

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

1. Please provide brief references as to the availability of refugee protection in South Korea.

RESPONSE

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A document located on the UNHCR website lists South Korea (the Republic of Korea) as having acceded to the 1951 Convention relating to the Status of Refugees, and to the 1967 Protocol Relating to the Status of Refugees, on 3 December 1992 (United Nations High Commissioner for Refugees 2007, ‘States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol’, UNHCR website, 1 November <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf> – Accessed 20 June 2008 – Attachment 1).

A US Department of State report on human rights practices in South Korea during 2007 indicated the government has legislated to establish a refugee protection system. The same report stated that “the government did not routinely grant refugee status or asylum”, but also noted that “in practice the government generally provided protection against refoulement”:

The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. However, the government did not routinely grant refugee status or asylum. In practice the government generally provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a

renewable, short-term permit, to those who met a broader definition of “refugee.” Between July 1994, when the government first accepted applications, and December 2007, the government received approximately 1,500 asylum applications (not including those from the DPRK); of those, the government recognized 64 applicants as refugees. During the year the government received 403 refugee applications (not including those from the DPRK). The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government continued to work with the UNHCR to bring its refugee processing up to international standards; however, a complex procedure and long delays in refugee status decision making continued to be problems.

According to a 2007 Human Rights Watch paper, the government’s commitment to refugee protection was weak. The few who were granted refugee status often were forced to “put their lives on hold” for years awaiting a final decision on their status. Those given permission to stay without refugee status were not allowed to work. While government financial assistance was almost nonexistent, civil society groups provided some forms of assistance.

Those few asylum seekers who were recognized as refugees were provided with basic documentation but frequently encountered problems in exercising their rights. In particular their protected status was not always recognized by all government departments, and refugees, like other foreigners, were frequently subjected to various forms of informal discrimination (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Republic of Korea*, 11 March, Section 2.d. – Attachment 2).

For the 2007 Human Rights Watch paper on refugee protection in South Korea mentioned in the US Department of State report above, see Attachment 3 (Adams, Brad 2007, ‘Korea needs to open its doors’, Human Rights Watch website <http://hrw.org/english/docs/2007/08/21/skorea16745.htm> – Accessed 20 June 2008 – Attachment 3).

A report published on 19 June 2008 by South Korean news agency *Yonhap* provides an update on the processing of refugee applications lodged in South Korea:

A growing number of asylum seekers from troubled Asian and African nations are fleeing to South Korea, attracted by its growing economic status and the fact that the U.N. head is Korean, officials said Thursday.

According to the Justice Ministry, the number of people who applied for refugee status in South Korea has reached 1,951 and will soon break the 2,000 mark. Last year, 717 people applied, compared to 37 in 2001.

...Of 1,951 asylum seekers, Korea granted refugee status to 76 people and allowed 55 others to stay on humanitarian grounds, as they did not necessarily fulfill refugee status requirements but were deemed vulnerable in their home country.

More than half of the applicants, or 1,228 people, are still waiting for government reviews, while 359 people have been rejected. The rest, 233 people, have withdrawn their applications.

Korea’s grant rate was near the median with 15.5 percent. A refugee’s chance of winning asylum is highest in the United States, which has a 37.3 percent grant rate. Britain’s rate is 17.1, while France’s is at 10.2 percent. Germany’s and Japan’s rates are 6.8 percent 6.2 percent, respectively, according to the ministry data.

Nepal was the biggest refugee producing country in Korea, with 374 applicants displaced by

the mounting conflict between the kingdom state and Maoist rebels. China came next with 302 people, mostly members of banned political groups. The rebellion turmoil in Myanmar produced 192 asylum seekers in Korea.

Displaced people from troubled African countries like Sudan and Cote d'Ivoire also increasingly turned to Korea instead of European countries. Still, few from Central or South America applied, as the United States and Canada are comparatively closer-by, the ministry said (Hyun, Kim 2008, 'S. Korea sees growing number of asylum seekers' *Yonhap News Agency*, 19 June – Attachment 4).

An article published by *Yonhap* in 2005 which referred to the case of a Jumma Buddhist from Bangladesh who applied for refugee status in South Korea. The article indicates that the man's application was initially refused by the South Korean Ministry of Justice, but that this decision was subsequently overturned on appeal to the Seoul Administration Court:

A Seoul court on Friday [19 August] overturned a decision by the Ministry of Justice that refused a Bangladeshi man refugee status in an unprecedented ruling that accepted a foreigner's appeal over a government decision. The Seoul Administration Court recognized the man, a migrant worker-turned activist against the Bangladeshi government, as a political refugee with "reasonable fear of persecution".

The man, whose name could not be revealed for safety reasons, came to South Korea in 1995 with an employment visa. He is a member of Bangladesh's indigenous Jumma Buddhist minority [as received] and was active with other members of his community in South Korea in campaigning to increase public awareness of the Bangladesh government's persecution of the Jumma minority.

The Justice Ministry granted 12 members of the Jumma community in South Korea who had illegally entered the country with refugee status but rejected his application, saying he did not initially enter South Korea with the purpose of escaping government persecution and thus could not be considered a political refugee. He filed an appeal with the administration court

The administration court overturned the ministry decision. "Even though the plaintiff did not enter to avoid government persecution, it seems there is the possibility of persecution if he is forcefully repatriated in a sense that he shared the activities with other Jumma. He became a political refugee while residing in the Republic of Korea," Judge Shin Dong-seung said in the decision ('South Korean court rules against government in Bangladeshi refugee case' 2005, *Yonhap News Agency*, 19 August (BBC Monitoring Service, 19 August 2005) – Attachment 5).

List of Sources Consulted

Internet Sources:

Search Engines

Google search engine <http://www.google.com/>

United Nations

UNHCR Refworld website <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

Reliefweb website <http://www.reliefweb.int/rw/dbc.nsf/doc100?OpenForm>

UNHCR website <http://www.unhcr.org/cgi-bin/texis/vtx/WRD>

Government Sites

Immigration and Refugee Board of Canada website http://www.irb-cisr.gc.ca/en/index_e.htm

Non-Government Organisations

Human Right Watch website <http://www.hrw.org/>

Amnesty International Website <http://www.amnesty.org/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. United Nations High Commissioner for Refugees 2007, 'States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol', UNHCR website, 1 November <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf> – Accessed 20 June 2008.
2. US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Republic of Korea*, 11 March, Section 2.d.
3. Adams, Brad 2007, 'Korea needs to open its doors', Human Rights Watch website <http://hrw.org/english/docs/2007/08/21/skorea16745.htm> – Accessed 20 June 2008.
4. Hyun, Kim 2008, 'S. Korea sees growing number of asylum seekers' *Yonhap News Agency*, 19 June. (FACTIVA)
5. South Korean court rules against government in Bangladeshi refugee case' 2005, *Yonhap News Agency*, 19 August (BBC Monitoring Service, 19 August 2005). (CISNET South Korea CX131807)