771> [Date accessed: 16 September 2016]

KINU estimated in 2013 that there are at least between 80,00 and 120,000 political criminals imprisoned in the five political prison camps (*kwanliso*) based on testimonies of North Korean defectors and interpretation of satellite photos, etc.⁸

4.3.2 The report continued:

'The political prison camps (*kwanliso*) in North Korea can be classified into: those in the form of a town and those in the form of a prison camp (*kyohwaso*); those with both total control zones and revolutionary zones and those with only total control zones; those where only political criminals themselves are imprisoned and those where criminals are imprisoned together with their families; and those managed by the SSD [State Security Department] and those managed by the MPS [Ministry of People's Security].

'While those who commit "absolute" political crime were imprisoned in political prison camps (*kwanliso*) in the early stage of their operation, it is identified that the scope of prisoners has expanded to include those who have committed general crimes, who cannot easily be regarded as political criminals. According to surveys so far, people are imprisoned mostly for criticizing the North Korean regime or insulting *Suryong*, attempting escape to South Korea, contacting South Koreans or making favorable comments about South Korea, etc. There are also continuous cases of imprisonment for engaging in religious activities such as religious services or for having family members that defected from North Korea and went to South Korea.

'It seems that legal procedures are not abided by in the process of arresting political criminal suspects and imprisoning them in political prison camps (*kwanliso*).⁹

See the [Korea Institute for National Unification \(KINU\), White Paper on Human Rights in North Korea 2016](#), which addresses the penal system in general and provides an overview of prison life including on: extrajudicial, summary or arbitrary execution, forced labour, inhumane treatment and restrictions on family life.¹⁰

4.3.3 The US State Department, Country Reports on Human Rights for 2015: Democratic People's Republic of Korea, 13 April 2016, stated that:

'NGO, refugee, and press reports noted there were several types of prisons, detention centers, and camps, including forced labor camps and separate

⁸ Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2016, 31 July 2016, (p398)
http://www.kinu.or.kr/servlet/Download?num=44&fno=51&bid=DATA04&callback=http://www.kinu.or.kr/eng/pub/pub_04_01.jsp&ses=%27%27 [Date accessed: 16 September 2016]

⁹ Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2016, 31 July 2016, (400-403)
http://www.kinu.or.kr/servlet/Download?num=44&fno=51&bid=DATA04&callback=http://www.kinu.or.kr/eng/pub/pub_04_01.jsp&ses=%27%27 [Date accessed: 16 September 2016]

¹⁰ Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2016, 31 July 2016
http://www.kinu.or.kr/servlet/Download?num=44&fno=51&bid=DATA04&callback=http://www.kinu.or.kr/eng/pub/pub_04_01.jsp&ses=%27%27 [Date accessed: 16 September 2016]

camps for political prisoners. NGO reports documented six types of detention facilities: kwanliso (political penal-labor camps), kyohwaso (correctional or re-education centers), kyoyangso (labor-reform centers), jipkyulso (collection centers for low-level criminals), rodong danryeondae (labor-training centers), and kuryujang or kamok (interrogation facilities or jails). According to the 2015 KINU white paper, the Ministry of State Security administered kwanliso camps, and either it or the Ministry of People's Security administered the other detention centers.

'There were reportedly between 5,000 and 50,000 prisoners per kwanliso. Defectors claimed the kwanliso camps contained unmarked graves, barracks, worksites, and other prison facilities. NGOs reported the existence of five kwanliso facilities, including Kaecheon (Camp 14), Hwasung (Camp 16), Pukchang (Camp 18), and Chongjin (Camp 25). During the year reports continued to indicate that areas of Yodok (Camp 15) in South Hamkyung Province were closed or operating at a reduced capacity.

'Kwanliso camps are comprised of total control zones, where incarceration is for life, and "rerevolutionizing zones," from which prisoners may be released. Reports indicated those sentenced to prison for nonpolitical crimes were typically sent to re-education prisons where authorities subjected prisoners to intense forced labor. Those who were considered hostile to the government or who committed political crimes reportedly were sentenced to indefinite terms in political prison camps. In many cases family members also were detained if one member was accused or arrested. The government continued to deny the existence of political prison camps.

'Reports indicated that conditions in the prison camp and detention system were harsh and life threatening, and that systematic and severe human rights abuses occurred. Many prisoners in political prison camps and the detention system were not expected to survive. Detainees and prisoners consistently reported violence and torture. Defectors described witnessing public executions in political prison camps. According to defectors, prisoners received little or no food and were denied medical care in some places of detention. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. The South Korean and international press reported that kyohwaso held populations of up to thousands of political prisoners, economic criminals, and ordinary criminals.'¹¹

4.3.4 The same source also stated:

'The penal code prohibits torture or inhuman treatment, but many sources reported these practices continued. Numerous defector accounts and NGO reports released during the year described the use of torture by authorities in detention facilities. Methods of torture and other abuse reportedly included

¹¹ United States Department of State, 2015 Country Reports on Human Rights Practices - Democratic People's Republic of Korea, 13 April 2016, Prison and Detention Center Conditions <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252771> [Date accessed: 16 September 2016]

severe beatings; electric shock; prolonged periods of exposure to the elements; humiliations such as public nakedness; confinement for up to several weeks in small "punishment cells" in which prisoners were unable to stand upright or lie down; being forced to kneel or sit immobilized for long periods; and being hung by the wrists or forced to stand up and sit down to the point of collapse. Mothers were in some cases reportedly forced to watch the infanticide of their newborn infants. Defectors continued to report many prisoners died from torture, disease, starvation, exposure to the elements, or a combination of these causes.¹²

[Back to Contents](#)

5. Illegal exit

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

'The state imposes a virtually absolute ban on ordinary citizens travelling abroad, thereby violating their human right to leave the country. Despite the enforcement of this ban through strict border controls, nationals still take the risk of fleeing, mainly to China. When they are apprehended or forcibly repatriated, DPRK officials systematically subject them to persecution, torture, prolonged arbitrary detention and in some cases sexual violence, including during invasive body searches. Repatriated women who are pregnant are regularly forced to undergo an abortion, a practice that is driven by racist attitudes towards persons from China, and to inflict punishment on women who have committed a serious offence by leaving the country. Where a baby is born, it is then killed by the authorities. Persons found to have been in contact with officials or nationals from the Republic of Korea or with Christian churches may be forcibly "disappeared" into political prison camps, imprisoned in ordinary prisons or even summarily executed.'¹³

5.1.2 The Korea Institute for National Unification (KINU), in its White Paper on Human Rights in North Korea 2016, July 2016, reported that:

'Although a large number of North Koreans who fled the country are believed to be residing illegally in other countries such as China and Russia, the collection of accurate data on the exact number and details of individual conditions is impossible due to their insecure status preventing them from openly asking for help. The Tumen River region is normally used as the

¹² United States Department of State, 2015 Country Reports on Human Rights Practices - Democratic People's Republic of Korea, 13 April 2016, 1c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252771> [Date accessed: 16 September 2016]

¹³ UN Human Rights Council, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, 7 February 2014, A/HRC/25/CRP.1, (paragraph 489 p144) available at: <http://www.refworld.org/docid/530314234.html> [Date accessed: 16 September 2016]

defection route for many North Koreans because it is easier to cross than other geographical points.’¹⁴

5.1.3 The KINU 2016 report continued:

‘Since the latter years of the first decade of the 200s, the number of defectors living in China has dropped dramatically. The reasons are assessed to be more stringent border defense and control, continuous forced repatriations, fewer new defectors due to the increasing cost of defection, increases in the number of legal visitors with an increase in the issuance of border crossing cards, improved economic conditions in North Korea including reinvigoration of marketplaces, etc. and increased resettlements in South Korea or other third countries. It is identified that as the SSD has reviewed the emergency measures to prevent defection since 2009, it has strengthened surveillance and identification of ideological trends in families and relatives of defectors, ideological education, inspection of travel permits and bed-checks in border regions, and inspection of border guard commands. Moreover, it is identified that the North Korean authorities have increased punishment of residents found using cell phones in the border regions and intensified surveillance of coast guard personnel to prevent defections by sea. During the mourning period following Kim Jong-il’s death on December 17, 2011, the movement of people was tightly controlled and every family along the border region was required to take turns standing guard. Bed-check inspections were reinforced and each *inminban* had to appoint a new informer.’¹⁵

5.1.4 The US State Department’s 2015 human rights report stated that ‘Nongovernmental organizations (NGOs) and press reports indicated that border guards had orders to shoot to kill individuals leaving the country without permission, and prison guards were under orders to shoot to kill those attempting to escape from political prison camps.

‘Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of “labor correction.” In “serious” cases defectors or asylum seekers are subjected to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that authorities reserved particularly harsh treatment for those who had extensive contact

¹⁴ Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2016, 31 July 2016, (p428)

http://www.kinu.or.kr/servlet/Download?num=44&fno=51&bid=DATA04&callback=http://www.kinu.or.kr/eng/pub/pub_04_01.jsp&ses=%27%27 [Date accessed: 16 September 2016]

¹⁵ Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2016, 31 July 2016, (p429-430)

http://www.kinu.or.kr/servlet/Download?num=44&fno=51&bid=DATA04&callback=http://www.kinu.or.kr/eng/pub/pub_04_01.jsp&ses=%27%27 [Date accessed: 16 September 2016]

with foreigners, including those with family members resettled in South Korea.’¹⁶

5.1.5 In January 2016 the UN Human Rights Council’s Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea reported that “persons attempting to flee the country appear to face harsher treatment than in earlier periods.”¹⁷

5.1.6 Freedom House’s Freedom in the World 2016 report stated:

‘There is no freedom of movement, and forced internal resettlement is routine. Emigration is illegal, but many North Koreans have escaped via China. Access to Pyongyang, where the availability of food, housing, and health care is somewhat better than in the rest of the country, is tightly restricted. Recently, this disparity has increased, with the capital featuring more luxuries for a growing middle class. A person’s songbun classification [North Korea’s Social Classification System which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion] affects his or her place of residence as well as employment and educational opportunities, access to medical facilities, and even access to stores.’¹⁸

5.1.7 The Human Rights Watch World Report 2016 stated:

‘...It [North Korea] criminalizes leaving the country without official permission, and in some instances state security services actively pursue North Koreans into China, seeking to detain and forcibly return them.

‘During Kim Jong-Un’s rule, the government has significantly expanded efforts to stop irregular crossings of North Koreans into China. The government has increased rotations of North Korean border guards, cracked down on brokers who assist people trying to leave, and prosecuted use of Chinese cell phones to communicate with the outside world. North Koreans who left the country in 2014 and 2015 told Human Rights Watch that the government was tracking down and publicly executing border guards who allowed people to cross into China in exchange for bribes.

‘Increased patrols, barbed-wire fences, and security cameras on the Chinese side of the border have also made crossings more difficult. Chinese authorities have also targeted broker networks in China, resulting in fewer

¹⁶ United States Department of State, 2015 Country Reports on Human Rights Practices - Democratic People’s Republic of Korea, 13 April 2016, Section 1a Arbitrary or Unlawful Deprivation of Life and 2d Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252771> [Date accessed: 16 September 2016]

¹⁷ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea, 19 January 2016, A/HRC/31/70, Para 20 http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A.HRC.31.70_EN.docx [Date accessed: 16 September 2016]

¹⁸ Freedom House: Freedom in the World 2016 - North Korea, 27 January 2016. <https://freedomhouse.org/report/freedom-world/2016/north-korea> [Date accessed: 16 September 2016]

North Koreans being able to complete the arduous journey through China to Laos or Thailand, from which most are sent on to South Korea.

'Former North Korean security officials who have defected told Human Rights Watch that North Koreans handed back by China face interrogation, torture, and consignment to political prison camps (known as *kwanliso*, literally management centers) or forced labor camps. The severity of punishments depend on North Korean authorities' assessments of what the returnees did while in China. North Koreans who have fled the country since 2013 or have contacts inside the country allege that the government has started treating all defectors as enemies of the country, sending anyone caught and repatriated from China to political prison camps.'¹⁹

[Back to Contents](#)

6. Relevant South Korean statutory provisions

6.1 The South Korean Constitution

6.1.1 The [South Korean Constitution](#) provides as follows:

Article 1

(1)The Republic of Korea shall be a democratic republic.

(2)The sovereignty of the Republic of Korea shall reside in the people and all state authority shall emanate from the people.

Article 2

(1)Nationality in the Republic of Korea shall be prescribed by law.

(2)It shall be the duty of the State to protect citizens residing abroad as prescribed by law.

Article 3

The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.

Article 4

The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the principles of freedom and democracy.'²⁰

6.1.2 Article 1 of the [Nationality Act](#) provides that the following are citizens of South Korea by birth: persons whose father or mother was a citizen of South Korea at the time of the person's birth; persons whose deceased father was a citizen of South Korea, if he died before the person's birth; persons 'born in the Republic of Korea' if the parents' nationalities are unknown or they have no nationality, and any child found abandoned in the Republic of Korea. For these purposes, 'born in the Republic of Korea' means born anywhere on the Korean peninsula, following Article 3 of the South Korean Constitution. Article 3 of the Nationality Act provides that where a Korean citizen who is

¹⁹ Human Rights Watch, World Report 2016 - North Korea, 27 January 2016, <https://www.hrw.org/world-report/2016/country-chapters/north-korea> [Date accessed: 16 September 2016]

²⁰ Constitution of the Republic of Korea [1948] (last amended 1987) <http://www.refworld.org/docid/3ae6b4dd14.html> [Date accessed 16 September 2016]

still a minor, but who is not a citizen of the Republic of Korea (a ‘foreigner’) reports to the Minister of Justice and establishes that his father or mother is a Korean citizen and recognises him as their child, he shall attain Korean citizenship when such report is made, subject to procedures to be determined by Presidential decree. If the minor is under 15, Article 19 provides that he shall be legally represented for the making of any nationality report.²¹

- 6.1.3 Articles 4-8 of the Nationality Act deal with naturalisation provisions for foreigners, including provision for the naturalisation of spouses and minor children. Article 9 provides a procedure whereby a person who has lost their Korean nationality can apply to the Minister of Justice for it to be reinstated, subject to procedures to be set out in a Presidential decree, and to four exceptions set out at Article 9(2):

‘Article 9 (Attainment of Nationality through Reinstatement of Nationality)

- (1) A foreigner who was a national of the Republic of Korea may attain the nationality of the Republic of Korea by obtaining permission for the reinstatement of nationality from the Minister of Justice.
- (2) The Minister of Justice shall not allow the reinstatement of nationality to a person who falls under any of the following subparagraphs, after screening such person who has applied for the reinstatement of nationality:
 1. A person who has inflicted harm on the State or society;
 2. A person whose conduct is disorderly;
 3. A person who lost or renounced his/her nationality of the Republic of Korea in order to evade military service;
 4. A person for whom the Minister of Justice regards the reinstatement of his/her nationality as inappropriate, for the purposes of national security, sustainment of order or public welfare.”²²

- 6.1.4 Articles 10-15 deal with multiple nationalities and the length of time for which persons may have dual nationality and when they must elect. Article 15(1) provides for automatic loss of nationality, where a person has voluntarily attained the nationality of another country, which takes place at the time when the foreign nationality is obtained. Article 15(2) provides for deemed loss of nationality retroactively, unless within six months the Korean citizen declares an intention to retain Korean citizenship, where another nationality has been acquired in the following circumstances: by marriage to a foreigner; by adoption by a foreigner; by acknowledgment by a foreign father or mother resulting in acquisition of such parent’s nationality; or in the case

²¹ Republic of Korea, No. 16: Nationality Act [1948] (amended 2010) <http://www.refworld.org/docid/3fc1d8ca2.html> [Date accessed 16 September 2016]

²² Republic of Korea, No. 16: Nationality Act [1948] (amended 2010) <http://www.refworld.org/docid/3fc1d8ca2.html> [Date accessed 16 September 2016]

of a minor or spouse of a person who has lost nationality in any such circumstances.²³

- 6.1.5 Article 16 sets out that persons who lose their nationality are required to immediately report such loss to the Minister of Justice. If a public official finds that a person has lost nationality, he must also report it to the Minister, who will notify the family registration office and the resident registration office of the loss of nationality. Other procedures are to be set out in a Presidential decree, as before.²⁴
- 6.1.6 Article 17 provides for all acquisitions and losses of nationality to be published in the Official Gazette by the Minister of Justice. Article 18 specifies the loss of rights accruing to South Korean citizens when nationality is lost, subject to a proviso for transfer of any transferable rights to another South Korean citizen within 3 years.²⁵
- 6.1.7 Articles 20-22 provide:

‘Article 20 (Adjudication of Nationality)

- (1) Where it is unclear whether a person has attained or is holding the nationality of the Republic of Korea, the Minister of Justice may determine such fact upon review.
- (2) Procedures for screening and determination under paragraph (1) and any other necessary matters shall be determined by Presidential decree.

Article 21 (Revocation of Permission, etc)

- (1) The Minister of Justice may revoke permission or adjudication of a person who has obtained permission of naturalisation, reinstatement of nationality or adjudication of nationality by false or other wrongful means.
- (2) Standards and procedures for revocation under paragraph (1), and other necessary matters shall be determined by Presidential decree.

Article 22 (Delegation of Authority)

- (1) The authority of the Minister of Justice may be partially delegated to the head of an immigration office or its branch office, as prescribed by Presidential decree.²⁶

²³ Republic of Korea, No. 16: Nationality Act [1948] (amended 2010)
<http://www.refworld.org/docid/3fc1d8ca2.html> [Date accessed 16 September 2016]

²⁴ Republic of Korea, No. 16: Nationality Act [1948] (amended 2010)
<http://www.refworld.org/docid/3fc1d8ca2.html> [Date accessed 16 September 2016]

²⁵ Republic of Korea, No. 16: Nationality Act [1948] (amended 2010)
<http://www.refworld.org/docid/3fc1d8ca2.html> [Date accessed 16 September 2016]

²⁶ Republic of Korea, No. 16: Nationality Act [1948] (amended 2010)
<http://www.refworld.org/docid/3fc1d8ca2.html> [Date accessed 16 September 2016]

6.2 The Act on the Protection and Settlement Support of Residents Escaping From North Korea 1997

6.2.1 The Act on the Protection and Settlement Support of Residents Escaping From North Korea 1997, defines its terms and purpose in Articles 1-4:

Article 1 (Purpose)

The purpose of this Act is to specify such matters relating to protection and support as are necessary to help North Korean residents defecting from the area north of the Military Demarcation Line (hereinafter referred to as "North Korea") and desiring protection from the Republic of Korea, to adapt themselves to, and settle down as quickly as possible in, all spheres of their life, namely, political, economic, social and cultural life.

Article 2 (Definitions)

For the purpose of this Act,

1. "Defecting North Korean residents" mean persons who have their residence, lineal descendants, spouses and workplaces in North Korea and who have not acquired any foreign nationality after defecting from North Korea.
2. "Protected persons" mean defecting North Korea residents who are provided care and support pursuant to this Act.
3. "Settlement support facilities" mean facilities set up and operated to provide protection of and settlement support for protected persons pursuant to the provision of Article 10, Paragraph 1.
4. "Protection money or articles" mean money or goods paid, delivered or lent to protected persons pursuant to this Act

Article 3 (Scope of Application)

This Act shall apply to defecting North Korean residents who have expressed their intention to be protected by the Republic of Korea.

Article 4 (Basic Principles)

- (1) The Republic of Korea shall provide protected persons with special care on the basis of humanitarianism.
- (2) Protected persons shall strive to lead a healthy and cultural life by adapting themselves to the free and democratic legal order of the Republic of Korea."²⁷

6.2.2 Article 5 provides that in general, settlement support is available in special facilities for a year and at home for two years after that, although there is discretion to extend or curtail it for 'special grounds'. Normally, under Article 5(2), protection is given to the individual but it may be given on a household basis where deemed necessary. Under Article 5(1), support 'shall reasonably be determined in consideration of [the migrant's] age,

²⁷ Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16 September 2016]

composition of the household, school education, personal career, self-supporting ability, health conditions and personal possessions.’²⁸

6.2.3 Article 6 set up a consultative council to determine protection and support questions. Article 7 requires an application for protection to be made by the migrant to the head of an overseas diplomatic or consular mission, who shall without delay inform both the Minister of National Unification and the Director of the Agency for National Security Planning. The National Security Director is required to take ‘provisional protective steps’ immediately and report to the Unification Ministry. Article 8 (1) sets out their respective responsibility in the protection decision:

“(1) The Minister of National Unification shall, when he receives such a notice as stipulated under the provision of Article 7, Paragraph 3, decide on the admissibility of the application for protection following the deliberations of the Consultative Council. However, in the case of a person who is likely to attest national security to a considerable extent, the Director of the Agency for National Security Planning shall decide on the admissibility of the application, and inform or notify the Minister of National Unification and the protection applicant of the decision without delay.”

The protection decision is a shared responsibility of the Ministries of Unification and Security.²⁹

6.2.4 Article 9 excludes certain categories of migrant from protection (that is to say, from the benefits of South Korean citizenship):

“Article 9 (Criteria for a Protection decision)

(1) In determining whether or not to provide protection pursuant to the provision of the text of Article 8, Paragraph 1, such persons as stipulated in the following Subparagraphs may not be determined as protected persons.

1. International criminal offenders involved in aircraft hijacking, drug trafficking, terrorism or genocide, etc.
2. Offenders of non-political, serious crimes such as murder, etc.
3. Suspects of disguised defection
4. Persons who have for a considerable period earned their living in their respective country of domicile; and
5. Such other persons as recognized by the Presidential Decree as unfit for the designation as protected persons.”³⁰

²⁸ Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16 September 2016]

²⁹ Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16 September 2016]

³⁰ Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16 September 2016]

6.2.5 In addition, pursuant to Article 27, protection and/or settlement support may be withdrawn in certain circumstances by the Unification Ministry of its own motion, or on the application of a local government head via the Home Affairs Ministry:

“Article 27 (Alteration in Protection)

(1) The Minister of National Unification may, where a protected person is involved in one of the following Subparagraphs, suspend or terminate protection and settlement support subject to the deliberations of the Consultative Council.

1. In cases where he is sentenced to penal servitude not less than one year and his sentence has been made irrevocable.
2. In cases where he intentionally provides false information contrary to the interest of the state
3. In cases where he is judicially declared dead or missing
4. In cases where he attempts to go back to North Korea
5. In cases where he violates this Act or an order issued under this Act; or
6. Such other cases as coming under such grounds prescribed by the Presidential Decree.”³¹

6.2.6 Articles 10-22 set out the protection scheme. In particular, Article 15 provides:

“Article 15 (Social Adaptation Education)

The Minister of National Unification may, pursuant to the determination of the Presidential Decree, offer protected persons with such education as deemed necessary for them to settle down in the Republic of Korea.”

6.2.7 The rest of the protection scheme includes provision for a personal identification register (Article 12); for recognition of academic and other qualifications (Articles 13-14); for vocational training (Article 16); for employment assistance, including in agriculture (Article 17, 17-1, 17-2, and 17-3); and for discretionary appointment to public service or the South Korean military by way of special appointment, for persons who held similar posts in the north, on terms to be set out by Presidential decree.³²

6.2.8 Other Articles deal with accommodation support, compensation for valuable materials brought into South Korea on arrival, settlement money, adjudication of housing disputes, educational support, medical care and support for minimum living standards, including pensions. Article 30 establishes an Association of Supporters for Defecting North Korean Residents to execute the various resettlement provisions already set out.³³

³¹ Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16 September 2016]

³² Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16 September 2016]

³³ Republic of Korea, No. 5259: Act on the Protection and Settlement Support of Residents Escaping From North Korea, [1997]: <http://www.refworld.org/docid/3ae6b4ef28.html> [Date accessed 16

7. Treatment of North Koreans in South Korea

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

‘It is a mandatory procedure under the South Korean law to hold newly arrived North Koreans and offer adjustment education. For this reason, some of them have brought lawsuits against the government, claiming that they were held under mandatory detention, and hence experienced violation of certain human rights. These lawsuits, however, were dismissed, as the investigations after arrival in South Korea were found perfectly legal. The Korean Bar Association has formed a “task force” to improve, legally and systematically, the human rights of North Korean escapees in the process of settlement in the South.’³⁴

7.1.2 The December 2015 Concluding observations of Human Rights Committee on the Republic of Korea noted amongst its principle matters of concern that:

“defectors” from the Democratic People’s Republic of Korea are detained, upon their arrival, in a particular centre and that they may be held there for up to six months. While noting the information provided by the delegation that detainees have access to human rights protection officers, the Committee is concerned that they do not have access to counsel. It is also concerned about reports suggesting that “defectors” from the Democratic People’s Republic of Korea may be deported to third countries without independent review if it is determined that they do not qualify for protection (arts. 9, 10 and 13).’³⁵

7.1.3 Freedom House’s Freedom in the World 2016 report for South Korea noted that ‘[t]here were roughly 29,000 North Korean defectors in South Korea at the end of 2015. Defectors are eligible for South Korean citizenship, but they can face months of detention and interrogations upon arrival, and some have reported abuse in custody and societal discrimination.’³⁶

7.1.4 The 2016 Bertelsmann Foundation report considered that:

‘In principle, there is no discrimination on the basis of race, religion, age or ethnicity in South Korea. In reality, however, migrant workers, handicapped persons, refugees from North Korea, women and young professionals face difficulties in terms of legal protection from abuse, access to job opportunities, and/or obtaining just and equal wages. The public is slowly

September 2016]

³⁴ Korea Institute for National Unification (KINU), White Paper on Human Rights in North Korea 2014, July 2014, (p594)

http://www.kinu.or.kr/eng/pub/pub_04_01.jsp?page=1&num=40&mode=view&field=&text=&order=&dir=&bid=DATA04&ses= [Date accessed: 16 September 2016]

³⁵ UN Human Rights Committee, Concluding observations on the fourth periodic report of the Republic of Korea [CCPR/C/KOR/CO/4], 3 December 2015

http://www.ecoi.net/file_upload/1930_1455107652_g1527536.pdf [Date accessed 30 September 2016]

³⁶ Freedom House, Freedom in the World 2016 - South Korea, 27 January 2016

<https://freedomhouse.org/report/freedom-world/2016/south-korea> [date accessed 30 September 2016]

becoming more aware of problems with regard to the (mis-)treatment of migrant workers. Refugees from North Korea receive initial guidance and benefits, but are then basically left to their own devices.³⁷

7.1.5 The US State Department 's 2015 human rights report stated that:

'Cultural and social differences posed adjustment difficulties, and many refugees from North Korea alleged societal discrimination. In a 2014 survey of 200 North Korean defectors, many complained that prejudice and discrimination against North Koreans made them feel like second-class citizens. The National Human Rights Commission reported five discrimination cases related to North Korean defectors through July, including job discrimination and failure to issue a passport.'³⁸

7.1.6 In June 2016 the New York Times reported that 'By law, the National Intelligence Service can keep North Koreans who flee to the South at the secluded facility outside Seoul for as long as six months for debriefing and to ferret out spies. Human rights researchers and opposition lawmakers have quoted some former inmates as saying they were subjected to abusive language, violence and threats of deportation while they were held there.'³⁹

[Back to Contents](#)

³⁷ Bertelsmann Foundation, BTI 2016; South Korea Country Report, 2016
http://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_South_Korea.pdf
[date accessed 30 September 2016]

³⁸ United States Department of State, 2015 Country Reports on Human Rights Practices - Republic of Korea, 13 April 2016, 2d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252773>
[Date accessed: 16 September 2016]

³⁹ New York Times, North Korean Defectors' Detention Is Unlawful, Human Rights Lawyers Say, 21 June 2016 http://www.nytimes.com/2016/06/22/world/asia/north-south-korea-defectors.html?_r=0
[Date accessed 30 September 2016]

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

Below is information on when this version of the guidance was cleared:

- version **2.0**
- valid from **05 October 2016**

Changes from last version of this guidance

Update of country information

[Back to Contents](#)