

TO: SENATOR YONAH MARTIN

FROM: CANADA FEDERATION OF NORTH KOREAN DEFECTORS

WRITTEN EVIDENCE FOR SENATE HUMAN RIGHTS STUDY ON NORTH KOREAN
DEFECTORS

APRIL 22, 2016

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Dear Senator Yonah Martin,
Member, Standing Senate Committee on Human Rights

We are members of the Canada Federation of North Korean Defectors, a non-profit NGO representing the approximately two hundred North Korean refugee claimants still remaining in Canada. Most of us are facing deportation from Canada, either because our refugee claims against South Korea were rejected, or because we were found to have concealed the South Korean citizenship that we had acquired after escaping from North Korea.

We have two main purposes in making our submission to you today. The first is to ask the Canadian government to halt the deportation of North Korean defectors immediately. The second is to ask the Canadian government to review the relevant evidence on the situation of North Korean defectors in Canada and to formulate a new policy for them which would allow them to stay in Canada legally.

Our submission is divided into several parts. First, a seminar given by Catherine Bruce, the director of the Refugee Law Office in Toronto, is quoted from at length. She gives a general overview of the legal and social situation of North Korean defectors in Canada. The second section examines the denial of refugee status to North Korean defectors throughout the world, despite the fact they are fleeing a totalitarian dictatorship which is widely considered the worst human rights violator on earth today. The third section looks at the threats posed by the North Korean regime to North Korean defectors living in South Korea. These threats include assassination, abduction, reprisals against family members in North Korea, and extortionate attempts to force defectors to spy for, or return to, North Korea. The fourth section focuses on the discrimination faced by North Korean defectors living in South Korea, relentless discrimination that has resulted in epidemics of suicide and mental illness. The fifth section recounts the actions of the criminal brokers in inveigling naïve defectors to pay human traffickers thousands of dollars to come to Canada illegally, by convincing them that was just the way things were done in Canada. The sixth section argues that the victims of these criminal brokers should be allowed to stay on humanitarian and compassionate grounds. The seventh section, the testimony of North Korean defectors living in Canada, is still being translated, unfortunately, and will have to be submitted at a later date, hopefully within a month or so.

Thank you very much for your attention in this matter.

Sincerely, Soyeon Jang, Rokbong Kim
Canada Federation of North Korean Defectors,
416-890-0670

Section One: Overview of the Legal and Social Situation of North Korean Defectors in Canada

On January 17, 2016, Catherine Bruce, the director of the Refugee Law Office, spoke to a crowd of about fifty North Korean defectors at a community centre in Toronto. Before answering their legal questions, she provided a general overview of the legal and social situation of North Korean defectors in Canada:

“Commencing in 2008, escapees from North Korea began to arrive in Canada in large number, making refugee claims here. Arrivals of North Korean escapees peaked somewhere between 2011 and 2012, with a total of three hundred and thirty two refugee claims being heard by the Refugee Board during this period. Ninety percent of North Korean claimants making refugee claims during this period were accepted. Thereafter however, the number of escapees from North Korea in South Korea began to dramatically drop, as did the acceptance rate. In 2014, only twenty two people made refugee claims against North Korea and the acceptance rate had dropped from 90% to 0%.

“The dramatic decline in the acceptance rates of North Korean refugees occurred after the Canadian Border Services Agency obtained evidence that large numbers of North Korean escapees seeking refugee protection in Canada had sojourned in South Korea and thus possessed South Korean citizenship, but had not disclosed this to Canadian authorities when making their refugee claims. It was this discovery that led to the wholesale denial of refugee claims by the Refugee Board. Following the discovery the Canadian government also began to institute proceedings to strip refugee status from North Korean escapees who had been found to be refugees without disclosing their South Korean identity. Many of those denied or stripped of their status have since been deported.

“The result has left a community in turmoil. Some refugee claimants abandoned their claims and returned to South Korea without having their claim determined. Others went underground, either before their claims had been heard or after they had been rejected. Some refugee claimants who still yet to have their claims determined by the Refugee Board are unclear as to whether they should pursue their claims or abandon them. Meanwhile, those who have obtained their refugee status but not yet their permanent resident status live in limbo, as do those who have already obtained their permanent resident status or citizenship, but have done so under false pretenses: all live under the shadow of the fear that, at any time, the government could bring proceedings to strip them of status and deport them.”

Bruce added that she herself was not about to pass judgment on the North Korean defectors in Canada, not when defectors were committing suicide in South Korea because of bullying in schools, and not when defectors were living in fear of North Korean agents in the South.

Section Two: The Denial of Refugee Status to North Korean Defectors throughout the World

The 2014 UN Commission of Inquiry on human rights in the Democratic People’s Republic of Korea (the DPRK, or North Korea), found the regime there guilty of widespread human rights violations and recommended that the UN Security Council refer the leaders of the North Korean regime to the International Criminal Court for prosecution for crimes against humanity. The human rights violations cited by the Commission included torture, slavery, mass killings, abductions, rape, infanticide, arbitrary detention, censorship, denial of religious freedom,

enforced starvation, and state-engineered famine. The commission chair, Michael Kirby, said the evidence reminded him of the atrocities in Nazi Germany.

Yet, despite the widespread consensus—among human rights groups, the UN General Assembly, and the international mass media—that the North Korean regime is barbaric, murderous, and totalitarian, no country is willing to grant North Korean defectors refugee status on a regular basis. China hunts defectors down as illegal migrants, and sends them back to North Korea to face torture, execution, imprisonment, or starvation. This ever-present threat of capture by the Chinese authorities renders the tens of thousands of female defectors in China vulnerable to human traffickers, and they are routinely forced into arranged marriages or the sex trade there. The countries of Southeast Asia, where many defectors make their way after leaving China, also deny the defectors refugee status or a choice in their final destination. Instead, they typically arrest them and deport them to South Korea.

Phil Roberston, of Human Rights Watch, described the situation of North Korea defectors in Thailand to a human rights conference in 2012:

“Like China, Thailand does not recognize the arriving North Koreans are refugees. As they cross the Mekong River to river-districts in Chiang Rai province, North Koreans immediately seek to turn themselves into the nearest Thai police authorities, sometimes even approaching them with ‘hands up’, that you got us. They are held for several days in northern Thai police lock-ups, and then taken into the Thai courts and prosecuted for illegal entry, and sentenced to ten days (in lieu of paying a fine) in a Thai prison (which refugees told us was like paradise compared to North Korean prisons). Following their release from prison, they are handed over to Thai immigration police, and transported to Bangkok for deportation. And then they are deported into the hands of the South Korean embassy which arranges onward travel to Korea.”

In those rare cases in which Thailand is willing to consider the defectors refugees, the outcome is virtually the same, according to Roberta Cohen, a noted human rights scholar. The defectors are told that if they wish to claim refugee status and go to a country other than South Korea, such as America, they will have to remain in detention for two years. Even if they were willing to endure two years in a prison camp to get to a country other than South Korea, they would still be laboring under the fear of deportation back to North Korea at any moment. Few defectors, understandably, accept this offer, she says.

Commenting on this gross discrepancy between the recognition of the North Korean regime as a human rights violator and the refusal to accept North Korea defectors as refugees, even in the West, Cohen says that the problem has arisen from confusion over the potential or actual dual citizenship of North Korean defectors and the mistaken assumption that all of them are eager to settle in South Korea. In a 2011 article entitled “Admitting North Korean Refugees to the United States: Obstacles and Opportunities,” posted on the Brookings website, Cohen argues that it is this unfair situation which has driven North Korean defectors to hide their South Korean citizenship when seeking refugee status in the West. She argues that America, for one, should adopt special immigration visas to allow North Korean defectors to settle in America even if they have already acquired South Korean citizenship.

The two historical precedents for liberal treatment of refugees, and liberal interpretations of refugee status, that Cohen cites both concern Jewish refugees from the Soviet Union in the 1980s. All of these refugees enjoyed automatic citizenship in Israel. Yet, in contrast to North

Korean refugees being sent automatically to South Korea, the Jewish refugees from the Soviet Union were first settled in Austria, and then allowed to choose which country they wanted to go to. Secondly, even those Jews who did settle in Israel were later allowed to enter the U.S. as refugees if they decided that life in Israel was not for them:

“For North Koreans who do become “resettled” in South Korea, a more flexible interpretation of what it means to be “firmly resettled” should be explored. Soviet Jews, it should be recalled, who first moved to Israel and then sought to go the United States, were sometimes able to qualify for refugee admission in the U.S. on the grounds that they were not “firmly resettled” in Israel. North Koreans need the same flexible solutions so that those who have a compelling reason to resettle in the United States can be admitted as refugees even after they settle in South Korea. Otherwise hundreds, if not thousands will continue to make their way to the U.S. and other Western countries by pretending not to be South Korean citizens,” writes Cohen.

Other authors, like James Burt, have likewise argued that a more liberal approach to North Korean refugees needs to be taken, one which gets around the dual citizenship question.

“Given the unique nature of the abuses of the North Korean government, it is questionable whether Europe should treat asylum for North Koreans in a rigid legal framework. Instead, Europe may wish to consider refugee status as part of a broader humanitarian response to protect North Korean citizens,” Burt writes in a 2015 article for the European Alliance for Human Rights in North Korea, entitled “A Case for Clarification: European Asylum Policy and North Korean Refugees.”

In the article, Burt goes on to note that despite the strong humanitarian case for accepting North Korean refugees, many European countries like France, Sweden, Belgium, and the Netherlands have been rejecting North Korean refugee claims en masse in recent years because they consider all North Koreans to be actual or potential South Korean citizens.

Burt takes issue with this last claim on a point of fact. He notes that while South Korean citizenship is indeed extended to all North Korean refugees under the ROK constitution, there are several other South Korean laws which contradict the constitution’s promise, and that the South Korean government itself does not consider automatically all North Korean refugees to be South Korean citizens. Indeed, the South Korean government reserves the right to deny or strip citizenship from any North Korean refugee suspected of being criminal or pro-North or publishing “false information contrary to the interest of the state,” sweeping provisos which render the acquisition and retention of South Korean citizenship by North Korean defectors far from certain.

Section Three: Threats from the North

Defectors in South Korea often live in fear. If the North Korean regime discovers that a defector is living in the South, the defectors’ family members in the North are exiled, executed, or relentlessly monitored. For example, North Korea’s immediate response to the defection of 13 workers from a restaurant in China, was to immediately drag their family members into the story and arrange for them to travel to the border area, a not-too subtle reminder that their fates were linked, as reported in the Chosunilbo on April 22, 2016.

As well, North Korean agents in South Korea have coerced defectors like Park Jong-Suk into returning to the North by threatening their family members. That incident was well-publicized by the North, which treated it as a propaganda coup.

Typically, however, many defectors simply disappear each year, leaving others to wonder what

happened to them. “Hundreds of North Korean defectors have disappeared from the radar after arriving in the South,” a government official told the Chosunilbo on March 10, 2015. The official guessed that the defectors couldn’t adjust to South Korean life, and so went to find work elsewhere. But outright abductions are always a possibility when it comes to the North, according to the 2014 UN Commission of Inquiry on human rights in the Democratic People’s Republic of Korea, which found that the North had “engaged in systematic abduction” of people from the South.

Coerced spying for the North is also a threat, as shown by the case of Kim Ryen-hi, a North Korean defector who spent 2 years in prison in South Korea after allegedly being pressured into espionage by North Korean agents, as reported in the New York Times on August 15, 2015.

Assassinations are a threat as well, especially for North Korean defectors who become politically active and speak out against the North Korean regime or send balloons filled with anti-North literature and DVDs across the border. In 1997, a prominent North Korean defector, LEE Han-young, was assassinated in South Korea. In 1998, a South Korean diplomat, Choi Duk-gun, who had been assisting North Korean defectors was assassinated. In 2004, politically-active North Korean defector KIM Sung-Min was placed under police protection after being relentlessly threatened by North Korean agents. In 2006, balloon activist Lee Min-bok was placed under police protection because of assassination threats. In 2010, two North Korean agents were arrested for attempting to assassinate North Korean defector Hwang Jang-yop. On September 3, 2011, a North Korean agent, Mr. An, attempted to assassinate a prominent North Korean defector and balloon activist, PARK Sang-hak. After Mr. An’s arrest, South Korean officials said they feared that hundreds of other North Korean agents were entering South Korea disguised as ordinary North Korean defectors. The agents’ purpose was to attack the genuine defectors. “ ‘Eliminating a defector is apparently the best way of warning its people against fleeing from the country,’ ” a South Korean official told the Korea Herald on October 10, 2011. A September 27, 2011 *Sisa Journal Weekly Newsmagazine* report entitled “North Korean Defectors Chased as Assassination Targets” quoted a North Korean regime official as saying “We are definitely taking revenge on them.”

In October, 2014, North Korean soldiers opened fire on a North Korean defector’s balloon mission, triggering return fire from South Korean soldiers. And on April 10, 2015, the North Korean regime made specific death threats against Lee Min Bok’s balloon mission.

In an April 10, 2015 statement on its Urinminzokkiri website, the North Korean regime denounced Lee Min-bok team as “evil”, and vowed to “shoot” Lee and the North Korean defectors who worked for him. The regime declared that they would hit Lee’s group with a “merciless retaliatory fire strike.” Especially angered that Lee Min Bok has been flying copies of an anti-Kim Jong Un movie, “The Interview,” across the border into the North, the North Korean regime vowed to “punish” Lee’s team with a “firepower strike,” a “firestorm,” an “indiscriminate attack,” a “merciless attack,” and an “unimaginably strong attack” in an “unexpected place” and an “unexpected way.” The regime called Lee’s team “human garbage,” “human ugliness,” “provokers,” and the “evil main criminals.” The regime said they were “now passing the limit of their patience and self-control,” and warned that they were keeping Lee’s team in their “gunsights” at all times.

Section Four: Discrimination

North Korean defectors face pervasive discrimination in South Korean society.

“They often find themselves lost in a nation where they thought they'd feel at home, struggling with depression, discrimination, joblessness and their own lingering pride in the repressive nation they left behind. Surveys have shown that up to one-third would return home if they could,” the Associated Press reported on April 4, 2016.

A March 12, 2015 report in the *Chosun Ilbo*, a South Korean daily, noted that, “Defectors find it especially hard to cope with discrimination and unemployment here. Most North Korean defectors, including those with university degrees from the North, end up working at construction sites or doing odd jobs in restaurants.

“According to the Unification Ministry, defectors work longer hours than their South Korean counterparts but earn just two-thirds of their wages. And jobs are hard to find, due to the discrimination they face from employers. Defectors have been stereotyped as being difficult to train and prone to complaining. Things are no better for young defectors who were educated at college here.

“One defector said she had to pretend to be an ethnic Korean from China in order to find work in a restaurant. Residents in some neighborhoods complain to school officials when a defector's child is enrolled in their district. Such treatment is unlikely to make defectors feel that this country is their home.”

In a December 25, 2011 article in the *Korea Times*, entitled “NK Defectors Suffer From Discrimination,” defector Lee Min Young said: “When I wrote that I’m from the North in my resume, no companies showed interest in interviewing me at all.”

Younger defectors face severe bullying and mistreatment in schools. Sonia Ryang, an anthropologist at the University of Iowa, reported that “Some sixty-two percent of North Korean students try to hide their origins for fear of being bullied by their classmates. When asked why they did not like South Korean schools, North Korean children responded that they got teased for being shorter and smaller than South Korean children, for speaking with a northern accent, for not keeping up with recent fads, and for being unsophisticated.”

This discrimination has resulted in waves of mental illness and suicide among defectors. The *Chosun Ilbo* report noted that “79 percent [of defectors] said they were depressed,” and that “the suicide rate among defectors is three times higher than the national average.”

A BBC report dated November 5, 2015 concurred. It noted that, “According to South Korea Unification Ministry, 14% of deaths among defectors this year have been suicides. That is much higher than among the population in general, and South Korea consistently has the highest suicide rate of all the 34 industrialized countries in the OECD.”

In 2012, the "Track 60 Minutes" program on public broadcaster KBS in South Korea revealed that some North Korea defectors who had been deported from Canada had killed themselves because of the hardship.

And the number of psychological casualties has been trending steadily upward over the years.

A December 9, 2010 report for CBS, entitled “North Korean Defectors Speak Out,” noted that, “One mental health clinic in Seoul reported a sharp increase in defectors seeking help from 110 in 2007 to 12,979 in 2009 according to the Unification Ministry in South Korea. The suicide rate for defectors is more than two and a half times higher than the ratio for South Korean natives.”

It is often said by Canadian immigration officials that discrimination does not equal persecution, and therefore does not qualify one for refugee status. But surely discrimination which is so pervasive that it regularly results in death must be considered grounds for refugee status?

Section Five: Misrepresentation

It is true that many, if not most, North Korean defectors concealed their South Korean citizenship when arriving in Canada and making refugee claims. Typically, they gave a false name, and altered their chronologies to skip over the time they spent in South Korea, as if that time had simply never existed. This was wrong, and illegal, and the defectors deeply regret doing so.

Forgiveness is beseeched in light of our extraordinary history and background. Having grown up in the most totalitarian, hermetically-sealed society in history, we are naïve in a way that few outsiders can comprehend. And having come to depend on corrupt brokers, or conscientious missionaries, for information about how to escape North Korea and then survive illegally in China for several years, we have acquired the deeply-engrained, though now obviously inappropriate, habit of believing what brokers or missionaries, rather than government officials, tell us about the immigration processes of countries. And so when criminal brokers told us that concealing our South Korean citizenship was just the way things were done in Canada, we believed them. Typically, defectors paid a wholly unnecessary and wholly illegal \$2,000 or \$3,000 to con men who picked them up at the airport, took their passports, told them what to say at the immigration office, drove them to the immigration office, and then vanished.

From our point of view, the defectors are victims of these criminal brokers and should be treated as such. At least one defector has provided evidence against the person who gave her a false name, advised her to lie to immigration officials, and fabricated a false chronology for her. Other defectors are expected to follow suit. It seems appropriate that the government focus its attention on the corrupt brokers in this matter, rather than simply blaming the victims of the corrupt brokers.

Most distressingly, the defectors have been told repeatedly that our real stories can't be considered, because that would entail the introduction of new evidence after the fact, and courts have ruled that we don't get “another kick at the can.” So the fake stories concocted in haste by con men on the drive from the airport to the immigration office are left to stand as the determining narratives of our lives. This seems very wrong to us.

SECTION SIX: PLEA FOR REVIEW AND RECONSIDERATION

Given all the above, we are calling for an immediate halt to the deportations of North Korean defectors, a genuine review of our cases which would allow our real stories to be considered, and a review of government policy toward North Korean defectors along the lines that Roberta Cohen has proposed. North Korean defectors have put down roots in Canada. We work here, raise families here, pay taxes here, and speak out regularly against the North Korean regime from here. Please reconsider your policies, review our cases, and give us a chance to stay.

Sincerely,

Soyeon Jang, Rokbong Kim,

Canada Federation of North Korean Defectors

Note: Defectors' translated testimony to follow