



Submission to the
Standing Senate Committee
on Human Rights

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Introduction

HanVoice Support Association (“HanVoice”) is Canada’s largest organization advocating for improved North Korean human rights. Our mission is to mobilize empowered Canadians to affect change in the lives of North Koreans. We support on-the-ground information dissemination initiatives in North Korea, and work with leading politicians and policy experts to advance the North Korean human rights cause. In recent years, with input from various Parliamentarians and officials, HanVoice has sought to create a formal resettlement program to expand, expedite, and facilitate the process of bringing needy North Korean refugees to Canada under a special North Korean Private Sponsorship of Refugees (NK PSR) Program.

On October 2, 2014, HanVoice appeared in front of the House of Commons Subcommittee for International Human Rights (“Subcommittee”), to discuss North Korea and the ongoing challenges for North Korean refugees. On December 5, 2014, the Subcommittee released a unanimous motion, urging the “Government of Canada to offer sanctuary to genuine refugees from North Korea for whom resettlement to another country is not an option”.¹ Subsequently, on June 9, 2015, the Former Chair of the United Nation’s Commission of Inquiry on North Korea, Justice Michael Kirby, testified before the Subcommittee, urging Canada to do more to assist the mere two countries (South Korea and the United States) that have formal resettlement programs for North Koreans languishing in transit countries.

On behalf of concerned Canadians across the country, the Korean-Canadian community at large, and the thousands of forgotten North Korean refugees stranded in transit countries, we request the Standing Senate Committee’s support in urging the current Government of Canada to create a formal resettlement program for needy North Korean refugees who have managed to escape one of the last standing totalitarian regimes in existence today.

¹Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. “NEWS RELEASE”. 5 December 2014.
<<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6821355&Language=E&Mode=1&Parl=41&Ses=2>>

Proposal for a Canadian Resettlement Program for Displaced North Koreans in Thailand

I. Background

To date, a little over 30,000 North Koreans have been able to successfully flee their homeland and find safe haven. For a North Korean, escaping is only the first step in a long and arduous journey.

The vast majority of North Korean refugees escape their country through the North Korean-Chinese border. However, China does not recognize any North Koreans as refugees. Rather, the Chinese authorities view North Koreans as economic migrants and, as such, actively pursue their capture and repatriation. Upon return to their country, a North Korean faces certain torture, imprisonment and even execution.

In the early 1990s, North Korean refugees utilized three main escape routes out of China: via the Mongolian border, claiming asylum at foreign diplomatic missions in China, and via routes through Southeast Asia, which typically included Thailand. Unfortunately, the Chinese authorities have effectively neutralized the first two escape routes. This leaves fleeing to Thailand as perhaps the last remaining road to freedom for North Korean refugees.

North Korean refugees transiting through Thailand peaked at nearly 3,000 per year in 2009. However, ever since Kim Jong-Un has come into power, the North Korean regime has made a deliberate effort to prevent defections, and we are now seeing the lowest numbers of defections in more than a decade, at just over 1,000 per year. Sadly, all signs, including enhanced security at the Chinese/North Korean border and increased recalcitrance by the North Korean regime to growing international pressure, point to the continuation of this trend.

II. The Issue - Limited Options for North Koreans in Thailand

The Thai authorities do not allow North Korean refugees to settle in their country. Upon arrival in Thailand, North Koreans are detained by police for "illegal entry", and transferred to facilities in Bangkok. Though Thailand does not repatriate North Koreans, those who make it this far are left with very few options. Currently, there are only two countries that will accept North Korean refugees out of Thailand: South Korea and the United States.

North Koreans have been able to access the United States' asylum system, ever since the passage of the American's *North Korea Human Rights Act (2004)*, which clarified some longstanding interpretive issues impacting the refugee claims of North Koreans. However, in just over a decade of efforts to assist North Korean refugees abroad, the United States has admitted less than 200 North Korean refugees, as a direct consequence of its prohibitively long processing times. This has left South Korea as

the sole *de facto* option for needy North Koreans, with approximately 30,000 North Korean refugees having resettled there.

III. Why Canada?

There are five primary reasons why Canada in particular should be opened as a viable option for North Koreans in Thailand.

- (1) The new Government of Canada has expressed what seems to be an unprecedented amount of support for refugees, evidenced by its tripling of its refugee quota for 2016. It also appears that the new Government favours the Private Sponsorship model, which is less costly than the Government Assisted Refugee program, and which allows everyday Canadians to engage in refugee issues and participate directly in the resettlement process.
- (2) Canada has a remarkable tradition of assisting persons who may not technically fall under the legal definition of a refugee, but still warrant assistance from the people of Canada (e.g. Tibetans in India and stateless Vietnamese people).
- (3) By joining South Korea and the United States, Canada can signal that the North Korean refugee situation is a pressing “long-burn” issue that the international community must attend to sooner rather than later, and, in the least, as a necessary response to a larger human rights crisis.
- (4) The outcomes and livelihood of North Koreans who have resettled in South Korea suggest a population facing significant challenges socially, economically, and psychologically - many refugees cite such issues as discrimination within South Korean society, as well as fear of discovery by North Korean infiltrators in South Korea, which includes the risk of reprisal to loved ones left in North Korea.
- (5) Finally, Canada has a thriving, successful Korean-Canadian community that is more than willing to assist North Korean refugees who may settle in Canada.

IV. Limitations to Canada’s Current System

There are several reasons why North Korean refugees struggle to access the traditional Canadian PSR Program, which are enumerated as follows:

- **Dual Nationality:** Technically, South Korea and North Korea are still at war, meaning that each state does not formally recognize the other. As such, some take the view that the South Korean constitution, which recognizes all Koreans on the Korean peninsula as its “citizens”, offers North Koreans the prospect of dual nationality. This problematic interpretation impedes North Korean refugees from successfully claiming refugee status.

- **Resettlement Restriction in the *IRPR*:** Subsection 139(1) of the *Immigration and Refugee Protection Regulations* allows Canada to deny resettlement for “refugees” if there are other “durable solutions” available, such as the prospect of resettlement in another country.
- **UNHCR’s Limitations:** Despite its formal function as the official UN body that oversees implementation of the UN Convention relating to Refugees, the UNHCR has been restricted in its ability to render refugee determinations for North Koreans, due to complex geopolitical factors that overlay this issue. For instance, the UNCHR in China is prohibited from accessing North Korean claims and intervening in the cases of repatriated refugees. Having participated in “closed door discussions” with the UNHCR, we have come to the understanding that these geopolitical forces impact even the UNHCR’s treatment of North Korean refugees in Thailand, where the Thai government has formal relationships with both North and South Korea. Indeed, during these conversations with HanVoice, the UNHCR has advised that it would not officially refer North Korean defectors in Thailand for resettlement in Canada because there are other “durable solutions” available, implicitly referring to South Korea (and presumably, not North Korea where they would be subject to certain punishment).
- **Procedural Issues:** Besides the substantive issues outlined above, there are also procedural issues, which would effectively bar an overseas North Korean from coming to Canada. Practically speaking, a North Korean is subject to prohibitively long processing times should he/she attempt to apply to the Canadian authorities directly for refugee status (roughly 4 years in Thailand). The fastest way a North Korean can attain refugee status and attain eligibility for the PSR Program through the established processes is through a positive UNHCR refugee determination and referral, which, as discussed above, is not a viable option for North Koreans.

V. The Solution - a Special Public Policy Program

As a result of the foregoing, it appears that the only option to assist with the resettlement of North Korean refugees in Thailand is for the Minister of IRCC to use his discretionary powers under s. 25.2 of the *Immigration and Refugee Protection Act* (“*IRPA*”) to carve out a temporary private sponsorship program for North Koreans in Thailand. We hope this may include built-in measures to expedite processing for the relatively low number of applicants anticipated. Although HanVoice could take on the role of “implementation partner”, the Government of Canada’s cooperation is essential for this proposal to succeed.

Section 25.2 of the *IRPA*

Section 25.2 of the *IRPA* states [emphasis added]:

25.2(1) The Minister may, in examining the circumstances concerning a foreign national who is inadmissible or who does not meet the

requirements of this Act, grant that person permanent resident status or an exemption from any applicable criteria or obligations of this Act if the foreign national complies with any conditions imposed by the Minister and the Minister is of the opinion that it is justified by public policy considerations.

The plight of North Korean refugees in Thailand including their tenuous status in the intermediate transit countries, limited resettlement options for such a vulnerable population, disproportionate barriers of entry to Canada, as well as an understanding of the protracted nature of the human rights crisis from which the refugee issue stems, are all public policy considerations that should allow the enactment of this special program.

Precedents for Special Public Policy Programs

In Canada's near past, similar programs using s. 25.2 have been implemented for other minority populations in "refugee-like" circumstances, such as the stateless Vietnamese in Thailand and the Philippines (2007), and Tibetans in India (2011). Under the NK PSR Program, HanVoice could be engaged as the "implementation partner", taking on similar responsibilities that the Sponsorship Agreement Holders have under Canada's established Private Sponsorship of Refugees Program.

HanVoice's responsibilities would include much of the work in getting North Koreans to Canada and matching them with sponsors. This would include:

- Identifying applicants for processing;
- Liaising with applicants and a coordinating organization in Thailand;
- Acting as an intermediary between private sponsors and IRCC;
- Liaising with sponsors in Canada to facilitate preparation of the sponsorship undertakings;
- Matching individual applicants with specific sponsors in Canada;
- Receiving completed sponsorship applications from sponsors in Canada; and
- Forwarding all completed applications to the responsible local IRCC office.

IRCC's responsibilities would largely revolve around accepting and approving applications directly from HanVoice, communicating to the sponsors regarding approvals and processing of applications, and monitoring the sponsors to ensure they fulfill their responsibilities (financial and settlement assistance) - all things the IRCC is already equipped to do. Attached as an Appendix is a copy of the Project Tibet Society's Public Policy Memorandum of Understanding with IRCC, which might serve as an appropriate template for purposes of establishing the NK PSR Program.

Finally, HanVoice can confirm that discussions have already been initiated with several important non-profit organizations within the Korean-Canadian community, as well as key stakeholders representing the hundreds of Korean-Canadian churches across Canada. These discussions have been met with overwhelming support, leaving us with no doubt as to the depth of assistance that the Korean-Canadian community would be willing to provide to the NK PSR Program.

VI. Closing Remarks

In February 2014, the United Nation's Commission of Inquiry into human rights in North Korea published a scathing report detailing the "unspeakable" atrocities suffered by the everyday North Korean at the hands of the North Korean government, even going so far as stating that the "gravity, scale and nature of these violations reveal a State that does not have any parallel in the contemporary world." In addition to finding systemic discrimination on the basis of gender, social class, political views, and religion, the Commission of Inquiry also found clear human rights violations reaching the level of "crimes against humanity".

The UN Commission's report came two decades after one of the lowest points in this protracted human rights crisis - a famine at the hands of government negligence that is estimated to have resulted in the death of a million North Koreans, and the physical and mental stunting of millions more. As a euphemism, the North Korean regime named this dark period the "Arduous March". To the horror of the international community, not less than a month ago, the regime warned its citizens to prepare for a new "Arduous March", revealing its intent to retaliate against the new UN sanctions meant to curb the development of North Korea's nuclear weapons. This reality is and has been the norm for the North Korean people. They have now dealt with three generations of brutal dictators, all of whom have unabashedly put nuclear ambition above and at the cost of the lives of the people.

To date, Canada has been a prominent voice in the international community against the North Korean human rights abuses. In our near decade of existence, HanVoice has received positive support for this non-partisan issue from Canadian parties of all stripes. However, there is clearly more that can and must be done. While other global powers continue to focus on security concerns, there is a gap in international advocacy on the human rights front. At HanVoice, we are hopeful that Canada can emerge as a leader in this regard, and provide voice for the vast majority of North Korean people that do not have one. The establishment of the NK PSR Program is one important and feasible way which all Canadians, from public servant to private citizen, can collectively voice our concern and engage this longstanding crisis.

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