

## REPUBLIC OF KOREA (SOUTH KOREA)

South Korea is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First Optional Protocol. South Korea hosted an estimated 650 refugees and asylum seekers at the end of 2001.<sup>1</sup> The majority were North Korean refugees, who are not required to apply for asylum. South Korea received 29 new asylum applications during 2001. The government approved only one application, with 64 cases pending at year's end.<sup>2</sup> During the last year or so, the media has reported extensively on the stories of North Koreans who have sought to "defect" to South Korea, in one case by entering the UNHCR office in Beijing.<sup>3</sup>

Detention of asylum seekers is infrequent, although there have been reports of increased detention of asylum seekers in the wake of the September 11 terrorist attacks in the United States.<sup>4</sup> USCR reports that in the weeks following the September 11 terrorist attacks, South Korean officials interrogated all asylum seekers of Arab or Central Asian origin, detaining those who were in even minor violation of immigration laws.<sup>5</sup>

South Korea has no internal or national refugee law. There is also very little public awareness or support for refugees. The government is reportedly reluctant to receive asylum seekers, and practices a variety of interception practices. Asylum seekers without proper entry documents are not recognized by the government. Instead, their applications are sent to the UNHCR, which provides them with temporary three-month papers.<sup>6</sup> In 2001, South Korea amended its deadline for applying for asylum from 60 days after arrival in the country to one year. The deadline has been effective as of 2002.<sup>7</sup>

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<sup>1</sup> U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 117, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

<sup>2</sup> *Id.*; Interview with Erica Kang, Good Friends Centre for Peace, Human Rights, and Refugees, in Geneva, Switzerland (Sept. 27, 2001) [hereinafter Good Friends Centre Interview].

<sup>3</sup> USCR WORLD REFUGEE SURVEY 2002, *supra* note 1, at 117.

<sup>4</sup> *Id.*; Good Friends Centre Interview, *supra* note 2.

<sup>5</sup> USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 117.

<sup>6</sup> Good Friends Centre Interview, *supra* note 2.

<sup>7</sup> USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 117.

The Ministry of Justice processes asylum applications in a committee joined by the Ministry of Foreign Affairs. Applications are filed with Immigration (part of the Ministry of Justice) and the UNHCR. The asylum application process should last for three months but is often delayed.<sup>8</sup>

Rejected asylum seekers are not detained. They are given sixty days to three months notice to leave, which can be extended. In practice, such extensions are difficult to obtain. There is an appeal process but it is difficult to access.<sup>9</sup>

In general, South Korea's detention policies for asylum seekers have been reported to be vague and arbitrary, and detention conditions are not subject to independent review by either judicial or administrative bodies.<sup>10</sup> Moreover, although asylum seekers are allowed to contact UNHCR, they do not have access to competent or independent interpreters.<sup>11</sup>

North Koreans are not dealt with as refugees. Under the South Korean constitution, once North Koreans have left their country, South Korea can take responsibility for them. Towards the end of 2001, however, South Korea's national assembly adopted a resolution urging the government to establish a new idea of 'refugee' that would include North Koreans and to augment its diplomatic efforts on behalf of North Korean defectors.<sup>12</sup> The South Korean government provides hostels for North Koreans on arrival and starting funds to begin their lives, as well as apartments on occasion. However, the police track North Korean refugees for three years.<sup>13</sup>

*Is there independent review of the decision to detain?* No.

*Are there limits on the period of detention?* No.

The USCR reports that the South Korean government released a group of asylum seekers detained because of their Arab or Central Asian origin in the wake of the September 11

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<sup>8</sup> Good Friends Centre Interview, *supra* note 2.

<sup>9</sup> *Id.*

<sup>10</sup> USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 118.

<sup>11</sup> *Id.* at 194.

<sup>12</sup> *Id.*

<sup>13</sup> Good Friends Centre Interview, *supra* note 2.

attacks after nearly two months, but only after receiving guarantees from Korean sponsors.<sup>14</sup>

*Is there periodic review of detention?* No.

*Is there access to government-funded legal aid?* No.

The government does not provide material assistance to asylum seekers who enter the country.<sup>15</sup>

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<sup>14</sup> USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 193.

<sup>15</sup> *Id.*