



## The North Korean Human Rights Act: Issues and Implementation

**Joseph R. DeTrani, Special Envoy for the Six-Party Talks**

**Arthur E. Dewey, Assistant Secretary for Population, Refugees and Migration; and Gretchen A. Birkle, Acting Principal Deputy Assistant Secretary for Democracy, Human Rights and Labor**

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### *Remarks As Delivered by Special Envoy DeTrani*

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 E. 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 D.P.R.K.

As you know, we face an array of challenges with North Korea. In particular, there is the issue of the D.P.R.K.'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 D.P.R.K. 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 D.P.R.K., 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 R.O.K. Government 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 R.O.K. 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 R.O.K., 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.

**Remarks As Delivered by A/S Dewey**

Mr. Chairman and members of the committee, thank you for this opportunity. 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 and how we fit into the picture regarding North Korea. 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 principally through the UN High Commissioner for Refugees and other UN 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, this 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 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 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 P.R.C.-D.P.R.K. border. We estimate there to be between 30,000-50,000 North Koreans in China today, and some NGOs claim that number could be as high as 300,000. The P.R.C. maintains that the North Koreans who reach its territory are economic or illegal migrants who have no legitimate claim to refugee status. The P.R.C. has an agreement with D.P.R.K. to return individuals who illegally cross the border. Just last year, NGOs reported that P.R.C. 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 obtain access to, protection of, and solutions for North Koreans. The United States consistently, at high levels, and at nearly every meeting, continues to urge the PRC 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 -- in August 2003 and November 2004 -- as well as in all the meetings in between. 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 violation of four central articles of the 1951 Refugee Convention.

Last year, nearly two thousand North Koreans arrived in the R.O.K. 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 P.R.C. and others in Southeast Asia, would oppose direct, U.S.-funded humanitarian assistance and U.S. 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, either by upsetting his or her discreet transit, 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. U.S. engagement on specific cases can introduce a geo-political dynamic that could jeopardize host country's help in other needy cases. 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 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, spies, and Chinese citizens of Korean ethnicity have posed as North Korean refugees and were resettled in the R.O.K. 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. Continued consultation with governments in the region and with UNHCR is essential to developing 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. 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."

**Remarks As 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 organizations 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 UN 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.

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