

**TJWG - Transitional Justice Working Group**

**Mulmangcho**

**THINK**

**REPUBLIC OF KOREA (SOUTH KOREA)**

**Suggested list of themes**

**Joint submission for the Committee on Enforced Disappearance (CED)**

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**The Transitional Justice Working Group (TJWG)** is a human rights documentation NGO established in Seoul in 2014 that aims to develop the best practices to address mass human rights violations and to realize victim-centered approach and justice in societies that are making a transition from or have yet to make a transition from armed conflict or dictatorship.

**Mulmangcho** is a non-partisan and non-profit organization founded in Seoul, Korea in 2012. Mulmangcho assists North Korean defectors and the courageous and elderly POWs who have returned to their homes. Mulmangcho pursues research programs to better help those in need and carry out various programs to help to the victims of our history and strives to establish freedom and democracy for other countries.

**THINK** is a North Korean human rights NGO established in 2019, dedicated to promoting the rights of North Korean defectors—especially women and youth—and supporting their resettlement. THINK's activities include the Korea-Czech Dialogue for the Promotion of North Korean Human Rights held in Prague and Olomouc and the Future Forum for North Korean Youth Refugees. THINK provides direct support, including group counseling for defector women, career guidance and art-based emotional support at alternative schools for defector youth.

This joint submission focuses on South Korea's refoulement of the North Korean escapees and foreign nationals in violation of article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) as well as the failure to conduct a fact-finding investigation for South Korean POWs from the Korean War and other subsequent armed conflicts and clashes in violation of article 24 of the ICPPED.

**The forcible repatriation of North Korean escapees (article 16 of ICPPED)**

South Korea has a long-established policy of accepting North Korean escapees who wish to defect to South Korea as its own citizens. As of December 2025, a total of 34,537 North Korean refugees has arrived in South Korea.

When North Korean escapees first come to South Korea, they are sent to the Joint Interrogation Center, which was renamed the Free World Center in October 2021, run by the National Intelligence Service (NIS).

The escapees are placed under “temporary protection” at the Center for up to 90 days and this “protection” period can be extended by the authorities if deemed necessary. The government claims that the escapees are not detained against their will, but they cannot claim South Korean nationality and state support unless they go through this process.

The interrogation of the escapees at the Center is considered an “administrative procedure” to ascertain the identity and the willingness to be protected by South Korea and not a “criminal procedure”. But the process is designed to screen North Korean spies and Chinese nationals who pose as the escapees to claim the South Korean citizenship and information gathered from the interrogation can be used to bring criminal charges against them for espionage or other crimes.

The escapees who are de facto detained at the Center for interrogation that can result in criminal prosecution are not brought promptly before a judge and cannot seek judicial review of the legality of their detention. They are also not entitled to legal counsel.

The North Korean escapees are also exposed to the risk of forcible repatriation to North Korea. On 7 November 2019, the government repatriated two North Korean escapees, Mr. Woo Beom-seon and Mr. Kim Hyun-wook, accused of murder to North Korea five days after their arrival by sea on 2 November.

The government tried to keep the repatriation a secret, but it was exposed because a cameraman accidentally caught a mobile phone message sent to one of the officials at the National Assembly.

The authorities also did not inform the two escapees about their repatriation until the last moment to avoid resistance or suicide attempt. The two escapees were blindfolded and escorted by a special police unit to the hand-over point at the inter-Korean border.

The government justified the repatriation on the ground that the two escapees were heinous criminals and their stated desire to defect was “not genuine”. Since 2014, the NIS has hired female lawyers as full-time “human rights protection officers”, but the two escapees were not even informed about the existence of such legal counsel.

The fate and whereabouts of the two repatriated escapees remain unknown. The state prosecutors belatedly indicted the top officials responsible for the repatriation for abuse of power in February 2023 and their trial is ongoing. However, to this date, the South Korean government has never formally asked North Korea to clarify their fate and whether their due process and fair trial rights were respected.

While article 3 of the Refugee Act bans the forcible repatriation of refugees or

asylum-seekers against their will in accordance with article 33 of the Refugee Convention and article 3 of the Torture Convention, the North Korean escapees are not considered refugees or asylum-seekers under the South Korean law because they are deemed to be South Korean citizens.

Similarly, because South Korea does not recognize North Korea (DPRK) as a “state”, article 16 of the Convention, according to this interpretation, technically does not bar refoulement of North Korean escapees to North Korea where there are substantial grounds for believing that they would be in danger of being subjected to enforced disappearance.

South Korea’s domestic implementing legislation for the Convention must take this into consideration to ensure the prohibition of refoulement to North Korea as would be the case vis-à-vis any other state.

#### Questions:

- Can North Korean escapees be deported to North Korea against their will in spite of the risk of enforced disappearance and South Korea’s obligation of non-refoulement under article 16 of the Enforced Disappearance Convention?
- Why did the “human rights protection officers” fail to prevent the forcible repatriation of two North Korean escapees, Mr. Woo Beom-seon and Mr. Kim Hyun-wook, on 7 November 2019?
- What steps have been taken to ask North Korea to clarify the fate of the two escapees, Mr. Woo Beom-seon and Mr. Kim Hyun-wook, repatriated on 7 November 2019 and whether their due process and fair trial rights were respected?
- Are there plans to ensure that the North Korean escapees under “temporary protection” are brought before a judge and able to seek judicial review of the legality of their detention?
- Are there plans to ensure the right to legal counsel for the North Korean escapees under “temporary protection”?
- How will South Korea’s domestic implementing legislation for the Convention ensure the prohibition of refoulement to North Korea where there are substantial grounds for believing that they would be in danger of being subjected to enforced disappearance?

#### **The refoulement of foreign nationals (article 16 of ICPPED)**

South Korea continues to expel, return (“refouler”), surrender, extradite or otherwise forcibly transfer other foreign nationals even where there are substantial grounds for believing that they would be in danger of being subjected to enforced disappearance.

In March 2012, an Uzbek asylum-seeker was deported for using a fake passport even though it was necessary to flee to South Korea because he was already

being targeted by the Uzbek authorities. He was reported as missing by his family after repatriation from South Korea to Uzbekistan.

In April 2022, South Korea deported Mr. Jin Yinsu, a Chinese national, accused of murder to China apparently without assurances that he would not be subjected to enforced disappearance or other human rights violations.

In November 2024, the South Korean police announced that an Uzbek national on Interpol's wanted persons list for an assassination attempt on a former presidential aide in Uzbekistan on 26 October 2024, was arrested three days earlier on 23 November and has since been deported to Uzbekistan. The South Korean government apparently did not seek any assurances to ensure that he is not subjected to enforced disappearance.

Questions:

- What steps have been taken to codify the principle of non-refoulement for foreigners at risk of enforced disappearance in the domestic law?
- What is the policy on seeking assurances against enforced disappearance for the deported or extradited individuals?
- What steps have been taken to ask Uzbekistan to clarify the fate of the Uzbek nationals deported in March 2012 and November 2024 respectively and to ask China to clarify the fate of Mr. Jin Yinsu deported in April 2022?

### **The failure to conduct a fact-finding investigation for South Korean POWs from the Korean War and other subsequent armed conflicts and clashes (article 24 of ICPPED)**

The Commission of Inquiry on human rights in the DPRK (COI) found that at least 50,000 POWs from the ROK were not repatriated after the Korean War (1950-1953) and condemned to a lifetime of forced labor, mostly in coal mines. After the war, families in South Korea of unreturned POWs held in North Korea did not receive any information about the fate of their POW family members and could not have contact with them. The COI considered them to be victims of enforced disappearance (A/HRC/25/CRP.1, paragraphs 861-883).

Because North Korea did not provide a full list of South Korean POWs and the South Korean military at the time kept a poor record, most of the POWs' families were notified that they were killed in action. It also explains why there was no popular movement demanding the return of South Korean POWs after the war—both the families and the public were not aware.

Since the 1990s, a total of 80 POWs and about 430 family members have escaped from North Korea and successfully arrived in South Korea. This led to the belated publicization of the scale and gravity of the issue.

In 2007 and 2010, the government and the National Assembly enacted laws to create a compensation commission for post-war abductees and a fact-finding investigative commission for wartime abductees. The post-war abductees,

mostly fishermen but also other people abducted from South Korea or elsewhere, numbered in thousands, though most were returned after a few months, leaving over 500 abductees in North Korea. The compensation commission published a white paper that detailed the abduction incidents.

The fact-finding commission for wartime abductions conducted a far broader investigation as the victims numbered in tens of thousands. After years of investigation, the commission published a comprehensive report and a list of abductees in 2017.

However, the government has failed to create a fact-finding commission for POWs. The POW fact-finding bill was first introduced in the 21<sup>st</sup> National Assembly on June 24, 2021 but it died in the national defense committee.<sup>1</sup> The POW fact-finding bill was again introduced in the 22<sup>nd</sup> National Assembly on January 13, 2024 in the current 22<sup>nd</sup> National Assembly, but the bill has made little progress.<sup>2</sup>

Also, the government and the National Assembly recently adopted a new law designating June 28 as the Korean War Abductees Memorial Day [6·25 전쟁 납북자 기억의 날]. There is a similar bill pending in the National Assembly which would designate November 26 as the POW Memorial Day [국군포로 기억의 날], but the bill again has made little progress.<sup>3</sup> November 26 marks the day when Lieutenant Cho Chang-ho, who was the first known POW to escape from North Korea and return to South Korea was formally discharged from his military service in 1994.

In the National Human Rights Commission's recommendation for the speedy enactment of the domestic implementing legislation for the Enforced Disappearance Convention,<sup>4</sup> the Commission recommended that "in particular, where there are individual legislative bills concerning fact-finding and compensation for the Korean War wartime abductees, civilian victims by hostile forces, unrepatriated POWs, detainees, etc. pending in the National Assembly, speedy legislative measures should take place".<sup>5</sup>

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<sup>1</sup> [2111051] 6·25 전쟁 국군포로의 진상규명 및 명예회복에 관한 법률안(조태용의원 등 29 인), [https://likms.assembly.go.kr/bill/bi/billDetailPage.do?billId=PRC\\_B2M1Z0V6A1G6R0M9E1M1C2O7Q1B1L2](https://likms.assembly.go.kr/bill/bi/billDetailPage.do?billId=PRC_B2M1Z0V6A1G6R0M9E1M1C2O7Q1B1L2)

<sup>2</sup> [2207456] 6 · 25 전쟁 국군포로의 진상규명 및 명예회복에 관한 법률안(김기현의원 등 12 인), [https://likms.assembly.go.kr/bill/bi/billDetailPage.do?billId=PRC\\_J2H5I0Q1Q0P7P1N0O3N7I4J7H4I8G2](https://likms.assembly.go.kr/bill/bi/billDetailPage.do?billId=PRC_J2H5I0Q1Q0P7P1N0O3N7I4J7H4I8G2)

<sup>3</sup> [2211602] 국군포로의 송환 및 대우 등에 관한 법률 일부개정법률안(김기현의원 등 11 인), [https://likms.assembly.go.kr/bill/bi/billDetailPage.do?billId=PRC\\_W2E5E0C7B0C1A0A9I1J1H3I3G0H9F5](https://likms.assembly.go.kr/bill/bi/billDetailPage.do?billId=PRC_W2E5E0C7B0C1A0A9I1J1H3I3G0H9F5)

<sup>4</sup> 국가인권위원회, 「강제실종방지협약」의 실효적 국내 이행을 위한 법률 조속히 마련하도록 의견표명, <https://www.humanrights.go.kr/base/board/read?boardManagementNo=24&boardNo=7611312>

<sup>5</sup> The Korean original is: “특히, 6·25 전시 납북자, 적대세력에 의한 민간인 피해자, 미송환 국군포로, 억류자 등에 대한 진실규명 및 피해 보상과 관련하여 국회에 계류 중인 개별법안이 있는

Questions:

- Why did the government conduct a fact-finding investigation for the Korean War-era civilian abductees and post-war abductees but not for POWs?
- What is the government's position on the bill to create a fact-finding investigative commission for POWs?
- What steps have been taken to create a fact-finding investigative commission for POWs?
- What is the government's position on the bill to designate November 26 as the POW Memorial Day?
- What steps have been taken to designate November 26 as the POW Memorial Day?
- What is the government's view on the National Human Rights Commission's recommendation to speedily enact legislative bills concerning fact-finding for POWs?

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경우, 신속히 입법 조치가 이루어져야 할 것이고,”