

FIDH – International Federation for Human Rights

TJWG – Transitional Justice Working Group

REPUBLIC OF KOREA (SOUTH KOREA)

Joint submission for the adoption of the List of Themes

Committee on the Elimination of Racial Discrimination (CERD)

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The International Federation for Human Rights (FIDH) is an international human rights NGO that unites 188 member organizations from 116 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).

The Transitional Justice Working Group (TJWG) is a human rights documentation NGO established in Seoul in 2014 that aims to develop the best practices to address mass human rights violations and to realize victim-centered approach and justice in societies that are making a transition from or have yet to make a transition from armed conflict or dictatorship.

This joint submission raises the issue of the South Korean government's treatment of North Korean escapees, which constitutes a form of discrimination based on descent and national origin under Article 1.1. of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Because the South Korean Constitution claims territorial sovereignty over the entirety of the Korean peninsula, including North Korea, South Korea considers those living in North Korea as its own citizens and extend protection to the North Koreans who escape from North Korea. As of January 2025, more than 34,000 North Korean escapees (i.e. those who have escaped from North Korea since the 1953 Korean War armistice agreement) have arrived in South Korea.

North Korean escapees face social discrimination and bias in South Korea in employment, education, and even marriage.

According to the 2024 Settlement Survey of North Korean Refugees in South Korea, the latest annual report by the Korea Hana Foundation (North Korean Refugees Foundation) published on 27 December 2024, the unemployment rate among North Korean escapees was 6.3%, more than double the national average of 3.0%. The average monthly wage of 2,616,000 won (approximately 1,828 USD) for North Korean escapees was 83.7% of the national average of 3,128,000 won (approximately 2,186 USD).

In addition, the Korea Hana Foundation's 2024 Social Integration Survey of North Korean Refugees in South Korea, also published on 27 December 2024, found that 16.3% of North Korean escapees had experienced discrimination or contempt in South Korean society. Among them, 66.7% cited their distinct speech, lifestyle, and attitude as the reason, while 45.6% cited the South Koreans' negative view of North Korean escapees, such as the perception that they represent an increased tax burden for South Korea.

According to the Unification Consciousness Survey 2024 by the Institute for Peace and Unification Studies, Seoul National University, 54.3% of South Koreans surveyed disapproved of North Korean escapees as marriage partners, 52.4% disapproved of them as local representatives, 44.6% disapproved of them as school teachers, and 34.5% disapproved of them as business partners.

The discrimination and the related human rights violations against North Korean escapees begin upon their arrival at the Joint Interrogation Center, which was renamed "Free World Center" in October 2021, run by the National Intelligence Service (NIS), South Korea's primary intelligence agency, under the direct jurisdiction of the country's President.

The escapees are placed under "temporary protection" at the Center for up to 90 days and this period can be extended by 30 days, if deemed necessary by the authorities. Although the government claims that the escapees are not detained against their will, they cannot secure South Korean nationality and state support unless they go through this process.

The "temporary protection" period is not stipulated in the North Korean Defectors Protection and Settlement Support Act, an act of the National Assembly. Instead, Article 7(5) of the Act delegates the details concerning "temporary protection" to a presidential decree. Article 12-3 of the Enforcement Decree of the North Korean Refugees Protection and Settlement Support Act, the said presidential decree, provides for the 90-day period and the 30-day extension. However, the government can increase the "temporary protection" period by amending the presidential decree. Such amendment does not require the approval of the National Assembly.

The interrogation of the escapees at the Center is considered an “administrative procedure” to ascertain the identity and the willingness to be protected by South Korea and not a “criminal procedure.”¹ The interrogation process is designed to screen individuals who may be North Korean spies and/or Chinese nationals posing as escapees to secure South Korean citizenship. Information gathered from the interrogation has been used to bring criminal charges against some escapees for espionage or other crimes.

Escapees who are detained at the Center for interrogation and interviews that can result in criminal prosecution are not brought promptly before a judge and cannot seek judicial review of the legality of their detention. They are also not entitled to legal counsel.

North Korean escapees are also exposed to the risk of forcible repatriation to North Korea. On 7 November 2019, the government repatriated two North Korean escapees, Woo Beom-seon and Kim Hyun-wook, accused by North Korea of committing a mutiny and murder aboard a North Korean fishing vessel five days after their arrival by sea on 2 November. The two escapees were blindfolded and escorted by a special police unit to the handover point at the inter-Korean border. The government justified the repatriation on the ground that the two escapees were heinous criminals and their stated desire to defect was “not genuine.” The fate and whereabouts of the two repatriated escapees remain unknown. In February 2023, state prosecutors belatedly indicted the top officials responsible for the repatriation for abuse of power, and their trial is still ongoing.

While Article 3 of the Refugee Act bans the forcible repatriation of refugees or asylum-seekers against their will, under South Korean law, North Korean escapees are not considered refugees or asylum-seekers because they are deemed to be South Korean citizens.

Questions to the government:

- What measures have been taken by the government to address economic and social discrimination against North Korean escapees?
- How is the denial of the rights of North Korean escapees under “temporary protection” to be provided legal counsel and to be brought before a judge to seek a judicial review of the legality of their detention in compliance with Articles 2, 5, and 6 of the ICERD?
- How are the deportation of North Korean escapees, and the lack of due process leading up to it, in compliance with South Korea’s obligations under Articles 2, 5, and 6 of the ICERD?
- What steps have been taken to codify the principle of *non-refoulement* for North Korean escapees in South Korean law?

¹ UN Committee against Torture, *Sixth periodic report submitted by the Republic of Korea under Article 19 of the Convention pursuant to the simplified reporting procedure, due in 2021* [Date received: 12 July 2021]; UN Doc. CAT/C/KOR/6, para. 50; <https://undocs.org/CAT/C/KOR/6>