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7842.	Eligibility for refugee or asylum consideration.
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§ 7801. Findings

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is “a dictatorship under the absolute rule of Kim Jong Il” that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, “[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of ‘crimes against the revolution,’ including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing ‘reactionary’ letters, and possessing reactionary printed matter”.

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, “[g]enuine religious freedom does not exist in

North Korea” and, according to the United States Commission on International Religious Freedom, “[t]he North Korean state severely represses public and private religious activities” with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China’s obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere “economic migrants” and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured,

and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

(Pub. L. 108-333, §3, Oct. 18, 2004, 118 Stat. 1287.)

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-198, §1, July 20, 2018, 132 Stat. 1519, provided that: "This Act [enacting section 7846 of this title, amending sections 7812 to 7814, 7817, 7831, 7833, and 7845 of this title, repealing section 9253 of this title, and enacting provisions set out as a note under this section] may be cited as the 'North Korean Human Rights Reauthorization Act of 2017'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112-264, §1, Jan. 14, 2013, 126 Stat. 2432, provided that: "This Act [enacting section 7834 of this title and provisions set out as a note under section 7834 of this title] may be cited as the 'North Korean Child Welfare Act of 2012'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112-172, §1, Aug. 16, 2012, 126 Stat. 1307, provided that: "This Act [amending sections 7812, 7814, 7817, 7831, 7833, and 7845 of this title and enacting provisions set out as a note under this section] may be cited as the 'Ambassador James R. Lilley and Congressman Stephen J. Solarz North Korea Human Rights Reauthorization Act of 2012'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-346, §1, Oct. 7, 2008, 122 Stat. 3939, provided that: "This Act [amending sections 7803, 7812, 7814, 7817, 7831, 7833, and 7845 of this title and enacting provisions set out as notes under this section] may be cited as the 'North Korean Human Rights Reauthorization Act of 2008'."

SHORT TITLE

Pub. L. 108-333, §1, Oct. 18, 2004, 118 Stat. 1287, provided that: "This Act [enacting this chapter] may be cited as the 'North Korean Human Rights Act of 2004'."

FINDINGS

Pub. L. 115-198, §2, July 20, 2018, 132 Stat. 1519, provided that: "Congress makes the following findings:

"(1) In 2014, the United Nations Commission of Inquiry (COI) on Human Rights in the Democratic People's Republic of Korea (DPRK) found that the grave human rights violations still being perpetrated against the people of North Korea, due to policies established at the highest level of the state, amount to crimes against humanity. Crimes include forced starvation, sexual violence against women and children, restrictions on freedom of movement, arbitrary detention, torture, executions, and enforced disappearances, among other hardships.

"(2) The COI also noted that the Government of the People's Republic of China is aiding and abetting in crimes against humanity by forcibly repatriating North Korean refugees back to the DPRK. Upon repatriation, North Koreans are sent to prison camps, tortured, or even executed. The Government of the People's Republic of China's forcible repatriation of North Korean refugees violates its obligation to uphold the principle of non-refoulement, under the United Nations Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 U.S.T. 6223)).

"(3) Estimates from the COI suggest that between 80,000 and 120,000 people are believed to be imprisoned in political prison camps in North Korea. Another 70,000 are believed to be held at other detention facilities. Prisoners in both situations are subject to harsh conditions, limited food, sexual abuse, and in most cases hard labor.

"(4) One of the findings of the COI report was the persecution of religious minorities, especially Christians. There is effectively no freedom of religion in North Korea, only worship of the Kim family. Christians are subjected to particularly acute persecution. It has been reported that Christians in North Korea have been tortured, forcibly detained, and even executed for possessing a Bible or professing Christianity.

"(5) North Korea profits from its human rights abuses. A 2014 report from the Asian Institute for Policy Studies suggests that there are nearly 50,000 North Korean workers forced to labor overseas, sometimes without compensation, and for as much as 20 hours at a time. Workers that received compensation were not to be paid more than \$150 per month, which is between 10 to 20 percent of the value of the labor they performed. Based on this report, the regime may profit as much as \$360,000,000 annually from just 50,000 laborers.

"(6) On July 6, 2016, the United States imposed sanctions on North Korean leader Kim Jong Un and other senior North Korean officials for human rights violations as required by the North Korea Sanctions and Policy Enhancement Act of 2016 (Public Law 114-122) [22 U.S.C. 9201 et seq.]. This was the first time that the United States had designated North Korean officials for human rights abuses.

"(7) The North Korea Sanctions and Policy Enhancement Act of 2016 (Public Law 114-122) requires the President to impose mandatory penalties under United States law on any person that 'knowingly engages in, is responsible for, or facilitates serious human rights abuses by the Government of North Korea'.

"(8) Although the United States Refugee Admissions Program remains the largest in the world by far, the United States has only resettled 212 refugees from North Korea since the date of the enactment of the North Korea[n] Human Rights Act of 2004 (Public Law 108-333) [Oct. 18, 2004]."

Pub. L. 112-172, §2, Aug. 16, 2012, 126 Stat. 1307, provided that: "Congress finds the following:

"(1) The North Korean Human Rights Act of 2004 (Public Law 108-333; 22 U.S.C. 7801 et seq.) and the

North Korean Human Rights Reauthorization Act of 2008 (Public Law 110-346) [see Short Title of 2008 Amendment note above] were the product of broad, bipartisan consensus regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and the importance of refugee protection.

“(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.

“(3) Although the transition to the leadership of Kim Jong-Un after the death of Kim Jong-Il has introduced new uncertainties and possibilities, the fundamental human rights and humanitarian conditions inside North Korea remain deplorable, North Korean refugees remain acutely vulnerable, and the findings in the 2004 Act and 2008 Reauthorization remain substantially accurate today.

“(4) Media and nongovernmental organizations have reported a crackdown on unauthorized border crossing during the North Korean leadership transition, including authorization for on-the-spot execution of attempted defectors, as well as an increase in punishments during the 100-day official mourning period after the death of Kim Jong-Il.

“(5) Notwithstanding high-level advocacy by the United States, the Republic of Korea, and the United Nations High Commissioner for Refugees, China has continued to forcibly repatriate North Koreans, including dozens of presumed refugees who were the subject of international humanitarian appeals during February and March of 2012.

“(6) The United States, which has the largest international refugee resettlement program in the world, has resettled 128 North Koreans since passage of the 2004 Act, including 23 North Koreans in fiscal year 2011.

“(7) In a career of Asia-focused public service that spanned more than half a century, including service as a senior United States diplomat in times and places where there were significant challenges to human rights, Ambassador James R. Lilley also served as a director of the Committee for Human Rights in North Korea until his death in 2009.

“(8) Following his 18 years of service in the House of Representatives, including as Chairman of the Foreign Affairs Subcommittee on East Asian and Pacific Affairs, Stephen J. Solarz committed himself to, in his words, highlighting ‘the plight of ordinary North Koreans who are denied even the most basic human rights, and the dramatic and heart-rending stories of those who risk their lives in the struggle to escape what is certainly the world’s worst nightmare’, and served as co-chairman of the Committee for Human Rights in North Korea until his death in 2010.”

Pub. L. 110-346, § 2, Oct. 7, 2008, 122 Stat. 3939, provided that: “Congress finds the following:

“(1) The North Korean Human Rights Act of 2004 (Public Law 108-333; 22 U.S.C. 7801 et seq.) (in this section referred to as ‘the Act’) was the product of broad, bipartisan consensus in Congress regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and refugee protection.

“(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.

“(3) Human rights and humanitarian conditions inside North Korea are deplorable, North Korean refugees remain acutely vulnerable, and the findings in section 3 of the Act [22 U.S.C. 7801] remain accurate today.

“(4) The Government of China is conducting an increasingly aggressive campaign to locate and forcibly

return border-crossers to North Korea, where they routinely face torture and imprisonment, and sometimes execution. According to recent reports, the Chinese Government is shutting down Christian churches and imprisoning people who help North Korean defectors and has increased the bounty paid for turning in North Korean refugees.

“(5) In an attempt to deter escape attempts, the Government of North Korea has reportedly stepped up its public execution of border-crossers and those who help others cross into China.

“(6) In spite of the requirement of the Act that the Special Envoy on Human Rights in North Korea (the ‘Special Envoy’) report to the Congress no later than April 16, 2005, a Special Envoy was not appointed until August 19, 2005, more than four months after the reporting deadline.

“(7) The Special Envoy appointed by the President has filled that position on a part-time basis only.

“(8) Since the passage of the North Korean Human Rights Act, Congress has on several occasions expressed interest in the status of North Korean refugees, and on February 21, 2006, a bipartisan group of senior Members of the House and Senate wrote Secretary of State Condoleezza Rice ‘to express [their] deep concern for the lack of progress in funding and implementing the key provisions of the North Korean Human Rights Act’, particularly the lack of North Korean refugee admissions to the United States.

“(9) Although the United States refugee resettlement program remains the largest in the world by far, the United States has resettled only 37 North Koreans in the period from 2004 through 2007.

“(10) From the end of 2004 through 2007, the Republic of Korea resettled 5,961 North Koreans.

“(11) Extensive delays in assessment and processing have led numerous North Korean refugees to abandon their quest for United States resettlement, and long waits (of more than a year in some cases) have been the source of considerable discouragement and frustration among refugees, many of whom are awaiting United States resettlement in circumstances that are unsafe and insecure.

“(12) From 2000 through 2006, the United States granted asylum to 15 North Koreans, as compared to 60 North Korean asylum grantees in the United Kingdom, and 135 in Germany during that same period.”

SENSE OF CONGRESS

Pub. L. 110-346, § 3, Oct. 7, 2008, 122 Stat. 3940, provided that: “It is the sense of Congress that—

“(1) the United States should continue to make it a priority to seek broader permission and greater cooperation from foreign governments to allow the United States to process North Korean refugees overseas for resettlement in the United States, through persistent diplomacy by senior officials of the United States, including United States ambassadors to Asia-Pacific nations;

“(2) at the same time that careful screening of intending refugees is important, the United States also should make every effort to ensure that its screening, processing, and resettlement of North Korean refugees are as efficient and expeditious as possible;

“(3) the Special Envoy for North Korean Human Rights Issues should be a full-time position within the Department of State in order to properly promote and coordinate North Korean human rights and humanitarian issues, and to participate in policy planning and implementation with respect to refugee issues, as intended by the North Korean Human Rights Act of 2004 (Public Law 108-333; 22 U.S.C. 7801 et seq.);

“(4) in an effort to more efficiently and actively participate in humanitarian burden-sharing, the United States should approach our ally, the Republic of Korea, to revisit and explore new opportunities for coordinating efforts to screen and resettle North Koreans who have expressed a wish to pursue resettlement in the United States and have not yet availed

themselves of any right to citizenship they may enjoy under the Constitution of the Republic of Korea; and

“(5) because there are genuine refugees among North Koreans fleeing into China who face severe punishments upon their forcible return, the United States should urge the Government of China to—

“(A) immediately halt its forcible repatriation of North Koreans;

“(B) fulfill its obligations pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1995 Agreement on the Upgrading of the UNHCR Mission in the People’s Republic of China to UNHCR Branch Office in the People’s Republic of China; and

“(C) allow the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to North Koreans inside China to determine whether they are refugees and whether they require assistance.”

§ 7802. Purposes

The purposes of this chapter are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

(Pub. L. 108–333, § 4, Oct. 18, 2004, 118 Stat. 1290.)

§ 7803. Definitions

In this chapter:

(1) Appropriate congressional committees

The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) China

The term “China” means the People’s Republic of China.

(3) Humanitarian assistance

The term “humanitarian assistance” means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) North Korea

The term “North Korea” means the Democratic People’s Republic of Korea.

(5) North Koreans

The term “North Koreans” means persons who are citizens or nationals of North Korea.

(6) South Korea

The term “South Korea” means the Republic of Korea.

(Pub. L. 108–333, § 5, Oct. 18, 2004, 118 Stat. 1290; Pub. L. 110–346, § 4, Oct. 7, 2008, 122 Stat. 3941.)

Editorial Notes

AMENDMENTS

2008—Par. (1)(A). Pub. L. 110–346 substituted “Foreign Affairs” for “International Relations”.

SUBCHAPTER I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

§ 7811. Sense of Congress regarding negotiations with North Korea

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

(Pub. L. 108–333, title I, § 101, Oct. 18, 2004, 118 Stat. 1290.)

§ 7812. Support for human rights and democracy programs

(a) Support

The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law. The President is also authorized to provide grants to entities to undertake research on North Korea’s denial of human rights, including on the political and military chains of command responsible for authorizing and implementing systemic human rights abuses, including at prison camps and detention facilities where political prisoners are held.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the President \$2,000,000 for each of the fiscal years 2005 through 2008 and \$2,000,000 for each of fiscal years 2009 through 2022 to carry out this section.

(2) Availability

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(Pub. L. 108–333, title I, § 102, Oct. 18, 2004, 118 Stat. 1290; Pub. L. 110–346, § 5, Oct. 7, 2008, 122 Stat. 3941; Pub. L. 112–172, § 4, Aug. 16, 2012, 126 Stat. 1308; Pub. L. 115–198, § 7(a), July 20, 2018, 132 Stat. 1523.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–198, § 7(a)(1), inserted at end “The President is also authorized to provide grants to entities to undertake research on North Korea’s denial of human rights, including on the political and military chains of command responsible for authorizing and implementing systemic human rights abuses, including at prison camps and detention facilities where political prisoners are held.”

Subsec. (b)(1). Pub. L. 115–198, § 7(a)(2), substituted “2022” for “2017”.