

Urgent Appeal to the Special Rapporteur - Case of Two North Korean Fishermen

Greetings,

We are PSCORE, which stands for People for Successful COrean REunification. We are an NGO based in Seoul, founded in 2006. We are assisting North Korean defectors adapt to the fast-paced South Korean life, while promoting North Korean human rights. We are an NGO that has gained consultative status with the United Nations ECOSOC in 2012. We are working with the Lawyers for Human Rights and Unification of Korea (Hanbyun), another Seoul-based NGO, to consider human rights in North Korea from a legal point of view.

We are writing to you regarding the forced repatriation of two North Korean fishermen by the South Korean government.

On November 2nd, they were found by the South Korean navy in the East Sea and subsequently investigated until November 7th, before being returned to North Korean authorities.

Based on the grounds that they allegedly killed 16 of their crew members in North Korea, the Ministry of Unification in South Korea denied them the status of refugees, and the South Korean government came to the conclusion that they had to be sent back to North Korea because of the gravity of their alleged crime.

Articles 3 and 12 of the Constitution of the Republic of Korea state that “the territory of the Republic of Korea shall consist of the Korean peninsula” and that “any person who is arrested or detained shall have the right to prompt assistance of counsel”. This means that any North Korean individual coming voluntarily to the South Korean territory should be welcomed and treated as a regular citizen.

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Adopted on December 10 1984 and ratified on February 8 1985 by South Korea) Article 3 stipulates that:

1. No State Party shall expel, return or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being suspected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where

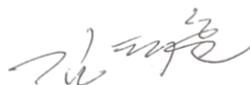
applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Based on these articles, the two North Korean fishermen should have access to proper legal counseling and the right to a fair trial on the South Korean territory. A North Korean defector was previously tried in South Korea for a crime committed in North Korea.

Furthermore, as it has been demonstrated in the “Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea” published in 2014, under the authority of the UN Human Rights Council, North Korea has a disastrous record when it comes to torture and executions, as well as other inhumane treatments against their prisoners.

We call for immediate action from the international community to communicate with North Korea and report on the conditions under which they are being treated to make sure that they will not be tortured and/or executed without going through a due process of law.

We are sending this document to both the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and the Special Rapporteur on Torture as we think a collaboration on this issue would be more efficient, considering the urgency of the matter.



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Permanent Representative of Lawyers for Human Rights and Unification of Korea (Hanbyun)