

Committee for Human Rights in North Korea

1001 Connecticut Avenue, NW • Suite 435 • Washington, DC 20036 • (202) 499-7973 www.hrnk.org

May 7, 2013

His Excellency Xi Jinping
President of The People's Republic of China

Dear Mr. President,

Our organization is composed of former U.S. government officials, Korea experts, and human rights and humanitarian specialists deeply concerned about the “grave, widespread and systematic human rights violations” reported by the United Nations in North Korea. As your government is aware, this year the UN Human Rights Council, a 47-member body, established a commission of inquiry to determine whether these violations constitute crimes against humanity.

The violations the commission will look into include denial of freedom of movement (the government of North Korea has made leaving North Korea a criminal offense) and North Korea's “use of torture and labor camps against ...repatriated citizens” —those North Koreans forcibly returned from China or other countries. United Nations resolutions and treaty bodies have regularly called upon North Korea's neighboring states to treat North Koreans seeking refuge humanely, to respect the fundamental refugee principle of non-refoulement, and to ensure unhindered access at the border to the United Nations High Commissioner for Refugees (UNHCR).

Now that you have ascended to the leadership of China, you have the opportunity to introduce a policy on North Korea that would support security on the Korean peninsula based on respect for international refugee and human rights standards; and that would encourage North Korea's government to enact policies that will benefit the civil, political, economic and social rights of its population, the absence of which are the cause of North Koreans' flight into China.

We urge your government, in accordance with its obligations as a state party to the 1951 Refugee Convention, to set up a refugee determination process with UNHCR, on whose Executive Committee China sits, so that North Koreans crossing into China may receive the international protection to which they are entitled.

China has regularly assumed that those crossing the border are economic migrants requiring deportation. We would point out first that a number of those who cross the border do so out of a well-founded fear of persecution on political, social or religious grounds. Moreover, those North Koreans who have been imprisoned for having gone to China for food or employment frequently try, once released, to leave again and seek political refuge because they know they will always be under suspicion, surveillance and persecution in North Korea. In the absence of a refugee determination process, China will not be able to identify these cases. Second, those who cross the

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border for reasons of economic deprivation may qualify as refugees if they were compelled to leave North Korea because of government economic policies tantamount to political persecution because of North Korea's political caste system known as songbun. Finally, and most important, all North Koreans who leave North Korea without permission are refugees sur place. They might not have been refugees as they left their country, but they immediately become refugees because leaving North Korea without authorization is a criminal offense and they have a valid fear of persecution upon return.

Information about the severe punishment North Koreans receive upon return from China was most recently documented in the 200 page report *Hidden Gulag, Second Edition*, published by our organization. International organizations have all expressed concern. UNHCR decided in 2004 to consider North Koreans who fled into China to be "persons of concern," meriting humanitarian protection. It has proposed a special humanitarian status for these North Koreans, which would enable them to obtain in China temporary documentation, access to services and protection from refoulement.

The UN Committee against Torture has called upon China to set up a screening process to examine whether North Koreans will face the risk of torture on return, to provide UNHCR with access, and to adopt legislation incorporating China's obligations under the Refugee Convention, in particular with regard to deportations. Further, the UN Committee on the Rights of the Child has called on China to ensure that no unaccompanied child from North Korea be returned to a country "where there are substantial grounds for believing that there is a real risk of irreparable harm to the child."

China's continued deportations of North Koreans despite these appeals, and its collaboration with North Korea's police in tracking down escapees, has cast an unfortunate shadow over the reputation of the People's Republic. China regrettably has become identified with a state not only known for its nuclear provocations but as an international pariah because of the brutality with which it treats its population.

A new approach by China based on the rule of law could include the following components:

- The enactment and implementation of new national legislation incorporating China's obligations under the Refugee Convention and international human rights agreements;
- A review of all existing legislation bearing on refugees, asylum-seekers, and migrants to bring it into line with internationally agreed upon principles;

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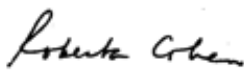
-A moratorium on deportations until China's laws and practices are brought into line with international standards and can ensure that North Koreans will not be returned to conditions of danger; and

-The introduction of a refugee determination process, in cooperation with UNHCR, for North Koreans crossing into China.

A new approach could be based on multilateral cooperation. The exodus of North Koreans affects more countries than China. South Korea for example could relieve China of the burden of housing refugees and asylum seekers since South Korea's Constitution offers citizenship to North Koreans. Countries in East and Southeast Asia, East and West Europe as well as Mongolia and the United States are also ready to admit North Koreans. In cooperation with UNHCR, a multilateral approach could be designed based on international refugee and human rights principles.

Mr. President, you have emphasized how important negotiation is in resolving protection and security problems on the Korean peninsula. Because North Korean refugees are part and parcel of these problems, we urge your government to assume a leadership role in the region by promoting adherence to international standards of human rights and refugee protection.

Yours sincerely,



Roberta Cohen
Co-Chair of the Board



Andrew Natsios
Co-Chair of the Board



Winston Lord
Board Member
Former United States
Ambassador to China



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