

**THE NORTH KOREAN HUMAN RIGHTS ACT OF
2004: ISSUES AND IMPLICATIONS**

JOINT HEARING
BEFORE THE
SUBCOMMITTEE ON ASIA AND THE PACIFIC
AND THE
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN
RIGHTS AND INTERNATIONAL OPERATIONS
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THURSDAY, APRIL 28, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA AND THE PACIFIC, AND
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS
AND INTERNATIONAL OPERATIONS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittees met, pursuant to call, at 1:37 p.m. in room 2172, Rayburn House Office Building, Hon. James A. Leach (Chairman of the Subcommittee) presiding.

Mr. LEACH. The Subcommittee will come to order. On behalf of the Subcommittee I am please to convene this hearing jointly with Chairman Smith, a longstanding champion of human rights and refugee protection, and one of the forces behind the North Korea Human Rights Act. Mr. Smith will be with us shortly.

We greatly appreciate Assistant Secretary Dewey, Ambassador DeTrani, and Ms. Birkle making themselves available today, and we look forward to their testimony, and to our panel of NGO experts.

The record established during the past 3 years amply demonstrates the dire circumstances facing the people of North Korea. Inside that country they suffer at the hands of a totalitarian dynasty that permits no dissent and brutally curtails freedom of speech, press, religion and assembly. The many thousands of North Korea hiding outside of North Korea, particularly women and girls, are uniquely vulnerable and exploited, especially inside China.

Since the collapse of the centralized agricultural system in the 1990s, more than 2 million North Koreans are estimated to have died of starvation. Congressional concern about these crises culminated the enactment last October of the North Korean Human Rights Act of 2004, which is now U.S. Public Law 108-333.

We welcome the international attention these issues have garnered since the passage of the act. Most recently, 2 weeks ago in Geneva, the United Nations Commission on Human Rights passed its second resolution on North Korea in as many years. Although these issues did not figure prominently in public discourse a mere few years ago, it is no longer philosophically or morally plausible for any nation to remain silent in the face of the documented privations and deprivations being suffered today by the people of North Korea.

For the benefit of our friends overseas, I would like to reaffirm that the motivations for the North Korean Rights Act were and are

solely humanitarian, not geo-strategic. The law is not a pretext for hidden strategy to provoke North Korean collapse, or to seek collateral advantage in ongoing negotiations.

The promotion of human rights and refugee protections for North Koreans is not a partisan issue in the United States. It is embraced by Members with divergent views about how best to address the strategic challenges posed by North Korea. Put simply, while each of us as individuals may not be, the North Korean Rights Act is agnostic about regime change, but emphatic about behavior change. We genuinely hope for the opportunity to recognize improvements in the future.

I also want to emphasize that one of the primary aims of the act is humanitarian burden-sharing, particularly in terms of refugee assistance and resettlement. In recent weeks, South Korean officials have asked me whether the United States is serious about assisting in the resettlement of North Korean refugees. Comparing our past inaction to South Korean investment in resettling more than 6,000 North Koreans, I can understand their skepticism. But in light of the act, I trust that the consistent answer of U.S. officials confronted with similar questions must now be an emphatic "Yes." That decision has been made.

The issue at hand is the challenging question of how to give it effect. Because South Korean cooperation will be important to our own efforts to assist North Korean refugees, the United States cannot afford any misunderstandings regarding our desire to assist with these exigencies.

In conclusion, it must be understood that the Congress did not intend the North Korean Human Rights Act as a rhetorical exercise. The law was enacted to promote respect for human rights, transparency in the delivery of humanitarian aid, and protection for North Korean refugees. It granted considerable discretion to Executive Branch agencies in pursuing those ends.

Our task this afternoon is to discern how that discretion has been exercised to date, and what the prospects are for progress in the future. With that in mind, I look forward to the testimony of our witnesses.

At this point, do you want to go next, Chris? Let me turn to Chairman Smith, and then we will go to Mr. Faleomavaega.

[The prepared statement of Mr. Leach follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC

On behalf of the Committee, I am pleased to convene this hearing jointly with Chairman Smith, a longstanding champion of human rights and refugee protection, and one of the motive forces behind the North Korean Human Rights Act. We greatly appreciate Assistant Secretary Dewey, Ambassador DeTrani and Ms. Birkle making themselves available today. We look forward to their testimony and to our panel of NGO experts.

The record established during the past three years amply demonstrates the dire circumstances facing the people of North Korea. Inside that country, they suffer at the hands of a totalitarian dynasty that permits no dissent, and brutally curtails freedoms of speech, press, religion, and assembly. The many thousands of North Koreans hiding outside of North Korea—particularly women and girls—are uniquely vulnerable and exploited, especially inside China. Since the collapse of the centralized agricultural system in the 1990s, more than 2,000,000 North Koreans are estimated to have died of starvation. Congressional concern about these crises cul-

minated in the enactment last October of the North Korean Human Rights Act of 2004, which is now U.S. Public Law 108-333.

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For the benefit of our friends overseas, I would like to reaffirm that the motivations for the North Korean Human Rights Act were (and are) solely humanitarian, not geostrategic. The law is not a pretext for a hidden strategy to provoke North Korean collapse, or to seek collateral advantage in ongoing negotiations. The promotion of human rights and refugee protections for North Koreans is not a partisan issue in the United States. It is embraced by Members with divergent views about how best to address the strategic challenges posed by North Korea. Put simply, while each of us as individuals may not be, the North Korean Human Rights Act is agnostic about regime change, but emphatic about behavior change. We genuinely hope for the opportunity to recognize improvements in the future.

I also want to emphasize that one of the primary aims of the Act is humanitarian burden-sharing, particularly in terms of refugee assistance and resettlement. In recent weeks, South Korean officials have asked me whether the United States is serious about assisting in the resettlement of North Korean refugees. Comparing our past inaction to South Korea's investment in resettling more than 6,000 North Koreans, I can understand their skepticism. But in light of the Act, I trust that the consistent answer of U.S. officials confronted with similar questions must now be an emphatic "yes." That decision has been made; the issue at hand is the challenging question of how to give it effect. Because South Korean cooperation will be important to our own efforts to assist North Korean refugees, the United States cannot afford any misunderstandings regarding our desire to assist with those exigencies.

In conclusion, it must be understood that the Congress did not intend the North Korean Human Rights Act as a rhetorical exercise. The law was enacted to promote respect for human rights, transparency in the delivery of humanitarian aid, and protection for North Korean refugees. It granted considerable discretion to Executive Branch agencies in pursuing those ends. Our task this afternoon is to discern how that discretion has been exercised to date, and what the prospects are for progress in the future. With that in mind, I look forward to the testimony of our witnesses.

Mr. SMITH. Thank you very much, Mr. Chairman. I want to thank my good friend from Iowa, Chairman Jim Leach, for co-chairing today's hearing, and for his groundbreaking work in authoring the North Korean Human Rights Act of 2004.

I was proud to work with him on that legislation and I share his resolve to see that the new law results in real improvements in the lives of the men and women of North Korea. It is particularly fitting that we are meeting today on the first anniversary of the North Korean Freedom Day Rally, which took place on the National Mall.

Mr. Chairman, just over a decade ago I convened the inaugural hearing of the House Subcommittee on International Operations and Human Rights. The hearing was a review of the State Department's *Country Reports on Human Rights Practices of 1994*, with particular focus on North Korea, and we were joined then by Assistant Secretary John Shattuck.

At that meeting I raised the issue of North Korea, and noted that there were then little-known reports of North Korean abductions of foreign citizens and of a North Korean gulag that contained an estimated 150,000 political prisoners. Sadly, in many ways the issue has not changed except that we know far more about the conditions inside of North Korea than we did then, and the reality has turned out to be worse than what we had imagined at the time.

In this very room we heard and received tearful testimony from eye witnesses to some of the most barbaric abuses imaginable. We have heard of North Korean Christians who were tortured to death because they refused to renounce their faith. We have heard from survivors of the vast North Korean gulag where slave labor, torture, and perpetual starvation are the daily lot of some 200,000 political prisoners and family members.

We have heard about lethal chemical experimentation on camp inmates. We have heard about how pregnant prisoners are routinely subjected to forced abortion because the regime also have used their children as political criminals.

According to one eye witness, and I quote:

“If the mom would cry for help to save her child, it was an expression of dissatisfaction against the party, so such a woman would be dragged out of the building and put to public execution by firing squad.”

One cannot hear these things and remain silent in good conscious, and thankfully many nations have heard that cry and have joined their voices to protest this gross inhumanity, most recently at the 61st session of the U.N. Commission on Human Rights in Geneva led so ably by Rudy Boschwitz, the former Senator from Minnesota.

Sadly, the sufferings of Koreans in the North do not end at their own borders. Tens and hundreds of thousands of North Koreans seeking food and freedom have fled into China where they have been hunted and exploited. Women and girls fall prey to traffickers and are forced into prostitution or sold into so-called marriages that are frequently abuses. Some escape only to be captured and resold multiple times.

Contrary to the People’s Republic of China’s obligations as a signatory to the U.N. Refugee Convention, it hunts down North Koreans and forcibly returns them into the hands of North Korean authorities. Of those returnees, most are imprisoned, many are tortured and some are executed.

We have heard from former refugees who carry poison during their time in China because they would have preferred suicide to the conditions that they would have faced upon repatriation to North Korea.

I recite these details because I am not convinced that the Executive Branch fully understands the depth of congressional resolve behind the act, particularly with regard to refugee assistance and protection. The United States has by far the largest refugee resettlement in the world. It is also home to the largest Korean population in the world outside of Korean.

Many members of the highly successful Korean-American community came from the North around the time of the Korean War. Large networks of vibrant North Korean churches have expressed a desire to help their brothers and sisters who are seeing refugee.

In light of these facts, it is an utter travesty that, as reported by the State Department, and I quote:

“No North Koreans were resettled by the U.S. refugee admissions program during the past 5 years.”

As this Committee has stated in its official report on the act, the status quo is unacceptable. While the Congress understand the challenges posed in screening off Korean refugee applicants, those challenges should be regarded as just that, challenges to be addressed rather than reasons for inaction.

I look forward to the testimony from our distinguished witnesses, and yield back the balance of my time.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

I want to thank my good friend from Iowa, Jim Leach, for co-chairing today's joint hearing, and for his groundbreaking work in authoring the North Korean Human Rights Act of 2004. I was proud to work with him on that legislation, and I share his resolve to see that the new law results in real improvements in the lives of the men and women of North Korea. It is particularly fitting that we are meeting today, on the first anniversary of the North Korean Freedom Day rally that took place on the National Mall.

Just over a decade ago, I convened the inaugural hearing of the House Subcommittee on International Operations and Human Rights. The hearing was a review of the State Department Country Reports on Human Rights Practices for 1994, with Assistant Secretary John Shattuck. At that meeting I raised the issue of North Korea, and noted what were then little-known reports of North Korean abductions of foreign citizens, and of a North Korean gulag containing an estimated 150,000 political prisoners. In many ways, the issues haven't changed, except that we now know far more about conditions inside North Korea than we did then. And the reality has turned out to be worse than what we imagined at the time.

In this very room, we have received tearful testimony from eyewitnesses to some of the most barbaric abuses imaginable. We have heard of North Korean Christians who were tortured to death because they refused to renounce their faith. We have heard from survivors of the vast North Korean gulag, where slave labor, torture, and perpetual starvation are the daily lot of 200,000 political prisoners and family members. We have heard about lethal chemical experimentation on camp inmates. We have heard how pregnant prisoners are routinely subjected to forced abortion because the regime also views their children as political criminals. According to one witness, "If the mom would cry for help to save her child, it was an expression of dissatisfaction against the Party. So such a woman would be dragged out of the building and put to public execution by firing squad."

One cannot hear these things and remain silent in good conscience. Thankfully, many nations have joined their voices to protest this inhumanity, most recently at the 61st Session of the UN Commission on Human Rights in Geneva earlier this month.

Sadly, the sufferings of Koreans in the North do not end at their own borders. Tens and hundreds of thousands of North Koreans seeking food and freedom have fled into China, where they are hunted and exploited. Women and girls fall prey to traffickers, and are forced into prostitution, or sold into so-called "marriages" that are frequently abusive. Some escape only to be captured and re-sold multiple times. Contrary to China's obligations as a signatory to the UN Refugee Convention, it hunts down North Koreans and forcibly returns them into the hands of North Korean authorities. Of those returnees, most are imprisoned, many are tortured, and some are executed. We have heard from former refugees who carried poison during their time in China, because they would have preferred suicide to the conditions that they would have faced upon repatriation to North Korea.

I recite these details because I am not convinced that the Executive Branch fully understands the depth of Congressional resolve behind the Act, particularly with regard to refugee assistance and protection. The United States has by far the largest refugee resettlement program in the world. It is also home to the largest Korean population in the world, outside of Korea. Many members of the highly successful Korean American community came from the North around the time of the Korean War. Large networks of vibrant Korean American churches have expressed a desire to help their brothers and sisters who are seeking refuge. In light of these facts, it is an utter travesty that, as reported by the State Department, "no North Koreans were resettled by the U.S. refugee admissions program" during the past five years. As this Committee stated in its official Report on the Act, "the status quo is unac-

ceptable." While the Congress understands the challenges posed in screening North Korean refugee applicants, "those challenges should be regarded as just that: challenges to be addressed, rather than reasons for inaction."

I look forward to the testimony of our witnesses, and trust that this hearing is just the start of a continuing conversation with the Administration on these issues of common concern.

Mr. LEACH. Thank you, Chris.

Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I also commend our distinguished Chairman of the Subcommittee on Africa, Global Human Rights and International Operations, the gentleman from New Jersey, Mr. Smith. Thank you both, gentlemen, for your initiative and leadership in calling this hearing this afternoon. I am also happy to have our Ranking Member, my good friend from New Jersey, Mr. Payne, here with us.

Mr. Chairman, not taking in any way from the spirit of our hearing this afternoon, it is not very often that we have leaders from the Pacific all the way to Washington, DC, and I am very honored to recognize a gentleman and certainly a brother to me, the newly-elected President of French Polynesia who is in New York City, but is traveling here to meet with some of our officials here in Washington, DC, the Honorable Oscar Manutahi Temaru.

Mr. LEACH. Would you please stand? Thank you.

[Applause.]

Mr. FALEOMAVAEGA. So if there is any Member of the Committee that wishes to go to Bora Bora or to Tahiti, please see me, and we will be more than happy to make the accommodations.

I certainly want to commend my good friend from New Jersey and Mr. Smith without question. The years that I have served on this Committee, Mr. Chairman, not only as a true champion of human rights, but I am thinking that not only should we call this the North Korean Human Rights Act, I would like to propose that we have a West Papua, New Guinea Human Rights Act also under the same vein because of problems that we are faced with in that part of the world.

I am pleased, Mr. Chairman, that we are holding this joint hearing to discuss the implementation of the North Korean Human Rights Act of 2004. Human rights and humanitarian conditions faced by North Koreans are among the most dire in the world. Since the collapse of the centralized agricultural system in the 1990s, it is estimated that more than 2 million North Koreans have died of starvation. In 2002, a United Nations nutritional survey estimated that 40 percent of North Korean children are chronically malnourished.

Since 1995, the United States has provided more than 2 million metric tons of food assistance inside North Korea, primarily through the World Food Program. However, according to USAID, the North Korean Government's refusal to meet international standards for monitoring makes it difficult to determine how much food aid is reaching intended beneficiaries.

We are also concerned, Mr. Chairman, about North Koreans living outside of North Korea. Some are hiding in China, and contrary to its obligations under the U.N. Refugee Convention, China forcibly returns North Koreans to North Korea where they face impris-

onment and torture. Inside China, North Korean women and girls are vulnerable to trafficking and exploitation.

South Korea has accepted more than 4,000 North Koreans for resettlement, but North Koreans are complaining of social discrimination, and it may be that South Korea's welcoming mat is wearing thin. In response to these conditions, the 108th Congress passed the North Korean Human Rights Act of 2004, and that has been the subject of intense press interest, at least from the media.

The act directs the Secretary of State to facilitate the submission of United States refugee applications by North Koreans and this has been problematic.

The act also requires the State Department to report to Congress regarding certain aspects of the act. While State Department reporting has been helpful, it has also been incomplete or tardy, and I am also hopeful that in our discussions today we will be able to determine how we can better implement this historical important act; in other words, Mr. Chairman, how we could put more teeth in the act and make it really produce some good results?

I welcome our witnesses this afternoon and look forward to their testimony. Thank you, Mr. Chairman.

[The prepared statement of Mr. Faleomavaega follows:]

PREPARED STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVAEGA, A
REPRESENTATIVE IN CONGRESS FROM AMERICAN SAMOA

Mr. Chairman:

I am pleased that we are holding this joint hearing to discuss the implementation of the North Korean Human Rights Act of 2004. The human rights and humanitarian conditions faced by North Koreans are among the most dire in the world.

Since the collapse of the centralized agricultural system in the 1990s, it is estimated that more than 2 million North Koreans have died of starvation. A 2002 UN nutritional survey estimated that 40 percent of North Korean children are chronically malnourished.

Since 1995, the U.S. has provided more than 2 million metric tons of food assistance inside North Korea, primarily through the World Food Program. However, according to USAID, the North Korean government's refusal to meet international standards for monitoring "makes it difficult to determine how much food aid is reaching intended beneficiaries."

We are also concerned about North Koreans living outside of North Korea. Some are hiding in China and, contrary to its obligations under the UN Refugee Convention, China forcibly returns North Koreans to North Korea where they face imprisonment and torture. Inside China, North Korean women and girls are vulnerable to trafficking and exploitation.

South Korea has accepted more than 4,000 North Koreans for resettlement but North Koreans are complaining of social discrimination and it may be that South Korea's welcoming mat is wearing thin.

In response to these conditions, the 108th Congress passed the North Korean Human Rights Act of 2004, an Act that has been the subject of intense press interest. The Act directs the Secretary of the State to facilitate the submission of U.S. refugee applications by North Koreans and this has been problematic.

The Act also requires the State Department to report to Congress regarding certain aspects of the Act. While State Department reporting has been helpful, it has also been incomplete or tardy and I am hopeful that in our discussions today we will be able to determine how we can better implement this historical and important Act.

I welcome our witnesses and look forward to their testimony.

Mr. LEACH. Thank you, Mr. Faleomavaega.

Mr. Payne, do you wish to make a statement?

Mr. PAYNE. Thank you very much, Mr. Chairman, and let me also commend Chairmen Leach and Smith for calling this very important hearing on the situation in North Korea, and more specifi-

cally, following up on the humanitarian crisis following the passage of the North Korean Human Rights Act of 2004.

I was a proud sponsor of the bill, and thank both the Chairman and the Ranking Member Faleomavaega for their work on the issue over the years. He has been steadfast on issues dealing with Asia and he is a real addition to this Congress.

The humanitarian nightmare that the people of North Korea have endured over the years under Dictator Kim Jong-il is to be condemned. With a series of natural disasters in the mid-nineties, combined with the defunct economy of the country, life in North Korea became very, very difficult. According to the World Food Program (WFP), there are severe food shortages, as we have heard from my colleagues preceding me, and very strong deteriorating health situations, unsafe water, and horrible sanitary conditions.

Nearly 70 percent of the population of 23.3 million people are dependent on food distribution, and no country can continue to survive with that type of dependency. More WFP figures showed child malnutrition for children under the age of 7 has improved over the years, but it is still much too high.

In the latest survey carried out in 2002, 40 percent of children were stunted in their growth, 20 percent were under weight, and 8 percent were wasted.

The forced repatriation of North Koreans by the Chinese Government is simply wrong, as we have heard before, and it must stop. Refugees have a right to flee and to be absorbed at least in temporary protective status by the host country. China should respect its obligations under the U.N. Refugee Convention to protect, not turn away, refugees from North Korea, and must allow the U.N. High Commission, the High Commission for Refugees, into the country in order to do the proper evaluation and identification of refugees.

The region is in such a precarious state as it is believed that North Korea has one or two crude nuclear bombs and has reprocessed enough plutonium for more bombs. I think that it is key that we stay closely engaged and work with the Government of South Korea, and that we attempt to continue to have negotiations with North Korea, with the Chinese, Japanese and others in the region that are involved—and Russia—in the negotiations.

We must work to ensure the protection of refugees who flee their countries for mere survival, whether they come from North Korea, Darfur, Sudan, the Democratic Republic of Congo, Western Sahara or Haiti. They must be protected by the countries where they seek refuge. China must do better. However, we too in the United States must work on our wet foot/dry foot policy that favor Cuban refugees seeking asylum in the United States to come in, but penalizes and sends Haitians back to Haiti also then to be put in harm's way, and we hope that we can correct that in our own U.S. Government policy.

So I thank the Chairman and the Ranking Member for this hearing, and I look forward to the testimony of the witnesses.

[The prepared statement of Mr. Payne follows.]

PREPARED STATEMENT OF THE HONORABLE DONALD M. PAYNE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW JERSEY

I commend Chairmen Leach and Smith for calling this important hearing on the situation in North Korea and, more specifically, following up on the humanitarian crisis following the passage of the North Korea Human Rights Act of 2004.

I was a proud sponsor of the bill and thank both the Chairmen and Ranking Member Faleomavaega for their work on the issue over the years.

The humanitarian nightmare that the people of North Korea have endured over the years under dictator Kim Jong Il is to be condemned. With a series of natural disasters in the mid 90's combined with the defunct economy of the country, life in North Korea is very difficult.

According to the World Food Programme, there are severe food shortages, a deteriorating health situation, unsafe water and poor sanitation.

Nearly 70% of the population of 23.3 million are dependent on food distributions.

More WFP figures show child malnutrition for children under the age of seven has improved over the years but is still high.

In the latest survey, carried out in 2002, 40% of the children were stunted, 20% were underweight and 8% were wasted.

The forced repatriation of North Koreans by the Chinese government is simply wrong and must stop.

China should respect its obligations under the UN Refugee Convention to protect, not turn away refugees from North Korea and must allow the UN High Commissioner for refugees into the country in order to do the proper evaluation and identification of refugees.

The region is in such a precarious state as it is believed that North Korea has one or two crude nuclear bombs and has reprocessed enough plutonium for more bombs, I think it is key that we stay closely engaged and work closely with the government of South Korea.

We must work to ensure the protection of refugees who flee their countries for mere survival whether they be from North Korea, Darfur, Sudan, Democratic Republic of Congo, Western Sahara or Haiti must be protected by the countries where they seek refuge.

The U.S. has work to do in that regard. The Wet Foot/Dry Foot policy that favors Cuban refugee seekers and penalizes Haitians is shameful and wrong.

So I thank the chairmen and the ranking member for this hearing and look forward to the testimony of the witnesses.

Mr. LEACH. Thank you, Mr. Payne.

Does anyone else seek recognition? Mr. Chabot.

Mr. CHABOT. Thank you, Mr. Chairman. I will be very brief. I want to thank you for holding this hearing. I want to commend my colleagues for introducing the North Korean Human Rights Act of 2004.

It is incomprehensible what has been going on in North Korea for such a long time, the numbers of people that have been tortured and abused and murdered and starved, and unfortunately, the world press has really given this short shrift. It is never talked about in the world media. There are a few exceptions. *Nightline* did a story several nights a few years back.

I read a book a couple of years ago. I think *The Aquariums of Pyongyang* was the name of it, a young boy whose family was taken into one of the camps and just the horrors that went on there. And he escaped into China and ultimately got away, but the stories he tells in there are just almost incomprehensible to the average person, and I think it is a shame.

You know, there is the expression "out of sight, out of mind," and I think that is kind of what has happened here, and Kosovo is an example of something that the press went in and we saw it, and something was done to change that. Congo, on the other hand, was one where the press has not been in there, and so many lives were lost, and this is one of those instances where the press really has

not been able to. And to a considerable degree that is because Kim Jong-il and his father kept them out, and so it is by design. But I think the press and the world has a responsibility to get out what is actually happening in North Korea, and do something about it.

And China ought to be ashamed because they could have real influence on North Korea and what happens there, and they have done very little. They have done some, but not nearly enough, and I hold them especially accountable in what is happening in North Korea.

I just want to thank you, Mr. Chairman, for holding this hearing. I think this is very important. And you, Mr. Smith, who has been such a strong advocate for human rights for such a long time.

I know Curt Weldon. For example, I was on one of his groups that tried to get into North Korea a few years back, we did not make it in that time. We did go up to the DMZ, and he later on got in, but there are Members here who really do care about this issue a lot. But I hope China will take this seriously and do something about it because they are the one country that really could do something if they wanted to. Yield back.

Mr. LEACH. Thank you very much, Steve, for the thoughtful comment.

Yes, Mr. Tancredo.

Mr. TANCREDO. Yes, Mr. Chairman, and again, I will not take much time on this. I just wanted to, in a way, continue the discussion that Mr. Chabot brings up about responsibility of China in this whole thing.

It is, of course, incumbent upon us to do everything that we can do to try and resolve this situation in North Korea, to try to change it, and to extricate those people that in fact are able to be extricated, and brought to the United States under refugee status.

However, we have really no direct way to do that. We have to use all kinds of sometimes convoluted processes in order to accomplish those goals because we do not have a relationship with North Korea that allows us to do it. China does. China is in fact a country and a force in the region that could effect change in North Korea. Not only do they choose not to do that, but they have become part of the problem, of course, with sending people back, refugees that they know are going to be killed, and with mistreating the North Koreans who do come into China. So they are a co-conspirator, as far as I am concerned, in this whole thing.

And as a result of that and many other human rights abuses, I just want to mention, Mr. Chairman, that today I have introduced a resolution, a concurrent resolution that would express the sense of the Congress, and I believe Mr. Smith is a co-sponsor with me, express the sense of the Congress that we move the venue of the 2008 Olympic Games from the People's Republic of China until it makes some significant progress in ending these human rights abuses.

Thank you, sir.

Mr. LEACH. Does anyone else wish to be recognized at this time? Mr. Boozman? Mr. Wilson. Okay, thank you.

Well, at this point let me recognize our distinguished panel. The Honorable Arthur E. "Gene" Dewey is Assistant Secretary in the Bureau of Population, Refugees and Migration. In addition to his

service in the State Department, he served with the U.N. as the Assistant Secretary-General and as Deputy High Commissioner for Refugees. A graduate of West Point and Princeton, Mr. Dewey served two combat aviation terms in Vietnam.

The Honorable Joseph E. DeTrani serves with the United States Department of State as a U.S. Special Envoy for the Six-Party Talks. During his previous career with the CIA, he served as Executive Assistant to Director William Casey and as Director of European Operations, and as Director of Public Affairs, and Director of East Asia Operations, among other positions.

Ms. Gretchen A. Birkle is Assistant Principal Deputy Assistant Secretary in the Bureau of Democracy, Human Rights and Labor. Previously Ms. Birkle served as Deputy Director of the Eurasia Division of International Republican Institute, and on the legislative staff of Senator Spector of Pennsylvania.

We welcome each of you. And unless you have a different arrangement, I will begin in the order that I commented, but do you prefer another order? It is up to you.

Mr. DEWEY. Thank you, Mr. Chairman. If we could begin with East Asia and Pacific Bureau and—

Mr. LEACH. Fair enough.

Mr. DEWEY [continuing]. Ambassador DeTrani could lead off.

Mr. LEACH. Perfect. Ambassador DeTrani, you are very welcome, and we appreciate your good work, and we appreciate your presence.

And I might say, without objection all of your statements will be placed in the record, and if you would care to summarize it at any point, you are welcome to do that. Ambassador.

STATEMENT OF THE HONORABLE JOSEPH E. DETRANI, SPECIAL ENVOY FOR THE SIX-PARTY TALKS, U.S. DEPARTMENT OF STATE

Mr. DETRANI. Thank you. Mr. Chairman and Members of the Committee, thank you for inviting us here today to discuss the Department of State's efforts to implement the North Korean Human Rights Act of 2004.

As the Department's representative from the East Asian and Pacific Affairs Bureau, I will begin by offering an assessment of the regional context that we face in implementing the act. I will then turn to my colleagues, Assistant Secretary Arthur Dewey, and Acting Principal Deputy Assistant Secretary Gretchen Birkle, to discuss specific aspects of the act's requirements carried out by the Department's Bureaus of Population, Refugees and Migration, and of Democracy, Human Rights, and Labor.

The three Bureaus have worked closely together since President Bush signed the act into law in October 2004. Promotion of human rights has long been a cornerstone of United States foreign policy, and we have voiced in both bilateral and multilateral fora our concerns for the very serious human rights situation in North Korea.

Passage of the North Korean Human Rights Act was reinforced not only to the North Koreans but also to the countries in the region, that human rights must be a priority, even as we work to resolve the nuclear threat from the DPRK.

As you know, we face an array of challenges with North Korea. In particular, there is the issue of the DPRK's nuclear programs. The North has for decades been trying to develop nuclear weapons, and in a February 10th statement this year, they declared that they are a nuclear-weapons State. Eliminating that nuclear threat is one of the President's highest priorities.

As the Special Envoy for the Six-Party Talks, I have particular interest in and experience with our efforts to stop the development of North Korea's nuclear weapons program through the Six-Party Talks process. If North Korea expects to normalize its relations with the international community, it must dismantle its nuclear program as well as improve significantly its dire human rights situation.

I will work closely with the Special Envoy for Human Rights in North Korea to coordinate our efforts. The U.S. Government has made clear to the North Koreans in our discussions with them during the Six-Party Talks that human rights issues must be addressed as part of any eventual normalization process.

In the February and June 2004 Six-Party plenary sessions, then Assistant Secretary of State for East Asian and Pacific Affairs, James Kelly, reiterated United States concerns about North Korea's human rights violations. North Korea has since boycotted the talks, but I have consistently made this point to them in separate discussions.

The Department of State continues to monitor the status of human rights in North Korea, and has issued several reports that outline the most egregious violations. The reporting reveals a Government that consistently denies its citizens control over their own lives, and exacts harsh punishment on those who are perceived to threaten the regime.

North Korea remains one of the most repressive countries in the world, and stands in stark contrast to the many democratic governments elsewhere in Asia. According to the *2004 Country Report on Human Rights Practices*, North Korean citizens are denied basic human rights such as freedom of expression, religion, movement, assembly and association.

An estimated 150,000 to 200,000 persons are believed to be held in detention camps in remote areas for political reasons, and defectors report that many prisoners have been executed or died from torture, starvation, disease, exposure, or a combination of these causes. Some reports outline particular horrific violations such as forced abortions in detention centers and chemical testing on human subjects.

Effective implementation of the North Korea Human Rights Act requires close coordination with a number of governments, and we will continue to face challenges as we work with these governments. The issue of North Korean refugees is a delicate one for many of the governments involved. Therefore, we need to be discreet in order to ensure that existing exit routes for fleeing North Korean refugees remain intact as we work for more permanent solutions to the overall refugee plight.

The State Department recognizes that our efforts to date to implement the act are part of a long determined process. We cannot expect instant results. We continue to work closely with the Repub-

lic of Korea to establish cooperative measures to fully implement the act, and believe that such cooperation is essential to satisfy United States immigration requirements for accepting North Korean refugees for resettlement into the United States.

We are consulting closely with the ROK Government on this question and other areas of possible cooperation. We also continue to discuss this important issue with our counterparts in China, and in those countries in South East Asia, in addition to the discussions with the UNHCR.

I will now turn to Assistant Secretary Dewey, Assistant Secretary for the Population, Refugees and Migration.

Thank you, Mr. Chairman.

[The combined prepared statement of Mr. DeTrani, Mr. Dewey and Ms. Birkle follows the testimony of Ms. Birkle.]

Mr. LEACH. Secretary Dewey.

**STATEMENT OF THE HONORABLE ARTHUR E. "GENE" DEWEY,
ASSISTANT SECRETARY, BUREAU OF POPULATION, REFUGEEES,
AND MIGRATION, U.S. DEPARTMENT OF STATE**

Mr. DEWEY. Thank you, Mr. Chairman. I would also like to summarize my statement for the record.

Mr. Chairman, Members of the Committee, I should start by explaining what the State Department's Bureau of Population, Refugees and Migration does and how we fit into the North Korea picture.

The Bureau's mission is to provide protection, assistance and sustainable solutions for nearly 10 million refugees, and countless other victims of conflict around the globe. In fiscal year 2004, we provided over \$607 million in overseas humanitarian assistance, and admitted nearly 53,000 refugees to the United States, more than all the other nine refugee-receiving countries combined.

To achieve operational productivity on behalf of the victims, and to achieve burden-sharing productivity on behalf of the American taxpayer, we act principally through the multilateral system, principally through the U.N. High Commissioner for Refugees, and other U.N. and international multilateral humanitarian organizations.

Such programs help keep humanity at the front of the national agenda, and demonstrate to the world the true character and concerns of the American people.

Out of all the refugee populations we assist, the North Korean population is unique and poses unique challenges for us. In the first place, our ability to access them is extremely limited. In the second place, once we can access them, then we must find ways of determining precisely who they are so as to address serious security concerns that come into play when admitting nationals from a State that sponsors terrorism.

I would like to note how we are addressing these two problems in order to implement the North Korean Human Rights Act.

The United States consistently, at high levels and at nearly every meeting at every level, continues to urge the Chinese Government to adhere to its international obligations as a party to the 1951 Refugee Convention, and its 1967 protocol. Adhering to these obligations would give access to North Koreans and give UNHCR

a chance to determine whether these North Koreans qualify for refugee protection.

I, myself, have raised this issue on two visits to Beijing over a year before the passage of the North Korean Human Rights Act, that is, in August 2003, and then in November 2004. Just 2 weeks after the act was passed, I was in Beijing talking to the Chinese about the obstacles to access which they impose.

The State Department continues to fund the efforts of the U.N. High Commissioner for Refugees to obtain access to, protection of, and solutions for North Koreans. Since UNHCR is being denied the opportunity to determine the status of North Koreans in China, there is the strong possibility that legitimate refugees are being returned involuntarily to persecution. This lack of access and pushbacks to North Korea constitute violations of four central articles of the Refugee Convention.

Last year nearly 2,000 North Koreans arrived in South Korea. While some other countries in Asia have been willing to allow for the discrete transit of North Koreans to Seoul through their territories, none has welcomed North Koreans for permanent resettlement. Governments hosting North Korean refugees, particularly the PRC and others in Southeast Asia, would oppose direct United States-funded humanitarian assistance and refugee admissions programs for North Koreans on their territories.

We believe that the primary reason for this reluctance is a fear of creating a magnet effect that would draw more visible numbers of North Koreans to their territories. In addition, some of these governments have relationships with Pyongyang that they are unwilling to put at risk.

As we implement the act, we are seeing evidence that North Koreans and some of their advocates may have unrealistic expectations of our ability to assist them directly. We do not want to jeopardize anyone's situation either by upsetting discrete transit that now exists, or raising false hopes about what the United States is able to do to assuage the plight of North Korean protection seekers.

In many foreign countries, we face serious constraints on our ability to operate. Moreover, in certain states in the region, direct U.S. Government involvement with North Koreans could reveal their locations and increase their vulnerability, so it brings up the principle of "do no harm" as we continue to press on the implementation of this act.

The U.S. engagement on specific cases can introduce also a geopolitical dynamic that could jeopardize host country help in other needy cases. In other words, the U.S. Government profile is a different profile than having the direct contact with the UNHCR in terms of those states that do have relationships with North Korea.

We have issued information on our Web site to answer frequently asked questions about our implementation of the act, and we look forward to answering your questions today to address any misunderstandings about what we can do and what we are trying to do.

The Departments of State and Homeland Security are reviewing ways to gain access to North Koreans, to consider some North Korean refugees for resettlement in the United States in a workable

way that does not heighten their vulnerability or threaten our security were we to admit the wrong person.

We are cognizant of press reports noting that criminals and spies have posed as North Korean refugees and were resettled in the ROK. As was stated in our February report, the nature of the North Korean regime denies the U.S. Government ready access to information on individual North Koreans.

The key to a successful resettlement program in the United States would be a reliable mechanism to enable U.S. agencies to complete required security background checks; that is, the security advisory opinions that are required for the Department of Homeland Security to admit refugees into the United States.

As stated in the House International Relations Committee report 108-478, and I quote:

“Security requirements may present natural limits to the number and pace of North Korean refugee admissions into the United States.”

Continued consultation with governments in the region have started. We sent a team out from the State Department and the Department of Homeland Security for those consultations. We will go back for more consultations in the very near future, and consultations with the Office of the High Commissioner for Refugees. Those are essential to developing these viable mechanisms to help facilitate applications of those eligible North Korean refugees seeking to come to the United States.

The North Korean Human Rights Act provides a welcome impetus to pursue these discussions.

I would now like to introduce the Acting Principal Deputy Assistant Secretary Gretchen Birkle to discuss the human rights situation in North Korea.

[The combined prepared statement of Mr. DeTrani, Mr. Dewey and Ms. Birkle follows the testimony of Ms. Birkle.]

Mr. LEACH. Thank you, Secretary Dewey.
Secretary Birkle, please.

STATEMENT OF MS. GRETCHEN A. BIRKLE, ACTING PRINCIPAL DEPUTY ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Ms. BIRKLE. Thank you, Mr. Chairman, and Members of the Committee. Thank you for inviting us here today to discuss the human rights and humanitarian conditions facing North Koreans and the implementation of the North Korean Human Rights Act.

As Acting Principal Deputy Assistant Secretary of the Bureau of Democracy, Human Rights and Labor, I would like to report on the specific activities carried out to date by my Bureau to implement the act, and to underscore our longstanding commitment to the promotion of human rights in North Korea.

We share congressional concern about the deplorable human rights situation in North Korea, arguably the worst in the world today. The United States, under the leadership of President Bush and Congress, has made promoting freedom the bedrock of foreign policy, and we hope that the appointment of a Special Envoy on

Human Rights in North Korea will greatly enhance our ongoing efforts to address the plight of the citizens of North Korea.

The Department has made extensive preparations for the appointment of a Special Envoy, and a Special Envoy will be appointed shortly. The Secretary of State has determined that the Special Envoy will be located in my Bureau, the Bureau of Democracy, Human Rights and Labor. Office space, office budget, and personnel slots have already been allocated.

In the meantime, we continue to raise awareness of the severity of North Korean human rights abuses and to humanitarian issues with the international community, both in multilateral and bilateral fora. We regularly meet with nongovernmental organizations and other concerned parties on North Korean issues, and will continue our ongoing efforts to shine a spotlight on the serious human rights problems in North Korea.

In particular, the Department has recently undertaken the following activities: Administering a grant to Freedom House for North Korean human rights conferences; administering a grant to the National Endowment for Democracy to improve monitoring and reporting on North Korean human rights by South Korean-based NGOs; and co-sponsoring a U.N. Commission on Human Rights Resolution on North Korea.

As you know, the Consolidated Appropriation Act of fiscal year 2005 appropriated \$2 million for a grant to conduct an international conference on human rights situation in North Korea. The manager's statement indicated that the grant should be administered by Freedom House.

The Bureau expedited the processing of this grant and Freedom House developed plans for a timely synchronized international advocacy campaign dedicated to pressuring the North Korean regime to end its abuses. Freedom House will hold three conferences in 2005 and early 2006, the first in Washington, the second in Europe, and the third and final in Seoul, to internationalize the North Korean human rights situation.

Each conference will feature the testimony of victims of the North Korean regime, and high profile figures will be invited to address the conferences. Freedom House will complement the conferences with additional smaller, more targeted advocacy efforts.

In addition, the Bureau provided funding since 2001 to the National Endowment for Democracy (NED) to improve and expand monitoring and reporting of the human rights situation in North Korea by NGOs based in South Korea. For fiscal year 2004, DRL provided and added \$350,000 toward this effort.

In awarding subgrants to South Korean NGOs, NED gave priority to organizations conducting cutting-edge, in-depth research, and to actual conditions inside North Korea, and producing professional, credible reports.

At the 2005 session of the U.N. Commission on Human Rights, the United States co-sponsored for the third time a resolution condemning the North Korean regime's deplorable human rights record. The resolution called on the North Korean Government to fulfill its obligations under human rights instruments to which it is a party, such as the International Covenant on Civil and Political Rights.

Last year's resolution led to the appointment of a U.N. Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea. To date, however, the regime has now allowed the Special Rapporteur to enter North Korea.

We again urge the regime to take advantage of this opportunity to cooperate with the international community on critical human rights issues.

The resolution also called for free access to the country for humanitarian organizations to monitor the distribution of food and other aid. As President Bush noted when he signed into law the North Korean Human Rights Act of 2004, North Korea remains one of the most oppressive countries in the world and stands in dark contrast to democratic governments elsewhere in Asia.

We will continue to work toward the day when the long-suffering people of North Korea will enjoy the basic rights and freedoms that are the true foundation of prosperity and strength in the world community, and we expect that the forthcoming appointment of a Special Envoy on Human Rights in North Korea will greatly enhance our efforts.

I appreciate your time and attention to these issues which we all agree must be resolved. The Department strongly supports the North Korean Human Rights Act's objectives. We welcome your comments, questions and suggestions.

[The prepared statement of Mr. DeTrani, Mr. Dewey and Ms. Birkle follows:]

PREPARED STATEMENT OF THE HONORABLE JOSEPH E. DETRANI, SPECIAL ENVOY FOR THE SIX-PARTY TALKS, U.S. DEPARTMENT OF STATE; THE HONORABLE ARTHUR E. "GENE" DEWEY, ASSISTANT SECRETARY, BUREAU OF POPULATION, REFUGEES, AND MIGRATION, U.S. DEPARTMENT OF STATE; AND MS. GRETCHEN A. BIRKLE, ACTING PRINCIPAL DEPUTY ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Mr. Chairman and Members of the Committee, thank you for inviting us here today to discuss the Department of State's efforts to implement the North Korean Human Rights Act of 2004. As the Department's representative from the East Asian and Pacific Affairs Bureau, I will begin by offering an assessment of the regional context that we face in implementing the Act. I will then turn to my colleagues Assistant Secretary Arthur Dewey and Acting Principal Deputy Assistant Secretary Gretchen Birkle to discuss specific aspects of the Act's requirements carried out by the Department's Bureaus of Population, Refugees and Migration (PRM) and of Democracy, Human Rights and Labor (DRL). The three bureaus have worked closely together since President Bush signed the Act into law in October 2004.

Promotion of human rights has long been a cornerstone of U.S. foreign policy, and we have voiced in both bilateral and multilateral fora our concerns for the very serious human rights situation in North Korea. Passage of the North Korea Human Rights Act has reinforced not only to the North Koreans but also to the countries in the region that human rights must be a priority even as we work to resolve the nuclear threat from the DPRK.

As you know, we face an array of challenges with North Korea. In particular, there is the issue of the DPRK's nuclear programs. The North has for decades been trying to develop nuclear weapons. In a February 10 statement, they declared that they are a nuclear weapons state. Eliminating that nuclear threat is one of the President's highest priorities. As the Special Envoy for the Six-Party Talks, I have a particular interest in, and experience with, our efforts to stop the development of North Korea's nuclear weapons program through the Six-Party Talks process. If North Korea expects to normalize its relations with the international community, it must dismantle its nuclear programs as well as improve significantly its dire human rights situation.

I will work closely with the Special Envoy for Human Rights in North Korea to coordinate our efforts. The U.S. government has made clear to the North Koreans in our discussions with them during the Six-Party Talks that human rights issues

must be addressed as part of any eventual normalization process. In the February and June 2004 Six-Party Plenaries, then-Assistant Secretary of State for East Asian and Pacific Affairs James Kelly reiterated U.S. concerns about North Korea's human rights violations. North Korea has since boycotted the Talks, but I have consistently made this point to them in separate discussions.

The Department of State continues to monitor the status of human rights in North Korea, and has issued several reports that outline the most egregious violations. The reporting reveals a government that consistently denies its citizens control over their own lives, and exacts harsh punishment on those who are perceived to threaten the regime. North Korea remains one of the most repressive countries in the world and stands in stark contrast to the many democratic governments elsewhere in Asia. According to the 2004 North Korea Country Report on Human Rights Practices, citizens are denied basic human rights such as freedom of expression, religion, movement, and assembly and association. The government essentially controls all information; there is no freedom of press and heavy censorship of all artistic and academic works.

An estimated 150,000–200,000 persons are believed to be held in detention camps in remote areas for political reasons, and defectors report that many prisoners have been executed or have died from torture, starvation, disease, exposure, or a combination of these causes. Some reports outline particularly horrific violations, such as forced abortions in detention centers and chemical testing on human subjects.

Conditions can be harsh for those North Koreans who leave the DPRK as well. We estimate that 30,000–50,000 North Koreans currently live in China; some NGOs claim that the number could be as high as 300,000. Many of these North Koreans travel back and forth over the border, working in China to bring supplies back to North Korea, or buying goods to sell in North Korea. There have been credible reports of women being trafficked into northeastern China as brides or to work in sex trades.

If repatriated to the DPRK, North Koreans face punishment, as provided for in the North Korean Penal Code. According to reports, some returnees avoid penalty or are granted lenient treatment in exchange for bribes to local security officials, but others can face punishment ranging from a few months to years of "labor correction" to execution. Some sources contend that the harshest treatment is reserved for those who have had extensive contact with Christian missionaries in China, those who have contacted South Koreans, or attempted to defect to South Korea. Asylum-seekers trying to escape North Korea have been known take dangerous routes through China and to other countries in the region. A movie shown today in this building, entitled "Seoul Train," depicts this perilous journey.

Effective implementation of the NKHRA requires close coordination with a number of governments, and we do and will continue to face challenges as we work with these governments. The issue of North Korean refugees is a delicate one for many of the governments involved. Therefore, we need to be discreet in order to ensure that existing exit routes for fleeing North Korean refugees remain intact as we work for more permanent solutions to the overall refugee plight. The State Department recognizes that our efforts to date to implement the Act are part of a long, determined process. We cannot expect instantaneous results.

We continue to work closely with the Republic of Korea to establish cooperative measures to fully implement the Act, and believe that such cooperation is essential to satisfy U.S. immigration requirements for accepting North Korean refugees for resettlement in the United States. We are consulting closely with the ROKG on this question and other areas of possible cooperation. The issue of North Korean refugees is a complex one for the government of the Republic of Korea, involving constitutional questions and relations with their northern neighbor and China. The ROK Government has worked hard to integrate North Korean refugees accepted by Seoul for resettlement and we can learn much from their experience.

The position of many Southeast Asian governments on North Korean refugees also presents sensitive political challenges. Only three countries in Southeast Asia are party to the 1951 Refugee Convention or its 1967 Protocol: Cambodia, East Timor and the Philippines. Further, many of the countries in Southeast Asia have diplomatic relations with North Korea and are reluctant to cooperate publicly with the United States on an Act that Pyongyang has labeled as "hostile" to its regime. A survey of regional U.S. diplomatic posts in Northeast and Southeast Asia found that governments would likely be reluctant to permit U.S. refugee admissions processing on their territory at this time. However, some of those same governments have been willing to cooperate informally with the ROK, the United States and UNHCR to protect North Korean refugees, on a case-by-case basis. We will continue to work closely with all of the region's governments and UNHCR in seeking better cooperation.

I will now turn to Arthur Dewey, Assistant Secretary for the Bureau of Population, Refugees, and Migration.

PRM Portion—Delivered by A/S Dewey

Mr. Chairman and members of the committee, thank you for this opportunity. In my statement I would like to follow Ambassador DeTrani's statements on the conditions facing North Korean refugees and recount our efforts to implement the refugee-related aspects of the North Korean Human Rights Act of 2004.

I should start by explaining what the State Department's Bureau for Population, Refugees and Migration does. The Bureau's mission is to provide protection, assistance, and sustainable solutions for nearly 10 million refugees, and countless other victims of conflict around the globe. In FY 2004, we provided over \$607 million in overseas humanitarian assistance and admitted nearly 53,000 refugees to the United States. To achieve operational productivity on behalf of the victims and burden sharing productivity on behalf of the American taxpayer, we act through the UN High Commissioner for Refugees and other UN and international multilateral humanitarian organizations. Such programs help to show the world the true character of the American people while promoting freedom and stability.

Out of all the refugee populations we assist, this North Korean population's situation has posed unique challenges for us. In the first place, our ability to access them is extremely limited. In the second place, once we can access them we must address the serious security concerns that come into play when admitting nationals from a state that sponsors terrorism. I would like to structure my remaining comments around how we are addressing these two problems in order to implement the North Korean Human Rights Act.

The Act has two primary provisions relating to North Korean refugees. First, it calls on the State Department to facilitate the submission of applications by North Koreans seeking protection as refugees. Second, it authorizes spending for humanitarian assistance for North Koreans outside of North Korea.

Most North Koreans outside of North Korea live in China near the PRC-DPRK border. We estimate there to be between 30,000 and 50,000 North Koreans in China today, and some NGOs claim that number could be as high as 300,000. The PRC maintains that the North Koreans who reach its territory are economic or illegal migrants who have no legitimate claim to refugee status. The PRC has an agreement with DPRK to return individuals who illegally cross the border. Just last year, NGOs reported that PRC authorities detained and forcibly returned several thousand North Koreans to North Korea. Reports of their involuntary return are a matter of grave concern, as these returnees are almost always imprisoned and often face serious abuses, including the possibility of torture and execution.

We believe that working with multilateral humanitarian organizations is an asset to our efforts to address the plight of North Korean refugees. The State Department continues to fund UNHCR's efforts to improve access to, protection of, and solutions for North Koreans. The United States consistently and at high levels continues to urge the PRC to adhere to its international obligations as a party to the 1951 Refugee Convention and its 1967 Protocol by giving UNHCR a chance to determine whether these North Koreans qualify for refugee protection. I myself have raised this issue on two visits to Beijing in August 2003 and November 2004. Since UNHCR is being denied the opportunity to determine the status of North Koreans in China, and the possibility exists that legitimate refugees are being returned involuntarily to persecution, the PRC's treaty obligations are being violated.

Last year, nearly two thousand North Koreans arrived in the ROK. While some countries in Asia have been willing to allow for the discreet transit of North Koreans to Seoul through their territories, none has welcomed North Koreans for permanent resettlement. Governments hosting North Korean refugees, particularly the PRC and others in Southeast Asia, would oppose direct, U.S.-funded humanitarian assistance and refugee admissions programs for North Koreans on their territories. We believe that the primary reason for this reluctance is a fear of creating a magnet effect that would draw other North Koreans to their territories. In addition, some of these governments have relationships with Pyongyang that they are unwilling to put at risk.

As we implement the Act, we are seeing evidence that North Koreans and some of their advocates may have unrealistic expectations of our ability to assist them directly. We do not want to jeopardize anyone's situation, by raising false hopes about what the United States is able to do to assuage the plight of North Korean protection seekers. In many foreign countries, we face serious constraints on our ability to operate. Moreover, in certain states in the region, direct U.S. Government involvement with North Koreans could reveal their locations and increase their vulnerability. We have issued information on our website to answer frequently asked

questions about our implementation of the Act and we look forward to answering your questions today to address this confusion.

The Departments of State and Homeland Security are reviewing ways to gain access to North Koreans to consider some North Korean refugees for resettlement in the United States in a secure way that does not heighten their vulnerability. We are cognizant of press reports noting that criminals, spies and Chinese citizens of Korean ethnicity have posed as North Korean refugees and were resettled in the ROK. As was stated in our February report, the nature of the North Korean regime denies the U.S. government ready access to information on individual North Koreans. Key to a successful resettlement program would be a reliable mechanism to enable U.S. agencies to complete required security background checks on North Korean applicants. Consulting with other governments in the region is essential to developing a viable mechanism to help facilitate applications of those eligible North Korean refugees seeking to come to the United States. We will continue to pursue these discussions as we go forward. UNHCR's role in the refugee status determinations will remain important. As stated in the House International Relations Committee Report 108-478, "security requirements may present natural limits to the number and pace of North Korean refugee admissions into the United States."

DRL portion—Delivered by Acting P/DAS Gretchen Birkle

Mr. Chairman and Members of the Committee, thank you for inviting us here today to discuss the human rights and humanitarian conditions facing North Koreans and the implementation of the North Korean Human Rights Act. As Acting Principal Deputy Assistant Secretary of the Bureau of Democracy, Human Rights and Labor, I would like to report on the specific activities carried out to date by my bureau to implement the Act and to underscore our longstanding commitment to the promotion of human rights and democracy in North Korea.

We share Congressional concern about the deplorable human rights situation in North Korea, arguably the worst in the world today. The United States, under the leadership of President Bush and Congress, has made promoting freedom the bedrock of foreign policy, and we hope that the appointment of a Special Envoy on Human Rights in North Korea will greatly enhance our ongoing efforts to address the plight of the citizens of North Korea.

The Department has made extensive preparations for the appointment of a Special Envoy on Human Rights in North Korea, and a Special Envoy will be appointed shortly. The Secretary of State has determined that the Special Envoy will be located in the Bureau of Democracy, Human Rights and Labor. Office space, an office budget and personnel slots have been allocated.

In the meantime, we continue to raise awareness of the severity of North Korea's human rights abuses and humanitarian issues with the international community, in both multilateral and bilateral fora. We regularly meet with non-governmental organizations and other concerned parties on North Korean issues, and will continue our ongoing efforts to shine a spotlight on the serious human rights problems in North Korea.

In particular, the Department recently has undertaken the following activities: administering a grant to Freedom House for North Korean human rights conferences, administering a grant to the National Endowment for Democracy to improve monitoring and reporting on North Korean human rights by South Korea-based NGOs, and co-sponsoring a UN Commission on Human Rights resolution on North Korea.

As you know, the Consolidated Appropriation Act FY05 appropriated \$2 million for a grant to conduct an international conference on the human rights situation in North Korea. The Manager's Statement indicates that the grant should be administered by Freedom House.

The Bureau of Democracy, Human Rights and Labor expedited the processing of this grant, and Freedom House developed plans for a timely, synchronized international advocacy campaign dedicated to pressuring the North Korean government to end its abuses. Freedom House will hold three conferences in 2005 and early 2006—the first in Washington, the second in Europe, and the third and final in Seoul—to internationalize the North Korean human rights issue. Each conference will feature the testimony of victims of the North Korean regime and high-profile figures will be invited to address the conferences. Freedom House will complement the conferences with additional smaller, more targeted advocacy efforts.

In addition, the Bureau of Democracy, Human Rights and Labor has provided funding since 2001 to the National Endowment for Democracy (NED) to improve and expand monitoring and reporting on the human rights situation in North Korea by NGOs based in South Korea. For FY04, DRL provided NED \$350,000 toward this effort. In awarding sub-grants to South Korean NGOs, NED gave priority to organi-

zations conducting cutting-edge, in-depth research into actual conditions inside North Korea and producing professional, credible reports.

At the 2005 session of the UN Commission on Human Rights, the United States co-sponsored for the third time a resolution condemning the North Korean regime's deplorable human rights record. The resolution called on the North Korean Government to fulfill its obligations under the human rights instruments to which it is a party, such as the International Covenant on Civil and Political Rights. Last year's resolution led to the appointment of a U.N. Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea. To date, however, the regime has not allowed the Special Rapporteur to enter North Korea. We again urged the regime to take advantage of this opportunity to cooperate with the international community on critical human rights issues. The resolution also called for free access to the country for humanitarian organizations to monitor the distribution of food and other aid.

As President Bush noted when he signed into the law the North Korean Human Rights Act of 2004, North Korea remains one of the most repressive countries in the world and stands in stark contrast to democratic governments elsewhere in Asia. We will continue to work toward the day when the long-suffering people of North Korea will enjoy the basic rights and freedoms that are the true foundation of prosperity and strength in the world community, and we expect that the forthcoming appointment of a Special Envoy on Human Rights in North Korea will greatly enhance our efforts.

I appreciate your time and attention to these issues, which we all agree must be resolved. The Department strongly supports the North Korean Human Rights Act's objectives. We welcome your questions, comments and suggestions.

Mr. LEACH. Thank you all very much. I appreciate your statement, Secretary Birkle, that the envoy will be appointed in the near future.

Ms. BIRKLE. Yes, sir.

Mr. LEACH. Which on a congressional time period is a little belated. The law of the United States says they were to be—there was an appointment to be done by April 15, but this is government time. Soon is appreciated.

Let me first ask you, Secretary Dewey: What is the Administration doing to assist trafficking victims, and have you negotiated or spoken with the Government of China about a different circumstance for trafficking victims versus other kinds of refugees? Is there anything we are doing especially for this class of women and girls?

Mr. DEWEY. Yes, Mr. Chairman, we have discussed these victims with the Government of China. We have also discussed with the other governments in the region the problems of victims who are trafficked, and looking at areas where we can help them. This would be, I think, one of the building blocks for expenditures of the funds which have been authorized under the act.

So trafficking is going to continue to be an important part of our discussions with all the countries in the region.

The dangers that surround the well-meaning persons who encourage people to jump into Embassies and the Consulates is of particular concern, and we discussed that with China in terms of the steady state which encourages that kind of risk-taking, and that kind of unscrupulous activity on the part of some traffickers. It is intolerable and we have to change that steady state, and there are things that China can do to change that steady state, so this is central to our discussions particularly with China.

Mr. LEACH. Thank you. Let me ask Ambassador DeTrani, not all subjects are relevant to all conferences, but do you think it is particularly appropriate or inappropriate place to raise the refugee issue in the Six-Party context?

Mr. DETRANI. No, absolutely, Mr. Chairman, we do raise that. We make it very clear or we have made it very clear and we continue to make it very clear to the DPRK representatives at the Six-Party Talks that human rights issues, the whole question of human rights in North Korea, are central to the normalization process, and we would need to not only enter into a very meaningful dialogue with them, but we would need transparency into this issue, a process that lends itself to resolution of the issue with benchmarks, et cetera, as we move toward the normalization process.

So yes, Mr. Chairman, we have brought this up in our Six-Party Talks.

Mr. LEACH. I appreciate that, Ambassador.

One final question from me, and that goes to Secretary Dewey. You have indicated that there are preliminary indications that countries in the region do not particularly want to cooperate with the United States on the refugee resettlement issue. Why is that?

Mr. DEWEY. I think, Mr. Chairman, there is a reluctance either for the United States to set up a processing facility in their countries or to set up a humanitarian assistance program because of the visibility it attracts. The fact that there is some discreet activity which is helpful to those that need to escape going on, and they do not want to jeopardize that, nor do we want to do any harm in that respect.

But I think there is a sensitivity associated with their relationship with North Korea, with Pyongyang, which is intensified by the appearance that they would be giving any favors to the United States or doing anything on track with our policies and procedures. I think this may be one of the central issues.

It does not mean that we accept that as the final word. We can understand why they are doing it, but it does not mean that that is the right reason for denying access.

Mr. LEACH. Thank you very much, Mr. Dewey.

Mr. Smith.

Mr. SMITH. Thank you very much, Mr. Chairman, and let me just follow up on that if I could, Secretary Dewey.

I did read the report, "The Status of North Korean Asylum Seekers and U.S. Government Policy Towards Them," issued on March 11th, and it did, as my friend and colleague, the Chairman of the Asia Committee pointed out, the survey of United States diplomatic posts gave preliminary indications that at this time the governments hosting North Korean refugees would strongly oppose direct U.S. Government-funded assistance for North Korean refugees on their territories.

It goes on to say that the survey of regional U.S. diplomatic posts gave preliminary indications. If you could now and perhaps for the record elaborate on how extensive those contacts were. Did our Ambassadors talk to their foreign ministries? Was it an all-out effort? What countries were included? Was it China, Russia, Mongolia, South Korea, the Philippines, Vietnam, Thailand, Cambodia, Laos and Malaysia? And was a uniform methodology employed?

Because it seems to me when you have so many people across the border, particularly in China, who the UNHCR is denied access to, cannot make referrals for, we have a situation where they are

hated in North Korea. If they go back, they go back to a very, very dubious life; that is to say they are on their way to a gulag, and yet they are not wanted by the countries in which they have now fled to; namely and most importantly, China. That seems to be an irreconcilable situation where they are unwanted in both places.

Why not facilitate a third party positioning for those people like here in the United States? And it does raise the question of whether or not a designation of those individuals by the U.S. might help facilitate their coming to the United States, and I wonder if you might speak to that as well.

When Secretary Rice visited China, did she discuss the refugee policy with the leadership of the PRC? Because I think that is extremely important as well.

Then in terms of the—Ms. Birkle, if you could—I was at the U.N. Human Rights Commission for 3 days, and I think our U.S. delegation did a magnificent job. They worked the issues very hard from Darfur to Belarus to Cuba to North Korea, and I want to commend them and the Department for its outstanding work.

I know that the rapporteur now getting reappointed is likely to be denied again, and I think that is one of the flaws in the rapporteur system. The host country can just put up a stop sign, whether it be the rapporteur on torture or any other.

What is being done to try to say, “Okay, the U.N. has passed—the Commission has passed this resolution, we are more serious or we are going to get more serious about access of the rapporteur to North Korea?” It seems to me their ability to obstruct that renders all of our efforts not meaningless, but certainly undermines them severely.

I have other questions but I will yield to Secretary Dewey now.

Mr. DEWEY. Yes, thank you very much, Mr. Smith. I appreciate the chance to respond to that.

As far as the countries that we have consulted with, we have not consulted Vietnam, Cambodia, Russia or Malaysia in depth about direct USG-funded assistance for North Koreans on their territory. We surveyed our posts in the countries—the ones that you cited. I mentioned we are going back because we are not taking this as the final word. We are looking at ways where we can work with them, and particularly to get UNHCR access in those countries. To North Koreans who make their way to those countries, this is absolutely essential.

And as far as the reaction from the individual countries, I would be happy to give those reactions to you in a closed environment, and we will do that at your convenience.

But in terms of getting a fix on those that ought to come to the United States, I think this involves the mechanisms that I mentioned, the need to get UNHCR to have access so that they can do their screen, they can do their referral to the United States or other countries, or whatever they consider the most appropriate referral is; and then secondly, as part of that mechanism, to be able to do the background checks, to have some way to get more information than we have now or that the United States has direct access to, as to who these people are because, as you know, we have to know who everybody is very precisely who comes into the United States as a refugee, particularly after 9/11.

As far as Secretary Rice discussions, our understanding is that those points that we put in her brief were indeed brought up with the Chinese on her recent visit.

Mr. SMITH. Just one quick followup. Is there any consideration being given to a Priority Two status for those individuals, the North Koreans?

Mr. DEWEY. I am sorry. In terms of?

Mr. SMITH. Priority Two status, people of special concern. Is there any consideration being given by the Department to provide that generalized grant to them so that they can find their way here, like we have done with the Southeast Asians in both Russia as well as South Vietnam, in Vietnam?

Mr. DEWEY. Yes, that is right. Certainly for those for whom it seems to be—there seems to be a compelling case to come to the United States and not to do what the bulk of the North Koreans are doing now, that is, to go to South Korea where they not only receive immediate citizenship but they have a generous package of benefits. And we are expecting there will be people in that category, and that is why we are working so hard to lay the groundwork and to have the building blocks in place so that they can be— their applications can be facilitated and that the measures are in place so that those applications can be acted upon expeditiously.

Mr. SMITH. One final question, Mr. Ambassador. In your view, does South Korea's unwillingness, for example, at the U.N. Commission on Human Rights they abstained on the North Korea resolution. Does that lack of engagement on the human rights issue, at least in a public way, hurt the ability to galvanize support around human rights atrocities in North Korea?

Mr. DEWEY. No, sir.

Mr. SMITH. Can they be more forthcoming?

Mr. DEWEY. No. The Republic of Korea has made it clear that because of the inter-Korea relationship itself, it was a very sensitive issue. But they come out very clearly opposed to the behavior of the North Korean Government on human rights issues, and certainly it has not affected any other country from supporting our initiatives on human rights issues as it affects North Korea.

Mr. SMITH. Okay, thank you.

Mr. LEACH. Mr. Payne.

Mr. PAYNE. Thank you. Just a question on the FY-2006 budget and any one of the three of you, or more than one might try to respond to it.

The budget request did not request funds for the implementation of the North Korean Human Rights Act, and I wonder if you know whether this is actually true or not, and if funds were requested or not, and if not, why not?

And secondly, although you did mention, it was brought out that 2 weeks ago, the 15th of April, the Special Envoy should have been appointed, and do you think that this is a high priority in the Administration? And is there anticipated the naming of a Special Envoy, or are there some problems with the Special Envoy? I wonder if any of you might want to respond.

Mr. DEWEY. I will take the first, the 2006 budget issue. The 2006 budget was put in place earlier, as you know. The request for funds in that budget depends upon our being able to find places in the

region where we can do this humanitarian work and to find implementing partners who we can fund to implement this work.

We are not just waiting for those to come knocking at our door. We are seeking projects as creatively as possible, looking at ways that funds could be spent in the 2006 budget, and we would hope that those funds would not only be generously authorized, as has been the case by the Committee, but that they would also be appropriated.

One of the functions which would be a particularly good target for those funds is the anti-trafficking in persons function. We would like to come up with some good projects to spend the money on that function.

Mr. PAYNE. Yes.

Ms. BIRKLE. Implementation of the North Korean Human Rights Act is a top priority for the Administration and for the Department. My Bureau in particular is very enthusiastic that the Secretary has designated DRL to house the Special Envoy. We have gone forward on all the practical steps of finding office space, and allocating personnel slots and a budget, and we are confident that an envoy will be appointed and announced very soon.

Mr. PAYNE. Okay, just one other question. As we know, the Six-Party Talks, and I alluded to them before, are off again, on again, sometimes on. I do not know the current status. But if in fact they are—and when the talks resume, do you think that those talks, although it is supposed to be specifically dealing with the potential of nuclear development and proliferation, but do you think that it is appropriate, or has the United States in the past raised the question of human rights and refugee issues during those talks with the North Korean regime?

Does anyone know whether that seeps in, or would it be appropriate to put it on the table if and when talks resume?

Mr. DETRANI. Congressman Payne, yes, absolutely appropriate, and we have put it on the table with our DPRK counterparts during these talks, that human rights issues in North Korea will be discussed fully with them given our concern, and we would need progress in that area, the transparency, the process, the benchmarks, before we could move forward with the normalization process.

So that has been put on the table, and indeed we will continue to make that very clear to our counterparts.

Mr. PAYNE. Great. Thank you. Thank you, I will yield back my time.

Mr. LEACH. Mr. Royce.

Mr. ROYCE. Thank you very much, Mr. Chairman.

One of the points I would just like to make is that we should not rule out Mongolia as a possible site at some point for a North Korean refugee camp. The International Relations Committee staff and my staff have traveled to Mongolia, and I think that international relief assistance provided in a situation like that might help with respect to the refugees who come across the Chinese frontier into Mongolia.

The specific point though that I wanted to discuss was on a provision in this bill that I worked with Chairman Leach to craft, and that was on the broadcasting provisions of the bill. The report that

was sent to us from the Broadcasting Board of Governors indicated that there may now be a greater opportunity to reach the North Korean public with reports that radios are becoming more available in public markets. In particular, the report notes the fact that interviews found that 28 to 31 percent of North Korean defectors said they had listened to VOA, 12 to 18 percent in two different studies had listened to RFA. Of the North Koreans interviewed, between a quarter and one-half had personally modified their radios to receive shortwave signals from foreign broadcasts.

So one of the other provisions that we should be looking at is expanding shortwave. But what we do now with VOA is 3 hours a day of programming. We do 4 hours a day with RFA, with Radio Free Asia.

One of the questions I am going to ask you is, the report seems to indicate that there are attempts to jam Radio Free Asia broadcasts, but not VOA. I wanted to ask why you think that is, and I also wanted to ask, what does that tell us about what direction we should take the broadcasting?

I happen to think the RFA model is particularly effective. We have seen that same model applied in Eastern Europe with very effective results if we listen to Vaclav Havel or Lech Walesa about how society learned lessons about political pluralism and tolerance and human rights. I think having information given to a society about what is actually happening within the society can have quite a pronounced effect, at least according to those that we have interviewed who have gone through that experience. I would like you to answer that.

And also, 57 percent of respondents owned wire radios, 37 percent owned AM radios, 10 percent owned a shortwave radio, and so the concept of adding 5 hours of shortwave transmission is something that the Broadcasting Board of Governors has looked at, and I would just like your response on those two questions.

Mr. DETRANI. Congressman Royce, let me just say the Broadcasting Board of Governors certainly are the experts. They have the lead and the responsibility for this so they are certainly much more expert than I. But let me just say I totally agree with what you have just said. I mean, the power of VOA and RFA and the movement now to go from 7 hours to 12 hours of broadcasting, you get more broadcasting time into the DPRK. And as you said, with shortwave radio, more North Koreans are listening to those broadcasts, usually late in the evening when one would imagine it is a bit safer, between 10 p.m. and 1 a.m. or something in the morning.

So you are absolutely right, and those figures speak to the point of the hunger for information to come from without, whether it is VOA or RFA. I really cannot comment on why there is more jamming of VOA, or RFA rather than VOA, but both are very powerful tools to getting information into the DPRK, getting information that is denied to the people.

Mr. ROYCE. I know that the Broadcasting Board of Governors is looking at the development of an air platform to overcome the jamming in the case of RFA, and you know, they are looking at that to use with respect to Radio Marti in Cuba, and I think we could respond in the same way here, and I would argue that it would be

very much—it would be very important if we are truly concerned about bettering the conditions in North Korea.

I have had the opportunity to talk to refugees that come across the border and ask them, through an interpreter, about these same questions. So I know the information is getting through.

I also had the opportunity to talk to one senior civil servant, and one senior military officer who defected, and both told me that not only were they listening to the broadcasts, but more and more people have tuned these in. And I will just quote from one of the Polit Bureau meetings where the debate became one in which one of the participants said:

“If you are not listening to the outside radio broadcasts, you don’t know what is going on in the world or here. You are like a frog in a well that doesn’t know what is going on outside.”

Once that debate reaches the Polit Bureau itself, once people in leadership positions in the military and the Government are monitoring the broadcasts about what is actually going on in the country and beginning to understand their society as a consequence of the reality of what is going on, then I think you are on the road, potentially, to an awakening of people about the conditions they are in. And decisions potentially being made within the society, just as they were made in the Czech Republic or in Poland or in the East Bloc and in the former Soviet Union, for an evolution toward a society that comes closer to worldwide standards with respect to human rights and humanity and the autonomy of the individual as a concept—at least that has been introduced.

So Mr. Dewey, if I could ask you for your thoughts on that.

Mr. DEWEY. I can only underline and agree with everything you have cited on the importance of this, and I think it is one of our priorities to pursue this.

Mr. ROYCE. Well, I heard Mr. DeTrani say that we were getting cooperation from the South Korean Government, or that they were attempting to assist with respect to the issue of human rights in North Korea. I would like to see a lot more of that.

It was an interesting assertion, Mr. DeTrani, but I would ask you: Are we seeing cooperation in terms of this issue of providing platforms for broadcasting, or allowing those who would like to broadcast either into North Korea or into South Korea on these issues? And I think you may know something about the attempt to curtail that debate.

How do you respond on the issue of the United States maybe using its diplomatic presence to encourage a more robust debate on the entire Korean Peninsula with respect to the human rights violations that are going on in North Korea?

Mr. DETRANI. Sir, on the question of broadcasts into North Korea, as you have noted, the Broadcasting Board of Governors has the lead on that, so they are working with the respective governments and talking about that whole issue itself.

Indeed, when we talk about human rights issues, and we have a very, very robust dialogue with the governments, we get into all aspects of it, and certainly I would be comfortable in a close setting getting into the particulars as it relates—

Mr. ROYCE. Sure.

Mr. DETRANI [continuing]. To any particular country. I would prefer doing it that way. Thank you.

Mr. ROYCE. I understand. Thank you, Mr. Chairman.

Mr. LEACH. Thank you very much, Ed.
Ambassador Watson.

Ms. WATSON. Thank you so much, Mr. Chairman, and let me address this question to any one of the panelists who want to address it.

Do you see South Korea viewing the elevation of human rights issues in bilateral and multilateral discussions with North Korea as running contrary to its so-called Sunshine Policy which focuses on the maintenance of cordial and open relationships with North Korea above all else? How are they viewing these discussions at the current time? And whoever would like to address it, please do.

Mr. DETRANI. Well, let me just say, Congressman Watson, that the South Korean Government, the Republic of Korea, as you know so well and we all know, receives a number of refugees from the DPRK on a yearly basis, and they have a very robust program to acclimate these people, to accommodate them and so forth. So there is a lot being done in that area, and that is to be commended and we are very appreciative, and we have a very meaningful dialogue with them on the North Korean Human Rights Act, and the particulars involved in that.

Again, I would be much more comfortable in a closed setting talking about that type of a dialogue with the Republic of Korea as it relates to the North Korean Human Rights Act and our expectations, and what we plan to do in implementing the act itself. I would be more comfortable that way.

Ms. WATSON. Do you feel that we are on—we as a country—on the right footing in talking with North Korea given that we have been, I think, very abrasive in our relationship with them, and very accusatory? What is the climate like now? Is it softening up?

You know, they have come back and said, “No, we do not want to meet with you unilaterally, I mean, unless you are part of the multilateral group.”

What is the feeling now at the current time?

Mr. DETRANI. Well, Congressman Watson, the feeling now is the North Koreans continue to say the United States has a hostile policy, and we address that by saying we want to negotiate, we want a peaceful resolution. The President has made this clear. The Secretary of State has made this very clear. We have no preconditions to come back to the table and negotiate as we all agreed to in the Six-Party process, and everything is on the table, and certainly we would be very much open.

So the atmosphere here, there are some harsh words that come out of Pyongyang with respect to the United States. I cited in my opening statement their February 10 statement declaring that they are a nuclear-weapons State. They have had subsequent statements along those lines which are indeed indicative of some of the words they say.

But the U.S. has made it very clear, and Secretary of State Rice has made it very clear that we view the DPRK as a sovereign State. We have no intention to invade or attack it. We want a peaceful negotiated resolution to the issue, and we have asked and

continue to ask them to come back to the table in the multilateral forum hosted by the Chinese, chaired by the Chinese, so that we can resolve these issues.

We hope that they will seize that opportunity. Certainly it is in their interest to come back and resolve this issue for their own interests, certainly in international legitimacy and international reform.

Ms. WATSON. Well, the question that always arises in my mind is: Why is it they do not believe us and they do not trust us? And I think so much of it has to do with, number one, not what we say, but what we do; and when you get back to what you say, the way you say it.

So I think it is going to take a lot of expert diplomacy and not the veiled threats that have gone out to get them to finally sit down, let us get serious about this, and I think—you know, they are seeing us as the imperialistic power, and we were just recently in Qatar and there was a theme that kept reoccurring, and it was that terrorism feeds on grievances. Terrorism feeds on grievances. So there are a lot of grievances there in North Korea, and I think our foreign policy, as we deal with them, has to be repeated over and over again that we are open and so on.

I hope we just have the spokespersons who can use diplomatic speech, and you know what I am alluding to, to get there. And so I trust that those of you that deal with this issue every day are certainly thinking of ways to convince them that we are sincere about sitting at the table with them, keeping our promises, seeing them as players within that region, and giving them a chance to prove that they then can negotiate in all honesty and fairness with us, and we will do the same. So I just have to make those comments.

As a former Ambassador myself, it is so important that we use that tone when we are dealing with these hostile nations. Thank you so much. You do not even need to respond.

Mr. LEACH. Thank you very much.

Mr. Smith.

Mr. SMITH. Thank you very much, Mr. Chairman.

Let me just, Secretary Dewey, ask you: To your knowledge, has the U.N. High Commission for Refugees recognized any North Koreans inside China as refugees? And does the UNHCR conduct status determinations of North Koreans seeking protection in third countries other than China?

And secondly, as I said in my opening, you know, no North Koreans were resettled by United States refugee programs for the past 5 years. Is it your understanding that under U.S. immigration law, a UNHCR refugee status determination is strictly necessary before someone can be considered for a U.S. refugee program?

And as it is a matter of United States law, could not the U.S. State Department do its own screening of intended North Korean refugees at our overseas posts?

And Mr. DeTrani, if I could ask you very briefly, the whole concept of *juche* and the obsessive self-reliance, xenophobic view really that has been promoted by Kim Jong-il and now Kim Jong-il and his son, is that—do you see any weakening?

I mean, you are with the interlocutors from North Korea perhaps more than anybody else in this country. I mean, it seems to me that, and I have looked at that for years and find that to be something that is misunderstood by many of us in terms of just how powerful that almost religion really is for the North Koreans. Do you see any weakening of that in terms of its hold on those who practice it or live it?

Secretary Dewey first, if you would.

Mr. DEWEY. Well, thank you. The first question: Has UNHCR recognized or given status to anyone in China in my knowledge? I do not have knowledge that that has been done, and the reason is that the UNHCR just does not have access to them. And anybody who might somehow get into Beijing, it is tough to find the UNHCR office, and that is not by accident. I had a hard time finding the office on my trips there because there are not any signs, so there is nothing done to make it easy even if they get to Beijing, and of course, UNHCR does not have access up at the border area where the North Koreans are.

The second question with respect to no North Koreans having been admitted to the United States as refugees in the last 5 years, this does not mean that we are rejecting the idea. We are recognizing the idea that most of them go to South Korea, and that is what most of them want. We do need to get these mechanisms in place so that we will be ready for those that should come to the United States for compelling reasons, or to other countries, that there is some way to make that possible, a way through access to UNHCR, to be able to—and for us to be able to have a way to determine their background and to do the security advisory checks that have to be done.

To the question, Do we need UNHCR? I think there is a big advantage of having UNHCR for any resettlement program because they are probably in the best position to determine the best country of destination for refugees that they refer, and secondly, for the geopolitical reasons I mentioned. It makes it difficult, even if we did have direct access. Having that direct access is going to be difficult to achieve because of the antagonism that the countries in the region now will receive from Pyongyang if they allow the United States to do that.

Mr. SMITH. But is it a matter of political will or is a referral necessary? Because I would agree, I mean, I am a great supporter of UNHCR, I think it does magnificent work, but if we had other tools in the toolbox, including, you know, our own adjudicators processing those requests, I think we might find some people who otherwise might be either sent back right to North Korea or wallow in some no man's land for God knows how long.

Mr. DEWEY. Yes, it is—we do not have to have UNHCR. About 50 percent of the refugees we take in are referred to us by UNHCR, so it indicates there are other ways to do it. But I think it is important to continue to insist that UNHCR have this access for the reasons that I mention.

Mr. SMITH. Mr. DeTrani.

Mr. DETRANI. Congressman Smith, on the issue of juche, we still hear, certainly, the leadership in the DPRK espouses juche, and indeed that is their policy. The reality is they have food needs, they

have energy needs, and they rely heavily on others to provide some of the energy and food they need to sustain their population and the government.

The second point is, we hear a great deal about economic reforms that are going on in the DPRK. We hear that from many countries that have a very close relationship or a relationship with the DPRK. For economic reforms to kick in, they will have to open up. They will have to work with international financial institutions. They would have to sort of enter the global marketplace and hopefully that will complement a philosophy of *juche*. It would have to require some change on their part.

Mr. SMITH. Thank you very much.

Mr. LEACH. Well, thank you, Chris.

Before dismissing the panel, let me make a couple quick comments.

One, we are dealing with one of the most profound humanitarian issues in the world today. We are also dealing with a spectrum of other issues of profound national security consequence to the United States, and one has to be very careful about mixing issues.

In this regard, it was referenced earlier that there is a bill that apparently has been introduced about the Olympic Games in China, and I would just like to say that there is some frustration in Congress about the role of China and the refugees, and whether China is living up to its obligations under the U.N. Refugee Convention.

But as Chairman of the Subcommittee, I will tell you I think it would be a massive mistake to come out against the Olympic Games in China. We should be very careful not to mix culture with politics, and this is one of the most important cultural events in modern times in Asia, and I look forward to the Chinese putting on a spectacular Olympic Games. If we were to come out against them, I have no doubt that the reaction against—the reasoning behind it would be very profound and would be very disheartening to the refugee issue. And so I want to be very careful in suggesting that we not cross that bridge.

Now, am I correct that the United States Department of State has no stand against the Olympic Games in China; is that correct, Ambassador?

Mr. DEFRANI. That is absolutely correct, Mr. Chairman, absolutely, and I might add, sir, some of the points made, the reality is also that the—you know, our very meaningful discussions, and they are meaningful, is that we talk about the fact that China categorizes a lot of these refugees as economic migrants, and so forth, so we have a dialogue on that, and working it.

But there are 30,000 to 50,000, in any particular year, of refugees in China, and a percentage of them do find their way out to other countries, and eventually to the ROK.

Mr. LEACH. Well, I would be very hopeful that we can work as positively and as constructively as we can with China. There are reports of an increasing number being sent back to North Korea, and this is a shame, but my only point is at this point that we not mix issues in counterproductive ways.

Mr. SMITH. Will my friend yield?

Mr. LEACH. Yes, of course.

Mr. SMITH. I appreciate my distinguished Chairman for yielding. I think it should be pointed out, though, that part of the focus of the Olympics 2008 is China's own egregious human rights abuses, whether it be the torture or death of Falun Gong, leaders, Catholics, underground patriotic church, or I should say the Evangelical Church, or even Buddhists and others, that this is—Wei Jingsheng was led out of China in the early 1990s in part to try to get Olympics 2000, which then evaded them.

So there is a larger issue as my friend and colleague knows. It is not just the refugee issue that we are concerned about.

I would also point out that just like the rapporteur for North Korea is being denied access, the People's Republic of China is denying access to the torture. There is an invitation that has been extended, as it was last year, to Manfred Nowak who is the rapporteur on torture. But I am very suspect, and I suspect he is as well, that he will get the terms of reference that he needs, unfettered access, no retaliation against those who he does speak to, and will have another one of those flimflam games being exercised by the Chinese of saying they are over here and when it comes time to implement it is not there.

So there is a concern about their own human rights abuses, and I thank my friend for yielding.

Mr. LEACH. I appreciate the gentleman, and I would like to say there is really profound concern on a number of issues that we share, but I just hope the Olympic Games can stay above politics is my point.

In any regard, thank you all, and we look forward to the next panel. Thank you very much.

Panel two will be composed of Ms. Ann Buwalda who is the Director of Jubilee Campaign USA, an international advocacy group working to combat religious persecution. She is the founder of Just Law International, a firm specializing in immigration and, particularly, asylum and refugee cases.

Mr. Don Choi is the Washington Representative of the Exile Committee for North Korean Democracy, a native of North Korea. He spent some of his years of compulsory military service as a prison guard in that country before fleeing to China, and eventually South Korea with his mother, a survivor of the North Korean gulag.

The third witness is Dr. Marcus Noland, a Senior Fellow at the Institute for International Economics and a Consultant to the United States Committee for Human Rights in North Korea. He was formerly a Senior Economist at the Council of Economic Advisors, an Executive Office of the President, and has held teaching and research positions at Johns Hopkins University, Tokyo University, and the Korean Development Institute.

At this point, maybe we will just begin with Ms. Buwalda, and all of your statements will be placed in the record without objection, and you may proceed to summarize as you see fit. Ms. Buwalda.

**STATEMENT OF ANN J. BUWALDA, ESQ., DIRECTOR, JUBILEE
CAMPAIGN USA**

Ms. BUWALDA. Thank you, Mr. Chairman. Thank you for your leadership last year in bringing about the passage of the North Korean Human Rights Act.

Mr. Leach, I am honored to testify here today before this joint hearing about the plight of North Korean refugees who I so passionately wish to see helped.

In recent years the plight of North Korean refugees has finally received international attention. Significantly, the Chinese Government has come under increasing pressure to stop the impermissibility of forcing North Korean asylum seekers to return to the Government from which they fled, where they would face certain detention, punishment in labor camps, and even execution.

In this testimony, I will address China's violation of international law and provide recommendations, but I wish to first address the effect on refugees of the North Korean Human Rights Act of 2004, and I intend to abridge my written statement.

Our organization applauded the efforts of the Members of Congress and so many colleagues who joined together in passing the act. Unfortunately, North Korean refugees have far to go before they are truly protected in any land to which they escape, seeking safe harbor or asylum.

Despite passage of the act, the likelihood of processing North Korean refugees to be resettled in the United States or granted asylum within the United States remains remote for the time being. Since the passage of the act, a number of news reports described how some North Koreans who had availed themselves of resettlement benefits and citizenship in South Korea have entered the United States lawfully or unlawfully, and sought asylum.

Not surprisingly, there has been no reported grant of such an asylum case.

The concept of firm resettlement is well established in asylum and refugee jurisprudence and remains prominent in the act. I raise it because it is important that we dispel the notion that any firm resettled North Korean in South Korea can avail themselves of asylum. They cannot. It is the law. It has not been changed by the act, and it would stop the exploitation of North Koreans if more were said to dispel that notion.

One of the most promising provisions to help North Korean refugees is section 304(a)(5), which states:

"The UNHCR should pursue a multilateral agreement to adopt an effective first-asylum policy that guarantees safe haven and assistance to North Korean refugees."

Such action is the mandate of the UNHCR. I am not sure that that is taking place. I am not sure that those negotiations are happening. Focus needs to take place specific to Mongolia, Russia, and other countries through which North Korean refugees currently migrate, so that there are first-asylum policy talks that take place.

Guarantees of safe haven—specifically the provision of temporary protective status in China, Russia, Mongolia—are simply not negotiable. They are international law. Both China and Russia are party to the international convention relating to the status of refu-

gees and its protocol. Yet both have violated their obligations to North Korean refugees under this treaty, and must be held to account.

Although Mongolia is not a signatory to the refugee treaty, it has complied with international rights standards and affords protection. Yet Mongolia needs to be further encouraged to actually become party to the treaty.

Section 304(b) of the act sets forth a sense of Congress that the UNHCR should initiate binding arbitration proceedings pursuant to article 16 of the 1995 UNHCR mission agreement with China and appoint an arbiter.

I am sad to say I rarely hear this raised as a possible solution. Yet the sense of the NGO community remains that the UNHCR has abdicated its responsibility and utterly failed to initiate the one available and accessible mandatory and actionable legal remedy to China's utter failure to comply with international law.

Section 301 of the act mandates that the Department of State issue a report after 120 days from enactment. The report, which was dated March 11, falls short of providing new and innovative ideas of how the United States will assist North Korean refugees.

Most disappointing is any elaboration on already existing access to admissions of refugees to the U.S. independent of the UNHCR. This question was raised earlier, and the earlier panel did not, in my view, address what those are or what actions they have taken to actually initiate processing to the United States for refugees.

For example, no reference is made to the fact that in the fiscal year 2005 program, the Department of State's PRM Bureau permits NGOs to even make Priority One referrals. There is no clear language on how the Department of State will permit NGOs to make those kind of referrals as it relates to North Korean refugees.

The Department of State report found that in the past 5 years, no North Koreans have been resettled by the United States refugee admission program. Nine North Koreans were granted asylum from 2002 to 2004 by immigration courts during removal proceedings. A turnaround for refugee admission can take place with implementation of Priority One processing as well as the establishment of a process by PRM to accept North Korean refugees for resettlement.

Jubilee Campaign applauds the detailed report and conclusions reached by the United Nations Special Rapporteur on North Korea, Professor Vitit Muntarbhorn, who has been appointed in July 2004 as the Special Rapporteur on North Korea. I believe he carries his mandate very seriously and has done excellent research.

Professor Muntarbhorn presented his report at the 61st session of the U.N. Human Rights Commission in Geneva. For the first time an official United Nations document has clearly defined North Korean defectors as refugees, not the "possibility of refugees," as one of the earlier panelists defined them.

For the past 3 years, Jubilee Campaign has pressed the United Nations High Commissioner for Refugees to decisively find that North Koreans fleeing their homeland are refugees, and should be afforded refugee protection. After all, the mandate of the UNHCR is to protect refugees and promote durable solutions to their plight.

The first possible step occurred in September 2003 when the United Nations High Commissioner for Refugees, Rudd Lubbers,

declared that North Korean defectors in China was a group of concern to the UNHCR, which triggers certain protection obligation. Yet nothing has been done by the UNHCR despite this proclamation to actually protect them.

In his report, the Special Rapporteur Muntarbhorn referenced the legal definition of a refugee and applied it to North Koreans who flee their homeland. In paragraph 44 of this report, Muntarbhorn emphatically stated that:

“In general, those leaving the Democratic People’s Republic of Korea for political reasons fit into the traditional international law definition of refugees; namely, persons fleeing their country of origin for a well-founded fear of persecution.”

Now, China is a signatory to the U.N. Conventions, and international law experts have repeatedly asserted that a second definition of a refugee provides protection to anyone found to be a refugee sur place. Sadly, China continues to fail to recognize those who have fled North Korea as refugees sur place despite the fact that they face harsh imprisonment, torture, internment in labor camps, forced abortion, infanticide of their babies, and even execution of repatriated defectors. If that is not a refugee, I do not know what is.

During a parallel meeting at the 61st session of the U.N. Commission for Human Rights, one of the members, a senior liaison officer of the High Commission for Refugees, commented that:

“We are grateful for the support and close cooperation of the Special Rapporteur with our office. We see no difference between the Special Rapporteur’s report’s definitions of refugees as referred to North Koreans and our own position. We previously referred to them as persons of concern. We also ascribe to his positions regarding root causes.”

Despite these assurances, in fact, the UNHCR has done little more than refer to private negotiations with China. That has produced no actual real cooperation by China to abide by its treaty obligation of non-refoulement.

The UNHCR’s reported official statistics of North Korean refugees are a far cry from the number known by NGOs to exist. For example, in a 10-year span, the 2002 statistical yearbook of the UNHCR counted only 61 individual applicants for asylum outside of Indo-Chinese refugees in China. That is a terrible figure when everyone knows the substantial numbers of refugees in that region.

Now that the U.N. Special Rapporteur has actually defined all North Koreans who fled China as refugees or refugee sur place, the UNHCR must start publishing actual real numbers of North Koreans hiding in China. The UNHCR must make North Korean asylum seekers in China more than just an abiding preoccupation. It must make them refugees and afford them protection.

China continues unabashedly to violate its treaty obligations. This is another issue that we must address. The 2000 World Survey states that nongovernmental organizations estimate that China forceably deports between 150 and 200 North Koreans per week, amounting to an estimated 7,800 forced deportations during 2003.

What is worse, not only has China aggressively apprehended and repatriated North Koreans, but it has also tacitly given permission for North Korean refugees to execute kidnapping operations on its soil. The arrest of a North Korean agent who was involved in the abduction of Reverend Kim Dong-Shik, a humanitarian worker for North Korean refugees in China, has revealed that North Korea operates an extensive kidnapping scheme in China. In fact, between 1999 and 2001, we have found 40 abductions permitted by China and by North Korean agents.

Moreover, China conducts intense campaigns to disassemble volunteer aid and support systems that provide help for refugees along the border province. It has made assisting this population a criminal act. In addition to imprisoning and imposing severe fines on humanitarian aid workers, China provides substantial bounty money on the heads of displaced North Koreans and on those who help them. Many Christian aid workers from South Korea have suffered imprisonment in China, drawing out court cases, torture in Chinese custody, and have been handed over to North Korean authorities.

There is no other country that the international community would so quietly stand by and tolerate such a blatant and systematic violation of its treaty obligations as that as has been committed by China.

The act sets forth the unanimous opinion of this House and Senate that, in fact, China has been abrogating its refugee treaty obligations. China must be held accountable for this.

Finally, I would just draw attention to five recommendations.

The United States should redouble our efforts to ensure that the UNHCR continues to make public and published affirmations of refugee status for North Koreans. Now that the UNHCR is coming around to accepting the correct legal definition of North Koreans as refugees, it must do so publicly. At its next executive committee meeting in September, it should emphatically declare them as refugees as has the Special Rapporteur.

In its next annual report it should fully report the real number of them in China and elsewhere. The UNHCR must regain unimpeded access to North Korean refugees found in China, in particular, in the border areas.

In this process it would be contrary to international refugee law for the UNHCR to deny refugee status to any North Korean citizen who would face arrest, torture, labor camp detention, or execution upon their return. Such punishment violates international standards of human rights and constitutes the worst imaginable cruelty. No one should be deliberately expelled to such cruelty.

Thirdly, the UNHRC must commence binding arbitration proceedings against China in order to obtain unimpeded access to these refugees.

An earlier panelist noted that the U.S. is the one who is providing funds to the UNHCR on this issue. Certainly we have some influence there, and the act was clear.

The role of the UNHCR is to protect refugees and it has the authority to enforce the existing treaty with China.

Fourthly, crimes against humanity are committed systematically by the DPRK against its own citizens. We must uphold the inno-

cent, hungry and distressed North Korean brothers and sisters. We must prevent any more from perishing. Those responsible for the gross and systematic human rights abuses perpetrated by the DPRK should be brought to justice.

It is time for member states of the United Nations to consider bringing genocide charges against Kin Jong-il and officials within the DPRK.

Finally, the Department of State must make further efforts at multilateral negotiations to secure a first-asylum strategy and temporary protective status for North Korean refugees.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Buwalda follows:]

PREPARED STATEMENT OF ANN J. BUWALDA, ESQ., DIRECTOR, JUBILEE CAMPAIGN
USA

Mr. Chairman, I am honored to testify in this joint hearing before the House Committee on International Relations, Subcommittee on Asia and the Pacific and the Subcommittee on Africa, Global Human Rights and International Operations about the plight of North Korean refugees who I so passionately wish to see helped.

In recent years, the plight of North Korean refugees has finally received international attention. Significantly, the Chinese government has come under increasing pressure to stop impermissibly forcing North Korean asylum seekers to return to the government from which they fled, facing certain detention, punishment in labor camps, and even execution. In this testimony, I will address China's violation of international law and provide recommendations, but I wish to first address the affect on refugees of the North Korean Human Rights Act of 2004.

Affect on Refugees of the North Korean Human Rights Act of 2004:

Our organization applauded the efforts of members of Congress and so many colleagues in the non-government community who joined together and passed the historic North Korean Human Rights Act of 2004 (hereinafter "the Act). Unfortunately, North Korean refugees have far to go before they are truly protected in any land to which they escape seeking safe harbor or asylum. Despite passage of the Act in December 2004, the likelihood of processing North Korean refugees to be resettled in the United States or granted asylum within the United States remains remote for the time being.

In order to gain consensus of opinion and passage of the Act, numerous provisions intended to assist real refugee protection and processing—such as Temporary Protective Status and Humanitarian Parole—were omitted from the final passed version. For an overview of those provisions and the remaining refugee provisions that are useful, see Appendix 1 attached to this statement.

Since the passage of the Act, a number of news reports described how some North Koreans who had availed themselves of resettlement benefits and citizenship in South Korea have entered the United States—lawfully or unlawfully—and sought asylum. Not surprisingly there has been no reported grant of such an asylum case. The concept of "firm resettlement" is well established in asylum and refugee jurisprudence and remained prominent in the Act. (Appendix 1 sets forth established bars to grants of asylum in U.S. immigration jurisprudence on account of firm resettlement.)

Section 302 of the Act outlines eligibility for refugee and asylum consideration. The last clause of Section 302(a) of the Act affirms the fact that North Koreans who have been processed for resettlement and citizenship to South Korea may not qualify for asylum to the United States. Based upon the number of reports that North Koreans resettled in the South have ignorantly sought asylum in the US and even committed crimes of unlawful entry to the U.S. in pursuit thereof, more needs to be done to educate North Koreans resettled in the South that the Act did not change American asylum law on the issue of firm resettlement.

One of the most promising provisions to help North Korean refugees is Section 304(a)(5) which states, "the UNHCR should pursue a multilateral agreement to adopt an effective 'first asylum' policy that guarantees safe haven and assistance to North Korean refugees . . ." Such action is its mandate after all. Mongolia, Russia, and other countries through which North Korean refugees currently migrate should be part of the First Asylum policy talks. A first asylum strategy must be employed by all countries neighboring the DPRK.

Guarantees of safe haven, specifically the provision of temporary protective status in China, Russia and Mongolia are not negotiable—it is international law. Both China and Russia are party to the International Convention Relating to the Status of Refugees and its Protocol. Both have violated their obligations to North Korean refugees under this treaty and must be held to account. Although Mongolia is not a signatory to the refugee treaty, it has complied with international human rights standards and afforded protection. Yet, Mongolia should be encouraged to become party to the treaty.

Section 304(b) of the Act sets forth the sense of Congress that the UNHCR should initiate binding arbitration proceedings pursuant to Article XVI of the 1995 UNHCR Mission Agreement with China and appoint an arbitrator. The sense of the NGO community remains that the UNHCR has abdicated its responsibility and failed to initiate the one available and accessible, mandatory and actionable legal remedy to China's utter failure to comply with international law.

Shortcomings of the Department of State Report, "The Status of North Korean Asylum Seekers and the USG Policy Towards Them":

Section 301 of The Act mandated that the Department of State issue a report 120 days from enactment that ". . . describes the situation of North Korean refugees and explains United States Government policy toward North Korean national outside of North Korea. The report, dated March 11, 2005, falls short of providing new and innovative ideas of how the United States will assist North Korean refugees. Most disappointing is any elaboration on already existing access to admissions of refugees to the US independent of the UNHCR other than to say host countries such as China would strongly oppose US refugee admissions programs.

For example, no reference is made to the fact that in its FY 2005 program, the Department of State, Populations, Refugees and Migrations (PRM) bureau notes NGO involvement. In its revised definitions of processing priorities, "Priority 1 (P-1) will include all individually referred cases identified and referred to the program by UNHCR, a U.S. Embassy or a non-governmental organization (NGO)." Despite this clear language, the DOS Report seems to imply there is no opportunity for individual North Korean case referrals for access to the US refugee admissions program.

The DOS Report found that in the past five years no North Koreans have been resettled by the U.S. refugee admission program. Nine North Koreans were granted asylum from 2002–2004 by immigration courts during removal proceedings. A turn around for refugee admissions can take place with implementation of Priority 1 processing as well as the establishment of a process by PRM to accept North Korean refugees for resettlement.

Treatment of North Korean Refugees by the United Nations:

Jubilee Campaign applauds the detailed report and conclusions reached by the United Nations Special Rapporteur on North Korea, Professor Vitit Muntarbhorn, who had been appointed in July 2004 by the U.N. Office of the High Commission for Human Rights to carry-out a mandate to investigate and report on human rights violations in North Korea and to begin dialogue with its government. Professor Muntarbhorn presented his report in March, 2005 to the 61st session of the U. N. Human Rights Commission in Geneva, Switzerland. For the first time an official United Nations document has clearly defined North Korean defectors as "refugees."

For the past three years, Jubilee Campaign has been pressing the United Nations High Commissioner for Refugees (UNHCR) to decisively find that North Koreans fleeing their homeland are refugees and should be afforded refugee protection. After all, the mandate of the UNHCR is to protect refugees and promote durable solutions to their plight. The first positive step occurred on September 29, 2003, when United Nations High Commissioner for Refugees, Rudd Lubbers, at the 54th Session of the Executive Committee (ExCom), declared North Korean defectors in China as a "group of concern" to the UNHCR, which was to trigger certain protection obligations. He noted, "In view of their protection needs, the group is of concern to UNHCR. For those in need of assistance, UNHCR is ready to work with partners in meeting their needs. Above all, the principle of non-refoulement must be respected." Yet, nothing changed despite this proclamation.

In his report, Special Rapporteur Muntarbhorn referenced the legal definition of a "refugee" from the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and properly applied it to North Koreans who flee their homeland. In paragraph 44 of his Report, Muntarbhorn emphatically stated that, "In general, those leaving the Democratic People's Republic of Korea for political reasons fit into the traditional international law definition of "refugee", namely persons fleeing their country of origin for a well-founded fear of persecution."

China, a signatory to the 1951 Convention and 1967 Protocol, has persistently sought to characterize all North Koreans fleeing into its territory as “economic migrants” thereby justifying its abrogation of its treaty requirement of non-refoulement of North Koreans fleeing across its border. International refugee law experts have repeatedly asserted that the second part of the definition of a refugee provides protection to anyone found to be a “refugee *sur place*” or someone unwilling to return to her country for fear of persecution on account of events occurring after her flight. Muntarbhorn in paragraph 45 also affords protection to such persons as justified by the North Korea’s harsh imprisonment, torture, internment in labor camps, forced-abortions, infanticide of the babies, and even execution of repatriated defectors.

During a parallel meeting held at the 61st Session of the U.N. Commission for Human Rights in late March, Professor Muntarbhorn elaborated on his Report and stated, “It is important to make it known as I have done that those who came out of the DPRK are refugees and entitled to international protection. They are entitled to the basic right of non-refoulement. I have taken it upon myself to make this very clear. We should not be deluded by terms such as ‘illegal immigrants.’ They are persecuted, they are protected by international law, and they must receive protection.” He went on to say, “The UNHCR is to give this protection. The UNHCR does not have access in many situations, including with the North Korean refugees.”

From the audience a Senior Liaison Officer for Human Rights of the UN High Commission for Refugees in Geneva commented, “We are grateful for the support and close cooperation of the Special Rapporteur with our office. We see no difference between the Special Rapporteur’s report, definitions of refugee he used to refer to North Koreans, and our own position. We previously referred to them as ‘persons of concern.’ We also ascribe to his position regarding root causes.”

Despite these assurances, in fact the UNHCR has done little more than refer to “private negotiations” with China, which has produced no cooperation by China to abide by its treaty obligation of non-refoulement and has provided the UNHCR no access to these refugees. Instead, China has increased border patrols, has offered bounties for refugees rounded up, and has refouled North Koreans without regard to the fact that some have been executed upon their return to North Korea and the rest consigned to labor camps. This Senior Liaison Officer then took a position useful to justifying China when he commented, “Increasingly refugees use support of professional smuggling networks. This intermingling of sometimes criminal issues is not helpful. We stress the need to clearly maintain a humanitarian approach. We must follow a purely humanitarian approach and not abuse refugees.” It seems that in its efforts not to upset China’s humane approach, the UNHCR views no approach as best.

The UNHCR’s reported, official statistics of North Korean refugees are a far cry from the number known by NGOs to exist. Annually, the UNHCR publishes a comprehensive Statistical Yearbook, including a 10-year spectrum of information about the situation of refugees in China. In a 10-year span, the 2002 Statistical Yearbook of the UNHCR counted only 61 individual applicants for asylum outside of indo-Chinese refugees. The UNHCR’s “2003 Global Refugee Trends” publication in Table 3 mentions 304 North Korean refugees, of which the UNHCR assisted one. Table 7 of this publication computed 272 North Korean asylum applicants, and reports that the UNHCR helped none. The UNHCR fails to identify any North Korean refugees in its Refugee Trends Publications for the first three quarters of 2004.¹

Now that the UN Special Rapporteur has defined all of the North Koreans who fled China as refugees or “refugees *sur place*”, the UNHCR must start publishing actual number of North Koreans hiding in China. The UNHCR must make North Korean asylum seekers in China more than an “abiding preoccupation”². It must make them refugees and afford them protection. As Special Rapporteur Muntarbhorn remarked, “We must work with neighboring countries. We need to work with them, rationalize with them, and give them incentives to assist. If neighboring countries are not willing to give permanent resettlement, at least provide temporary protection. We need to constructively assist those refugees and provide the protection required.”

¹“Present Situation of North Korean Refugees,” Tarik Radwan, *The 6th International Conference on North Korean Human Rights and Refugees*, Citizen’s Alliance for North Korean Human Rights, Feb. 2005, p. 89.

²Excerpt from the High Commissioner for Human Rights Opening Statement to the Executive Committee, October 2004.

The Plight of North Korean Defectors in China:

China has persistently, and with impunity, claimed that North Koreans who cross its border illegally are economic migrants and thus not entitled to refugee protection. This claim is without basis and contrary to the findings of the United Nations Special Rapporteur to North Korea, Professor Vitit Muntarbhorn.

China has unashamedly abandoned its legal obligation toward North Korea refugees. As a Party to the 1951 Convention Relating to the Status of Refugees, and the 1967 Protocol by the same name, China is obligated to extend a list of protections to North Korean refugees, including the protection from expulsion from the country (Article 32) and the protection from “refoulement,” which is the forcible return of a refugee to a territory where one’s life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion (Article 33).

In addition to the Convention and Protocol Relating to the Status of Refugees, China has also ratified the Convention Against Torture, or Other Cruel, Inhumane or Degrading Punishment. This convention also prohibits repatriation of a person to a territory where it is likely that one will be tortured, regardless of the motivation for the torture.

Yet, as stated, China continues unabashedly to violate its treaty obligations. The 2004 World Refugee Survey states that “Non-governmental organizations estimate that China forcibly deports between 150–200 North Koreans per week amounting to an estimated 7,800 forced deportations during 2003.” China maintains that it has an obligation to repatriate North Koreans under a “secret” agreement with Pyongyang. (This agreement is not found in an international treaty registry required for international recognition.)

Further, China has consistently denied the UNHCR access to North Korean asylum seekers on the ground that it does not consider them refugees. The 2004 World Refugee Survey indicates that China has denied UNHCR access to more than 100,000 North Koreans.³ China, however, has the gall to assert in its bilateral agreement with the United Nations that “UNHCR personnel may at all times have unimpeded access to refugees.”

What is worse, not only has China aggressively apprehended and repatriated North Koreans but it has also tacitly given permission to North Korean agents to execute kidnapping operations on its soil.⁴ The arrest of a North Korean agent, who was involved in the abduction of Reverend Kim Dong Shik (more below on his case), a humanitarian worker for North Korean refugees in China, has revealed that North Korea operates an extensive kidnapping scheme in China.⁵ North Korean agents kidnap the defectors in China and humanitarian workers who help them.

The harshest treatment upon refugees refouled to North Korea has been reportedly applied to North Koreans who embraced Christianity while in China. Many Christians in the border provinces of China have provided food, shelter, and protection to North Korean refugees. Many of these refugees embraced Christianity as a result. Repatriated defectors who have managed to escape again after interrogation and internment in North Korea, consistently report intense questioning about Christianity and contacts with Christians in China. Those carrying a Bible or Christian literature are more severely punished.

Moreover, China conducts intense campaigns to disassemble volunteer aid and support systems that provide for refugees along the border provinces; it has made assisting this population a criminal act. In addition to imprisoning and imposing severe fines on humanitarian aid workers, China provides substantial bounty money on the heads of displaced North Koreans and on those who help them. Many Christian aid workers from South Korea have suffered imprisonment in China, drawn out court cases, torture in Chinese custody, and have even been handed over to North Korean authorities.

Once such Christian aid worker, wheel-chair bound Reverend Kim Dong-Shik had been abducted by North Korean agents in China and disappeared in North Korea without a trace. On December 14, 2004, the Seoul Central District Prosecutor’s Office released its finding that, indeed, South Korean citizen and U.S. permanent resident Reverend Kim Dong-Shik had been abducted by DPRK agents in northeast China in January 2000 and taken forcibly into North Korea. Following the findings by the Seoul Central District Prosecutor’s Office, 20 Illinois lawmakers led by the

³2004 World Refugee Survey, Table 10., U.S. Committee for Refugees and Immigrants.

⁴*Jonghap News* reported in January 2005 that 60 refouled North Korean refugees had been executed upon their refoulement to the DPRK. Visual evidence was broadcast by Japan’s n-TV on Wednesday, March 16, 2005, airing footage of a public execution in North Korea. The TV channel ran the footage obtained from a defector on its afternoon news program “News Plus 1.”

⁵*Chosun Ilbo*, “N.Korea Abducted 40 from 1999 to 2001,” January 19, 2005.

Chairman of this Committee on International Relations, Congressman Henry Hyde, have written letters of protest to North Korea in the matter of their constituent and also criticized the South Korean government noting that when a government neglects its first duty of protecting its citizens, it loses its reason to exist. Jubilee Campaign has filed a petition with the U.N. Working Group on Enforced or Involuntary Disappearances on behalf of Reverend Kim Dong-Shik.

For no other country does the international community quietly stand by and tolerate such blatant and systematic violation of treaty obligations as that committed by China. The Act set forth the unanimous opinion of the House and the Senate that, in fact, China has been abrogating its refugee treaty obligations. China must be held to account for this.

Recommendations:

1. The United States should redouble our efforts to ensure that the UN High Commissioner for Refugees continues to make public and published affirmations of refugee status for North Koreans. Now that the UNHCR is coming around to accepting the correct legal definition of North Koreans as "refugees," it must do so publicly. At its next Executive Committee meeting in September, it should emphatically declare them as such. In its next annual report, it should fully report the real number of them in China and elsewhere.
2. The UNHCR must regain unimpeded access to North Korean refugees found in China, in particular in the border areas. In this process, it would be contrary to international refugee law for the UNHCR to deny refugee status to any North Korean citizen who would face arrest, torture, labor camp detention, or execution upon their return. Such punishment violates international standards of human rights and constitutes the worst imaginable cruelty. No one should be deliberately expelled to such cruelty.
3. The UNHCR must commence binding arbitration proceedings against China in order to obtain unimpeded access to these refugees. The role of the UNHCR is to protect refugees, and it has the authority to enforce this existing treaty with China.
4. Crimes against humanity are committed systematically by the DPRK against its own citizens. We must uphold the innocent, hungry, and distressed North Korean brothers and sisters. We must prevent any more from perishing. Those responsible for the gross and systematic human rights abuses perpetrated by the DPRK should be brought to justice. It is time for member states of the United Nations to consider bringing genocide charges against Kim Jong-Il and officials within the DPRK.
5. The DOS must make further efforts at multi-lateral negotiations to secure a first asylum strategy and temporary protective status for North Koreans refugees.

APPENDIX 1

Excerpt from Article entitled, "Strategies for North Korean Refugees," by Ann J. Buwalda and Michele Lombardo and published by Citizen's Alliance for North Korean Human Rights in the 6th International Conference on North Korean Human Rights and Refugees, held in Seoul, Korea, February 24–16, 2005.

V. THE UNITED STATES

A substantial amount of misinformation has circulated regarding U.S. asylum prospects for North Korean refugees currently living in South Korea as well as those outside of the peninsula who desire to bring claims. Unfortunately, the chances of such refugees being granted asylum to the United States or in the United States are extremely unlikely, and the enactment of The North Korean Human Rights Act of 2004 has done little to change this. This subsection will explore what the Act does and does *not* accomplish.

A. THE NORTH KOREAN HUMAN RIGHTS ACT OF 2004:

The following summary of sections of the Act relevant to refugees are all that remain from the very ambitious original drafts of the North Korean Freedom Act.

Sec. 301. United States Policy Toward Refugees and Defectors—Requires the Secretary of State to consult with other appropriate federal departments within 120 days from enactment (due mid-February) to describe the situation of North Korean Refugees and explain the US government policy toward North Korean nationals outside of North Korea. Two of the provisions which legislate what content this report is to contain call for a description of the treatment North Korean refugees receive

in China and to what degree they have access to the UNHCR there. (Of course, we already know that access to the UNHCR in China is nil and this is already noted in Findings Sec. 3(19) of this Act.)

Sec.302. Eligibility for Refugee or Asylum Consideration—Seeks to clarify that North Koreans are eligible to apply for U.S. refugee and asylum consideration and are not preemptively disqualified by any prospective claim to citizenship they may have under the South Korean constitution. There would be no chance under current asylum and refugee law in the U.S. without this section. However, whether this section goes far enough to overcome legal constraints to asylum under the concept of “firm resettlement” (i.e., in South Korea) will potentially evolve with case law.

Sec.303. Refugee Status—Requires the Secretary of State, who generally under the U.S. processing system is responsible for refugee intake, to “facilitate the submission of applications” by citizens of North Korea. A specific mandate requiring the Secretary of State to treat them for “Priority 2” processing was deleted following strong opposition by both the Department of State and Department of Homeland Security, who argued that such a specific legislative directive would infringe upon the discretionary authority of the Secretary of State to make that designation.

Sec. 304. United Nations High Commission for Refugees—Notes China’s obligations to provide the UNHCR with unimpeded access to North Koreans in China, urges the UNHCR to use professionals and NGOs with proven expertise in aiding North Koreans in China, and urges the UNHCR to assert its right to arbitration with China in an effort to secure access to North Koreans in China.

B. THE ACT DOES NOT NEGATE EXISTING U.S. ASYLUM REQUIREMENTS

The granting of asylum in the United States is specifically limited by several exceptions. The Immigration and Nationality Act (INA) § 208(b)(2)(A)(vi) states that asylum is not available where:

the alien was firmly resettled in another country prior to the arrival of the alien in the United States.

Effective October 1, 1990, regulations concerning firm resettlement were amended, providing for a mandatory denial of asylum upon a finding of firm resettlement. See 8 C.F.R. § 208.14(c)(2) (1991); see also 8 C.F.R. § 202.13(c)(2)(i)(B) (2000); and the Immigration Service’s regulations at 8 CFR § 208.13(c)(1).5.

The INA does not furnish a definition of “firm resettlement,” but federal regulations do. 8 C.F.R. § 208.15, captioned “Definition of ‘firm resettlement,’” states:

An alien is considered to be firmly resettled if, prior to arrival in the United States, he or she entered into another nation with, or while in that nation received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement unless he or she establishes:

- a) That his or her entry into that nation was a necessary consequence of his or her flight from persecution, that he or she remained in that nation only as long as was necessary to arrange onward travel, and that he or she did not establish significant ties in that nation; or
- b) (b) That the conditions of his or her residence in that nation were so substantially and consciously restricted by the authority of the country of refuge that he or she was not in fact resettled.

In making his or her determination, the Asylum Officer or Immigration Judge shall consider the conditions under which other residents of the country live, the type of housing made available to the refugee, whether permanent or temporary, the types and extent of employment available to the refugee, and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges, such as travel documentation including a right of entry or reentry, education, public relief, or naturalization, ordinarily available to others resident in the country.

In *Abdille v. Ashcroft*, 242 F.3d 477 (3d Cir. 2001), the United States Court of Appeals for the Third Circuit interpreted for the first time, the meaning of the “firm resettlement bar” to asylum now codified in the INA and further defined in 8 CFR § 208.15. The Court concluded that:

. . . the plain language of § 208.15 makes clear that the prime factor in the firm resettlement inquiry is the existence of an offer of permanent resident status, citizenship, or some other type of permanent resettlement. While recognizing that factors other than the issuance of such an offer may prove relevant to the firm resettlement question, we reject an alternative “totality of the alien’s circumstances” approach that would have us consider the existence of an offer as simply one component of a broader firm resettlement inquiry according equal

weight to such non-offer-based factors as the alien's length of stay in a third country, the economic and social ties that the alien develops in that country, and the alien's intent to make that country his permanent home.⁶

As South Korea has clearly extended not only "firm resettlement," but also the benefits of refugee status and full citizenship upon those who have escaped from the North, such individuals would be barred from receiving asylum in the United States except under the most extraordinary and egregious of circumstances. An asylum seeker would have to demonstrate those egregious circumstances related to his treatment in South Korea, virtually demonstrating that he was persecuted in South Korea either by the government or by those whom the government is unwilling or unable to curtail thereby showing that his safety is not secure in South Korea.

Although the Act was passed without the broad sweep of refugee benefits originally conceived, it has not been practically applied, and the flight of North Korean refugees remains a two-edged sword. On the one hand, those who are successful in fleeing from North Korea into South Korea have indeed managed to escape persecution. Unfortunately, in so doing, they have been "firmly resettled" in the South, thereby foreclosing the possibility of being granted asylum in the United States. The language of the Act removing the bar to eligibility caused by South Korean citizenship clearly states that it is not intended to apply to North Koreans who have availed themselves of their right to South Korean citizenship.

Conversely, if a North Korean manages to somehow enter the United States without first "resettling" in South Korea, he or she faces heightened scrutiny as North Koreans. This second scenario, however, is by far more likely to result in a grant of U.S. asylum for the North Korean refugee.

Despite the hurdles of heightened scrutiny, there is reason to hope for North Korean refugees entering the United States. Never has information regarding not only the potential for nuclear disaster, but the flagrant human rights violations of the North Korean regime been so widely disseminated and understood by U.S. authorities. The very existence of H.R. 4011 is evidence of this fact.

Provided, therefore, that persecuted Koreans from the North are able to reach U.S. soil without first spending time in South Korea, the prospects for being granted asylum in the United States are promising. For those who have escaped into the South, however, and have been firmly resettled therein, U.S. asylum is simply not a viable option.

In rare instances, where an applicant can establish not only persecution in North Korea, but can provide substantial proof of egregious persecution by the South Korean government or its agents, it is possible that such a claim may be put forth. As previously stated, however, the standard for establishing such claims is extraordinarily high, and not one that could be recommended without a substantial amount of evidence and representation by a highly experienced asylum attorney.

Also notable is the fact that the United States provides very little in refugee benefits. Unlike the benefits given to North Koreans who re-settle to South Korea, the United States does not provide housing, does not provide money, does not provide language training, does not provide employment training, and provides only a limited few months of medical assistance. North Koreans seeking asylum in America would be at the mercy of friends in their community to help with housing and finding a job. Sadly, North Korean asylum seekers could be easily exploited or find themselves penny-less and on the street. There is a saying in America: "No free lunch."

Efforts are being made to assure that Koreans from the North are not mistreated in the South, and for now at least, this seems the most viable option for North Korean refugees.

Mr. LEACH. Thank you, Ms. Buwalda.
Our next witness will be Mr. Daniel Choi.

STATEMENT OF MR. DANIEL (DONG CHUL) CHOI, WASHINGTON REPRESENTATIVE, EXILE COMMITTEE FOR NORTH KOREAN DEMOCRACY

Mr. CHOI. Thank you, Mr. Chairman, for giving me the opportunity to testify about my people in North Korea.

For the first time, as a North Korean defector, I would like to thank you, Mr. Chairman Jim Leach, and all Members of Congress

⁶*Abdille v. Ashcroft*, 242 F.3d 477, 478 (3d Cir. 2001).

who laid a North Korean Human Rights Act and passed it last year.

As you know, the North Korean regime has completely controlled their people as a leader absolutism dictatorship from Kim Il-sung through his son, Kim Jong-il.

Over 200,000 people are imprisoned in political prison camps and around 3 million innocent people died because of starvation, but the Kim Jong-il dictatorship regime is devoted to develop its nuclear capability and to war preparation.

North Korean people are still completely isolated from outside world information by Kim's regime, and they do not know about the currents of freedom and democracy around the world.

Hundreds of thousands of North Korean refugees are still hovering between life and death in China without any legal protections under threats of enforced repatriation by the Chinese Government.

The word of freedom and democracy is nothing for North Korean people and they cannot imagine what the concept is.

The Kim Jong-il regime uses anti-Americanism as the way for maintaining his power. North Korea is the country that enforces systematically anti-Americanism education from children to adult.

Anti-Americanism education focuses that the Americans invaded Korea since 100 years ago, invaded Korean War at 1950, killed many innocent Korean people, still station large troops in South Korea for blocking unification between North and South, and still seek to re-invade North Korea.

American people provide huge humanitarian aid to suffering North Korean people after severe food lack of North Korea in 1995, but Kim's regime distorts the truth as Americans are invaders and murderers.

These facts tell us how the North Korean Human Rights Act, which was passed last year, is important for North Korean people.

Kim Jong-il regime, which completely ignores its own people, is very afraid of the increasing concern of international society regarding North Korean human rights. North Korean Human Rights Act, which was passed unanimously by the U.S. Congress and Senate, is very significant for North Korean democracy.

Enforcement of the North Korean Human Rights Act is a very important way to help North Korean people who are completely violated in their human rights by dictatorship regime, and refugees who are afraid of repatriation by the Chinese Government.

As a defector, I would like to ask you for enforcement of North Korean Human Rights Act which can provide the concept of freedom, democracy, and human rights to my people in North Korea as soon as possible.

And secondly, I would like to ask you to help us defectors, so we can make radio programs by ourselves. The defectors were born in North Korea, they grew up there, and they were educated from the North Korean education system so that they know about heart of North Korean people, also their thinking.

Therefore, I strongly believe that a radio program by defectors is very effective to provide outside world information to North Korean people.

I also would like to ask you to help the act of Exiled Committee for North Korean Democracy, based in South Korea.

The Exile Committee for North Korean Democracy consists of representatives of 18 defectors organizations among 6,000 defectors in South Korea, and started a variety of actions for North Korean democracy.

Once more, thank you all Members of Congress who passed unanimously the North Korean Human Rights Act, also concern for political prison camps, human rights abuse, refugees, and people who live in North Korea and are completely isolated from outside world.

Thank you.

Mr. LEACH. Thank you, Mr. Choi.

Dr. Noland.

STATEMENT OF MARCUS NOLAND, PH.D., SENIOR FELLOW, INSTITUTE FOR INTERNATIONAL ECONOMICS AND CONSULTANT, U.S. COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA

Mr. NOLAND. Thank you very much. It is an honor to be invited to address the Committee. I have submitted written testimony, written together with Professor Stephan Haggard of the University of California at San Diego, but obviously I am the only one sitting here this afternoon, so anything I say in the question and answer period should be interpreted as my remarks alone.

Before getting into details of food access and hunger issues, I would like to begin by making a simple point that I think bears repeating. And that is, namely, that the absence of human rights in North Korea and its humanitarian disaster that affect that country are intrinsically bound. Some try to place human rights and humanitarian efforts in opposition to each other, but I think that nothing could be further from the truth.

Had North Korea had a Government 15 years ago, or 10 years ago, that respected right to assembly, and right to association, had a modicum of press freedom, in other words, allowed its citizens to express their grievances to the Government in the normal ways that we do, the great famine of the 1990s would have never occurred, and we would not be well into our second decade of the North Korean food emergency; indeed, we would not be sitting here today.

The humanitarian disaster, the denial of the panoply of human, civil and political rights are inextricably linked and cannot be separated.

What about that humanitarian disaster? I would like to use my remaining time to make a few remarks about hunger and food issues in the context of the North Korean Human Rights Act.

The first point is that the character of the situation has changed. What started off in the early 1990s as a kind of classic socialist famine, as the North Korean economy marketizes it, has evolved into a situation more similar to what we have observed in market economies elsewhere. That is to say, access to food is largely a function of economic status.

Today, most North Koreans get most of their food not through the public distribution system, the PDS, the old mechanism of the Socialist Government, but rather through the market, and as a consequence we would urge USAID, in conjunction with the WFP,

to not only monitor developments in the PDS, where the aid goes, but monitor developments in the market, because that is where most North Koreans are actually getting their food, and price information in the markets can convey a lot of information about the actual situation in North Korea.

What about that aid? Professor Haggard and I estimate that a substantial share of it is being diverted away from its intended end users. We reached that conclusion on the basis of several forms of evidence.

First of all, the South Korean NGO, Goodfriends, which has a long history of doing very serious work in this area, recently released a statement in which they estimated that 50 percent of the aid was being diverted, though they did not provide details about how they reached that conclusion.

In the course of our research, Professor Haggard and I have had conversations with a number of people from official and NGO organizations with intimate knowledge of their own organizations' programs within North Korea. And in those private background conversations, the estimates that they have provided us range from 10 percent to 30 percent, which is well below the Goodfriends' estimate, but still it is a significant number.

To put it in some context, in recent years aid has been feeding roughly 30 percent of the North Korean people. So if you divert anywhere from 10 to 50 percent of that aid, that is just enough food to feed 3, 5, 10, even 15 percent of the people is being diverted. That is an awful lot of food.

Given the very high price of food in North Korea, whoever is able to get control of that diverted food can reap astronomical rents, and as a consequent they have two incentives: One is to maintain the aid program; and two is to evade detection.

So what about monitoring? The problems of monitoring are well known, and in my limited amount of time I will not go into them in detail, but instead I would like to make two points that link to North Korea's external behavior.

The first of these is that the availability of aid has effectively crowded out imports of food on commercial terms. If you look at my written testimony, at the very end there is something called Figure 2, and what that does is graph the food that North Korea purchases on commercial terms, the food that comes into North Korea on concessional terms, and then the concessional share. What we see is that between 1996 and the present the concessional share has risen from roughly 0 to more than 90 percent.

North Korea has effectively stopped importing food. It is highly dependent on aid. Where that aid comes from is important in terms of the monitoring regime. As we all know, the WFP, the USAID, and other donors have been in a protracted negotiation over the years with North Korea to gain better transparency, but North Korea receives substantial amounts of aid from two Governments on a bilateral basis outside the WFP with very little conditioning on transparency or monitoring issues, and that is from China and South Korea.

South Korea is very important in this regard because they have a large multi-year commitment to North Korea to provide not just aid, but rice, which is the preferred form, unlike typical aid given

through the WFP. That aid is provided with no attempt to assess conditions within North Korea, no attempt to target vulnerable populations, and only a token monitoring effort.

Our concern is that the provision of large amounts of effectively nonconditioned aid from China and South Korea is strongly eroding the ability of donors like USAID through the WFP to maintain a modicum of internal access, transparency, and monitoring. And I am happy to go into details in question and answer about where that situation is. It is a very fluid situation right now.

In the context of the North Korean Human Rights Act, which is what this hearing is about, we would urge the U.S. Government to encourage China and South Korea to donate their assistance through the WFP, not through this less-regulated bilateral channel.

We are concerned about monitoring because ultimately we are concerned about effectiveness, but monitoring is only one way to get at that issue. Another way is to look at nutritional status, and indeed a number of you mentioned these nutritional surveys in your remarks.

From the most recent nutritional survey, which was done in 2004, and the price data that we can observe in North Korea confirm that the ongoing hunger problems have a very pronounced regional component. Specifically, there are areas on the east coast and in the northern part of the country that have historically been disadvantaged, and the nutritional surveys indicate that has continued to be the case. The price data that we can observe indicates that the price of food is much higher in those areas than elsewhere in the country.

Given the apparently fragmented nature of these markets, that is to say, very disparate prices existing contemporaneously in different parts of the country, our conclusion is that USAID's policy of preferentially targeting the northeast in terms of shipments that are paid for by the U.S., is in fact an appropriate tactical response to the imperfect environment under which this relief effort is being conducted.

Just as the closed nature of the North Korean system impedes the design, implementation and monitoring of the humanitarian relief effort, the closed nature of the system impedes the evaluation of its effectiveness as well, which brings me back to my original point.

At base, the issue is the North Korean political system. The ultimate resolution of the humanitarian disaster requires a North Korean political system in which the governed can influence the Government through the exercise of basic human, civil, and political rights.

Thank you for the opportunity for presenting our views, and I look forward to answering any questions.

[The prepared statement of Mr. Noland follows:]

PREPARED STATEMENT OF MARCUS NOLAND, PH.D.,¹ SENIOR FELLOW, INSTITUTE FOR INTERNATIONAL ECONOMICS AND CONSULTANT, U.S. COMMITTEE FOR HUMAN RIGHTS IN NORTH KOREA

It is an honor to be invited to testify before this committee. We would like to begin our testimony by restating a simple yet compelling point: The absence of human, civil, and political rights in North Korea and the humanitarian disaster that afflicts its population are inextricably linked.

North Korea's tragedy could have occurred only in a system in which the political leadership was insulated from events on the ground and shielded from political competition and freedom of association and speech. The failure of the North Korean government to guarantee adequate supplies of food to its population is directly related to the government's denial of a battery of other rights to its citizens: to confront public officials with their shortcomings and replace them for policy failures; to publicize information that allows government officials to know the extent of distress; and to organize collectively in the face of injustice and deprivation. If these rights were present, neither the great famine nor the ongoing shortages of food would have occurred and we would not be meeting here this afternoon.

Despite our strained political relations with North Korea, the United States has been the largest donor of humanitarian assistance to the country since 1995, contributing over \$600 million in food aid, equivalent to over 2 million metric tons of grain. An important purpose of the North Korean Human Rights Act of 2004 (P.L. 108-333) is to guarantee that all efforts are made to improve the transparency with which this aid is delivered. These concerns stem from our interest in targeting aid to vulnerable and deserving groups and assuring that aid is not diverted to the undeserving, either for consumption or re-sale in the market.

The impediments that the North Korean government has placed in the way of monitoring aid are well known and need not be rehearsed here. The USAID reports under Section 201 of the Act provide a detailed overview of recent developments. These reports present a mixed picture. On the one hand, the World Food Program's (WFP) more requests for monitoring have been denied in the last year, the total number of visits by WFP monitors has been reduced by roughly 40 percent, and the North Korean authorities have restricted the nature of questions World Food Program (WFP) officials have posed in their focus groups. On the other hand, the WFP also appears to have reached an agreement in principle with the North Korean government to introduce a number of changes in the monitoring regime. If implemented, these changes would improve the monitoring climate, perhaps even substantially, although they would probably still leave it short of standard humanitarian principles.

Our contribution to the Joint Meeting does not come in reviewing the evidence already ably supplied by the WFP and USAID. Rather, we would like to draw upon ongoing research conducted under the auspices of the US Committee for Human Rights in North Korea to provide the committee with the context for understanding important changes that are taking place in North Korea at the moment, changes that affect our humanitarian interests and bear directly on the transparency of food delivery:

- North Korea has offset aid by cutting commercial food imports;
- Access to food is increasingly a function of economic status, and changes in the economy have contributed to the formation of a new class of food-insecure households among the urban nonelite;
- Diversion of aid from its intended recipients is almost certainly taking place, and the magnitudes are not small; and
- The availability of large volumes of essentially nonconditioned aid provided bilaterally by South Korea and China threatens to undermine the progress the WFP has made in its monitoring regime.

The Breakdown of the PDS and the Marketization of Food Distribution

North Korea is highly urbanized for its level of development, and those not working on a cooperative or state farm have historically depended on the public distribution system (PDS) for rations. During the great famine of the mid-1990s, this sys-

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tem proved unable to provide even the minimal amount of food needed for human survival. What is striking is that this system of distribution has never fully revived. Figure 1 shows the data we have on average rations distributed through the PDS; these averages hide important variations across provinces and over time. Even after the famine, and with the tremendous multilateral aid effort, the PDS distributes only 350 grams of food per person daily.

The flip side of this observation is that households out of necessity are securing a larger share of their food through the market, in which we include general markets in larger cities, farmers' markets, and more informal markets or exchange networks (such as barter, transfers from relatives in the countryside, and corruption). A simple balance sheet approach that weighs total domestic production, imports, and aid against food distributed through the PDS suggests that over the past five years most of the domestic production has gone into the market. The PDS has increasingly become a mechanism for distributing aid. By our estimates, total aid receipts are equal to approximately 80 percent of the food that North Korean authorities claim is being distributed through the PDS.

This declining reliance on the PDS is confirmed by a series of refugee surveys done by several different researchers. They paint a consistent story: The PDS ceased to deliver food to large segments of the population in the 1990s, and families were forced to adopt a variety of coping strategies to survive. A recent survey of nearly 1,000 refugees in China confirms the marginality of the PDS system for many people.

The Problem of Diversion

Much public discussion of diversion focuses on large-scale diversion of aid to senior military and government officials. This problem certainly exists. But since the military and political elite has access both to grain collected from the cooperative farms and to imports from countries altogether outside the WFP—most notably China—its importance is probably exaggerated. A less appreciated phenomenon is diversion of aid by local military and political officials or by those involved in the transport of grain to either nontargeted groups or the market.

Since its early operations in the country, the WFP has sought to address this problem through two means: (1) devising lists of target groups and (2) selective monitoring of the institutions and programs—such as food-for-work programs—through which aid is delivered to recipients. Public distribution centers are the main channel for the delivery of food to the general, nontargeted population. These centers can be thought of as final “retail” outlets, where households purchase prescribed amounts of food using ration cards. The primary channel for delivering food to targeted groups is via more than 40,000 institutions such as schools, orphanages, and hospitals.

However, there is no separate channel in North Korea for distributing food to these institutions; food passes through the same county-level PDS warehouse before it is distributed to the final units. These county-level warehouses are controlled by People's Committees made up of mid-level government and party officials; these groups confront multiple demands on the food they control, from central authorities wishing to reallocate the food regionally, to local military and work units, to outright corruption.

How large is this diversion, and what effect does it have? No one knows for sure, but it is likely to be substantial. The South Korean nongovernmental organization (NGO), Goodfriends, which has a long history of deep involvement in these issues, recently estimated that half the aid is diverted, though it did not provide any detail on how it reached this estimate. One of the most astonishing things to come out of one recent survey of nearly 1,000 refugees is the relative absence of self-reported receipt of aid. Only 63 percent of the respondents in this survey reported even knowing of the existence of aid. Ten years into the humanitarian effort, nearly 40 percent of the population remains unaware of it, despite the fact that it purports to target virtually all of the school-aged children in the country. Of those who knew of the program, only 7 percent reported having received aid (or less than 5 percent of the total sample including those who were unaware of aid deliveries). These numbers do not imply that only 7 percent of the population received aid, nor do they constitute proof of diversion. They do, however, testify to the extraordinary power of the government to control information. When asked who respondents thought were the primary recipients of aid, fully 98 percent responded “the military.” Again, these responses do not prove that the military has been the primary recipient of food aid, but they do attest to the centrality of the military in North Korean society.

To get a rough sense of the magnitude of the estimates of diversion, aid has been providing at least a minimum ration to approximately 30 percent of the North Korean populace in recent years. If the estimate cited above is correct, it implies that

the diversion of aid is sufficient to feed a significant share of the North Korean people. In light of the high real price of food in North Korea, and the astronomical rents that could be reaped through diversion, those who manage to get control of these supplies have a strong pecuniary incentive to both maintain the program and escape detection.

In the presence of markets, the welfare effects of diversion are ambiguous, however. Diversion directly moves food away from intended beneficiaries. But food is fungible to an important degree. To the extent that the recipients of diverted aid substitute it for food that they would have otherwise purchased, diversion tends to depress prices in the market where many of the beneficiaries or their families are, in reality, obtaining most of their food; again, we know this because both North Korean and WFP estimates of daily PDS rations are not sufficient to meet even the minimum caloric intake, even if we correct for the presence of other types of foods besides grains.

This analysis leads to an important policy conclusion. In addition to gaining better access to the PDS, which is now largely a mechanism for distributing aid, US or other monitors should be tracking developments in markets, where signs of food distress often appear first as wildly fluctuating grain prices.

The 2002 Economic Policy Changes

The process of marketization, which had been occurring for years, was re-enforced by an important set of reforms launched in July 2002. This is not the venue to go into a detailed analysis of these policy changes, but they have proved problematic in both design and implementation. We estimate that since August 2002, the annualized rate of inflation in North Korea has been over 100 percent. The WFP has begun to conduct household surveys and canvass local officials. Their studies conclude that many factories are running well under capacity, and as a consequence as much as 30 percent of the workforce outside of agriculture may be unemployed. Among those who remain employed in the industrial sector, there is considerable underemployment, and some workers who continue to receive salaries have seen their wages cut by 50 to 80 percent. Women appear to be particularly affected by these developments, with an unemployment rate double that of men.

According to WFP surveys, households dependent on the PDS—overwhelmingly in the cities and towns—spend roughly one-third of their income on PDS-supplied food alone. A typical family of four with one income would spend 40 percent of its budget on PDS-supplied food. Some households surveyed by the WFP report spending 50 to 60 percent of their household incomes on PDS food. However, recall that at best the PDS is supplying households with only about one half of an absolute minimum caloric need. However, if these households are spending one-third of their incomes on PDS food, and we estimate they are spending another third on nonfood essentials, this leaves only one-third of their budgets to cover the other half of their caloric needs through other sources. Market prices are conventionally thought to be three or more times higher than PDS prices. As a result, WFP surveys are finding that some households are spending up to 80 percent of their income on food, inclusive of non-PDS sources.

How do households cope? What is striking is the continuity in coping behaviors between the high famine period and the current setting, despite a massive increase in food aid. According to the WFP, 40 percent of interviewed households report receiving food from relatives in rural areas. Sixty to 80 percent of PDS-dependent (i.e., urban) households and 65 percent of cooperative farm households report gathering wild foods. Many households and workplaces maintain “kitchen gardens,” and, as in other cases of economic stress around the world, there are extensive anecdotal reports of households selling or bartering personal belongings for food and engaging in other socially disruptive coping behaviors, including crime, human trafficking, and prostitution.

According to the WFP, households with a single earner and dependents and PDS-dependent households without access to “kitchen gardens” are the most vulnerable. The targeting strategy of the WFP may also miss important segments of the vulnerable population. For example, households with children may benefit from the supplementary rations provided through institutions. But households without children that are not participating in food-for-work programs would not receive any benefit from aid, except indirectly through its effect on market prices.

Reality may be even worse, however. One interpretation of the price increases is that they were simply bringing PDS food prices in line with the market. Yet there is also anecdotal evidence that even the pretense of universalism has been breached. Over the last ten years, the PDS has only rarely been able to deliver food on a consistent basis. But recent reports suggest that the authorities have significantly reduced the number of households being issued PDS ration cards. The urban nonelite

has clearly been affected by the fall in real wages and the increase in food prices; some have effectively been expelled from the PDS. These anecdotal reports are fully consistent with the most recent refugee surveys that document the continuing decline in the share of the population that depends on the PDS as its major source of food. Indeed, less than 4 percent of the refugees in China interviewed in one recent survey “agreed” or “strongly agreed” with the statement that there had been an improvement in food availability since the July 2002 changes were enacted, and 85 percent of these refugees, who admittedly may not be representative of the country as a whole, “agreed” or “strongly agreed” with the statement that North Koreans are voicing their opinions about the chronic food shortage.

In sum, although the period of high famine has passed, North Korea continues to experience chronic food shortages that are hitting hard at an underemployed and unemployed urban working class in particular. Targeting children is important but insufficient; many vulnerable households are not on the target list. Moreover, given the political stratification of North Korea and the inability of the WFP to achieve minimum standards of transparency and monitoring in its operations, deserving households—including politically disfavored households—are not getting the food intended for them or are being denied relief altogether.

Obtaining better information through baseline surveys and focus groups would be invaluable in gaining a better understanding of what is happening in North Korea, and we fully support the efforts of the WFP and USAID in this regard. But we must also admit that better information alone will not significantly improve the effectiveness of the humanitarian effort in North Korea.

Measuring Effectiveness

Much emphasis is placed on the integrity of monitoring: If we can simply get the monitoring system to work properly, we would be assured of better outcomes. Yet a second way of gauging effectiveness is to look at surveys of health status. The UN has supported a series of nutritional surveys, the most recent of which was conducted in 2004. The North Koreans imposed severe constraints on implementation, the methodologies employed leave much to be desired, and deep questions remain about the accuracy of the reported results. Moreover, because of differences in the methodologies and populations studied in successive surveys, we have reservations about drawing strong conclusions about trends over time and therefore focus largely on the snapshot this most recent evidence provides.

At the national level, the rate of stunting (measured height-for-age), signaling chronic malnutrition, was found to be 37 percent among children under the age of six. The underweight share (measured weight-for-age) was 23 percent. Wasting, a measure of acute malnutrition (measured weight-for height), was 7 percent. These results would fall into the “high” range in the Food and Agricultural Organization’s classification. The survey revealed considerable regional variation. For example, the stunting rate in Pyongyang (26 percent) was well below that in the eastern provinces of South Hamgyong (47 percent) and Ryanggang (46 percent); similar results were found with respect to those found to be underweight, and even larger differences existed with respect to wasting. This evidence is consistent with the historical record, which indicates that privileged areas such as Pyongyang fare much better than more remote mountainous areas of the north and above all the cities and towns of the eastern provinces.

This mixed assessment of progress does *not* mean that delivered aid is ineffective; it only demonstrates the uphill battle the humanitarian community must fight in a context where other features of the system make it difficult to be effective. And just as the closed nature of the North Korean system inhibits effective program design, implementation, and monitoring, it prevents effective evaluation as well. Considerable food price dispersion across regions indicates that while the process of marketization is well under way, the markets remain fragmented. In this context, the USAID policy of preferentially targeting the northeast is an appropriate tactical response to the imperfect conditions under which this relief effort is being carried out.

Coordination Problems: Aid in International Context

The United States is not the only donor to North Korea: European countries—both individually and through the European Commission—Japan, China, and South Korea all provide aid as well. A disturbing finding of our research is that as aid began to flow into North Korea, the country simultaneously moved to reduce its commercial imports of food. Figure 2 makes this point clearly. If we look at the function of food aid from a macroeconomic perspective, it is clear that North Korea has been using food aid to conserve on scarce foreign exchange, which can then be used for other purposes.

We believe that this very simple point has been missed in most if not all analyses of the ongoing crisis in the country. Indeed, our calculations suggest that if North Korea had managed to maintain commercial imports at the levels of the early 1990s through the rest of the decade, food shortages might have existed but the worst of the famine could well have been avoided and the current shortfalls would certainly have been less severe.

A second point is that since the monitoring of food aid is in effect a bargaining game between the international community and North Korea, handing more unconditional aid out can have adverse effects on the country's willingness to comply with basic humanitarian principles. Section 202a3 of the Human Rights Act explicitly acknowledges this point, noting "the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea."

Two countries, China and South Korea, provide concessional sales or grants of food to North Korea outside of the WFP. We have no direct evidence of China's contracts with North Korea but have seen no public evidence that they have conditioned aid either on overall policy reform or more particular principles of programmatic design, implementation, or monitoring. In the case of South Korea, aid has been provided on a concessional basis and, by the admission of the government, with only the most minimal effort to monitor.

There are numerous disadvantages in this arrangement. If China and South Korea become the suppliers of last resort, it provides the North Korean government the opportunity to further erode the modest and ineffective monitoring regime that is in place. As we have seen, North Korea has been able to avoid a more stringent monitoring regime—and has recently challenged the WFP's most basic mandate—as a result of alternative sources of less conditional supply.

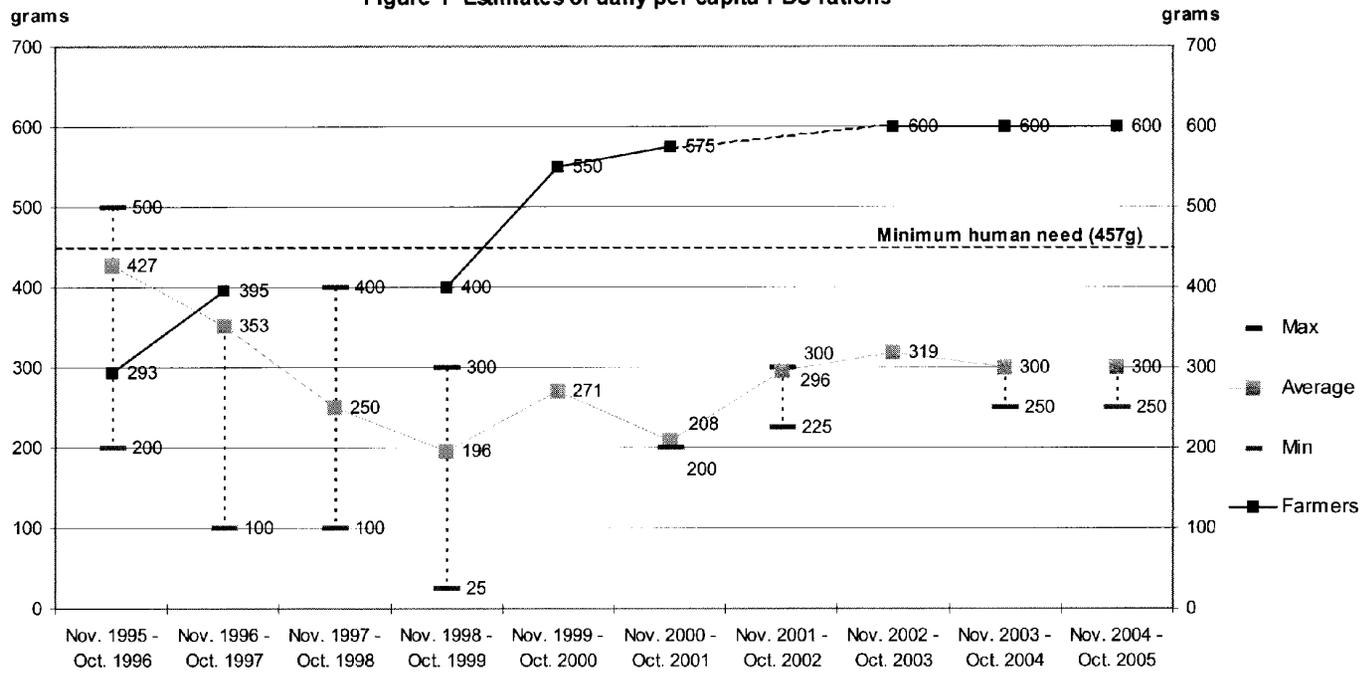
In this respect, the policy choices of the South Korean government have been most disappointing. We are concerned that large, relatively open-ended aid commitments—totaling as much as 90 percent of total WFP needs—could be having the unintended consequence of undercutting the WFP's attempts to uphold the norms embodied in international agreements to which South Korea is a party. We recognize the special circumstances that bind the South and North Korean people together, the desire to contribute directly, and the effectiveness of the many projects in which South Korean NGOs are increasingly involved. However, the open-ended and large-scale delivery of food aid does not advance the cause of North Korea becoming more self-reliant in the long run and undermines the modest progress in providing more transparent and effective humanitarian relief in the short run. We would therefore urge the US government to encourage China and South Korea to channel future concessional food assistance through the WFP.

Conclusion

The failure of the North Korean government to guarantee adequate supplies of food to its population is related to the government's denial of a battery of other rights to its citizens. If these rights were present, neither the great famine nor the ongoing shortages of food would have occurred. The WFP, USAID, and the dedicated NGOs working in North Korea would not be toiling in an unsupportive environment or struggling with the consequences of a chronic food emergency. Their scarce human and financial resources could have been deployed to other areas of need where the local governments would be more supportive of their mission. Therein lies the link between access to food and human rights more generally.

We thank the committee for this opportunity to present our views.

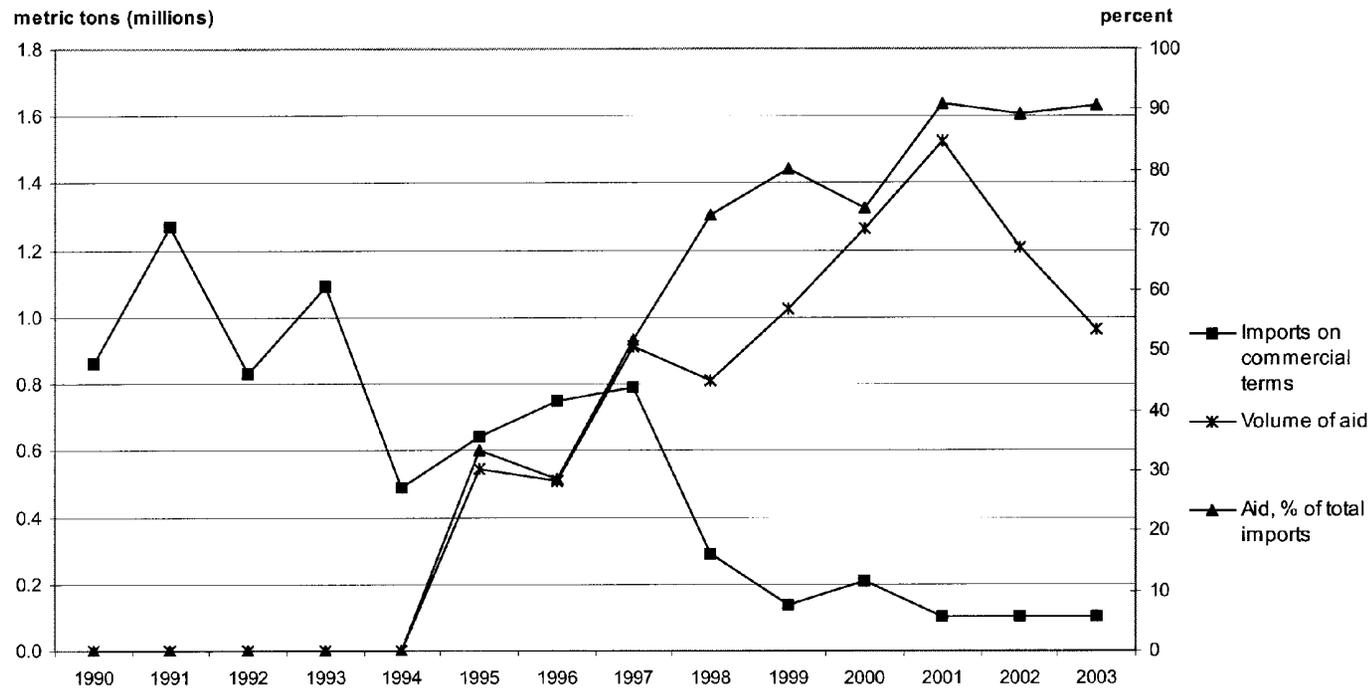
Figure 1 Estimates of daily per capita PDS rations



Source: FAO/WFP Special Report, various publications; Natsios (2001).

Note: In most cases averages are taken directly from the source. Other wise, they are calculated as the simple average of the estimates for different cohorts throughout the marketing year.

Figure 2 North Korean food imports and aid, 1990-2003



Source: Imports: WFP Special Reports, various publications; Aid: INTERFAIS (2004)

Mr. LEACH. Thank you very much, Dr. Noland.
Mr. Smith?

Mr. SMITH. Thank you very much, Mr. Chairman.

Let me ask our friend from the Jubilee Campaign, Ms. Buwalda—you mention on page 7, in talking about the Christian aid worker, wheelchair-bound Reverend Kim Dong-Shik, that he had been abducted by North Korean agents. My question really is: How many abductions are we talking about? There is a footnote regarding 40 that were abducted from 1990 to 2001.

You also point out that a petition had been filed with the U.N. Working Group on Enforced Involuntary Disappearances on behalf of Reverend Kim, and I was wondering, What did that trigger? What is the status of that? Do you have any hope or any expectations that will be available?

Ms. BUWALDA. Thank you for those questions.

On the first issue, we have had Korean-speaking activists scour South Korean papers as well as anything they can find in North Korean press, and we have had Chinese speakers scouring China press to try to find evidences of abductions, and that is in part where we have come to conclude, and also reported by Chosunilbo, that there have been at least 40 abductions that have been—that can be documented.

That is a significant number if one considers in that area how many aid workers might even be there. The numbers are not really that large, and so that is a substantial number that were abducted.

As far as the case of Reverend Kim Dong-Shik, when we approached the U.N. Working Group, their response was to—they essentially note that North Korea is unlikely to respond. They have made numerous attempts in recent years to obtain responses from North Korea of others who have disappeared, and not surprisingly, North Korea has made no answers whatsoever.

Since the abduction itself took place in China, our objective is to have the working group make a request to China as well and hold China accountable for even permitting the abduction to take place.

We are very pleased with the South Korean Government's efforts in prosecuting those who have been involved in the abduction itself. That is the first breakthrough of this kind, and I think it is monumental that a prosecution has taken place in the South for an international kidnapping.

Mr. SMITH. Thank you. Let me ask you and any of our witnesses who might want to respond: In the State Department's report of March 11, they point out that China denies North Korean's access to UNHCR personnel. North Koreans cannot easily access UNHCR's office in China, and Secretary Dewey pointed out earlier that he could not even find it. That is how difficult it is, and obviously there is no—the UNHCR staff have not been able to travel to northeastern China.

They also point out—that is to say the State Department—that several articles of the Refugee Convention are violated, including article 31-2, article 33, article 32, article 35, and there seems to be—I mean, these articles can be violated with impunity and there is no accountability. You know, there may be an admonishment somewhere by some diplomat, and that seems to be one of the weaknesses of many U.N. conventions and treaties.

But do any of you have any suggestions how the Chinese Government can be held accountable? They make the blatant statement that these are just simply illegal economic migrants, and we have heard that one before in other venues as well. So if you could.

Ms. BUWALDA. The first step that needs to be taken, and I believe it has now taken place, and that is where there has been recognition by the U.N. itself that these are refugees. That issue had been skirted for too many years, avoided, basically hidden away. And so the fact that that is now actually being published by the Special Rapporteur is a significant step forward, and we need to put pressure on the UNHCR to publicly adopt that definition. Our Government should publicly be adopting that definition. It is a legal lawful definition under the treaty.

As far as treaty enforcement, there is an agreement between China and the UNHCR which the UNHCR can enforce through binding arbitration. It is our understanding from the UNHCR, our dialogue with them, that they do not feel they could win a case; that somehow by bringing a case to binding arbitration they would lose. That is not possible when one considers the definition of what a refugee is, refugee sur place, and the tribunal that would come out of enforcing binding arbitration. We are convinced it would win, especially when in the international court, if you will, of public opinion. China would be too embarrassed not to immediately permit unimpeded access.

So we continue to raise that, and we were excited that the act even codifies the fact that we should be raising it, that the UNHCR should be considering binding arbitration. But just last month in Geneva, speaking to their legal office, they still do not have the resolve to do that, and I believe if we are holding the purse strings we can give them that resolve.

Mr. SMITH. I appreciate that. I think we need—I raised the issue myself when I was in Geneva with UNHCR officials. I think we need to do that collectively as a Congress, so I think your point is very well taken.

When you surrender up front preemptively you guarantee that you lose, and you know, what is the harm of the UNHCR mounting a full court press or at least a press to try to get the Chinese Government to live up to its treaty obligations? So I think your point is very well taken.

All of our witnesses, thank you so much for your testimonies.

Mr. LEACH. Thank you, Chris.

Mr. Payne.

Mr. PAYNE. Thank you very much.

The question I have is in regard to North Korea's ability to—do you think that they have the ability to produce enough food for their population? And if there are not, what are some of the systemic problems? Is it just lack of a program, a policy? Is it lack of farm equipment? Is it, you know, antiquated processes? Dr. Noland, or anyone else, if you would like to try that answer.

Mr. NOLAND. I think what we need to do is distinguish between food security—which is an understandable goal that most, if not all, national governments follow—and food self-sufficiency.

North Korea has very limited arable land. It has a high northerly latitude, and relatively short growing seasons. From an economic

standpoint, it is utterly irrational for North Korea to try to achieve food security through self-sufficiency.

South Korea does not, China does not, Japan does not. They all export industrial goods. They earn foreign exchange, and they import their food. And if I were to be providing advice to North Korea, I would say that from an economic standpoint, the permanent resolution of their food difficulties lies in a revitalization of their industrial economy, not improvements in agricultural productivity.

If you can improve agricultural productivity through changes and incentives, through provision of more fertilizer, other inputs, that is great. Obviously nobody would be against it. But we should be very clear that from a quantity standpoint, the solution of North Korea's food problem is not growing more food in North Korea, the solution is importing it from Iowa and other places that are very efficient in producing it.

One of the things that Professor Haggard and I found in our research is that if you take the World Food Program's estimate of the minimum human needs for the North Korean population throughout the period of the 1990s, and you look at the actual amount of food that was available in that country, if the food had been equally divided, there would not have been a famine. The quantity of food exceeded the minimum human needs for survival, and indeed in most years, except for I think 2, it exceeded normal human demand.

What is striking about North Korea is the fall-off of imported food. We do a calculation in which if North Korea had simply continued to import food at the level it imported it in 1993, there would not be a famine. There would not be a food emergency. The food emergency is intimately linked to the behavior of the Government, the internal policies in maldistribution of what resources they have, not the inability to produce a large enough volume of food internally.

Mr. PAYNE. How does North Korea create foreign exchange anyway? I know that they are in the weapons business, but how do they bring in enough income to even purchase fuel or food?

Mr. NOLAND. If we set aside arms and drug trafficking and counterfeiting and those sort of illicit sources, and we think about normal commerce, North Korea has comparative advantage in several areas. It has significant mineral resources. It exports, for example, gold, and it exports a number of other mineral resources as well.

It can make money off of some niche, natural resource sectors such as sea urchins, ginseng, things of that sort.

In the end, most of their foreign exchange earnings have to come from manufacturing and service sectors. North Korea does export certain manufacturing items, tends to be sort of low-tech manufacturing, and it has some service sector areas that it can do as well.

So if North Korea concentrated on legitimate commerce, it could actually relieve this balance of payments constraint and put itself in a position in which it actually did import food on a commercial basis as it did in earlier periods, and not rely on handouts from the international community.

Mr. PAYNE. Just one last question, and it is a military question, and I do not know if you know the answer to it or anyone else may know. How large is the North Korean military? We hear different

numbers. Is this a real army, a standing army, or is it just a bunch of people that they have assembled? I mean, they do march well. But is it a real—what are the numbers? Do you know?

Mr. NOLAND. That question is seldom phrased in such a subtle manner, but that is a very, very important question.

The army is more than a million men, which in the context of a population of roughly 22 million makes it the most militarized country in the world. But in addition to that army, there are essentially local reserve-type units, and the army both defined narrowly as that million men plus these auxiliary reserve units not only engage in military activities, but they engage in all sorts of activities that would normally be performed in the civilian sector in many countries. They grow their own food. They have their own mines. They run factories.

And so one of the problems is, when we talk about the military in North Korea, we're talking actually about a very broad swath of North Korean society, and we have to be careful when we talk about, for example, diversion of food to the military, because the military is such a large part of the society to start with, and it is the part of the society that today has access to trucks, it has access to fuels, and, of course, it has access to guns.

So the whole organization and the militarization of that society is intimately related to the issues that we are talking about today.

Mr. PAYNE. That is very interesting, and I will end my questioning here, but I note that before the market in the United States and I guess around the world, but particularly the United States, just opened up where China had this tremendous export into the United States. I think the old Chinese military sector was sort of entrepreneurist too, sort of ran their own little operations, they may still, but I know that that is not unusual in that area where they have businesses, a lot of corruption also, of course, in the businesses and so I really appreciate that information. Thank you very much.

Mr. LEACH. Thank you, Mr. Payne.

Let me just conclude with a couple of questions. One to you, Dr. Noland. In your testimony, you note that economic stresses within North Korea are leading people to engage in socially disruptive coping behaviors.

What do you mean, anecdotally, or what is a socially disruptive coping behavior?

Mr. NOLAND. People do not have enough food and they do not get it through the normal channels, so the social compact in which the State delivers food is broken down. And so what one observes is the rise not only of entrepreneurial behavior in ways that we would normally consider legitimate, but the sorts of things that we have been talking about this afternoon, human trafficking, prostitution, things of that sort.

Mr. LEACH. Fair enough. Let me go on. You also say that while the economic dynamics inside North Korea are increasingly market driven, their cumulative effect is a political one. What do you mean by that?

Mr. NOLAND. I am sorry. I did not—

Mr. LEACH. You say their cumulative effective is a political one.

Mr. NOLAND. Could you tell me which page? I am not sure what context that is in.

Mr. LEACH. Well, the context of the comments you made were that the effects of the changes since 2002 have been very significant in an opening market kind of way, but the political effect is also very great, and that it could be that some people are more helped and some people less helped. Can you describe that?

Mr. NOLAND. Sure. What has essentially happened is the old industrial economy to a large extent has collapsed, and either explicitly or implicitly much of the urban working class has simply been cut loose, and our estimates are that the rate of inflation in North Korea since 2002 has been running in excess of 100 percent a year.

So these are people who really are the ones who are the core disadvantaged class in these developments. They are not getting the food from the State. They are dependent on what they have on won-denominated salaries that are eroding in value very, very rapidly.

At the same time there are people within the system who arguably have benefitted. These are largely groups that have access to foreign exchange because the foreign exchange acts as an insurance mechanism against inflation, and as part of the system fraying that has gone on over the last 10 years in North Korea for people who do have foreign exchange there are a wider array of goods in the market available.

There are basically two economies. There is an economy that effectively runs on foreign exchange in which you can get imported goods of all kinds. You can get video recorders, you can get really nice fruit and vegetables and things of that sort. I have been told there are very fancy restaurants, that are as fancy as anything we have here in Washington, DC. This applies to a certain segment of the population that for various reasons have access to foreign exchange.

Then there is this other group, basically the urban working class, which is falling into worse and worse straits.

The ultimate political implications of these developments for internal political stability, I think, are very complex, and I am not sure if you want to listen to me speculate on those or not.

Mr. LEACH. Well, let me just ask Mr. Choi one question here. Mr. Choi has indicated that there is a fabric of anti-Americanism in the education of the young and the old. Is that 100 percent accepted by the people? You have indicated it is a way to hold the Government, that it is a legitimizing aspect of the Government. Is there any skepticism within North Korea? Are people saying it is not true, or is it universally accepted as truth?

Mr. NAM. Mr. Chairman, I am translator. I translate your question to Daniel.

Mr. LEACH. Thank you, Mr. Choi.

Mr. CHOI. [Through translator.] Thank you, Mr. Chairman. Yes, the population in general in North Korea from childhood until they become adult, they go through this process of brain-washing anti-Americanism, so by the time they reach adult they take it for granted the Americans are bad.

Yes, most of them are under the influence of this brain-washing.

Mr. NAM. That was his answer.

Mr. LEACH. Thank you very much.

Mr. SMITH.

Mr. SMITH. Thank you very much.

Mr. Choi, if I could just ask you a couple of questions. One, since my understanding is you escaped North Korea approximately a decade ago via China. In your view, has the situation gotten worse with respect to the Chinese Government on would-be refugees?

And secondly, since you worked as a prison guard as part of your compulsory military service, could you describe perhaps, were you in a political prison? Were you in a prison of people who committed what we consider to be real crimes? If there are any insights you can give us having been someone on the inside, and whether or not you think that has gotten worse?

And finally, on the whole issue of *juche*, and I mean, last year I read a book that was published by Richard Wurmbrand's organization which did yeoman's work in Romania. Pastor Wurmbrand wrote a book called *Tortured for Christ*, but he founded an organization that speaks out for persecuted Christians all over the world. And this book talked about how Kim Jong-il and Kim Il June were deified in the minds of the North Koreans, and that this obsessive self-reliance is something that we, as Westerners, and really even people in Asia do not fully appreciate and understand, if we do not understand it, we do not come to the right conclusions as to why the Government and the people behave the way they do.

As a person who grew up with that doctrine drilled into you, could you shed some light on that, and whether or not that is abating at all either, or is it just as bad as it used to be?

Mr. NAM. Let me translate to him first.

Mr. CHOI. [Through translator.] The situation of North Korean refugees inside China has gotten much worse than before. It is really a dire situation. My opinion is the United States and the free world should apply more pressure to China to ease up the abuse Chinese authorities have been committing against these North Korean refugees.

Mr. NAM. Daniel's opinion is 2008 Beijing Olympics is very, very important for the Chinese Government, and in order to make the changes in the Chinese Government's treatment of the refugees, he is asking the U.S. Government and the other governments to apply pressure using the 2008 Olympic event.

The second answer.

Mr. CHOI. [Through translator.] Political prison camps in North Korea, it is not just one political prisoner who committed alleged crime against the regime, but three generations get automatically imprisoned if somebody is found guilty of any charges.

In many cases if you get imprisoned as a child inside the prison camps, they will live there and stay there until they grow very old.

Juche ideology, nobody understands outside Korea, but now even North Korean people, they do not know what *juche* ideology really is. Nobody understands *juche* ideology. Instead some sets in South Korea, they claim they know *juche* ideology, and they use *juche* ideology, they interpret and they use *juche* ideology.

Mr. NAM. When he defected to South Korea, then he found some people who really believed in *juche* ideology. He believes there is

almost nobody, there are very few in North Korea who believe in or who understand juche ideology.

Mr. LEACH. Well, thank you very much. We have one last question from Mr. Payne.

Mr. PAYNE. Very quick question for Dr. Noland. During the sort of stand-off between the United States and North Korea about the nuclear and bringing in the other countries, there seemed to be a division in South Korea as it relates to the United States and the support of the United States, older people being supportive of, you know, the liberators or ones that saved South Korea. The younger people, though, having a sort of, as we find around the world, sort of a more anti-American philosophy, and I just wonder is that still going on, and in time, therefore, do you think the South Koreans will become more anti-United States.?

Mr. NOLAND. There are very clear differences generationally in a whole range of political perceptions in South Korea, and I think it is fair to say that for many fear and loathing of North Korea has been transformed into something more like pity and forbearance. And for many of the young people the United States is seen as an impediment to improved relations with North Korea and the eventual goal of Korean unification.

I think that beyond the sort of perceptual issues, the United States and South Korea have some real differences about how to move forward in the issues we have been talking about today. It has been alluded to that South Korea abstains when it comes to the vote in the U.N. on North Korea human rights, and as I have tried to argue in my remarks, the South Korean Government proffering of large volumes of rice without any real attempt to monitor its use, simply providing it to the North Korean central Government, arguably undercuts what the United States and other donors are trying to achieve through the WFP.

So I think there are both real differences and very clearly perceptual differences in generational attitudes within South Korea both toward North Korea and toward the United States.

Mr. LEACH. Thank you all. Your testimony is very appreciated and we thank you for coming, and thank you, Mr. Translator, for helping as well.

Mr. NAM. You are welcome.

Mr. LEACH. The Subcommittee is adjourned.

[Whereupon, at 4:07 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE DAN BURTON, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF INDIANA

Messrs. Chairmen, thank you for convening this timely and critically important hearing this afternoon. More importantly, I thank you both for your unfailing support of the millions of North Koreans who have been deprived of basic human rights and freedoms, and who are currently suffering under the brutal dictatorship of Kim Jong Il.

In the 108th Congress, I was a proud cosponsor of the North Korean Human Rights Act of 2004, which was agreed to in both Chambers of Congress by an overwhelming voice vote, and was then signed into law on October 18, 2004, by President George W. Bush. Today, sadly millions living behind the prison walls of the Democratic Peoples Republic of Korea (DPRK) are forced to worship in underground churches and many have been killed because of their religious and political beliefs. Within the prison walls of the DPRK, thousands of lives have been lost because of a penal code that allows for the death penalty of such ill-defined crimes as “ideological divergence,” “opposing socialism,” and “counterrevolutionary crimes.” Tortures, disappearances, arbitrary arrests and detentions are the norm in the DPRK.

Another persistent problem that exists in the DPRK is the trafficking of persons for the purposes of sexual exploitation and forced labor. In fact, according to the Department of States’ *2004 Trafficking in Persons Report*, there exist numerous forced-labor camps, which are used to punish criminals and repatriated North Koreans; and thousands of North Korean men, women, and children are forced to work under these unfortunate conditions of slavery—and many of them meet an untimely and cruel demise. The government of North Korea could care less. In fact, they will not even prosecute traffickers or protect victims; they just turn a blind eye to trafficking.

Within the DPRK there exists no free speech, no free press, no freedom of religion, no political freedoms, and no rights of association. Living in the DPRK is like living in a dark whole, and we must shed light on the deplorable situation in order to break down the barriers and expose the problems that are prevalent throughout North Korea. There is hope for a better future for the millions living in this darkness. Our solidarity with them continues to lift their spirits behind the prison walls.

As we know all too well, the North’s record on human rights is appalling, and I pledge to keep this fight on the front burner with my colleagues in Congress. Access and monitoring of critically needed humanitarian assistance must continue to be a priority; and assistance to refugees and victims of trafficking must be provided.

As we have seen, Kim Jong Il is holding his people hostage. While he weaves his deceptive web of nuclear brinkmanship, he knows all too well that his neighbors will oppose economic sanctions, which would potentially unleash millions more refugees across their shared borders. In fact, there are hundreds of thousands of North Korean refugees in China’s Manchuria region and the People’s Republic of China must provide the United Nations High Commissioner on Refugees (UNHCR) with unimpeded access.

The human rights dimension of the Korean crisis must be front and center in our negotiations to resolve the current crisis and we must lean harder on China to give the UNHCR access to all Korean defectors. Let us be very clear, in addition to the human rights violations engulfing North Korea, Kim Jong Il is also purposefully and deliberately blackmailing his neighbors and the United States through his withdrawal from the Six-Party Talks and by playing the nuclear card. Moreover, on several different occasions, Pyongyang has cited the North Korean Human Rights Act as yet another hostile policy of the United States, and—as a result—uses that as

a reason why they have backed out of the Six-Party Talks. The opposite is true. The law promotes the basic freedoms that should be afforded to all human beings. We all know that the longer there is no progress on talks the more time North Korea has to add to its nuclear arsenal and continue to oppress its people, and we must remain committed to ensure that North Korea addresses its human rights abuses and completes an irreversible and verifiable dismantlement of their nuclear arsenal and weapons program. This commitment is non-negotiable.

Once again Messrs. Chairmen, I thank you for holding this important and timely hearing. I appreciate your strong and steady leadership to raise hope for freedom, justice, relief for the suffering, and assistance to North Korean refugees. I look forward to hearing from the witnesses and hope—by the days end—that we will have a better understanding of the issues and overall implementation of the North Korean Human Rights Act of 2004.

PREPARED STATEMENT OF MR. JOEL R. CHARNY, VICE PRESIDENT FOR POLICY,
REFUGEES INTERNATIONAL

Introduction

North Koreans fleeing deprivation and political oppression in their homeland have no choice but to cross the border into the People's Republic of China. The exodus, which increased substantially with the advent of famine in North Korea in the mid-90s, presents acute humanitarian and human rights dilemmas to:

- The government of China, which must assure its security and the integrity of its borders while fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees;
- The Office of the UN High Commissioner for Refugees, which is prevented by the Chinese from assessing the situation for North Koreans in China directly;
- The government of South Korea, which, while willing to accept North Koreans who reach South Korean consulates as refugees, is not proactive in providing protection for North Koreans in China for fear of offending the Chinese and North Korean governments;
- The government of the United States, which, while concerned about the situation of North Koreans in China, is unwilling to make their treatment a major point of discussion in its on-going political and human rights dialogue with the Chinese government.

The actual number of North Koreans in China is unknown. In its 2005 report on the status of North Korean asylum seekers, the U.S. State Department estimates that the current number is between 30,000 and 50,000.

The situation for North Koreans in China

The primary motivation for North Koreans to leave their country is survival. China considers all North Koreans entering the country to be economic migrants, but this does not do justice to the level of suffering and deprivation that they experience. The North Koreans interviewed by Refugees International in 2003 and 2004 were almost all facing extreme circumstances when they left their homeland: food deprivation as the result of the collapse of the Public Distribution System, which supplied the basic food basket to North Korean families until the mid-90s famine; loss of employment as state enterprises ceased to function; death of family members in the famine, which shattered the support networks for the individual; health problems, either personal or of a family member, which led the individual to seek money for medicines in China. The vast majority of the North Koreans that RI interviewed were from North Hamgyong province, one of the poorest provinces in the country and one deliberately cut off from national and international food assistance during the famine as part of a “triage” strategy to husband scarce food resources.

The lives of North Koreans in China are ones of constant fear of arrest and deportation. They have no good options to live freely and meet their basic needs, and the few courageous individuals and organizations seeking to provide protection and assistance, whether Korean-Chinese, South Korean, or the rare few from outside the region, are themselves under constant pressure from the Chinese authorities to curtail their activities or risk expulsion.

Men have a difficult time finding sanctuary in China because they need to support themselves outside the home and traveling to find day labor exposes them to police searches. The overwhelming majority of North Korean women seeking to stay in China establish relationships with Chinese men, either through brokers or directly, as a survival strategy. While North Korean women sometimes find compat-

ible companions and end up in loving relationships, most are—in effect—trafficked, sold to Chinese men or to the owners of brothels and karaoke bars. North Korean children are also vulnerable. Only a small percentage has access to education. They stay at home or in shelters all day to avoid detection. They cannot work. They are constantly worried about their families, either in North Korea or China. In the poignant words of one teenage boy, “The situation here does not allow me to dream about my future.”

The case for refugee status

The case for the majority of North Koreans in China to be considered refugees rests on two pillars:

1. The nature of the North Korean political system and its impact on access to public goods, especially food;
2. The North Korean treatment of those arrested and deported from China as mandated by the country’s Criminal Code.

In North Korea access to public goods—food, education, health care, shelter, employment—cannot be separated from the all-pervasive system of political persecution. The North Korean population is divided into three classes: core, wavering, and hostile. The class status of each family is for life and transfers from generation to generation. Members of the hostile class are the last to receive entitlements, which is disastrous when a comprehensive welfare regime such as that established in North Korea collapses, as it did from 1994 onwards. Thus, an entire class of individuals is persecuted through the functioning of North Korea’s political system. In this context, there is no meaningful way to separate economic deprivation from political persecution.

In addition to the fundamental discrimination within the North Korean political system, the government further limits access to food and the economic means of survival through a variety of policies that control the lives of North Korean citizens. The government controls movement within the country by requiring travel passes to move outside one’s community of origin. Since foraging for food or looking for employment wherever it can be found are essential survival strategies at times of food shortages, limits on travel further prevent North Korean citizens from meeting their basic needs. The government restricts the activities of international relief agencies, declaring certain areas of the country off limits and preventing independent monitoring of the relief supplies provided.

Thus, most North Koreans crossing the border into China are fleeing state-sponsored denial of their human rights. Members of the “hostile class” and residents of areas deliberately cut off from international food assistance have an especially strong case to be considered refugees in the sense of fleeing targeted persecution. But the denial of basic rights extends more broadly, and the hunger that drives people to flee is the direct result of the political system that has been created by the leaders of the North Korean government. Not since Cambodia under the Khmer Rouge has a government succeeded in creating such an all-encompassing reality of oppression and restrictions on the basic rights of the majority of its citizens. North Koreans fleeing their country, therefore, have a case for refugee status as compelling as those fleeing Cambodia from 1975 to 1978.

The second pillar of the case for considering North Koreans in China for refugee status is the treatment they receive upon deportation. Leaving the country without permission is illegal under the North Korean Criminal Code. North Koreans arrested in China and deported are subject to punishments ranging from several months in a labor training center to long prison terms and even execution for individuals suspected or confirmed to have met with foreigners or converted to Christianity with the intention of becoming missionaries inside North Korea. Conditions in the labor training centers and prisons are harsh. Food rations are minimal and the work consists of hard labor such as digging canals and constructing roads. No medical care is available and prisoners too ill to work are often released so that the individuals do not die while in custody.

The universality of the punishment for leaving the country violates the fundamental right to leave one’s own country, a right enshrined both in the Universal Declaration of Human rights, Article 13(2) and the International Covenant on Civil and Political Rights, Article 12(2), to which the Democratic People’s Republic of Korea (North Korea) is a state party.

U.S. policy and the North Korea Human Rights Act of 2004

The United States government has been powerless to involve itself directly in protecting North Koreans in China and has been unable to effect a change in Chinese policy. High-level officials in the State Department’s Bureau of Population, Refu-

gees, and Migration insist that Chinese treatment of North Korean asylum seekers does enter into the bilateral human rights dialogue, but if so, it does so at the level of quiet diplomacy rather than through public statements at the annual meetings of the UNHCR Executive Committee, of which China is a member, or the annual meetings of the UN Human Rights Commission. U.S. diplomacy on this issue has produced few, if any, results to date.

With the government stymied and U.S.-based activism on North Korea human rights issues increasing in 2002 and 2003, the U.S. Congress took action in 2004 through the passage in October of the North Korean Human Rights Act. The North Korean Human Rights Act of 2004 is valuable as an expression of Congressional concern regarding the plight of North Koreans outside their country. Without a change in Chinese policy, however, its provisions related to North Koreans outside of their homeland are likely to remain a statement of Congressional intent rather than having an immediate practical impact. Current assistance efforts, for example, are carried out either clandestinely or on a scale deliberately limited so as not to provoke a crackdown by the Chinese authorities. There is no way to program \$20 million effectively on assistance activities in China, as responsible agencies would refuse to devise programs on that scale. Further, large-scale programs would inevitably provoke a Chinese response, which could escalate to a clampdown on all assistance or a decision to attempt to close all movement across the border. The State Department's 2005 report on the status of North Korean asylum seekers, submitted to comply with a specific provision of the North Korean Human Rights Act, states pointedly that "governments hosting North Korean refugees would strongly oppose direct USG [U.S. Government]-funded assistance for North Korean refugees on their territories."

As for camps as a protection strategy, their establishment in China is neither necessary nor politically feasible. South Korean activists have proposed establishing camps for North Koreans in Mongolia, but the Mongolian government is ambivalent about this proposal. Any large-scale movement of North Koreans into Mongolia could only happen with the concurrence of the Chinese, who are likely to view any such movement across their territory as having a negative impact on their security and on their relations with the North Korean government.

Accepting North Koreans for resettlement is equally problematic. China blocks independent access to North Koreans on their territory, so a diplomatic agreement with the U.S. would be necessary to establish an open refugee resettlement process. This is unlikely absent a dramatic change in Chinese policy. Small numbers of North Koreans are reaching countries as far away as Vietnam, Cambodia, Burma, and Thailand. American embassy staff in Southeast Asian countries should be on the lookout for North Korean asylum seekers and be prepared to consider them for possible resettlement in the U.S., especially for family reunification cases. Post-9/11 security concerns, however, present another obstacle. The U.S. refugee resettlement program has slowed dramatically as the Departments of State and Homeland Security work out procedures to screen potential resettlement populations. Given the real possibility of deliberate infiltration of U.S. territory by North Korean government agents, the screening of North Korean refugees seeking resettlement in the U.S. is likely to be painfully slow.

The U.S. needs to pursue a more serious and persistent diplomatic strategy with China, which remains the primary obstacle to improving the protection available to North Korean asylum seekers. Changing Chinese policy requires a consistent and effective interlocutor, one whom the Chinese trust. The Bush Administration should consider the quiet appointment of a senior retired official of ambassadorial rank or higher who has credibility with the Chinese to engage government officials in informal discussion of this issue. If the Chinese authorities hear consistent messages of concern about the plight of North Koreans in China from an individual that they trust, perhaps the government will be moved to adopt at least the minimalist protection strategy of quietly halting arrests and deportations.

Recommendations

The case for granting refugee status to North Koreans in China is compelling, but without changes in the policy of the People's Republic of China, it is impossible to achieve. Nonetheless, any principled campaign to protect North Koreans in China has to start with the objective of convincing China to honor its obligations under the 1951 Refugee Convention and 1967 Protocol and allow UNHCR unimpeded access to North Koreans to review their overall situation and conduct individual status determinations, which would likely result in the granting of refugee status to a significant number of North Koreans.

In the meantime, a practical, near-term protection strategy must first and foremost seek to establish greater security for North Koreans in China. China, South

Korea, and the United States have policy options available to them which would significantly enhance the protection of North Koreans outside their country without jeopardizing regional or national security.

Refugees International therefore recommends that:

The Government of the People's Republic of China:

- Take immediate humanitarian steps to protect North Koreans in China, including halting all deportations of North Koreans, except for those who commit criminal acts, and granting legal residence to the spouses of Chinese citizens and their children.
- Take additional steps to normalize the situation for North Koreans in China, including the granting of indefinite humanitarian status and providing North Koreans with a special resident visa if they can demonstrate that they have employment and shelter.
- Grant a one-time blanket amnesty, with permission to remain in the country, for all North Koreans in China.
- Fulfill its obligations under the 1951 Convention Related to the Status of Refugees and its 1967 Protocol and allow the Office of the UN High Commissioner for Refugees unimpeded access to North Koreans in China to review their overall situation and conduct individual status determinations. Abide by all UNHCR decisions regarding the granting of refugee status.

The Government of South Korea:

- Become more proactive in protection efforts for North Korean refugees, engaging with China to allow more North Koreans to seek asylum legally and making efforts to identify and protect North Koreans in other Southeast Asia countries. If these efforts are successful, increase the number of North Koreans accepted as refugees.
- Recognize that North Korean refugees need more time to adapt to life in South Korea and provide financial support to Korean non-governmental organizations for alternative education, vocational, and life skills programs.

The Government of the United States:

- In the context of its on-going human rights dialogue with Beijing, press the Chinese government to adopt measures to protect North Koreans in China, starting with immediately halting arrests and deportations and granting legal residence to the spouses of Chinese citizens and their children.
- Quietly appoint a senior retired official of ambassadorial rank or higher who has credibility with the Chinese authorities to engage in informal discussions of this issue and convey consistent messages of concern about the plight of North Koreans in China.
- Move cautiously to implement the assistance provisions of the North Korean Human Rights Act of 2004 for North Koreans outside their country, being careful to ensure that funding is provided on an appropriate scale for the operating environment in the border region. Avoid support for the establishment of camps for North Koreans in China or in neighboring countries.
- Offer technical support to the Government of South Korea in the area of refugee resettlement and integration. If the offer is accepted, support technical missions of U.S. non-governmental organizations with experience resettling isolated refugee populations.

The Office of the UN High Commissioner for Refugees

- Continue to press the Chinese government to fulfill its obligations under the 1951 Convention Related to the Status of Refugees and its 1967 Protocol and allow UNHCR unimpeded access to North Koreans in China.
- Increase the agency's public profile on the issue of protecting North Koreans in China, taking advantage of opportunities for senior officials to raise concerns regarding protection and lack of access in UNHCR Standing Committee and Executive Committee meetings, open forums, and the international media.