



OPERATIONAL GUIDANCE NOTE

NORTH KOREA (DPRK)

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1. Introduction

- 1.1** This document provides UK Border Agency case owners with guidance on the nature and handling of the most common types of claims received from nationals/residents of North Korea, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** Case owners must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and case owners must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

COI Service information is published on Horizon and on the internet at:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the

claim in accordance with the Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

2.1 Case owners should refer the relevant COI Service country of origin information material. An overview of the country situation including headline facts and figures about the population, capital city, currency as well as geography, recent history and current politics can also be found in the relevant FCO country profile at:

<http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/>

2.2 An overview of the human rights situation in certain countries can also be found in the FCO Annual Report on Human Rights which examines developments in countries where human rights issues are of greatest concern:

<http://centralcontent.fco.gov.uk/resources/en/pdf/human-rights-reports/accessible-hrd-report-2010>

2.3 Actors of protection

2.3.1 Case owners must refer to the Asylum Policy Instruction on 'considering the protection (asylum) claim' and 'assessing credibility'. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Case owners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

2.3.2 The internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department (SSD). The MPS, responsible for internal security, social control, and basic police functions, is one of the most powerful organisations in the country and controlled an estimated 144,000 public security personnel. The MPS maintains law and order; investigates common criminal cases; manages the prison system; controls traffic; monitors citizens' political attitudes; conducts background investigations, census, and civil registrations; controls individual travel; manages the government's classified documents; protects government and party officials; and patrols government buildings and some government and party construction activities. Border Guards are the paramilitary force of the MPS and are primarily concerned with monitoring the border and with internal security.¹

¹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1d

- 2.3.3** The security forces do not have adequate mechanisms to investigate possible security force abuses and there are no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons find it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions does not exist in law or in practice.² The formal public security structure is augmented by a huge and pervasive multi-level system of informants throughout society, in order to identify critics and potential trouble makers. Physical and electronic surveillance of citizens, including entire communities, is routine.³
- 2.3.4** Revisions to the Criminal Code and the Criminal Procedure Code in 2004 and 2005 added shortened periods of detention during prosecution and trial, arrest by warrant, and prohibition of collecting evidence by forced confessions. There was no confirmation of whether these changes were incorporated in practice, or if the government increased the amount of resources to eliminate inhumane conditions.⁴
- 2.3.5** Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial. According to one South Korean NGO, beginning in 2008 the Peoples Safety Agency (PSA) was authorised to handle directly criminal cases without approval of prosecutors. Previously, once police officers arrested suspects, the pre-adjudication department examined facts and evidence of the case and passed the case to prosecutors. The court made an official decision on the case only after completion of the prosecutors' investigation. The change was made reportedly because of corruption among prosecutors. One NGO reported that investigators could detain an individual for the purpose of investigation for up to two months.⁵
- 2.3.6** The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary does not exist. The constitution mandates that the central court is accountable to the Supreme People's Assembly and the criminal code subjects judges to criminal liability for handing down "unjust judgments." Witness to Transformation reported that only 13 percent of the 102 respondents who had been incarcerated in the country received a trial.⁶
- 2.3.7** Corruption is rife, and there are various reports of payments made to those in positions of authority to circumvent the regulatory system, and of prison officials taking bribes. The judicial system is not independent, since it is constitutionally bound to protect the existing socialist system. Reports suggest that the defence counsel provided to defendants focuses more on obtaining admissions of guilt rather than providing a legal defence.⁷

2.4 Internal relocation

- 2.4.1** Case owners must refer to the Asylum Policy Instructions on both internal relocation and Gender Issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be

² USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1d

³ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1d

⁴ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1d

⁵ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1d

⁶ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1e

⁷ FCO Human Rights & Democracy Report 2011: [Democratic Republic of Korea](#)

relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

- 2.4.2** Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.
- 2.4.3** The Democratic People's Republic of Korea (DPRK) also known as North Korea, is located in eastern Asia, in the northern half of the Korean Peninsula bordering the Korea Bay and the Sea of Japan. It occupies an area of 120,538 sq km, and shares land borders with South Korea, China, and (minimally) with Russia. The country is divided into nine provinces and two municipalities. The provinces are: Chagang, North Hamgyong, South Hamgyong, North Hwanghae, South Hwanghae, Kangwon, North P'yongan, South Pyongan, and Yanggang. The municipalities are Nason, and Pyongyang (the capital city). In July 2012, the population was estimated to be 24,589,122 people.⁸
- 2.4.4** The law provides for the "freedom to reside in or travel to any place"; however, the government does not respect this right in practice. During the year (2012), the government continued to carefully control internal travel. The government continues to restrict the freedom to move within the country. Only members of a very small elite class and those with access to remittances from overseas have access to personal vehicles, and movement is hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. During 2011, the government did not cooperate with the Office of the UN High Commissioner for Refugees or other humanitarian organisations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons or other persons.⁹
- 2.4.5** The government strictly controls permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions are much better than in the rest of the country. The government also restricts foreign travel. The government limits issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. Short-term exit papers are available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.¹⁰

⁸ The CIA World Fact Book: [North Korea 2012](#) August 15 2012

⁹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

¹⁰ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

- 2.4.6** The government does not allow emigration, and there are reports that it has tightened security on the border, dramatically reducing the flow of persons crossing into China without required permits. NGOs reported strict patrols and surveillance of residents of border areas and a crackdown on border guards who may have been aiding border crossers in return for bribes.¹¹
- 2.4.7** It is not known whether the laws prohibit forced exile; the government reportedly forces the internal exile of some citizens. In the past the government engaged in forced internal resettlement of tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offences, although there were reports that social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, were sent out of Pyongyang into internal exile.¹²
- 2.4.8** The law criminalises defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labour correction." In "serious" cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labour, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners.¹³
- 2.4.9** In the past, reports from defectors indicated that the government differentiated between persons who crossed the border in search of food (who might be sentenced only to a few months of forced labour or in some cases merely issued a warning) and persons who crossed repeatedly or for political purposes (who were sometimes sentenced to heavy punishments, including death). The law stipulates a sentence of up to two years of "labour correction" for the crime of illegally crossing the border. The South Korean press report that the government of North Korea orders border guards to "shoot to kill" citizens attempting to make unauthorised border crossings. During the year the government reportedly continued to enforce the policy that all border crossers be sent to prison or re-education centres.¹⁴
- 2.4.10** The Government harshly curtails and controls freedom of movement within North Korea and internal relocation to another area of the country to escape a localised threat is not possible.

2.5 North Koreans in South Korea

- 2.5.1** The constitution of the Republic of Korea (ROK, also known as South Korea) affirms that South Korea consists of the entire Korean Peninsula and, as such, that North Koreans are citizens of South Korea. The RoK accepts North Koreans as its citizens under its constitution that defines the entire Korean Peninsula as South Korean territory. North Korean refugees, though not officially recognised as such by the South Korean government, therefore have a right to be resettled to South Korea.¹⁵

¹¹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

¹² USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

¹³ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

¹⁴ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

¹⁵ See Caselaw: [KK and Ors \(Nationality: North Korea\) Korea CG \[2011\] UKUT 00092](#)

2.5.2 An official from the Embassy of the Republic of Korea (South Korea) in Ottawa stated in a 20 May 2008 interview with the Research Directorate of the Immigration & Refugee Board of Canada (IRBC) that it is the policy of the South Korean government to offer protection and support to ‘dislocated’ North Koreans. The Embassy Official referred the IRBC Research Directorate to the South Korean Ministry of Unification’s ‘2005 Unification White Paper’ which states the following:

“ In the case of North Korean refugees residing in a third country who file an application for protection, the South Korean government will provide temporary protection through its consulate in the third country and assist them in entering South Korea. Upon entry into South Korea, the government will decide on his/her protection based on the results of a joint investigation by relevant government agencies”.¹⁶

2.5.3 After obtaining South Korean citizenship, North Korean defectors are issued the regular South Korean citizen identity card. Naturalised defectors are considered to be Korean and so there is no legal distinction between them and other South Koreans. This view has been corroborated by the Executive Director of HanVoice, a Canadian advocacy organisation for North Korean human rights.¹⁷

2.5.4 The RoK has had a “longstanding policy” of accepting North Korean defectors, and providing them with protection and assistance. The policy of providing protection is underpinned by law: the Act on the Protection and Settlement Support of Residents Escaping from North Korea (the Special Act) which legislates on the social and financial assistance given to North Korean defectors/settlers, and was most recently amended in July 2007.¹⁸ Due to a combination of factors, including long-term malnutrition, cultural and educational deficiencies, and psychological trauma, many North Koreans struggle to cope with life in South Korea, but there is an increasing level of help and support there.¹⁹

2.5.5 South Korea’s Unification Ministry has stated that the number of North Koreans defecting to South Korea has surged in recent years because of economic suffering in the North, with more than 10,000 defections during the three years from the end of 2007 to the end of 2010. The overall total at the end of 2010 stood at 20,050. Ministry official Han Dong-ki said the rise in defections reflects North Korea’s worsening economy. North Korea has relied on outside food aid since natural disasters and mismanagement wrecked its economy in the mid-1990s, when an estimated 2 million people died of famine. South Korea runs resettlement centres where North Korean asylum-seekers take a three-month course that teaches them computer skills and such everyday lessons as how to use ATMs and shop in supermarkets.²⁰

2.6 Country guidance caselaw

[RT \(Zimbabwe\) & Ors v Secretary of State for the Home Department \[2012\] UKSC 38 \(25 July 2012\)](#)

The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to

¹⁶ COIS North Korea Country Report July 2009 (para 28.08)

¹⁷ Immigration & Refugee Board of Canada: [Documentation of North Korean Defectors](#) 29 February 2012

¹⁸ Immigration & Refugee Board of Canada: [Republic of Korea & Democratic Republic of Korea](#) 29 February 2012

¹⁹ The New York Times: [Young North Korean Defectors](#) 12 July 2012

²⁰ CNS News, Number of North Korean Defectors to South Korea Tops 20,000, 15 November 2010
<http://cnsnews.com/news/article/number-north-korean-defectors-south-korea-tops-20000>

cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

KK and Ors (Nationality: North Korea) Korea CG [2011] UKUT 00092

In this country guidance case the Tribunal found:

1. Law

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

2. Korea

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

from the Korean Peninsula for more than ten years have acquired another nationality displacing their South Korean nationality; such persons therefore move from category (i), in 1(a) above, to category (iii).

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in North Korea. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on 'considering the protection (Asylum) claim' and 'assessing credibility').
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** All Asylum Instructions can be accessed on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/>

3.5 Credibility

- 3.5.1** This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'establishing the facts of the claim (material and non-material facts)' in the Asylum Instruction 'considering the protection (asylum) claim' and 'assessing credibility'. Case owners must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.6 Political opponents of the regime

- 3.6.1** Some applicants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the North Korea authorities due to their being political opponents of the regime.
- 3.6.2 Treatment:** The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong-Un, who was named supreme commander of the Korean People's Army on 30 December 2011, following the death of his father on 17 December; his deceased grandfather, Kim Il Sung, remains the "eternal president". Security forces report to the supreme leader of North Korea, Kim Jong Un, and to the members of the National Defence Commission, which is the supreme ruling body of the state.²¹
- 3.6.3** Citizens do not have the right to change their government. The most recent national elections (in March 2009) were neither free nor fair. There was no attempt to carry out the transition of power to Kim Jong Un by democratic means.²² The Korean Workers Party and the Korean People's Army, with Kim Jong-Un in control, dominate the political system. Elections of local representatives to the Supreme People's Assembly were held in July 2011. These were neither free nor fair, with the outcome virtually identical to previous elections. One non-governmental organisation (NGO) reported that citizens were ordered to participate in the July elections; another NGO reported that the government openly monitored voting, resulting in almost 100% participation and 100% approval. The government regularly criticises the concept of free elections and competition between political parties as an "artefact of capitalist decay".²³ The Supreme People's Assembly (SPA) meets only to rubber-stamp resolutions and legislation presented by the party leadership.²⁴
- 3.6.4** The government subjects citizens to rigid controls over many aspects of their lives, including denial of the freedoms of speech, press, assembly, association, religion, movement and workers rights. Reports continue of a vast network of political prison camps where conditions are often harsh and life-threatening.²⁵ While the total number of political prisoners and detainees remained unknown, a 2011 report by the North Korea Database estimated that 138,000 people were being held in detention centres, of whom 130,500 were held in five political prisons.²⁶
- 3.6.5** The Foreign and Commonwealth Office (FCO) reported that although some small-scale public protests do occasionally take place, mainly due to the imposition of controls on market activity, these are quickly broken up. Citizens found in possession of unauthorised information, especially from South Korea, are subjected to punishment including imprisonment. This can involve the imprisonment of whole families.²⁷
- 3.6.6** The DPRK has signed four key international human rights treaties and includes rights protections in its constitution. In practice, the government does not permit

²¹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section: Executive Summary

²² USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 3

²³ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 3

²⁴ Freedom House: [Freedom in the World 2012 North Korea](#)

²⁵ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) Executive Summary

²⁶ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1e

²⁷ FCO Human Rights & Democracy Report 2011: [Democratic Republic of Korea](#)

any organised political opposition, free media, or any functioning civil society.²⁸ According to the international NGO, Amnesty International, North Korea has no independent domestic media, and no known independent opposition political parties. Only a select few have internet access, which is mostly through a closely monitored intranet network. The use of mobile phones is heavily restricted.²⁹

3.6.7 See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.6.8 Conclusion: The Supreme Court held in RT (Zimbabwe) that the rationale of the decision in **HJ (Iran)** extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.

3.6.9 Individuals who have come to the attention of the North Korean authorities for opposition or perceived opposition to the current regime are likely to face ill treatment amounting to persecution in North Korea. In such circumstances, a grant of refugee status is likely to be the appropriate outcome if return to North Korea is proposed.

3.6.10 However, North Koreans are normally able to reside in South Korea and most are also entitled to South Korean citizenship. An application for asylum owing to a fear of persecution in North Korea is, therefore, likely to fall for refusal as there is reason to believe that the applicant will be admitted to South Korea on the basis that:

(i) such refusal will not result in the applicant being required to go to a country in breach of the Refugee Convention (Para 334(v) Immigration Rules); and

(ii) the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (Para 339J(iv))

3.7 Food shortages, economic problems and corrupt local officials

3.7.1 Some applicants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution due to them being denied employment or food due to corruption or disagreements with local officials.

3.7.2 Treatment: The country is susceptible to food crises because of political and economic isolation, and climate change. During 2010, widespread flooding in the country's main rice producing region resulted in a poor harvest. An outbreak of foot-and-mouth disease, which affected the cattle used to harvest crops, also exacerbated shortages.³⁰ Many families have only two meals a day and their diet lacks the variety needed for good nutrition, with very little meat or fat. Stunting rates among young children are as high as 40 per cent in rural areas and 20 per cent in urban ones.³¹ To date, the DPRK has refused to reform its food production

²⁸ Human Rights Watch: [World Report 2012 North Korea](#)

²⁹ Amnesty International: [Annual Report 2012 North Korea](#)

³⁰ Unicef: Report by UN agencies highlights food crisis in Democratic People's Republic of Korea 7 April 2011 http://www.unicef.org/nutrition/korea_58239.html

³¹ Unicef: Report by UN agencies highlights food crisis in Democratic People's Republic of Korea 7 April 2011 http://www.unicef.org/nutrition/korea_58239.html

and distribution system, meaning it is unable to adequately feed its own people and chronic malnutrition is widespread.³²

- 3.7.3** Large-scale military spending, combined with years of under-investment in industry and agriculture, has caused chronic food shortages, exacerbated further by weather-related crop failures and lack of arable land. Widespread starvation has been avoided since the famine in 1995, but large parts of the population are dependent on international food aid. The population suffers from prolonged malnutrition and poor living conditions.³³ Since the mid nineteen nineties, aid agencies estimate that up to two million people have died due to severe food shortages.³⁴
- 3.7.4** Reports of deaths from starvation surfaced in the months following North Korea's ineptly managed monetary devaluation scheme, which effectively demonetised savings in the old currency in November 2009.³⁵ North Korea abolished its old bank notes with virtually no advance notice and only allowed North Koreans to exchange up to 100,000 won (approximately £15 to £18 according to the then-market exchange rate) of the old currency for the new bills. Authorities also banned the use of foreign currencies and closed markets. It later lifted those bans. Many people saw their entire private savings wiped out overnight, while prices for food and other basic commodities skyrocketed as merchants stopped selling goods in expectation of further price hikes.³⁶
- 3.7.5** In March 2011 a joint UN survey estimated that more than six million vulnerable persons in North Korea required international food aid to avoid famine. The World Food Programme referred to this as the worst famine for a decade, and South Korea-based NGOs and media with informants inside North Korea reported deaths due to hunger. The government operates blatantly discriminatory food policies that favour the military, government officials and other loyal groups.³⁷
- 3.7.6** Corruption is believed to be endemic at all levels of the state and the economy. North Korea was ranked at 182 out of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index³⁸, and 179 by the 2012 Index of Economic Freedom.³⁹ In June 2010, the New York Times reported that in the wake of the currency revaluation, individuals with political connections avoided having their savings confiscated while market traders were severely limited in the amount of money they were permitted to exchange into new won. In December 2010, a South Korean NGO reported that the National Security Agency promised to guarantee smugglers impunity to continue their smuggling activities if they reported river crossers to the NSA.⁴⁰
- 3.7.7** Foreign media reported that the government launched a formal corruption investigation in 2008 specifically targeting the National Economic Cooperation Federation and the North Korean People's Council for National Reconciliation. The federation reportedly accepted bribes to label Chinese-made goods as "Made in

³² FCO Human Rights & Democracy Report 2011: [Democratic Republic of Korea](#)

³³ The CIA World Fact Book: [North Korea 2012](#) August 15 2012

³⁴ BBC News: [North Korea Country Profile](#)

³⁵ The CIA World Fact Book: [North Korea 2012](#) August 15 2012

³⁶ Human Rights Watch World report 2011: North Korea <http://www.hrw.org/en/world-report-2011/north-korea>

³⁷ Human Rights Watch: [World Report 2012 - North Korea](#)

³⁸ Freedom House: [Freedom in the World 2012 North Korea](#)

³⁹ Index of Economic Freedom: [North Korea 2012](#)

⁴⁰ US State Department 2010 Human Rights Report: North Korea: section 4
<http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154388.htm>

North Korea," allowing them to be exported to South Korea duty free. There were no new developments in this case during the year. It was not known whether public officials are subject to financial disclosure laws and whether a government agency is responsible for combating corruption. The government seeks to control virtually all information. Citizens can be publicly executed for stealing state property, hoarding food, and other "anti-socialist" crimes.⁴¹

- 3.7.8 See also:** [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)
[Caselaw](#) (section 2.5 above)

3.7.9 Conclusion: The Government controls the distribution of food and access to employment in North Korea and corruption amongst state officials is a serious problem, but general country conditions do not in themselves constitute persecution under the Refugee Convention. If, however, additional factors indicate that a grant of asylum is likely to be appropriate, North Koreans are normally able to reside in South Korea and most are also entitled to South Korean citizenship (see 3.4.12 – 3.4.15 above). An application for asylum owing to a fear of persecution in North Korea is, therefore, likely to fall for refusal as there is reason to believe that the applicant will be admitted to South Korea on the basis that:

(i) such refusal will not result in the applicant being required to go to a country in breach of the Refugee Convention (Para 334(v) Immigration Rules) and

(ii) the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (Para 339J[iv]).

3.8 Christians

3.8.1 Some applicants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the North Korean authorities due to their being Christians and/or being associated with foreign Christian organisations.

3.8.2 Treatment: The constitution provides for "freedom of religious belief;" however, in practice the government severely restricted religious activity, except that which was supervised tightly by officially recognised groups linked to the government. Genuine religious freedom does not exist. North Korea was designated by the US Government as a "Country of Particular Concern" (CPC) under the International Religious Freedom Act for particularly severe violations of religious freedom in 2001. It was re-designated a CPC in August 2011.⁴²

3.8.3 In a report to the UN Human Rights Commission (in 2002) the government stated there were 12,000 Protestants, 10,000 Buddhists and 800 Roman Catholics in North Korea. South Korean and other foreign religious groups estimate that there are a considerably higher number of religious practitioners in the country. The Cheondogyo Young Friends Party or Cheondongkyoists, a government-approved group based on a traditional religious movement, reportedly had approximately

⁴¹ Human Rights Watch: [World Report 2012 - North Korea](#)

⁴² US State Department International Religious Freedom Report: [North Korea 2011](#)

15,000 practitioners.⁴³

- 3.8.4** In Pyongyang there are four state-controlled Christian churches: two Protestant churches (Bongsu and Chilgol Churches), the Changchun Roman Catholic Church, and the Holy Trinity Russian Orthodox Church. The number of congregants that regularly worship at these churches is unknown. In its July 2002 report to the UN Human Rights Committee, the government reported the existence of 500 "family worship centres;" however, according to the 2009 Korea Institute for National Unification (KINU) white paper, defectors were unaware of any such centres. Observers stated that "family worship centres" may be part of the state-controlled Korean Christian Federation, while an unknown number of "underground churches" operate apart from the federation and are not recognised by the government. The 2009 KINU white paper and the 2007 U.S. Commission on International Religious Freedom report "A Prison Without Bars" included defector testimonies referencing the existence of underground churches but concluded (then) that their existence is hard to verify.⁴⁴
- 3.8.5** There are three Catholic dioceses in North Korea: Pyongyang, Hamhung and Chunchon, but the Vatican has declared them to be vacant sees, under the administration of the South Korean diocesan bishops appointed by Rome. In 2012, the Vatican continues to list Father Francis Hong Yong-ho as Bishop of Pyongyang, but notes that he remains missing since March 1962. It is reported that since the communist regime took power in 1953, approximately 300,000 Christians have disappeared.⁴⁵
- 3.8.6** In July 2009 the Dong-A Ilbo newspaper reported an estimated 30,000 Christians, while some NGOs and academics estimated there may be up to several hundred thousand underground Christians in the country. Others questioned the existence of a large-scale underground church or concluded that it was impossible to accurately estimate the number of underground religious believers. Individual underground congregations were reportedly very small and typically confined to private homes. At the same time, some NGOs reported individual churches were connected to each other through well-established networks. The government has not allowed outsiders access to confirm such claims.⁴⁶ The NGO 'Open Doors' have reported that at least 25% of North Korean Christians are currently imprisoned in labour camps, and stated that North Korea is the most repressive and hostile country in the world, in which to be a Christian.⁴⁷
- 3.8.7** Little is known about the day-to-day life of religious persons in the country. Members of government-controlled religious groups do not appear to suffer discrimination, while members of underground churches or those connected to missionary activity are reportedly regarded as subversive elements. Some reports have claimed, and circumstantial evidence suggests, that many, if not most, of the government-controlled religious organisations were created for propaganda and political purposes, including meeting with foreign religious visitors. There are unconfirmed reports that nonreligious children of religious believers may be employed in mid-level positions in the government. In the past such individuals suffered broad discrimination with sometimes severe penalties or even

⁴³ US State Department International Religious Freedom Report: [North Korea 2011](#)

⁴⁴ US State Department International Religious Freedom Report: [North Korea 2011](#)

⁴⁵ Aid to the Church in Need: [Christians & the Struggle for Religious Freedom; 2012](#)

⁴⁶ US State Department International Religious Freedom Report: [North Korea 2011](#)

⁴⁷ Open Doors USA: [World Watch List: North Korea 2012](#)

imprisonment.⁴⁸

3.8.8 The government deals harshly with all opponents, including those who engage in religious practices it deems unacceptable. Religious and human rights groups outside the country provided numerous reports in previous years that members of underground churches were arrested, beaten, tortured, or killed because of their religious beliefs. An estimated 150,000 to 200,000 persons are believed to be held in political prison camps in remote areas, some for religious reasons. Prison conditions are harsh, and refugees and defectors who had been in prison stated that prisoners held on the basis of their religious beliefs were generally treated worse than other inmates.⁴⁹

3.8.9 NGOs, defectors, and refugees have reported the government executed opponents of the regime in recent years. Executed individuals reportedly included some targeted due to their religious activities such as proselytism and contact with foreign missionaries and religious figures. Defector reports indicate the government increased its investigation, repression, and persecution of unauthorised religious groups in recent years, but access to information on current conditions is limited. Despite these restrictions reports indicate that contacts with religious personnel both inside the country and across the border in China appear to be increasing; however, there is not enough data to determine the size and scope of religious activity. Reports from NGOs, refugees, defectors, and missionaries indicate that persons engaged in proselytizing or who have ties to overseas evangelical groups operating across the border in China, have been arrested and subjected to harsh punishment.⁵⁰

3.8.10 See also: [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)
[Caselaw](#) (section 2.5 above)

3.8.11 Conclusion: While members of government controlled Christian religious organisations are generally tolerated and do not suffer discrimination from the North Korean authorities, those associated or perceived to be associated with underground or foreign Christian religious organisations are likely to face ill treatment amounting to persecution in North Korea.

3.8.12 However, North Koreans are normally able to reside in South Korea and most are also entitled to South Korean citizenship (see 3.4.12 – 3.4.15). An application for asylum due to fear of persecution in North Korea is, therefore, likely to fall for refusal as there is reason to believe that the applicant will be admitted to South Korea on the basis that:

(i) such refusal will not result in the applicant being required to go to a country in breach of the Refugee Convention (Para 334(v) Immigration Rules) and,

(ii) the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (Para 339J(iv))

⁴⁸ US State Department International Religious Freedom Report: [North Korea 2011](#)

⁴⁹ US State Department International Religious Freedom Report: [North Korea 2011](#)

⁵⁰ US State Department International Religious Freedom Report: [North Korea 2011](#)

3.9 Those who have left North Korea illegally

- 3.9.1** Some applicants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of North Korea authorities due to their having left North Korea illegally either as economic migrants or as defectors.
- 3.9.2 Treatment:** The law criminalises defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labour correction." In "serious" cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labour, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners.⁵¹
- 3.9.3** Repatriated refugees are subject to harsh punishments, including imprisonment. During 2011, the government continued to enforce the policy that all border crossers be sent to prison or re-education centres. One NGO reported that families of resettled defectors in North Korea are treated harshly and are forcibly relocated to areas away from the border.⁵²
- 3.9.4** The government tightly restricts foreign travel. The government limits the issuing of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. Short-term exit papers are available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.⁵³
- 3.9.5** North Korea does not allow its citizens to travel abroad without state permission, and leaving the country is considered a "crime of treachery against the nation" under North Korean law. The NGO 'International Coalition to Stop Crimes against Humanity in North Korea' (ICNK) reports that all North Koreans in China qualify for refugee status because of the genuine risk of imprisonment, torture and sometimes execution if they are returned. The Chinese authorities currently forcibly return undocumented North Koreans as economic migrants.⁵⁴
- 3.9.6** Amnesty International reported that thousands of North Koreans who fled to China in search of food and employment were often forcibly repatriated to North Korea by the Chinese authorities. They were routinely beaten and detained upon return. Those suspected of being in touch with South Korean NGOs or attempting to escape to South Korea were more severely punished. In July 2011, reports suggested that the North Korean authorities had ordered a crackdown on people leaving the country without permission. In October 2011, 20 North Koreans forcibly repatriated by China were detained at a National Security Agency facility in North Hamkyung province.⁵⁵
- 3.9.7** During 2012, North Korea is reported to have forced a drastic reduction in defections, coinciding with the rise of the new leader, Kim Jong Un. Up to 20,000 extra soldiers have been dispatched to the Chinese border, according to Seoul's 'Open Radio for North Korea', which has a network of contacts in DPRK. These

⁵¹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

⁵² USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

⁵³ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 2d

⁵⁴ [ICNK Condemns China's Expulsion of North Korean Refugees](#)

⁵⁵ Amnesty International: [Annual Report 2012 North Korea](#) 24 May 2012

soldiers, threatened by punishments themselves, have become less willing to take bribes from would-be defectors. Evidence suggests that since Kim Jong Un came to power, the policies to prevent defectors have been implemented steadily more harshly and punitively.⁵⁶

3.9.8 See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.9.9 Conclusion: Those who leave North Korea illegally are likely to face criminal sanctions if returned to North Korea. However, the severity of this punishment may differ depending upon whether the applicant left North Korea for economic or political reasons. Those who have left North Korea for political reasons (including those who claimed asylum abroad) are likely to face a minimum of five years correctional labour if returned to North Korea. In some cases 'defectors' or those who have sought asylum may face harsher prison sentences or may be executed. Claiming asylum abroad is viewed as a political offence by the North Korean authorities, and attracts a harsh punishment which will amount to persecution. A grant of refugee status is, therefore, likely to be appropriate if return to North Korea is proposed.

3.9.10 However, North Koreans are normally able to reside in South Korea and most are also entitled to South Korean citizenship (see para 3.4.12 – 3.4.15). An application for asylum due to fear of persecution in North Korea is, therefore, likely to fall for refusal as there is reason to believe that the applicant will be admitted to South Korea on the basis that:

(i) such refusal will not result in the applicant being required to go to a country in breach of the Refugee Convention (Para 334(v) Immigration Rules) and

(ii) the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship (Para 339J(iv))

3.10 Prison conditions

3.10.1 Applicants may claim that they cannot return to North Korea due to the fact that there is a serious risk that they will be imprisoned on return, and that prison conditions in North Korea are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

3.10.3 Consideration: Reports from various sources indicate that there are several types of prisons, detention centres and camps, including forced labour camps and separate camps for political prisoners. Primarily, there are political penal-labour camps, correctional or re-education centres, collection centres for low-level

⁵⁶ The Washington Post: [With crackdown, North Korea puts a hold on defectors](#)

criminals, and labour training centres. One political penal-labour camp (Camp 22) is estimated to be 31 miles long and 25 miles wide, and to hold 50,000 inmates. Defectors claim that these camps contain unmarked graves, barracks, worksites and other prison facilities. Political labour camps are administered by the Ministry of State Security (MSS).⁵⁷

- 3.10.4** Reports from South Korea suggest that up to 154,000 political prisoners are held in six detention camps. Inmates face brutal conditions, and it is common practice to punish whole families for suspected dissent by an individual.⁵⁸ Those sentenced to prison for non-political crimes are typically sent to re-education prisons where prisoners are subjected to intense forced labour. Those considered hostile to the regime or who have committed political crimes are sent to political prison camps indefinitely. The government continues to deny the existence of political prison camps.⁵⁹
- 3.10.5** Reports indicate that conditions in the political prison camps are harsh and life-threatening, and that systematic and severe human rights abuses occur throughout the prison and detention system. Detainees and prisoners consistently report violence and torture, including rape, and beatings with iron rods.⁶⁰ Press reports of defector accounts describe public executions in political prison camps. According to refugees, in some places of detention, prisoners receive little or no food and are denied medical care. Sanitation is poor, and former labour camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. An NGO reported that one re-education centre was so crowded that prisoners were forced to sleep on top of each other or sitting up. The same NGO reported that guards at a labour camp stole food brought for inmates by their family members. It was estimated that approximately 40% of inmates die of malnutrition at the Yoduk political prison camp.⁶¹
- 3.10.6** On 3 April 2012, the International Coalition to Stop Crimes against Humanity in North Korea submitted a petition to the special procedures of the UN Human Rights Council, calling for the UN to assist in shutting down North Korea's vast system of gulags. They reported that inmates, including women and children, are forced to do back-breaking and/or dangerous labour for twelve or more hours a day, and are given only starvation level food rations. They are routinely denied medical care and treatment, and forced to work while sick. They also reported that those who are too ill to work are sent to sanatoriums to await death. Prisoners are said to face torture, rape and extra-judicial killing.⁶²
- 3.10.7** Information on the number of women and juvenile prisoners is not available, although there are indications that in some prisons, women are kept in separate units from men. One NGO reported that political prisoners sent to punishment facilities are subject to torture without consideration of their gender. It is not known whether prisoners and detainees have reasonable access to visitors. In previous years, defectors have reported that Christian inmates were subjected to harsher punishment if their faith was made public. No information is available on whether inmates can submit complaints to judicial authorities without censorship or request investigation of inhumane conditions. There is no information available on whether

⁵⁷ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1c

⁵⁸ Freedom House: [Freedom in the World 2012 North Korea](#)

⁵⁹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1c

⁶⁰ Human Rights Watch: [World Report 2012 North Korea](#)

⁶¹ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1c

⁶² International Federation for Human Rights: [petition to UN HRC re North Korean Gulag System April 2012](#)

the government investigates or monitors prison and detention centre conditions. Neither the UN Special Rapporteur on the human rights situation in the DPRK nor the UN Special Rapporteur on Torture have been allowed to independently assess conditions inside the country.⁶³

3.10.8 The government does not permit inspection of prisons or detention camps by human rights monitors. There is no information on whether ombudsmen can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pre-trial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offence.⁶⁴

3.10.9 Conclusion: Conditions in prisons and detention facilities in North Korea are severe, life-threatening, and likely to reach the Article 3 threshold. Where case owners believe that an individual is likely to face imprisonment on return to North Korea they should also consider whether the applicant's actions means they fall to be excluded by virtue of Article 1F of the Refugee Convention. Where case owners consider that this may be the case they should contact a senior caseworker for further guidance. Where individual applicants are able to demonstrate real risk of imprisonment on return to North Korea and exclusion is not justified, a grant of Humanitarian Protection will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave). Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to North Korea the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should not imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where (a) they have family to return to; or (b) there are adequate reception and care arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in North Korea. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum

⁶³ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1c

⁶⁴ USSD Country Reports on Human Rights Practices: [Democratic Republic of Korea 2011](#) section 1c

Instructions.

4.4 Medical treatment

- 4.4.1** Applicants may claim they cannot return to North Korea due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** DPRK has an extensive, free medical care system. Medical personnel retain core primary healthcare skills but the quality of care and availability of resources has deteriorated markedly since the economic decline in the 1990s. Because of this, and persistent, chronic malnutrition, life expectancy has fallen sharply.⁶⁵
- 4.4.3** The Director-General of the World Health Organization, Margaret Chan, visited North Korea in April 2010 and found that the North Korean government had made some notable achievements in public health, but still faced numerous challenges. Dr. Chan stated that North Korea has some advantages over other developing countries. She says there is no shortage of doctors and nurses in North Korea. She says the country does not suffer from a so-called brain drain because health professionals do not emigrate. She notes North Korea has a very elaborate health infrastructure and has developed a network of primary health care physicians. Each one of these household doctors is responsible for the well being of approximately 130 families.⁶⁶
- 4.4.4** Dr Chan says the government has done a good job in areas such as immunization coverage, effective implementation of maternal, newborn and child health interventions, in providing effective tuberculosis treatment and in successfully reducing malaria cases. However the health system requires further strengthening in order to sustain the government policy of universal coverage and, of course, to improve the quality of services. More investments are required to upgrade infrastructure and equipment and to ensure adequate supplies of medicines and other commodities, and to address the correct skill mix of the health workforce.⁶⁷
- 4.4.5** Despite some improvements in the organisation of healthcare provision, the health of the general population, particularly children and young people, is seriously undermined by prolonged food shortages and chronic malnutrition. A statement from the UN Co-ordinator in Pyongyang, Mr Jerome Sauvage, reported that nearly a third of North Korean children under five years of age show signs of stunting and malnutrition. He also stated that although hospitals have plenty of nursing and medical staff, and the hospitals are spotlessly clean, equipment and medicine is in very short supply, or even non-existent. Only a few hospitals have power or running water. Mr Sauvage stated that many children are growing up without eating any protein, and that over a generation, such malnutrition has adverse effects on physical growth, cognitive capacity and the ability to learn.⁶⁸ The views expressed by the UN Coordinator were supported by a report issued by Amnesty International, based on interviews with North Korean defectors, and organisations and healthcare

⁶⁵ FCO, North Korea Country Profile May 2011 <http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/asia-oceania/north-korea?profile=all>

⁶⁶ VOA News WHO, Chief Notes N. Korean Achievements in Public Health Care, 30 April 2010 <http://www.voanews.com/english/news/asia/WHO-Chief-Notes-N-Korean-Achievements-in-Public-Health-Care-92541349.html>

⁶⁷ VOA News WHO, Chief Notes N. Korean Achievements in Public Health Care, 30 April 2010 <http://www.voanews.com/english/news/asia/WHO-Chief-Notes-N-Korean-Achievements-in-Public-Health-Care-92541349.html>

⁶⁸ The Huffington Post: [North Korea hunger: millions of children undernourished](#) 6 June 2012

professionals working with North Koreans.⁶⁹

- 4.4.6** The World Health Organisation's Mental Health Atlas 2005 noted that mental health is a part of primary health care system. Actual treatment of severe mental disorders is available at the primary level. Regular training of primary care professionals is carried out in the field of mental health. There are community care facilities for patients with mental disorders. The country has specific programmes for mental health for disaster affected population, elderly and children.⁷⁰
- 4.4.7** The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a case owner considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** There is no policy which precludes the enforced return to North Korea of failed asylum seekers who have no legal basis of stay in the United Kingdom. However, in dealing with individual North Korean cases consideration must always be given to the information in sections 2.4 on South Korea and 3.9 on illegal exit. In deciding the most appropriate removal destination, case owners should make clear findings as to the applicant's former place of residence/nationality. In particular, case owners should ascertain whether the applicant has previously been granted citizenship in South Korea.
- 5.2** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.3** North Korean nationals may return voluntarily to any region of North or South Korea at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Border Agency, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.
- 5.4** The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in North or South Korea. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. North Korean nationals wishing to avail themselves of this opportunity for assisted return to North or South Korea should be put in contact with Refugee Action Details

⁶⁹ Amnesty International: [The Crumbling State of Health Care in North Korea](#) July 2010

⁷⁰ World Health Organisation: [Country Cooperation Strategy](#)

can be found on Refugee Action's web site at:

www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx

Country Specific Litigation Team
Strategy & Intelligence Directorate
UK Border Agency
27 September 2012